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Please find any FAQs discussed in our webinar here: <https://www.onegroup.com/covid19-updates/>

Information from Thursday, April 23 Webinar:

Good afternoon and thank you for joining OneGroup's informational update. My name is Alison Dunn. We are glad you could join us for our fifth update on the Coronavirus and various business-related impacts. This week our focus is on helping employers start planning for the return to work. We will also provide pertinent updates. We have several of our experts with us today.

We have:

Paul Coderre, *Vice President of Risk Management Services*

Kelly Goodsell, *Vice President of Claim Risk Management*

Dennis Ast, *Senior Account Executive, Cyber Risk Specialist*

Casey Cone, *Senior Human Resources Consultant*

And Tod Hoffman, *Senior Bank Liaison*

We will be discussing updates to address our clients' frequently asked questions in the areas of:

- Risk Management
- Claims and Coverage, including updates in the cyber area
- Human Resources
- Small Business Relief

We do have to include our disclaimer – this is for informational and educational use only. Nothing in this discussion should be considered legal advice. Please consult with the appropriate attorney or advisor before addressing any situation raised in this discussion.

On April 16, 2020, the White House issued "[Opening Up America Again](#)," federal guidelines to reopen the U.S. economy through a three-phase approach. State and local governments have begun to create their own frameworks to gradually lift stay-at-home orders, with important differences in each locality. In turn, employers should take steps now to prepare for reopening their physical workplaces and returning employees to work in offices and other facilities when it is appropriate to do so.

For today, we have structured this discussion to cover key updates and areas that our clients have been asking about. We also requested that participants share any questions with us before this discussion. Due to the number of participants on this call, we have muted all callers. If you have questions after this discussion, please reach out to your OneGroup contact. We will be posting content to our website, onegroup.com and there is a COVID-19 section on the main page that includes all of this information.

Risk Management

Purpose: Build a package of information, instructions and tools for a client to use in restarting their business as the Covid-19 restrictions are lifted.

Abstract: As restrictions begin to be lifted from businesses, owners and managers will want to return to the way they were doing business prior to March 27. The process and strategy behind this restart will be controlled (through government) and must be managed by the business owner in an attempt to prevent/minimize infection flare-ups and hotspots. This toolkit will be designed as a template to provide managers with guidance to the process of reopening, along with suggested control programs, training, forms, and audit procedures that can be used to both return employees to the workplace, and to keep them there.

Steps for Getting Back to Work:

1. Preparing for the return of workers
 - a. Reassembling the management team
 - i. New Infection Control Protocols
 1. Designate leadership, responsibility and accountability
 - ii. Work space
 1. Temporary space for planning
 - a. Assuring it is clean and sanitized
 - b. Has all needed technology and access (no staff wandering the facility)
 - iii. Personnel
 1. Health
 2. Scheduling
 3. Distancing
 4. Hygiene
 - b. Building the return strategy
 - i. What/Who comes in first
 - ii. Reconnecting with customers
 - iii. Scheduling production
 1. Availability of materials
 2. Production scheduling
 - iv. Personnel demands/scheduling

