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Top Ten Ways to Prepare for H1N1

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Flu season is here and cases of the H1N1 virus are on the rise; many health care and government officials have predicted the possibility of a pandemic. Even without a pandemic, there are increased employee illnesses and resulting absences to deal with, concerns about work coverage issues, and fears of potential exposure at work. Employers should work to address these concerns.

1. Establish a committee to develop an influenza response plan. The plans will vary based on your organization's needs, risk tolerance, and corporate culture. OSHA's *Guidance on Preparing Workplaces for an Influenza Pandemic* classifies occupational exposure risks into four categories and helps employers determine their level of risk.
2. Review leave and other time-off policies to determine whether changes are necessary to accommodate increased absences. Decide in advance how to handle affected employees who do not have accrued paid time off, and consider whether medical certification will be required to support time off or FMLA entitlement. Employers need to balance the desire to keep sick employees out of the workplace with the need to contain costs and curb abuse of sick leave policies. A variety of options exist, including allowing unpaid leave with no penalty, allowing additional paid leave, and allowing sick workers to borrow from the following year's leave allotment.
3. Consider drafting a policy statement informing employees when and how long to stay home in the event of illness. Decide whether employees should be sent home based on diagnosis, symptoms or merely exposure, and be mindful of ADA compliance and other nondiscrimination laws.
4. Identify essential employees and determine how the company will operate in their absence. Consider establishing a relationship with a staffing company in preparation for using temporary or contract employees, and consider cross-training employees to create versatility and better cover essential duties in the event of absences.
5. Review compensation policies and be aware of which employees are exempt from the minimum wage and overtime requirements of the FLSA. Both an employee's exempt status and the length of any potential absence will affect pay requirements when an employee is absent due to illness. Remember that allowing exempt employees to fill in for absent non-exempt employees could affect their exempt status for the weeks they fill in, and paying exempt employees for extra time worked in a non-exempt role could risk their exempt status altogether.
6. If you're tempted to assess in advance who is at higher risk for H1N1 so you can plan for absences, make certain to comply with ADA prohibitions regarding requests for medical information. The EEOC's *ADA-Compliant Employer Preparedness for the H1N1 Flu Virus* can help employers determine which employees might be at greatest risk. Consult counsel as necessary when seeking to gain sensitive information without violating the ADA and state privacy laws.
7. Decide whether to allow or require employees to work from home, or telecommute when symptomatic. Employers who expect to have telecommuting employees need to develop processes to track time and account for attendance. Employers should also consider how, and at whose expense, telecommuting employees will attain the necessary technology (computer and printing equipment, necessary software, phone and internet lines, etc.), and ensure that the company's infrastructure is sufficient to handle a potentially increased volume of telecommuters.
8. Establish a way to quickly and effectively communicate with employees to ensure they are getting accurate information about H1N1 and the company's response plan. Consider call-in procedures, and

how those will be affected if supervisors or others designated to take such calls are absent. Be mindful of the ADA and state privacy requirements when communicating about possible risk or exposure. For example, while employers who become aware that an employee has been infected with the H1N1 virus can inform others that they have been exposed, employers should keep the identity of infected employee confidential.

9. Implement infection control measures, such as regular hand washing, coughing and sneezing etiquette, and tissue usage. Educate employees and consider encouraging, or even offering, vaccinations. Various government and health agencies have created websites with up-to-date information and recommendations about H1N1. Visit these websites regularly and encourage employees to do the same.
10. Make provisions to address employees who may be working or traveling outside the country. Companies should consider establishing emergency evacuation plans, and may want to alter travel procedures by purchasing fully-refundable airlines tickets and booking lodging near the airport or U.S. embassy.

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