

Returning to Work: What Employers Need to Know

Considerations from a Legal, HR and Benefits Perspective

OUR MISSION IS
TO SUPPORT YOURS



TODAY'S OBJECTIVES

- Introductions
- Legal Considerations
- Benefits Considerations
- Human Resources Considerations
- Questions

TODAY'S PRESENTERS



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RETURN TO WORK FORECASTS

26.5M

Filed for Unemployment

Highest since 1934
Expanded unemployment benefits,
SBA loans

DOL

34%

No Emergency Plan

Survey participants reported no
emergency preparedness plan in
place prior to COVID 19
2/3 of employers did, but it did not
cover
Communicable Disease

SHRM

43%

Employees Want to Know Employer's Plan

U.S. employees surveyed crave clarity
on what the return to the workplace will
look like. Top three concerns:
Making masks available
Providing addtl PTO or flex time,
Staggering days/shifts to reduce
of people in workplace

Brunswick

Legal Considerations

REOPENING/RESTORING OPERATIONS/RETURNING THE WORKFORCE

- April 16, 2020 – federal government announced three phase plan
- The Centers for Disease Control and Prevention (CDC) has issued guidance:
 - Are you in a community no longer requiring significant mitigation?
 - Will you be able to limit non-essential employees to those from the local geographic area?
 - Do you have protective measures for employees at higher risk (e.g., teleworking, tasks that minimize contact)?
- Requirements for reopening will vary by jurisdiction/industry
- State and local governments are recommended to monitor symptoms, active COVID-19 cases and hospital resources in determining when to implement each phase

REOPENING BUSINESSES WITH WORKERS AT RISK FOR SERIOUS ILLNESS



The purpose of this tool is to assist business owners and managers in making decisions regarding reopening during the COVID-19 pandemic. It is important to check with state and local health departments and other partners to determine the most appropriate actions.



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For more information, please visit
CORONAVIRUS.GOV

BEST PRACTICES: BE AWARE OF AGENCY GUIDANCE

Guidance has been issued by various other agencies, such as the CDC, DOL, OSHA, and FDA

- These inform employers about best practices for continuing to operate during the COVID-19 crisis and in a post-pandemic world

Implement policies and procedures that adhere to guidance issued by these agencies

- This will help employers mitigate liability as businesses begin to reopen

Be aware of any local or state orders and requirements

- Examples include continued social distancing protocol or a responsibility to provide employees with personal protective equipment

Summary of Best Practices for Retail Food Stores, Restaurants, and Food Pick-Up/Delivery Services During the COVID-19 Pandemic

FDA U.S. FOOD & DRUG ADMINISTRATION

BE HEALTHY, BE CLEAN



- Employees - Stay home or leave work if sick; consult doctor if sick, and contact supervisor
- Employers - Instruct sick employees to stay home and send home immediately if sick
- Employers - Pre-screen employees exposed to COVID-19 for temperature and other symptoms



- Wash your hands often with soap and water for at least 20 seconds
- If soap and water are not available, use a 60% alcohol-based hand sanitizer per CDC
- Avoid touching your eyes, nose, and mouth with unwashed hands
- Wear mask/face covering per CDC & FDA



- Never touch Ready-to-Eat foods with bare hands
- Use single service gloves, deli tissue, or suitable utensils
- Wrap food containers to prevent cross contamination
- Follow 4 steps to food safety: [Clean, Separate, Cook, and Chill](#)

CLEAN & DISINFECT



- Train employees on cleaning and disinfecting procedures, and protective measures, per CDC and FDA
- Have and use cleaning products and supplies
- Follow protective measures



- Disinfect high-touch surfaces frequently
- Use EPA-registered disinfectant
- Ensure food containers and utensils are cleaned and sanitized



- Prepare and use sanitizers according to label instructions
- Offer sanitizers and wipes to customers to clean grocery cart/basket handles, or utilize store personnel to conduct cleaning/sanitizing

SOCIAL DISTANCE



- Help educate employees and customers on importance of social distancing:
 - Signs
 - Audio messages
- Consider using every other check-out lane to aid in distancing



- Avoid displays that may result in customer gatherings; discontinue self-serve buffets and salad bars; discourage employee gatherings
- Place floor markings and signs to encourage social distancing



- Shorten customer time in store by encouraging them to:
 - Use shopping lists
 - Order ahead of time, if offered
- Set up designated pick-up areas inside or outside retail establishments

PICK-UP & DELIVERY



- If offering delivery options:
 - Ensure coolers and transport containers are cleaned and sanitized
 - Maintain time and temperature controls
 - Avoid cross contamination; for example, wrap food during transport