- v. Pay/benefits (Changes?)
- c. Preparing the facility
 - i. Cleaning & Sanitizing
 - 1. Availability of supplies
 - 2. Increased hygiene stations
 - 3. Posters/signs
 - ii. Reinitiating/restarting - services, utilities, etc.
 - iii. Equipment - Recalibrating, inspecting, servicing, etc.
- d. Developing new procedures and programs
 - i. Fitness for duty screening – provisions to make sure those coming in aren't infected, and what to do if they are (or are suspected to be).
 - ii. Personal hygiene programs – maintaining a high level of personal hygiene to ward of transfer of virus
 - iii. Workplace and Social distancing – maintaining distances in operations, break areas and public areas.
 - iv. Personal Protective Equipment (PPE)
 - 1. Continuous
 - 2. Upon exposure
 - 3. Relative to community exposures
 - 4. Levels of PPE
 - v. Visitors/vendors/contractors – limiting access and interaction wherever possible to minimize the potential of virus spread.
 - vi. Facility access/egress – changes to who gets in, and who goes where.
 - vii. Changes to discipline program related
 - viii. Response to symptoms and confirmed cases
 - 1. Sources –
 - a. Employee cases / potential cases
 - b. Employee relative, acquaintance, casual exposure
 - c. Visitor / vendor / contractor related exposures and cases
 - 2. Response –
 - a. Quarantine
 - b. Notifications
 - c. Cleaning / disinfection
 - d. Work suspension / isolation / shutdown
- e. Preparing employees for return
 - i. Communication
 - 1. Verification of intent to return
 - 2. Communication of RTW Plan, program changes/additions
 - 3. Communication of work scheduling
- f. Preparing for First Day Back – as each group returns
 - i. Facility – Access points
 - 1. Screening?
 - 2. Hygiene stations
 - 3. PPE

- ii. Personnel
 - 1. Welcome
 - 2. Training
 - 3. Build confidence
 - iii. Operations
 - 1. Ramping up –
 - iv. Check-in – manager responsibility – confidence, fears, frustrations, stamina
 - g. First Day Back
 - i. Implementing/managing/observing/adapting the protocols above.
 - ii. Management 1st day review/response
 - h. Ongoing Implementation
 - i. Screening
 - ii. Hygiene
 - iii. Response
 - iv. Visitors/Vendors/Contractors

Services We Can Provide

- Consultation
 - General Discussion –
 - Development of restart plan
 - HR Implications
 - Insurance issues
 - OSHA / Health Department issues
 - New protocols
 - Screening
 - Hygiene
 - Response
 - Etc.
- Education
 - The return process (facilitated discussion?)
 - Protocols
 - General infection control – for employees/supervisors
- Audit/Review
 - Implementation effectiveness
 - Outcomes/Results
- Resources
 - Risk Management Center
 - Forms
 - Checklists

Cyber

Coronavirus Cyber Discussions

- Sadly an uptick in cyber events both in general as well as targeted coronavirus related cyber-attacks – Complaints up 300% over the past month – FBI IC3
- Cyber Criminals are opportunistic, preying on people's fear and curiosity
- Fake coronavirus websites – Started with a fake CDC map - Malware
- Targeted coronavirus Phishing & Smishing campaigns – WHO, CDC, Govt. Agencies, etc..
- Fake cures, treatments, donations, general misinformation to take advantage and psychological manipulation of people
- Social Media –Malicious Links, don't click, enter website yourself
- FBI seeing increased activity in Hospitals and Medical Research
- DOJ said it will prioritize and prosecute coronavirus scams and fraud
- Increase utilization of remote workers presents new exposure

Practice Good Cyber Hygiene

- Employee Training – Think Before Clicking – Don't Panic
- Multifactor Authentication & Utilization of a VPN
- Use Strong Passwords or Pass Phrases
- No public Wi-Fi
- Secure Mobile Devices
- Install/Update Anti-Malware (Next Gen)
- Stay current with patching/updates
- Risk Assessment (Know what you have) NIST Framework
- Back-up, Test it, Air Gap
- Vendor Management – Beneficial Contracts
- **Cyber Response Plan – Who do you call first?**

Human Resources

Develop an employee communication plan.

- Anticipate employee fear, anxiety, rumors, and misinformation, and plan communications accordingly. Expect many employees will be concerned about coming back to work and the possibility of infection.
- Identify a team to plan for the employee's return.

- Distribute information about how, to whom, and when to report infection or possible exposure to the virus.
- Post and distribute information on how to identify and prevent coronavirus (CDC has excellent materials and guidance):
 - Wash hands often with soap and water or use an alcohol-based hand sanitizer if soap and water are unavailable
 - Avoid touching eyes, nose, and mouth
 - Avoid close contact with people who are sick
 - Stay home when feeling sick
 - Cover coughs or sneezes with a tissue, then throw the tissue in the trash
 - Clean and disinfect frequently touched objects and surfaces

Establish and disseminate policy on travel.

