



May 31, 2020

Interim Guidance for Public and Private Employees Returning to Work Following COVID-19 Infection or Exposure

Purpose

This interim guidance is intended to inform employers as restrictions on private and public sector activities are scaled back in different regions of the state throughout the COVID-19 public health emergency. This guidance is not intended for health care or nursing home professionals, which have separate protocols and guidance for staff to return to work. Specifically, this guidance provides protocols and policies for employees seeking to return to work after a suspected or confirmed case of COVID-19 or after the employee had close or proximate contact with a person with COVID-19.

Background

On March 7, 2020, Governor Andrew M. Cuomo issued Executive Order 202, declaring a state of emergency in response to COVID-19 as community transmission of the virus occurred throughout New York. To minimize further spread, social distancing of at least six feet must be maintained between individuals, where possible.

On March 20, 2020, Governor Cuomo issued Executive Order 202.6, directing all non-essential businesses to close in-office personnel functions. Essential businesses, as defined by Empire State Development Corporation (ESD) guidance, were not subject to the in-person restriction, but were, however, directed to comply with the guidance and directives for maintaining a clean and safe work environment issued by the New York State Department of Health (DOH).

On April 26, 2020, Governor Cuomo announced a phased approach to reopen industries and businesses in New York in phases based upon a data-driven, regional analysis. On May 4, 2020, the Governor provided that the regional analysis would consider several public health factors, including new COVID-19 infections, as well as health care system, diagnostic testing, and contact tracing capacity. On May 11, 2020, Governor Cuomo announced that the first phase of reopening would begin on May 15, 2020 in several regions of New York, based upon the previously identified regional metrics and indicators. On May 29, 2020, Governor Cuomo announced that the second phase of reopening would begin in several regions of New York.

Return to Work

As employers slowly begin to return employees back to the workplace, diligence must be paid to the health and safety of employees, especially for those employees that previously tested positive for COVID-19 or had close or proximate contact with a person with COVID-19 for a prolonged period of time.

Employers and employees should take the following actions related to COVID-19 symptoms or exposure:

- If an employee tests positive for COVID-19, regardless of whether the employee is symptomatic or asymptomatic, the employee may return to work upon completing at least 10 days of isolation from the onset of symptoms or 10 days of isolation after the first positive test if they remain asymptomatic.

- If an employee has had close or proximate contact with a person with COVID-19 for a prolonged period of time AND is experiencing COVID-19 related symptoms, the employee may return to work upon completing at least 10 days of isolation from the onset of symptoms.
 - The New York State Department of Health considers a close contact to be someone who was within 6 feet of an infected person for at least 10 minutes starting from 48 hours before illness onset until the time the person was isolated. The local health department should be contacted if the extent of contact between an individual and a person suspected or confirmed to have COVID-19 is unclear.
- If an employee has had close or proximate contact with a person with COVID-19 for a prolonged period of time AND is not experiencing COVID-19 related symptoms, the employee may return to work upon completing 14 days of self-quarantine.
 - However, if such an employee is deemed essential and critical for the operation or safety of the workplace, upon a documented determination by their supervisor and a human resources (HR) representative in consultation with appropriate state and local health authorities, the exposed, asymptomatic employee may return to work so long as the employee adheres to the following practices prior to and during their work shift, which should be monitored and documented by the employer and employee:
 1. Regular monitoring: The employee must self-monitor for a temperature greater than or equal to 100.0 degrees Fahrenheit every 12 hours and symptoms consistent with COVID-19 under the supervision of their employer's occupational health program.
 2. Wear a mask: The employee must wear a face mask at all times while in the workplace for 14 days after last exposure.
 3. Social distance: The employee must continue social distancing practices, including maintaining, at least, six feet of distance from others.
 4. Clean and disinfect workspaces: The employer must continue to regularly clean and disinfect all areas, such as offices, bathrooms, common areas, and shared electronic equipment.
 5. Maintain quarantine: The employee must continue to self-quarantine and self-monitor for temperature and symptoms when not at the workplace for 14 days after last exposure.
- If an employee is symptomatic upon arrival at work or becomes sick with COVID-19 symptoms while at the workplace, absent close or proximate contact with a person with COVID-19, the employee must be separated and sent home immediately and may return to work upon completing at least 10 days of isolation from the onset of symptoms OR upon receipt of a negative COVID-19 test result.

Additional Information

- New York Forward Reopening Webpage: <https://forward.ny.gov/>
- DOH COVID-19 Webpage: <https://coronavirus.health.ny.gov/home>
- CDC COVID-19 Webpage: <https://www.cdc.gov/coronavirus/2019-nCoV/index.html>