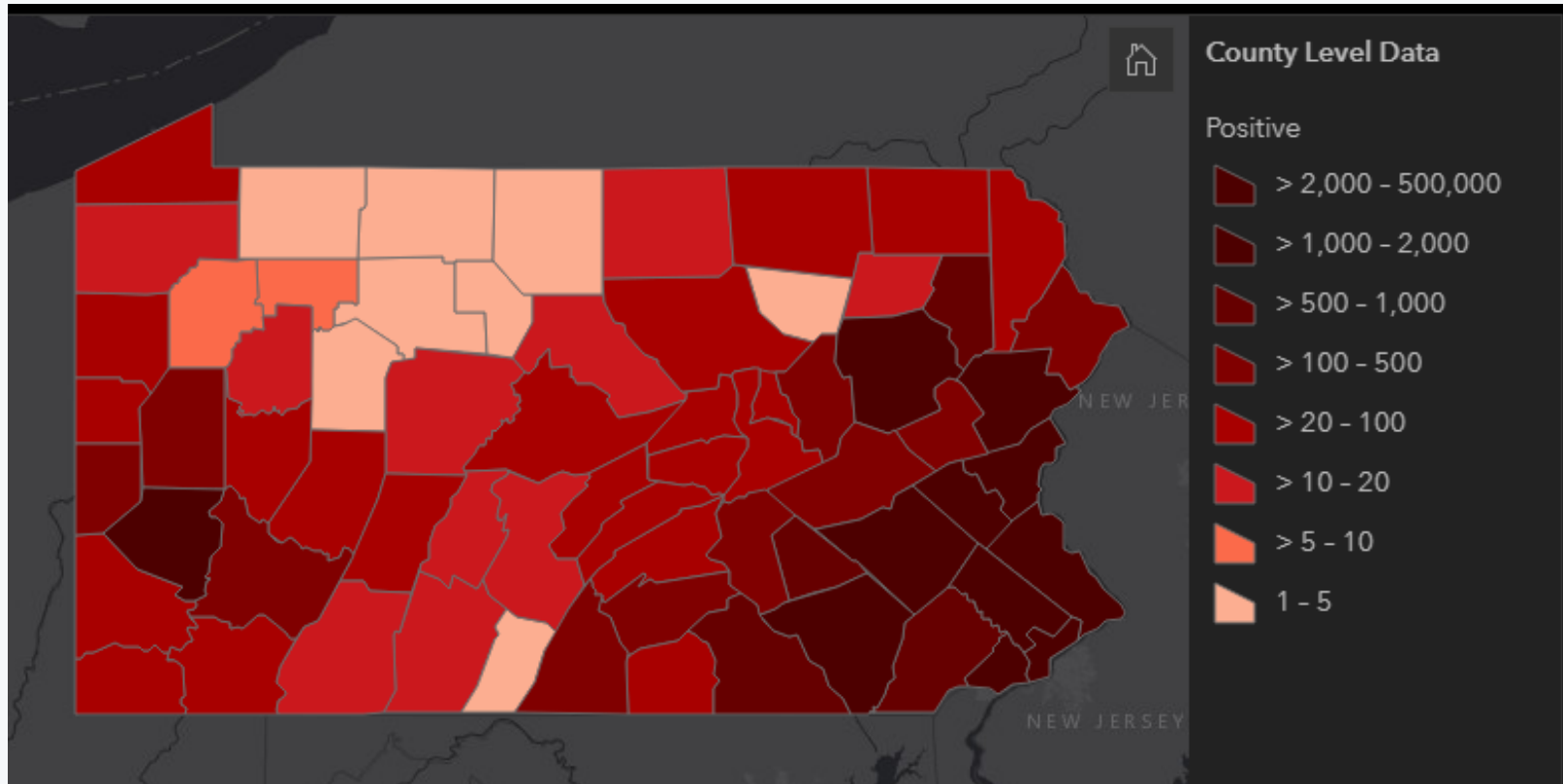
- Encourage customers to use "no touch" deliveries
- Notify customers as the delivery is arriving by text message or phone call



- Establish designated pick-up zones for customers
- Offer curbside pick-up
- Practice social distancing by offering to place orders in vehicle trunks

