

MINIMUM RETURN-TO-WORK STANDARDS BASED ON CDC GUIDANCE IN COMMON SCENARIOS



The Centers for Disease Control and Prevention (CDC) has issued COVID-19 guidance about when individuals should quarantine, for how long they should quarantine, and when they may return to work after having been quarantined. The below chart attaches that CDC guidance to common scenarios faced by employers in determining when an employee must stay home and when they can return based on symptoms, exposure to COVID-19, and test results. By identifying the classifications into which an employee falls (i.e., exposed to COVID-19), mild symptoms, and no test result), the chart provides the CDC’s recommendations. State and local guidance may deviate from the CDC’s in some cases. For this reason, you always check to determine if there is any local guidance. If there is a conflict between CDC guidance and state or local guidance, consult with your counsel to determine the appropriate steps.

Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor’s Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Exposed ² with no symptoms and no test	Y	Probable. Critical infrastructure workers must quarantine unless necessary to preserve the function of critical infrastructure workplaces.	Unless instructed otherwise by a local or state health department, seven days if employee is asymptomatic and receives a negative test in the final two days of quarantine. Unless instructed otherwise by a local or state health department, ten days if the employee is asymptomatic and is not tested.	If not quarantining, for 14 days from exposure, must wear a mask 100% of the time; must check temperature immediately prior to beginning shift; must remain 6 feet distant as much as job allows; the employer must clean and disinfect the workplace; the employee must self-monitor for symptoms; and must follow general guidelines. ³ Employees who have quarantined must follow general guidelines.	Test: Allowed. Dr. Release: Discouraged due to logistical concerns and low value.	EPSL if quarantined. ⁴	None

¹ On July 22, 2020, [the CDC recommended that decisions to end self-isolation should be based on the symptom-based strategies](#) because the testing strategies were unnecessarily extending the duration of the isolation and were a poor use of testing resources. The CDC also found that testing can return positive results without any contagious viral material for extended periods after a patient is no longer contagious, making them over inclusive. Tests should only be used to discontinue isolation or other precautions earlier than would typically occur under the symptom-based strategy. For example, new CDC guidance issued in November 2020 provides that testing can be used to shorten the period of quarantine for an individual who has been exposed. Nevertheless, employers are still allowed to require a negative test. There are many considerations when deciding whether to require employees to provide a negative test result or a doctor’s release to return to work which are beyond the scope of this tool. Employers should make these decisions considering local testing circumstances in consultation with their counsel. This chart simply provides the answer to whether it is an option in a given scenario.

² Those who have been within six feet of an infected person (confirmed or suspected) for 15 minutes or more, during the 48 hours before the infected person exhibits symptoms (or, if asymptomatic, 48 hours prior to the administration of their COVID-19 test) until the infected person is cleared from self-isolation.

³ The term “general guidelines” refers to the CDC suggested practices to prevent the spread of COVID including wearing a mask or cloth face covering, frequent handwashing, remaining six feet away from others, and regularly cleaning and disinfecting all work areas.

⁴ EPSL refers to Emergency Paid Sick Leave provided under the Families First Coronavirus Response Act. Please refer to [Fisher Phillips Guidance on EPSL](#) for the details of the leave. Quarantined employees who are able to work from home based on both the nature of the job as well as their physical ability do not qualify for Emergency Paid Sick Leave and may be required to work from home. EPSL is currently set to expire on December 31, 2020 and so employees who are absent from work for covered reasons after that date will not be eligible.