- Check the CDC's Traveler's Health Notices regularly for the latest on travel restrictions and recommendations for avoiding transmission.]
- Limit nonessential business travel to affected areas or areas of increased exposure risk. To the extent travel to these areas is mission-critical, employers will need to establish proper protocol for requisite travel.
- Advise employees to check themselves for symptoms of acute respiratory illness before starting travel and notify human resources and stay home if they are sick.
- Remind employees that when they travel, they should try to avoid contact with sick people and follow CDC guidelines for hand-washing and mask use, etc.

Establish guidelines for reporting and restrictions after travel or exposure.

- Consider requiring employees to report any travel to affected areas or exposure to coronavirus.
- Consider asking employees returning from areas of significant exposure risk and employee who have had contact with a contagious person to refrain from coming into the workplace for an established period of time (such as 14 days) to protect employees in the workplace from potential exposure.

Evaluate leave options.

- Review human resources policies to make sure that policies and practices are consistent with public health recommendations and existing state and federal workplace laws.
- Ensure your management team understands available leave options (sick leave, PTO, FMLA, state-paid sick leave programs, etc.), related procedures, and eligibility requirements.
- Consider how to respond to "worst case" scenarios (e.g., if an employee reports possible infection/exposure but does not have available leave benefits to cover absences and cannot afford leave without pay).
- Ensure your management team understands the company's desired approach with respect to these leave options.

- Understand your employees' rights and your obligations under other related laws (i.e., the ADA and state law equivalents, OSHA, etc.).
- Consider revising employee policies that may come into play when responding to employee leaves because of coronavirus. For instance, policies covering absence due to illness or job abandonment based on absence should be reviewed for possible temporary modification.
- Openly communicate to employees the company's policies and position on leave.

Explore more remote work options and realities.

- Explore whether you would be able to establish policies and practices, such as working remotely, to increase the physical distance among employees and between employees and others where state and local health authorities recommend the use of social distancing strategies.
- When deciding on remote work options, be mindful of the precedent this could set for work-from-home requests and any future requests for accommodation in the form of remote work.
- Employers should be sure to balance the risks and benefits before deciding whether to adopt such a policy.
- Unless allowed generally, determine under what special circumstances remote work would be permitted (e.g., confirmed infection, high possibility of exposure at worksite, emergency closure of schools or public transportation) and how to control for potential abuse (e.g., requiring exhaustion of available leave benefits, or documentation certifying need for accommodation).
- Ensure that you have the information technology and infrastructure needed to support multiple employees who may need to work from home.
- If allowing remote work to minimize workplace exposure risks, clearly communicate that any remote work allowances will be limited to the specific circumstance occasioning approval.
- Anticipate that more relaxed approaches may be needed in the event of mass school and other closures if the spread of coronavirus worsens.

DHS announces flexibility in requirements related to Form I-9 compliance – March 20, 2020

Due to precautions being implemented by employers and employees related to physical proximity associated with COVID-19, the Department of Homeland Security (DHS) announced on March 20, 2020, that it will exercise discretion to defer the physical presence requirements associated with Employment Eligibility Verification (Form I-9).

Employers with employees working remotely due to COVID-19 will not be required to review the employee's identity and employment authorization documents in the employee's physical presence.

The DHS provide specific steps that an employer can follow in this instance:

Employers must inspect the Section 2 documents remotely (e.g., over video link, fax or email, etc.) and obtain, inspect, and retain copies of the documents, within three business days for purposes of completing Section 2.

Once normal operations resume, all employees who were onboarded using remote verification, must report to their employer within **three business days** for in-person verification of identity and employment eligibility documentation for Form I-9, Employment Eligibility Verification.

Once the documents have been physically inspected, the employer should add "documents physically examined" with the date of inspection to the Section 2 additional information field on the Form I-9, or to section 3 as appropriate.

