



# Coronavirus (COVID-19) Information

As of March 31, 2020

## Update:

Since our last update, our Nation's number of confirmed COVID-19 cases has surpassed China and Italy, we continue to practice social distancing as well as sheltering in place. For current COVID-19 statistics please check out <https://coronavirus.jhu.edu/map.html>, [www.cdc.gov](http://www.cdc.gov), or [www.who.int](http://www.who.int).

For more information on COVID-19 insurance topics and newly enacted legislation, please visit Heffernan's COVID-19 Resource Center at <https://www.heffins.com/COVID19>. You can also sign up for Heffernan's weekly COVID-19 webinars where industry professionals will be discussing pertinent information as things unfold. To register, go to <https://register.gotowebinar.com/register/3139770208099359245>.

The purpose of this update is to provide real-time information on what our Division is seeing on the labor law and occupational fronts since our last publication.

- 1) **What Employers Can & Can't Do During a Pandemic** - On March 11, 2020, the COVID-19 virus was officially declared a pandemic. This declaration brought forth a very important "Direct Threat" distinction under the Equal Employment Opportunity Commission's (EEOC) Americans with Disabilities Act (ADA) and Section 501 of the Rehabilitation Act and pandemic planning in the workplace. This was originally issued back in October of 2009 in response to the H1N1 virus and was updated on March 21, 2020 to encompass COVID-19. It allows employers to do the following to protect their employees and the general public from this "Direct Threat":
  - a. Employers can send employees home if they display COVID-19 like symptoms.



- b. Employers may ask their employees if they are experiencing COVID-19 like symptoms but must maintain all information about employee illnesses as confidential.
- c. An employer can take their employees temperatures but must keep the results confidential.
- d. Employers cannot ask their employees, who do not have COVID-19 like symptoms, if they have a medical condition that might make them especially vulnerable to COVID-19 complications.
- e. An employer can ask an employee, returning from business or personal travel, about possible exposure whether they have COVID-19 like symptoms or not.
- f. Employers can encourage employees to telework from an alternate location.
- g. Employers can require employees to adopt infection control practices (like washing their hands, etc.) as well as wear protective gear (such as face masks, gloves, etc.).
- h. An employer can ask an employee why they were absent from work and should – especially if it is suspected that the employee was out for medical reasons.
- i. An employer should continue to provide employees with reasonable accommodations, for those employees with known disabilities (temporary or permanent), barring undue hardship as a result of the pandemic.
- j. Should an employee voluntarily disclose that they have a pre-existing condition that will put them at greater risk with COVID-19, reasonable accommodations (like telework) should immediately be offered.
- k. If an employee is confirmed to have COVID-19, an employer should inform fellow employees of their possible exposure to COVID-19 in the workplace, keeping the identity of the quarantined employee confidential.



For additional information on these, as well as on how to hire during a pandemic, what to do after a pandemic as well as additional EEOC Resources please go to [https://www.eeoc.gov/facts/pandemic\\_flu.html](https://www.eeoc.gov/facts/pandemic_flu.html).

- 2) **Occupational Clinics & COVID-19** – Because occupational clinics do not typically have the required Personal Protection Equipment (PPE) for something like the COVID-19 virus, they will not see an employee for any COVID19 exposure or active symptoms. So, if you believe an employee has been exposed to COVID-19 or should someone wish to file a COVID-19 workers' compensation claim DO NOT send them to your usual Occupational Clinic. Rather, immediately send your employee home with the instructions to contact their private doctor or the county health department
- 3) **Occupational Clinics & Active Workers' Compensation Treatment** - For those employees who are actively treating or receiving services from your occupational clinic, please instruct them to call before they present for each of their appointments. If they are exhibiting any flu or cold like symptoms, their appointments will need to be rescheduled. Many clinics are locking their doors and setting up an alternative entrance to help with social distancing
- 4) **Telemedicine Platforms & Telephonic Triage** – For active medical treatment, for industrial and non-industrial injuries, illnesses or conditions, telehealth platforms are **strongly** being encouraged. On a non-industrial basis, vendors like Teladoc <https://www.teladoc.com/> are available. For industrial situations, many occupational clinics have this option available to their patients as do telehealth and triage vendors like HIB's strong partner Medcor <https://www.medcor.com/> . For more information in this regard, contact your Heffernan Team or reach out to our Risk Management Division at [riskmanagement@heffins.com](mailto:riskmanagement@heffins.com).



Some states are even moving towards allowing the use of a telemedicine platform for formal medical evaluations such as Independent Medical Evaluations (IME) and Qualified Medical Evaluations (IME). For example, California's Division of Workers' Compensation is encouraging Qualified Medical Evaluations (QME) to be done via a telehealth platform.

<https://www.dir.ca.gov/DIRNews/2020/2020-26.html>.

Overall, COVID-19 is having a direct effect on our workers' compensation system nationwide. The issues we discussed on page 5 of this document remain. Our Division continues to work closely with our clients to support them in this uncharted territory. Should you have any additional questions or need for assistance, please feel free to contact us at [riskmanagement@heffins.com](mailto:riskmanagement@heffins.com).

**Bonus Resource:** Should you need ergonomic assistance with your remote workers, please go to <https://aspenrmg.com/aspenwebinars/>. Our partner service provider, Aspen Risk Management Group, has webinars to assist your employees and management in this regard through April of 2020.