



UPDATE: 9-16-20

To incorporate CDC guidance now reflected in the Department of Labor & Industry
Emergency Temporary Standards Q&As

**RETURNING TO THE WORK PLACE
FOLLOWING COVID-19 EXPOSURES, SUSPECTED INFECTIONS AND POSITIVE CASES**
Updates are noted in **blue font**

This update clarifies previous guidance issued on August 14th for returning employees to the workplace following their exposure, suspected infection, or positive infection to COVID-19.

On July 22, 2020, the Centers for Disease Control (CDC) updated their guidance for ending home isolation for individuals who have tested positive for COVID-19, are symptomatic and suspected to be infected with COVID-19, or were exposed to an individual with COVID-19.

On July 27, 2020, the Department of Labor and Industry published an Emergency Temporary Standard specific to COVID-19 in the workplace, **§16VAC-25-220 (ETS)** which includes Return to Work requirements for the above situations that exceeded the CDC guidelines. DOLI has since provided interpretative guidance in their [Frequently Asked Questions](#) (see [Question #18](#)) stating that employers who comply with the above-referenced change in the CDC guidelines issued July 22, 2020, will be considered to be providing protection equivalent to protection provided by complying with the requirements in the ETS.

On August 10, 2020, the CDC noted that individuals who have recovered from COVID-19 may have low levels of the virus for up to 3 months and may continue to have positive test results even though they are not spreading COVID-19. Therefore, requiring a test-based strategy for returning to work could potentially prolong the extent of an employee's isolation/exclusion from work and could also lead to the use of limited testing supplies on people who are no longer infectious. As a result, CDC recommends the test-based strategy **only** if it will shorten the duration of the patient's isolation or if the person is severely immunocompromised.

State agencies are advised to follow the below guidance published by the [CDC Guidance for Employers](#) for ending isolation due to actual or suspected infections.

Employees who were positive with symptoms must meet all three of these conditions:

- No fever for at least 24 hours (1 full day without the use of fever-reducing medicine); AND
- Other symptoms are improving (for example, cough or shortness of breath); AND
- At least 10 days have passed since the symptoms first appeared.

The test-based strategy as outlined in the ETS is applicable to those employees who experienced severe COVID-19 symptoms or are severely immunocompromised as indicated by the employee's health care provider.



Employees who were positive without symptoms (asymptomatic) must meet these conditions:

- At least ten days have passed since the date of the positive test; **OR**
- A test-based strategy is currently recommended to be used only if it will shorten the duration of the patient's isolation or if the person is severely immunocompromised.

If the employee developed symptoms in the interim, the symptom-based strategy for returning to work should be used.

Employees who have had close contact with someone who is positive with COVID-19 should stay home for 14 days after their last exposure to that person.

Health Care Providers who test positive have different criteria for returning to work. Please follow the [CDC's Criteria for Returning to Work for Health Care Personnel with SARS-COV-2 Infection](#).

Agencies that apply the above CDC guidance will be considered in compliance with the §16VAC-25-220 requirements established for Return to Work or they may follow the Return to Work requirements published in the Emergency Temporary Standard.

Exercise reasonable judgment in requesting documentation from medical practitioners, or laboratory test results to confirm illness from the virus or an employee's ability to return to duty in the work place.

- Testing capacity for COVID-19 may be limited during periods when the volume of community or regional outbreaks is high. VDH has posted guidance to clinicians regarding [testing criteria](#). COVID-19 testing may not be available or necessary for every patient with symptoms.
- Communities or regions that are not experiencing high volumes of COVID-19 positive cases will have greater availability of testing and access to medical practitioners providing increased opportunities for agencies to request and receive documentation from employees related to COVID-19 test results and medical diagnoses.
- Wait times for COVID-19 test results may range from several days to more than a week.
- Seasonal influenza, colds, sinus infections, and allergies produce symptoms that may replicate some of the COVID-19 symptoms. Employees experiencing similar symptoms are encouraged to remain at home. Medical practitioners will determine if a COVID-19 test is needed for these situations.
- Avoid requiring more stringent medical documentation requirements for employees to return to the workplace from minor illnesses such as those described above in the preceding bullet. These decisions may be contingent upon the amount of leave used for these situations, and if the nature of the agency's critical mission activities have a direct impact upon the safety and



health of their clients and other stakeholders, such as residents, patients and employees who work in close contact with each other.

- The EEOC considers COVID-19 test results as medical evaluation documentation or Personal Health Information (PHI). All PHI must be maintained in a confidential medical file in HR (not in the supervisor's desk file) with limited access to those who have a need to know for safety and health business reasons. Medical documentation must be maintained for the duration of the employee's employment with the agency and [in accordance with the record retention schedules of the Library of Virginia](#).