State	Description of Order
New York	All essential businesses that remain open must furnish “in-person” employees “face coverings” that must be worn when such employees are “in direct contact with customers or members of the public.” The order places the burden of providing such “face coverings” on the employer (at their expense).
Pennsylvania	<p><u>Department of Public Health Order:</u></p> <p>Clean and disinfect high-touch areas; identify employees in contact with infected individuals – send home immediately for quarantine; implement temperature screening prior to shifts; stagger work start and stop times; provide sufficient time for breaks for meals and handwashing; stagger break times; limit contact in common areas of facilities; provide employees with masks to wear during shift; maintain social distancing.</p>
Rhode Island	<p><u>Executive Order 20-24:</u></p> <p>Employers are required to provide all employees with face coverings or the materials to make one; all employees in customer-facing businesses must wear such masks if they cannot maintain a 6 foot distance from others. All employees must wear coverings in exits, entrance ways, and common areas.</p>
Washington, D.C.	<p><u>Order 2020-058 – Protocols for Retail Food Sellers:</u></p> <p>Instruct all customers to wear masks; no physical contact; limit occupancy; maintain 6 foot distance; mark aisles with directional signage to be one-way; implement regular disinfectant procedures; separate all employee workstations so its 6 feet; install barrier between customer and employee at register.</p>

REOPENING PENNSYLVANIA: A GRADUAL PROCESS



From health.pa.gov as of April 22, 2020.

STATE AND LOCAL CONSIDERATIONS

Pennsylvania Department of Health Order (issued April 15, 2020) – mandates numerous workplace obligations on nearly all businesses permitted to maintain in-person operations in the Commonwealth.

- Masks/disinfecting/social distancing/staffing considerations
- Health and temperature checks
- Establish protocols for exposure to a probable or confirmed case of COVID-19
- Additional requirements for businesses that serve the public within a building or defined area

BEST PRACTICES/WORKPLACE CONSIDERATIONS

Disinfecting and Cleaning Protocols

- Maintain pre-existing cleaning protocols, and clean and disinfect high-touch areas routinely
- Provide access to regular handwashing with soap, hand sanitizer, and disinfectant wipes

Masks

- Are masks required?
- Must the employer provide masks?

BEST PRACTICES/WORKPLACE CONSIDERATIONS

Staffing Considerations

- Consider with employees can continue to work remotely
- Stagger work shift times and break times for employees
- Limit persons and groups in common areas
- Provide sufficient space to allow for proper social distancing of at least 6 feet
- Conduct meetings and training virtually/limit any meetings that must be held in person
- Prohibit non-essential travel
- Provide notice to employees of all required procedures/protocols
- Make available sufficient and proper personnel to provide for internal enforcement

Other Social Distancing Measures

- Prohibit non-essential visitors

BEST PRACTICES/WORKPLACE CONSIDERATIONS

Health and Temperature Checks

- Establish a protocol for daily temperature checks
- Establish a record keeping protocol while maintaining employee privacy
- Monitor absenteeism
- Encourage employees who are sick to stay home

Employer Conducted COVID-19 TESTING:

- If an employer has access to a test bearing the FDA's "EUA" designation (emergency use authorization), according to the EEOC it would be lawful for the employer to screen workers for COVID-19 before letting them access the workplace. CAUTION: it is not clear that any other test would be deemed "safe and accurate" by the EEOC.



BEST PRACTICES/WORKPLACE CONSIDERATIONS

Establish protocols for exposure to a probable or confirmed case of COVID-19

- Disinfect areas visited by the person
- Identify employees who were in close contact and notify potential exposures – do NOT reveal the individual's identity
- Follow practices set out by the CDC
- Require employees who have symptoms associated with COVID-19 to stay home and notify their supervisors or other appropriate personnel, such as Human Resources.
- Do not let symptomatic people physically return to work

FOR BUSINESSES THAT SERVE THE PUBLIC

- Limit occupancy to no greater than 50 percent
- Maintain social distancing of at least six feet at check-out and counter lines
- Place proper signage “throughout each site”
- Require all customers to wear masks while on premises
- Designate a specific time at least once every week for high-risk and elderly persons
- Install shields or other barriers at registers and check-out areas, closing or staggering check-out and waiting lines, and taking other measures to ensure proper social distancing
- Schedule handwashing breaks for employees at least every hour
- Assign an employee to wipe down carts and handbaskets before they become available to each customer entering the premises
- Alter hours of business to provide for sufficient time to properly clean and/or restock supplies, depending on the size and number of employees

THE RETURNING WORKFORCE

- Under what circumstance will my employees be returning? (Furlough? Lay-off? Sick leave?)
 - Test
- Recall letter
- Form I-9
- Form W-4
- Criminal background checks
- Drug testing
- Other licensing/certifications
- Benefits issues
- Wage and hour considerations
- Labor
- Discrimination/harassment/retaliation claims
- Be prepared for recurring shut downs