Employers also should enter "COVID-19" as the reason for the physical inspection delay in the Section 2 Additional Information field **once physical inspection takes place after normal operations resume.**

These provisions may be implemented by employers until May 19 OR within 3 business days after the termination of the National Emergency, whichever comes first.

Employers following this option must provide written documentation of their remote onboarding and telework policy for each employee. This burden rests solely with the employers.

This provision only applies to employers and workplaces that are operating remotely. If there are employees physically present at a work location, no exceptions are being implemented at this time for in-person verification of identity and employment eligibility documentation for Form I-9, Employment Eligibility Verification. However, if newly hired employees or existing employees are subject to COVID-19 quarantine or lockdown protocols, DHS will evaluate this on a case-by-case basis.

Additionally, employers may designate an authorized representative to act on their behalf to complete Section 2. An authorized representative can be any person the employer designates to complete and sign Form I-9 on their behalf. It is important to note, the employer is liable for any violations in connection with the form or the verification process.

<https://www.ice.gov/news/releases/dhs-announces-flexibility-requirements-related-form-i-9-compliance>

A OneMinute HR email blast will be sent out on this topic as well within the next few days or so.

COVID-19 and ADA

On April 9 and April 17, 2020, the EEOC issued additional, revised technical assistance to employers regarding best practices for balancing obligations under the Americans with Disabilities Act (ADA) with following guidance from the Center for Disease Control (CDC) and state and local public health authorities regarding the COVID-19 pandemic.

Disability-Related Inquiries and Medical Exams

1. [How much information may an employer request from an employee who calls in sick, in order to protect the rest of its workforce during the COVID-19 pandemic?](#) (3/17/20)

During a pandemic, ADA-covered employers may ask such employees if they are experiencing symptoms of the pandemic virus. Employers must maintain all information about employee illness as a confidential medical record in compliance with the ADA.

2. **When screening employees entering the workplace during this time, may an employer only ask employees about the COVID-19 symptoms EEOC has identified as [examples](#), or may it ask about any symptoms identified by public health authorities as associated with COVID-19?** (4/9/20)

As public health authorities and doctors learn more about COVID-19, they may expand the list of associated symptoms. Employers should rely on the CDC, other public health authorities, and reputable medical sources for guidance on emerging symptoms associated with the disease. These sources may guide employers when choosing questions to ask employees to determine whether they would pose a direct threat to health in the workplace.

3. [When may an ADA-covered employer take the body temperature of employees during the COVID-19 pandemic?](#) (3/17/20)

Generally, measuring an employee's body temperature is a medical examination. Because the CDC and state/local health authorities have acknowledged community spread of COVID-19 and issued attendant precautions, employers may measure employees' body temperature. However, employers should be aware that some people with COVID-19 do not have a fever.

4. [Does the ADA allow employers to require employees to stay home if they have symptoms of the COVID-19?](#) (3/17/20)

Yes. The CDC states that employees who become ill with symptoms of COVID-19 should leave the workplace. The ADA does not interfere with employers following this advice.

5. [When employees return to work, does the ADA allow employers to require a doctor's note certifying fitness for duty?](#) (3/17/20)

Yes. Such inquiries are permitted under the ADA either because they would not be disability-related or, if the pandemic were truly severe, they would be justified under the ADA standards for disability-related inquiries of employees. As a practical matter, however, doctors and other health care professionals may be too busy during and immediately after a pandemic outbreak to provide fitness-for-duty documentation. Therefore, new approaches may be necessary, such as reliance on local clinics to provide a form, a stamp, or an e-mail to certify that an individual does not have the pandemic

virus. As mentioned earlier in the webinar, the CDC, OSHA, and the DOL all urge employers to be flexible. It is likely that healthcare providers are overwhelmed with patients and care therefor, documentation requests are likely going to be put aside for some time. In its March 27th webinar, the EEOC recommended that employers be "flexible" and "creative" with respect to acceptable documentation.

