

## Frequently Asked COVID-19 Human Resources Questions and Answers

Written by



Sandra Teague SPHR, SHRM-SCP  
VP of HR Consulting  
Connor & Gallagher OneSource (CGO)  
steague@GoCGO.com | 630.599.8761



Pam Dettman SPHR, SHRM-SCP  
HR Director  
Connor & Gallagher OneSource (CGO)  
pdettman@GoCGO.com | 630.599.8759

### 1. My employee has a confirmed diagnosis of COVID-19. What do we do?

Follow the CDC guidelines. The employee should isolate at home for 14 days. You should disinfect the workplace and determine the exposure to others. Depending on the exposure to others, you may need to send other employees home to prevent the spread of the virus. Do not identify the infected employee or you may violate laws of confidentiality. Manage their absence through FMLA, STD, paid sick leave or FFCRA.

### 2. My employee was exposed but has no symptoms. What are our options?

Previous guidance from the Centers for Disease Control and Prevention (CDC) recommended employees stay home for 14 days after exposure. However, per revised CDC recommendations issued April 8, they are now advising that critical infrastructure workers may be permitted to continue to work following potential exposure, provided they remain symptom free and additional precautions are implemented by the employer. Additional precautions include measuring the employee's temperature prior to them starting work; employee self-monitors for temperature or other symptoms; employee wears a mask for 14 days after last exposure; maintain 6 feet and practice social distancing; disinfect and clean all shared work spaces and increase air exchange in the workplace. For further details see the CDC revised guidance at <https://www.cdc.gov/coronavirus/2019-ncov/community/critical-workers/implementing-safety-practices.html>

### 3. Schools and Day Care Facilities are Closed. What leaves are available to employees who must take care of their kids?

Without an illness, they would not qualify under STD or most employer sick leave. However, with the new FFCRA laws they may qualify. See Question 14 for information about the Act. Additionally, if they are covered by the Chicago or Cook County sick leave, they can use time earned under this policy for a school closing due to a public health emergency.

### 4. My employee is afraid to come to work despite no known cases. Must we accommodate them?

Employees are only entitled to refuse work if they believe they are in imminent danger as defined by OSHA. Unless they can prove you are not taking the necessary precautions for the employees, you can ask them to come to work. If they refuse, you don't have to pay them, and you could discipline according to your absence policy. However, you might want to consider other options (using PTO time or other leave programs) to address this issue.

### 5. Should we require a doctor's note before employees return to work?

It depends on your company policies and if you usually require medical clearance from returning employees. However, it is suggested you don't put further strain on medical providers at this time. Require the employee to quarantine for 14 days, but don't require a doctor note upon their return.

### 6. Can I send my employee home if they are coughing or showing symptoms of illness?

Yes. If they are exhibiting symptoms of the virus, you have the right to ask them to go home. The coronavirus is thought to spread largely through respiratory droplets from coughing and sneezing. They should leave work if they develop symptoms and stay home if they have coughing sneezing, shortness of breath and/or a temperature above 100.4 F.

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### 7. Can I take my employee's temperature?

Per recent guidance from the Equal Employment Opportunity Commission (EEOC), employers have been given the green light to take employees' temperature to try and ward off the spread of the coronavirus. However, it should be noted that some people with COVID-19 do not have a fever. Additionally, the reading should be kept confidential and the person administering the check should be trained on the procedure.

### 8. Does an employer need to pay employees who are not working?

Federal and state wage and overtime requirements are related to hours worked. Employees who are classified as nonexempt (hourly) who are not working are not eligible for wages. However, exempt employees on a salary basis must be paid their entire salary if they perform any work during a seven-day workweek. There are exceptions whereby exempt employees can be docked in a work week. Please refer to the Department of Labor for details.

### 9. Can I reduce my employee's wages or hours in order to lower payroll costs?

Yes. If you reduce wages, you must not reduce a nonexempt employee's wage below minimum wage. If the employee is exempt, and you want them to retain this status, you must not reduce their wages below the exempt minimum of \$684 per week. The most important thing here is clearly documenting your employee communication with employees ahead of any changes in their pay, whenever possible having them sign off on any changes to avoid any potential wage disputes in the future.

### 10. What is the difference between a lay off and a furlough?

When an employer furloughs its employees, they are asked to work fewer hours or to take a certain amount of unpaid time off. The employee is still considered active and generally has either scheduled time off or an expectation of returning to the job. A layoff is a separation from payroll and the employee is likely given no expectation if or when they may be returning to the job. The termination process is usually followed, including paying out any accrued, unpaid vacation/PTO. See Question 11 for how this will affect benefits.

