

## OSHA Provides Recordkeeping Guidance To Employers For COVID-19 Cases

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The Department of Labor's Occupational Safety and Health Administration just issued guidance for enforcing OSHA's recordkeeping requirements for COVID-19 cases. OSHA recordkeeping requirements mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log.

### When Does Your Recordkeeping Obligation Kick In?

According to the guidance, COVID-19 is a recordable illness, and must be recorded on an employer's OSHA 300 log if:

1. The case is a confirmed case of COVID-19 (meaning an individual has at least one respiratory specimen that tests positive for SARS-CoV-2, the virus that causes COVID-19);
2. The case is work-related (as defined by 29 CFR § 1904.5); and
3. The case involves one or more of the general recording criteria as outlined by OSHA: if it results in death, days away from work, restricted work or transfer to another job, medical treatment beyond "first aid," or loss of consciousness (OSHA provides a specific and complete definition of "first aid" in 29 CFR § 1904.7(b)(5)(ii)).

### Limited Enforcement Waiver

Recognizing the difficulty in determining whether COVID-19 was contracted while on the job, OSHA will not enforce its recordkeeping requirements that would require employers in areas where there is ongoing community transmission to make work-relatedness

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determinations for COVID-19 cases, except where:

1. There is objective evidence that a COVID-19 case may be work-related; and
2. The evidence was reasonably available to the employers.

This waiver of enforcement does not apply to employers in the healthcare industry, emergency response organizations (e.g., emergency medical, firefighting and law enforcement services), and correctional institutions in areas where there is ongoing community transmission. These employers must continue to make work-relatedness determinations.

This new guidance provides employers with one fewer issue to worry about in their response efforts to an employee with a confirmed case of COVID-19. Employers should continue to focus on minimizing the risk of transmission in the workplace.

### **Conclusion**

Fisher Phillips will continue to monitor the rapidly developing COVID-19 situation and provide updates as appropriate. Make sure you are subscribed to Fisher Phillips' Alert System to get the most up-to-date information. For further information, contact your Fisher Phillips attorney, or any member of our COVID-19 Taskforce. You can also review our nationwide Comprehensive and Updated FAQs for Employers on the COVID-19 Coronavirus and our FP Resource Center For Employers, maintained by our Taskforce.

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