



South Carolina Employers Receive Guidance For Responding To COVID-19 Scenarios

Insights

7.07.20

The South Carolina Department of Health and Environmental Control (DHEC) has issued interim guidance for employers to rely on when responding to various scenarios involving COVID-19 in the workplace. Among others, scenarios addressed by DHEC involve those where an employee tests positive, lives or has close contact with someone who tests positive, or is a patron of a restaurant where a staff member tests positive.

DHEC's new guidance largely mirrors that currently provided to businesses by the Centers for Disease Control and Prevention (CDC) regarding the necessary periods for employee home isolation, although one period has been extended by DHEC to a minimum of 17 days in cases involving employees who live with a person who tests positive for COVID-19. Other return-to-work scenarios may also necessitate additional consultation with DHEC.

We provide a breakdown of DHEC's guidance below. South Carolina employers should consider implementing the following best practices when responding to suspected or confirmed cases of COVID-19 in the workplace.

Best Practices For When An Employee Tests Positive For COVID-19

When an employee tests positive for COVID-19, you should first tell that employee to stay home and recommend they contact their healthcare provider. You should then have Human Resources, Employee Relations, or a supervisor gather important documentation from the positive employee (i.e. date of onset of symptoms, date test results were received, recent exposure to co-workers or customers, etc.).

In addition, employers should perform a co-worker exposure assessment after learning about a positive COVID-19 case in the workplace. While maintaining confidentiality of the employee who tested positive as required under the Americans with Disabilities Act (ADA), you should also notify the employee's co-workers of their possible exposure to COVID-19 at work.

Employers will also need to consider criteria issued by DHEC related to release from home isolation:

- **Home Isolation Criteria For The Positive Employee:** Like the CDC, DHEC similarly instructs that employees who test positive should remain out of work until they have recovered and: (1) 10

days have passed since symptoms began; (2) the employee is fever-free (i.e. less than 100.4 degrees Fahrenheit) for three days without the use of fever-reducing medicines; *and* (3) the employee's other symptoms have improved. By contrast, in cases where an employee tests positive but never displays any symptoms, the employee should stay out of work and self-quarantine until 10 days after their test specimen was collected. DHEC defers to the CDC as to what symptoms employers and employees should watch for.

- **Home Isolation Criteria For Non-Present Co-workers:** No further steps need to be taken as to co-workers who were not at work during the positive employee's contagious period (i.e. the 48 hours prior to the positive employee's onset of symptoms (or test specimen collection if no symptoms) until release from home isolation).
- **Home Isolation Criteria For "Close Contacts":** Like the CDC, DHEC similarly instructs that anyone who is a "close contact" should also quarantine until 14 days after their last contact with the positive employee. "Close contact" means being within six feet of someone for a period of 15 minutes or more. If a co-worker is not a close contact, you should notify them of potential exposure and advise them to self-monitor for signs or symptoms of COVID-19 for 14 days. However, those employees do not need to quarantine or undergo any testing unless they develop symptoms.

Given the above criteria, DHEC appears to be advocating that employers implement a symptom-based strategy to determine when an employee should return to work after testing positive. DHEC has not addressed in its guidance whether employers could also rely on a test-based strategy, such as that currently offered as an option to employers under recent CDC guidance. Under the CDC's test-based strategy, employees who have tested positive and have symptoms may return to work when the employee has no fever, respiratory symptoms have improved, and the employee receives two negative test results in a row, at least 24 hours apart. Employees who have tested positive but do not have any symptoms may return to work after satisfying the latter requirement.

Best Practices For When An Employee Is Ill But Has Not Taken A COVID-19 Test

Employees should be sent home and receive encouragement to get tested for COVID-19 when they have not yet done so and experience symptoms consistent with COVID-19. After sending the ill employee home, you should follow the protocol below:

- **Ill Employee Tests Negative For COVID-19:** Ill employees who test negative for COVID-19 may return to work when they no longer have symptoms.
- **Ill Employee Tests Positive For COVID-19 Or Does Not Get Tested For COVID-19:** Ill employees who test positive for COVID-19 should remain out of work until they have recovered and meet the criteria for release from home isolation described in the section above concerning best practices for when an employee tests positive for COVID-19. Notably, this same guideline also applies to any employee who is sick and does not get tested for COVID-19—the employer should respond just as it would to any other positive case.