Employee Benefits Considerations

RETURN TO WORK BENEFITS

SHORT-TERM

LONG-TERM



KEY CONSIDERATIONS

Financial

Covid-19 impact

Projected return to work schedule

Culture

SHORT-TERM



Carrier Response



Benefits
Coordination



Communication
of Benefits



Claims Audits



Wellness
Engagement



Cost Savings

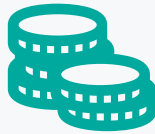


Technology

LONG-TERM



Impact on Plan
Costs



Funding
Arrangements



New Products



Technology

Human Resources Considerations

KEY CONSIDERATIONS

Designate a cross functional Return to Work Team – begin planning now!

PHYSICAL

- Physical office space - workspace, conference, wellness rooms
- Health and Safety (Personal Protective Equipment, etc.)
- Protocols for sanitizing space
- Rehiring/reinstatement (forms, benefits, etc)
- Legal - Federal, state, local laws and agency guidance

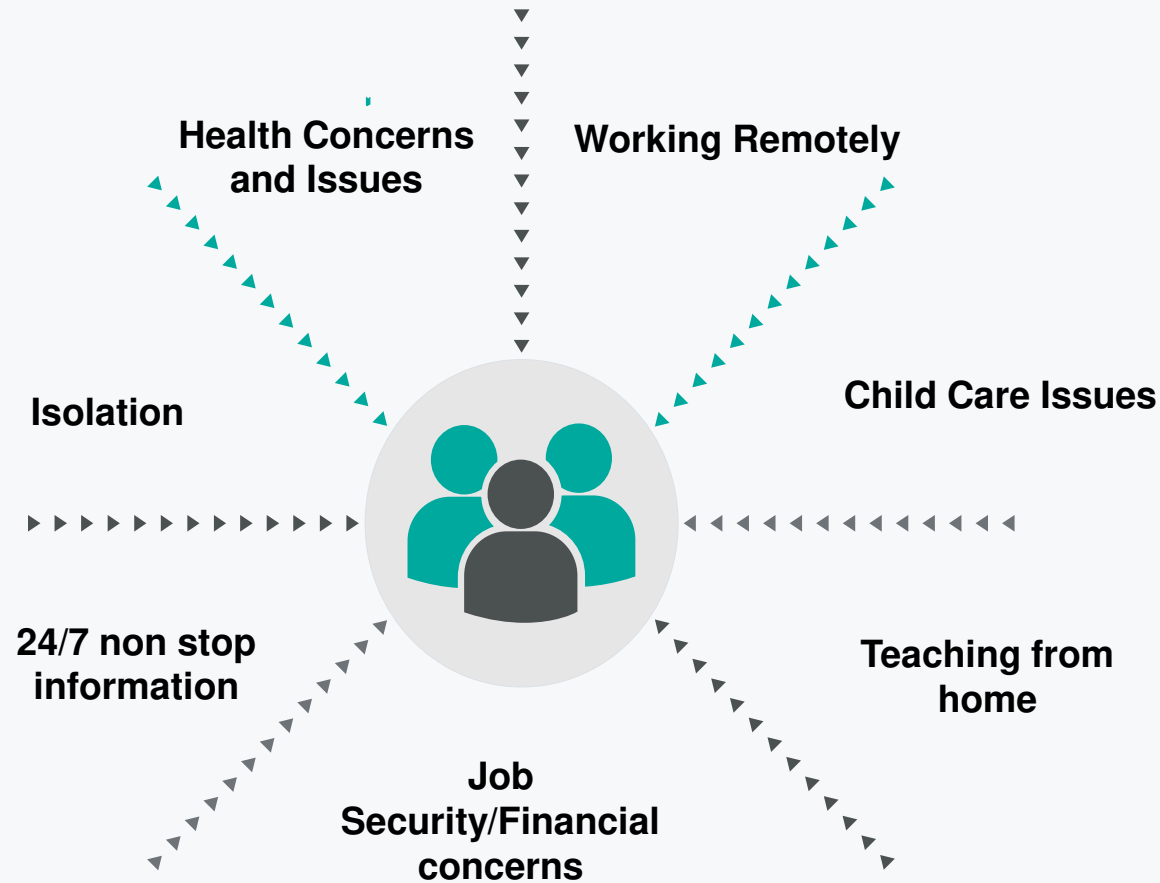
BEHAVIORAL

- Healthy Business Interactions Plan
- Set standards for interacting in the office
- Use of personal protective equipment
- Social distancing
- Handwashing
- Designate in/out entrance/exits
- Scheduling - Rotational days/hours. Consider roles/tasks
- Workspace and common space use
- No visitor policy
- Business Travel