Return to Work

1. As government stay-at-home orders and other restrictions are modified or lifted in your area, how will employers know what steps they can take consistent with the ADA to screen employees for COVID-19 when entering the workplace? (4/17/20)

The ADA permits employers to make disability-related inquiries and conduct medical exams if job-related and consistent with business necessity. Inquiries and reliable medical exams meet this standard if it is necessary to exclude employees with a medical condition that would pose a direct threat to health or safety.

Direct threat is to be determined based on the best available objective medical evidence. The guidance from CDC or other public health authorities is such evidence. Therefore, employers will be acting consistent with the ADA as long as any screening implemented is consistent with advice from the CDC and public health authorities for that type of workplace at that time.

For example, this may include continuing to take temperatures and asking questions about symptoms (or require self-reporting) of all those entering the workplace. Similarly, the CDC recently posted [information](#) on return by certain types of critical workers.

Employers should make sure not to engage in unlawful disparate treatment based on protected characteristics in decisions related to screening and exclusion.

2. An employer requires returning workers to wear personal protective gear and engage in infection control practices. Some employees ask for accommodations due to a need for modified protective gear. Must an employer grant these requests? (4/17/20)

An employer may require employees to wear [protective gear](#) (for example, masks and gloves) and observe [infection control practices](#) (for example, regular hand washing and social distancing protocols).

However, where an employee with a disability needs a related reasonable accommodation under the ADA (e.g., non-latex gloves, modified face masks for interpreters or others who communicate with an employee who uses lip reading, or gowns designed for individuals who use wheelchairs), or a religious accommodation under Title VII (such as modified equipment due to religious garb), the employer should discuss the request and provide the modification or an alternative if feasible and not an undue hardship on the operation of the employer's business under the ADA or Title VII.

Small Business Relief

PPP Update

Today I'm going to provide you with an update on the PPP program. As always if you have specific questions on details of the program please feel free to reach out to me through your OneGroup contact.

- As I'm sure you are all aware \$349 billion initial phase of funding for the SBA's Paycheck Protection Program was depleted over a two week period with the available funding running out on April 16.
- Most banks stopped taking new applications that same day leaving a large backlog of applications unfunded at that time. A rough estimate says about 10% of applications were funded.
- Additionally funds for the SBA's direct EIDL (Economic Injury Disaster Loan Emergency) were also depleted on that same day.

Apparently a billion doesn't go as far as it did in the old days.

As you may have seen in the news, the program has not been without its controversy

- Accusations were made and class action law suits filed against Wells Fargo, BofA, JP Morgan Chase and US Bancorp for supposedly not adhering to the first come, first served rules and funneled stimulus funds to larger companies for bigger fees.
- Luckily none of those banks have a large market share in Central New York and our area is primarily served by a great group of regional and community banks who I believe, are following the rules and who have done a great job providing funding for thousands of local businesses under extraordinary circumstances.
- An article on Syracuse.com provided some stats
 - One CNY bank issued more government-backed loans to small businesses in a week than it did in all of 2019.
 - One credit union handled more applications in two weeks than they do in an entire year.

New Funding – Round 2

Good news is that the Senate has passed and the House is set to vote today on a new \$484 billion package that will provide:

- \$320 billion for the PPP program
- \$60 Billion for the EIDL program
- \$75 Billion for hospitals
- \$60 billion for smaller banks and community lenders to lend

The President will hopefully sign the bill tomorrow.

- It's highly unlikely that any banks will be accepting new applications as they have a huge backlog of applications from round one that will get first priority.
- Again my recommendation is to check with your banker to make sure they have your application and all of the required supporting documentation.
- Also a reminder that there are other more traditional ways of getting debt relief
- Principal deferments on mortgages and term loans
- Working capital line increases
- Talking to vendors or leasing companies about deferments.

Important Reminder

If you have received funding, make sure you are closely tracking your expenditures over that critical 8 week period following the loan closing date.

Accurate accounting of your total payroll costs, mortgage interest, lease or rent cost and utilities is required in order for you to qualify for loan forgiveness down the road.

- Additional federal funding is already in the works