The Zika Virus: FAQs For Hospitality Employers

Insights
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The World Health Organization recently declared Zika a global public health emergency, only the fourth time the agency has declared the spread of a disease to be a health emergency of international concern. The following Frequently Asked Questions will help hospitality employers better understand the virus and its impact on the workplace:

Q. How do people get infected?

The Zika virus is transmitted by infected mosquitos of the Aedes genus. According to the Centers for Disease Control (CDC), Zika is not transmitted by casual contact from person to person. Instead, it can be transmitted through exchange of blood or bodily fluids in childbirth or sexual activity. The virus usually remains in the blood of an infected person for a few days, but it can be found longer in some people. Accordingly, a mother infected with the Zika virus can pass the virus to her newborn.

Q. What happens if you catch the virus?
The CDC states that about only one in five people infected with Zika will develop symptoms. Zika symptoms are generally mild and last for two to seven days, and include fever, skin rash, conjunctivitis (red eyes), muscle and joint pain, malaise, and headache. According to the CDC, Zika poses little harm to most people but may cause significant harm to unborn children.

Q. How is the Zika virus treated?
There are no vaccinations or medications available to prevent or treat Zika.People suffering from the virus can alleviate symptoms by taking over-the-counter pain and fever medications, rest, and drinking plenty of water. Hospitalization is uncommon.

Q. What are the best prevention methods?
Prevention and control of the virus relies on reducing contact with mosquitos which can be done by using insect repellent, wearing clothes covering the body, using screened doors and windows, and emptying containers and flower pots holding stagnant water.

Q. Can we prohibit employees from personal travel to certain areas?
No, you should not prohibit an employee from personal travel, especially pregnant employees. This may result in a gender or pregnancy discrimination claim. Instead, you can advise all employees traveling to locations where the Zika virus has been found about the best preventive measures.

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Q. Can we require a medical examination for an employee who has traveled to an area with a Zika outbreak before they return to work?
Generally, no. Pursuant to the Americans with Disabilities Act, you can require a medical evaluation only if it is job related and consistent with business necessity. This usually occurs when you have a reasonable belief (based on objective evidence) that an employee's medical condition poses a direct threat. However, because the Zika virus is not transmitted in casual contact with other people, this standard would not be satisfied in most job settings.

Q. Can we prohibit employees from coming to work when they return from travel to a location where the Zika virus has been found?
So far, public health agencies have imposed no quarantine on persons returning from areas in which the Zika virus has been found. If you deviate from public health guidance, you could create exposure to a variety of legal claims including privacy, disability, wage and hour, and contract claims, as well as potential race and national origin discrimination charges.

Q. Can we be held responsible for harming an employee's unborn child?
It is possible for an employer's actions or inactions to give rise to a potential tort claim, but only if you have acted negligently and your negligence causes harm to an employee's unborn child. As long as you fully inform your employee of the risk, and you do not act negligently, the basis for a holding of liability is most likely remote.

Q. Can an employee refuse to perform his or her job or travel based on concerns about Zika?

Under the Occupational Safety and Health Administration (OSHA) standards, employees can refuse to work only where there is an objectively "reasonable belief that there is imminent death or serious injury." An employee who refuses to work without such an objective belief may face workplace discipline. However, if possible, the best approach is usually to defuse the situation and to focus on prevention.

Q. What should we do with nervous workers?
As is the case with any potentially infectious disease, you should educate your employees. Explain how Zika is transmitted and assure them that the situation is being monitored by public health agencies. Focus on emphasizing good mosquito bite prevention practices. You can reference posters the CDC has published on its website regarding the Zika virus and how travelers can exercise good mosquito bite prevention practices, which can be found here.

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