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Exposed with no symptoms and no test	N	Y	<p>Unless instructed otherwise by a local or state health department, seven days if employee is asymptomatic and receives a negative test in the final two days of quarantine.</p> <p>Unless instructed otherwise by a local or state health department, ten days if the employee is asymptomatic and is not tested.</p>	Can return after either 7 days with a negative test given within 48 hours before return or 10 days if asymptomatic and no test is given; must follow general guidelines.	<p>Test: Allowed</p> <p>Dr. Release: Discouraged due to logistical concerns and low value.</p>	EPSL	None
Exposed with mild to moderate symptoms⁵ but no test	N/A	Y	A minimum of 14 days from the last date of exposure and at least 24 hours have passed since resolution of fever without medication and all other symptoms have improved.	May return when 14 days have passed from the date of last exposure and at least 24 hours have passed since resolution or fever without medication and all other symptoms have improved; must follow general guidelines.	<p>Test: Allowed</p> <p>Dr. Release: Allowed</p>	EPSL and potentially ordinary FMLA depending on severity of symptoms	None unless employee was in the workplace within 48 hours of the onset of symptoms, then notification and contact tracing (treat as a presumed positive case). ⁶

⁵ While not specifically defined in the CDC guidance on discontinuation on self-isolation, the CDC provides the following information in other guidance: Mild Illness: Individuals who have any of the various signs and symptoms of COVID-19 (e.g., fever, cough, sore throat, malaise, headache, muscle pain) without shortness of breath, dyspnea, or abnormal chest imaging. Moderate Illness: Individuals who have evidence of lower respiratory disease by clinical assessment or imaging, and a saturation of oxygen (SpO₂) ≥94% on room air at sea level.

⁶ Contact tracing means identifying all individuals who had close contact with the infected employee and requiring those individuals to quarantine.

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Exposed with severe symptoms⁷ but no test	N/A	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	EPSL and FMLA	Notification and contact tracing (treat as a presumed positive case)
Mild to moderate symptoms but no exposure and no test	N/A	Y	This scenario needs a highly individualized response based on the particular facts. Contact your counsel to discuss the situation.	This scenario needs a highly individualized response based on the particular facts. Contact your counsel to discuss the situation.	Test: Allowed Dr. Release: Allowed	FMLA depending on severity of symptoms. EPSL with appropriate doctor's order.	Contact counsel
Severe symptoms but no exposure and no test	N/A	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	FMLA and EPSL with appropriate doctor's order	Notification and contact tracing (treat as a presumed positive case)

⁷ While not specifically defined in the CDC guidance on discontinuation of self-isolation, the CDC provides the following information in other guidance: Severe Illness: Individuals who have respiratory frequency >30 breaths per minute, SpO₂ <94% on room air at sea level (or, for patients with chronic hypoxemia, a decrease from baseline of >3%), ratio of arterial partial pressure of oxygen to fraction of inspired oxygen (PaO₂/FiO₂) <300 mmHg, or lung infiltrates >50%.

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Mild to moderate symptoms but no exposure and positive test	N/A	Y	A minimum of 10 days from the onset of symptoms or for as long as symptoms exist, whichever is longer, and at least 24 hours have passed since resolution or fever without medication and all other symptoms have improved.	After a minimum of 10 days from symptom onset and at least 24 hours have passed since resolution of fever without medication and all other symptoms have improved; must follow general guidelines.	Test: Allowed Dr. Release: Allowed	EPSL and FMLA depending on severity of symptoms	Notification and contact tracing
Severe symptoms but no exposure and a positive test	N/A	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	EPSL and FMLA	Notification and contact tracing
Mild to moderate symptoms but no exposure and a negative test	N/A	Y	This scenario needs a highly individualized response based on the very particular facts. Contact your counsel to discuss the situation.	This scenario needs a highly individualized response based on the very particular facts. Contact your counsel to discuss the situation.	Test: Allowed Dr. Release: Allowed	FMLA depending on severity of symptoms. EPSL with appropriate doctor's order	Contact counsel