### 11. How will my employees' benefits be affected by a layoff or furlough?

In a furlough status, typically benefits will continue. The employer maintains their employee's eligibility with the carriers. Many of the insurance carriers have given direction on relaxed eligibility guidelines and extended "extension of benefits provisions" during this crisis allowing employers to keep their employees on the plan even if their hours fall below required minimums. Each carrier is handling this slightly different – when carriers release their specific eligibility guidelines we're posting them to the CGO COVID-19 resource page here: <https://www.GoCGO.com/covid-19-employer-resources>.

In a layoff status, the employee is considered terminated. We will process this as a normal termination. The employee's coverage will be moved to COBRA status and information will be sent to the employee on how they can extend their coverage under the COBRA laws. If you want to take advantage of the extended benefits eligibility guidelines that your carrier may be extending you don't need to communicate anything to CGO. Our recommendation is that you communicate to your employee they are "furloughed" rather than "laid off" and allow them to remain on the benefits plan. See question #12 below for how to handle employee contributions toward benefits.

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## 12. If I furlough employees and allow them to remain on the benefits per my carrier's relaxed guidelines how do I collect their portion of the premium?

This is a financial risk of allowing people to stay on the benefits plan while they are furloughed and not being paid. How you will handle the "employee portion" of the benefit cost should be communicated clearly to employees at the time they are furloughed. We would recommend that you provide for one of two options. 1. Have the employee remit their portion of the premium to you via personal check. 2. Preferably you would allow for a recap of deductions from an employee when they return from furlough and are actively working again. Set the expectation that if they don't return from furlough they will owe their portion at that time. It may be difficult to collect from employees who don't return from furlough but at least you've set the expectation and can take action if necessary. The most important thing is that you apply this policy consistently.

## 13. Are my employees eligible for unemployment if furloughed or laid off?

In both cases, whether furloughed or laid off, employees will be eligible for unemployment in the State of Illinois. Most states have adopted similar plans, however, check with your state unemployment for further details. Under emergency rules the Illinois Department of Employment Security (IDES) recently adopted, the employee will not have to register each week as actively seeking work, as long as the individual was prepared to return to his or her job as soon as the employer reopened. For more details see the IDES COVID-19 page at <https://www2.illinois.gov/ides/Pages/COVID-19-and-Unemployment-Benefits.aspx>.

## 14. What is the Families First Coronavirus Response Act (FFCRA)?

The Families First Coronavirus Response Act (FFCRA) is legislation that was signed into law on March 18, 2020. The two laws provide workers with paid leave for reasons related to the COVID-19 pandemic. For details about the act and FAQ's regarding the act, please see the bulletins listed on our [Coronavirus Employer Resources page](#).

## 15. If I am a small business with fewer than 50 employees, am I exempt from the requirements to provide paid sick leave or expanded family and medical leave under FFCRA?

A small business may be exempt from certain paid sick leave and expanded family and medical leave requirements if providing an employee such leave would jeopardize the viability of the business as a going concern. The DOL has addressed this in their most recent FAQ's regarding the act but have not yet explained how an employer would obtain the exemption. Please see the DOL link for further details. <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#58>

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**16. I am a small business owner with fewer than 50 employees, do I need to post the DOL issued FFCRA required poster?**

Yes, the act applies to all employers with less than 500 employees. Each covered employer must post the notice. Please see the link on our Coronavirus Employer Resources page for additional FAQ's regarding the required posting. <https://www.gocgo.com/required-families-first-coronavirus-response-act-notice>

**17. If my employees are on layoff or furlough, will they be eligible for sick pay under the new FFCRA laws?**

No, an employee is not eligible for the paid leave requirements of the FFCRA if they are on furlough or have been laid off. However, they may be eligible for state unemployment. See question 13 for unemployment information.

**18. My state or city has implemented a "shelter in place" order. Do I continue to ask employees to come to work?**

Based on guidance from your state or city, the employer will need to decide if your business falls under an essential category and can remain open. Once that decision is made, we can provide information to you to help decide what is the best options for your employees.

**19. Does a "shelter in place" order trigger paid leave under FCRA?**

No, an employee is not eligible for the paid leave requirements of the FFCRA if their worksite closes due to a shelter in place order, or any other reason, such as a lack of business. However, they may be eligible for state unemployment. See question 13 for unemployment information.

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