You should also notify those who had contact with the ill employee while the employee had symptoms, and two days prior to the symptoms appearing. You should then implement additional precautions for those employees as described in our [Comprehensive And Updated FAQs For Employers On The COVID-19 Coronavirus](#).

Best Practices For When An Employee Is A Close Contact With A Positive COVID-19 Case

You should also send an employee home if they live or were in close contact with someone who tests positive for COVID-19. In this scenario, employees may not return to work unless the following criteria is met:

- **Criteria When The Employee Does Not Live With The Close Contact:** The employee should quarantine for 14 days after their last contact with the positive person if they do not live with the positive person. This guideline mirrors the 14 day self-quarantine period currently recommended by the CDC in close contact cases.
- **Extended Isolation Period if The Employee Lives With The Close Contact:** The employee should quarantine for an additional seven days beyond the date the positive person met the criteria for release from isolation if the employee lives with the positive person. DHEC has not limited this instruction to family members. Employers should be aware that this means that the employee must self-quarantine for a *minimum* of 17 days, which exceeds the 14 day period currently recommended by the CDC in close contact cases.
- **Certain Cases May Involve Additional DHEC Consultation:** In cases where the employee is released to return to work sooner than the employee would under the applicable quarantine period above, the employee should contact the Human Resources Director or Supervisor and a return to work decision may then be made in consultation with DHEC.

Significantly, DHEC has clarified that testing negative *does not* shorten either of the two necessary quarantine periods listed above.

Best Practices For When An Employee Is A Close Contact Of Someone Who Is Sick But Has Not Been Tested

When an employee lives or was in close contact with someone who displays symptoms of COVID-19 but has not yet been tested, the employee may remain at work provided they do not display symptoms of COVID-19 while the contact is tested and is waiting on their results.

However, in cases where the contact tests positive for COVID-19, you should send the employee home and follow the guidance for release from home isolation provided above concerning best practices for when an employee is a close contact with a positive COVID-19 case.

Best Practices For When An Employee Is A “Contact of a Contact”

DHEC has provided different considerations for employees who are a “contact of a contact,” which means the employee lives or was in close contact with a person who was in close contact with another person who tests positive for COVID-19 or displays symptoms of COVID-19. CDC guidance

does not appear to address what actions employers should take when an employee is a “contact of a contact.” According to DHEC, you should take the following steps:

- **Step 1:** The employee may remain at work *as long as they do not have symptoms*. Such employees do not need to be tested unless they develop symptoms and no further action needs to be taken unless the person with whom the employee had contact develops symptoms or tests positive.
- **Step 2:** If the person with whom the employee had contact develops symptoms, send the employee home until it can be determined whether the symptoms are due to COVID-19. You should then follow the protocol listed directly below.
- **Steps 3 and 4:** If the person with whom the employee had contact tests negative or their healthcare provider does not consider the illness to be COVID-19, the employee may return to work. However, if the person with whom the employee had contact tests positive for COVID-19, you should follow the guidance concerning release from home isolation provided in the section above regarding best practices for when an employee tests positive for COVID-19.

In line with the CDC, DHEC notes that a person may qualify as a close contact irrespective of whether the person was wearing a cloth face covering or respiratory personal protective equipment (PPE).

Restaurant Patrons

Employers should also have a protocol for responding to cases where it is determined that an employee was a patron of a restaurant that later announces that a restaurant employee has tested positive for COVID-19.

Under DHEC guidance, an employee who falls into this category may remain at work provided they do not have symptoms. However, if an employee begins to display symptoms consistent with COVID-19, employers are instructed to follow the same procedure concerning release from home isolation provided in the section above concerning best practices for when an employee is sick but has not taken a COVID-19 test.

Critical Infrastructure Workers

DHEC acknowledges that its guidance does not address critical infrastructure workers and refers businesses to the CDC’s recently relaxed guidelines on this point. Those guidelines now allow critical infrastructure workers potentially exposed to COVID-19 to continue to work following exposure provided they remain symptom-free and employers implement additional precautions to protect the employee and the community. Employers in critical infrastructure industries should continue to rely on the CDC guidelines.

Conclusion

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips’ Alert System to get the

most up-to-date information. For further information, contact your Fisher Phillips attorney, any attorney in [our Columbia office](#), or [any member of our COVID-19 Taskforce](#). You can also review our [FP BEYOND THE CURVE: Post-Pandemic Back-To-Business FAQs For Employers](#) and our [FP Resource Center For Employers](#), maintained by our Taskforce.

This Legal Alert provides an overview of a specific developing situation. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.

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