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Severe symptoms but no exposure and a negative test	N/A	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	FMLA and EPSL with appropriate doctor's order	Notification and contact tracing (treat as a presumed positive case)
Exposed plus mild to moderate symptoms and positive test	N/A	Y	A minimum of 10 days from the onset of symptoms or for as long as symptoms exist, whichever is longer, and at least 24 hours have passed since resolution of fever without medication and all other symptoms have improved.	After a minimum of 10 days from symptom onset and at least 24 hours have passed since resolution of fever without medication and all other symptoms have improved; must follow general guidelines.	Test: Allowed Dr. Release: Allowed	EPSL and FMLA depending on severity of symptoms	Notification and contact tracing
Exposed plus mild to moderate symptoms and negative test	N	Y	A minimum of 14 days from the date of last exposure and at least 24 hours have passed since resolution of fever without medication and all other symptoms have improved	Minimum of 14 days from date of last exposure and at least 24 hours have passed since resolution or fever without medication and all other symptoms have improved	Test: Allowed Dr. Release: Allowed	Work at home or EPSL and FMLA depending on severity of symptoms	None unless employee was in the workplace within 48 hours of the onset of symptoms. Then contact tracing

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Exposed plus severe symptoms and negative test	Y	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	EPSL with appropriate doctor's order and FMLA	Notification and contact tracing (treat as a presumed positive case)
Exposed plus severe symptoms and negative test	N	Y	Length of isolation is determined by the health care provider	A doctor's note releasing the individual to return	Test: If ordered by doctor Dr. Release: Recommended	EPSL with appropriate doctor's order and FMLA	Notification and contact tracing (treat as a presumed positive case)
Exposed but no symptoms and a positive test	N/A	Y	10 days from the date the test was given as long as no symptoms develop	10 days from the date the test was given; must follow general guidelines	Test: Allowed, but check local health department guidance on testing when no symptoms are present Dr. Release: Discouraged due to logistical concerns and low value	EPSL	Notification and contact tracing

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
Exposed but no symptoms and a negative test	Y	Probable. Critical infrastructure workers must quarantine unless necessary to preserve the function of critical infrastructure workplaces	Unless instructed otherwise by a local or state health department, seven days if employee is asymptomatic and receives a negative test in the final two days of quarantine. Unless instructed otherwise by a local or state health department, ten days if the employee is asymptomatic and is not tested	If not quarantining, for 14 days from exposure, must wear a mask 100% of the time; must take temperature before starting shift; must remain 6 feet distant as much as possible; employer must clean and disinfect the workplace, the employee should self-monitor for symptoms, and must follow general guidelines. Employees who have quarantined must follow general	Test: Allowed, but check local health department guidance on testing when no symptoms are present Dr. Release: Discouraged due to logistical concerns and low value	None	None
Exposed but no symptoms and a negative test	N	Y	Unless instructed otherwise by a local or state health department, seven days if employee is asymptomatic and receives a negative test in the final two days of quarantine. Unless instructed otherwise by a local or state health department, ten days if the employee is asymptomatic and is not tested	If not quarantining, for 14 days from exposure, must wear a mask 100% of the time; must check temperature immediately prior to beginning shift; must remain 6 feet distant as much as job allows; the employer must clean and disinfect the workplace; the employee must self-monitor for symptoms; and must follow general guidelines. Employees who have quarantined must follow general guidelines.	Test: Allowed, but check local health department guidance on testing when no symptoms are present Dr. Release: Discouraged due to logistical concerns and low value	Work at home or EPSL with appropriate doctor's order	None

Minimum Return-to-Work Standards Based on CDC Guidance in Common Scenarios



Scenario	Critical Infrastructure Worker Y/N	Quarantine Required Y/N	Quarantine Length	Conditions for Return to work	May/Should Employer Require A Negative Virus Test or Doctor's Release to Return? ¹	Federal Leave Rights	Actions with Other Employees
No exposure with no symptoms but a positive test	N/A	Y	10 days from the date the test was given	10 days from the date the test was given; must follow general guidelines	Test: Allowed Dr. Release: Allowed	Work at home or EPSL	Notification and contact tracing
No exposure with no symptoms and a negative test	N/A	N	N/A	Must follow general guidelines	No	None	None

Fisher Phillips Office Locations



For further information please contact your Fisher Phillips attorney or Ed Harold at eharold@fisherphillips.com.