PSYCHOLOGICAL

- Focus on employee safety –psychological and physical
- Prepare to support employees to navigate:
- Stress
- Fear and Anxiety
- Uncertainty
- Change
- Loss
- Confusion

FACTORS IMPACTING EMOTIONAL WELL BEING OF EMPLOYEES



TIPS FOR SUPPORTING PSYCHOLOGICAL SAFETY AND WELLBEING:

- Identify resources to support employees emotional wellbeing and make available to all employees (Employee Assistance Programs (EAP), benefits, etc.)
- Offer programs for employees on self-care (managing stress, building resilience, etc.)
- Provide options for employees (ie. allowing to continue working remotely where possible)
- Encourage communication, feedback, throughout the process
- Train managers on leading with empathy, effective communication skills during stressful times, unconscious bias when leading onsite and remote teams
- Identify key contact for questions/concerns

TIPS FOR DEVELOPING YOUR RETURN TO WORK PLAN

- Develop a cross functional Return to Work Team - include operations, technology, marketing, finance, human resources, legal, staff, etc.
- Consider the three focus areas: physical, behavioral, psychological
- Develop strategy through the lens of health and safety, legal/regulatory compliance, essential business needs, employee morale/engagement
- Develop in a Phased Approach (months 1-3, 4-6, 6-12)
- Build flexibility into your plan where possible
- Build in regular check points to gauge employee morale (surveys, check ins)
- Evaluate regularly and adjust based on ever-changing situation
- Check in with employees throughout the process

SAMPLE RETURN TO WORK PLANNING TEMPLATE

Consider each step through lens of legal, physical, behavioral, psychological/emotional

PRE PLANNING	MONTHS 1-3	MONTHS 4-6	MONTHS 6 - 12
Considerations <ul style="list-style-type: none">Physical spacePeople (identify essential staff, phase 1, 2, 3)Health and safetyLegal considerationsBehavioral (expectations, revise policies)Psychological safety Key Questions <ul style="list-style-type: none">Identify key questions to for eachUse agency guidelinesConsider each lens Action Plan <ul style="list-style-type: none">Identify key actions neededDevelop timeline for eachAssign responsibilities	Considerations <ul style="list-style-type: none">Launch Healthy Business Interactions Plan policies/guidelinesFlexible schedules to adjust to barriers to RTW plan (public transportation, child care, etc.)Staggered return of staffContinue remote work Communication Plan <ul style="list-style-type: none">Six weeks outOne month outTwo weeks outOne week outOngoing (check ins, surveys, feedback)	Considerations <ul style="list-style-type: none">Continue Healthy Business Interactions Plan – revise as neededNext wave of employees returnFlexible schedules Communication Plan <ul style="list-style-type: none">Two months outOne month outTwo weeks outOne week outOngoing (check ins, surveys, feedback)	Considerations <ul style="list-style-type: none">Continue Healthy Business Interactions Plan – revise as neededNext wave of employees returnFlexible schedules Communication Plan <ul style="list-style-type: none">Two months outOne month outTwo weeks outOne week outOngoing (check ins, surveys, feedback)

COMMUNICATION PLAN

PRE-RETURN

- Plan strategy
- Address key questions: why, what, when, who, how, where
- Multiple delivery mechanisms
- Note: Emphasize health and safety (physical and psychological)

IMPLEMENTATION

- Timelines – for each phase
- Technology needed
- Planned and unplanned feedback mechanisms
- Training managers (checklists/tools)
- Training staff (checklists/tools)

ONGOING

- Communication plan for daily, weekly, monthly, quarterly check ins
- Surveys

INCLUDE

- Schedule of regular planned check ins (daily, weekly, monthly, quarterly, one-on-one, team)
- Identify key contact for questions/concerns (exposure to, contact with, general concerns, etc.)

EMPLOYER AND EMPLOYEE RESOURCES

Stay Informed:

Monitor CDC and local public health and other agencies websites for updates

Reed Smith Questionnaire

<https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html>

<https://www.dol.gov/agencies/whd/pandemic>

<https://www.osha.gov/SLTC/covid-19/>

https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm

Provide Resource for Employees:

- Employee Assistance Programs (EAP)
- Self-care resources
- Proactively plan for workforce disruption resulting from school closures, sickness, care for family members
- Cross functional response team and safety committee
- Safety Plan (OSHA Guidelines)

OPEN QUESTIONS?

THANK YOU

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