INFLUENZA A (H1N1) IN THE WORKPLACE - OHS CONSIDERATIONS

Area of Coverage - Labour and Employment Representation [Occupational Health and Safety]

On June 11, 2009 the World Health Organization issued a statement to the press elevating the level of Influenza A (H1N1) pandemic alert from phase 5 to phase 6, which raises a number of practical and legal issues for employers. Employers must consider legislated obligations that arise pursuant to the occupational health and safety legislation, employment standards, human rights, privacy legislation and possibly workers’ compensation.

Specifically, OHS legislation states that an employer has an obligation, as far as is reasonably practicable to do so, to ensure the health and safety of employees in the workplace and to make employees aware of their duties and obligations pursuant to the OHS legislation. In order to ensure that an employer fulfills its duties, it should take proactive steps to develop policies that address the potential of an Influenza A (H1N1) outbreak in the workplace. Additionally, an employer should inform its employees about the Influenza A (H1N1) pandemic alert and about preventative measures that should be taken to avoid spreading or contracting Influenza A (H1N1) in the workplace.

Proactive Strategies

- Designate a responsible person or team tasked with developing a plan for addressing a possible Influenza A (H1N1) outbreak in the workplace, maintaining employee awareness, and implementing the plan in the event there is an Influenza A (H1N1) outbreak in the workplace.
- The responsible person or team should act as the point of contact to respond to employee questions about Influenza A (H1N1) and updating employees about the Influenza A (H1N1) situation.
- Employers should also consider the benefits available to any employee who becomes ill with Influenza A (H1N1) or symptoms of the Influenza A (H1N1), including sick leave, short term disability, long-term disability, employment insurance, or workers’ compensation.
Dealing with an Employee who has Influenza A (H1N1) or its Symptoms

- Employees who are experiencing symptoms of Influenza A (H1N1) should be advised to remain at home and immediately contact their supervisor or the responsible individual or team.
- Employees also have obligations under OHS legislation. In the event symptomatic employees refuse to remain at home when advised to do so, they can be physically prevented from entering the workplace and, if appropriate, disciplined accordingly.
- Similarly, when an employee who has traveled to a “hotspot” refuses to stay at home for the period of time indicated by the employer, the employer might have grounds to discipline that employee. It is important to remember that when requiring such an employee to remain at home the employer will have to consider the possible human rights implications, particularly where the employer does not intend to compensate the employee during his or her absence.
- Advise the ill employee of any entitlement to benefits.

Any member of our Occupational Health and Safety Group would be happy to provide more detailed advice on developing policies or protocols addressing an influenza A (H1N1) outbreak in the workplace.

**OHS 24 hour Emergency Response Service:** Our toll-free-24-hour Emergency Response Number (1-800-WORK-911) ensures that your company and your people get real assistance to deal with the maze of real problems that occur after a serious workplace accident.

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