

Coronavirus FAQ #1 for Employers – Compensation

COVID19, Coronavirus FAQ, Department of Labor, Employment Law, Wage and Hour / March 11, 2020 / Andrea Johnson

Dear AJ: *What if I have to tell employees to stay home, be “self-quarantined,” or shut our office for a couple of weeks? What am I required to pay people?*

AJ's Answer: *Required (by law) payment of employees on quarantine is dependent on whether the employee works or not and if they are exempt/salary or not.*

By law - If the person is working at home, then they would be paid for all work from home. Location is not the issue; work on behalf of the employer is the issue, and, we, of course, pay for all work performed. Whether that pay is for a couple or a few hours of a day or the entire day, would depend on the employee's status as exempt or not exempt. Non-exempt workers (typically hourly workers) are paid only for hours worked only (hours not worked are not paid). Exempt employees (typically salaried workers) are paid for an entire day, even if they work for only a small part of a day, and, generally speaking, we have to pay exempt personnel for an entire week even if they work part of the week - see this DOL letter [here](#).

Problems with working at home?

Working at home may be hard to control or restrict also (and remember that we have to record time for all non-exempt workers). *Are there ways that pay might be available through other means?* We may also see if there are paid sick days available or if STD might be used to supplement income (which may apply only if the person is sick). *Bottom line?* We have to consider what our policies state, what benefits we have to cover the situation, and what we regularly do, when a person is out, for example, on FMLA or ADA leave.

Other and outside factors?

Tempering these legal issues, are considerations of internal morale and public relations. Our response also may depend on a company's general activities and travel, as well as how widespread the virus becomes. There are a lot of unknowns at this moment, and change is what we need to be aware of. At this point, the number of cases in the U.S. is relatively low, and Houston is not, *at this nanosecond*, a significant area of transmission (in contrast, what is happening in Seattle and Washington state, for example, is a bit different and the size of companies reported by the press make a difference in the approach to pay—in other words, for mid to smaller companies it is far more difficult to pay folks off work for weeks at a time than it might be for large companies like, for example, Microsoft or Amazon). Further, it is unclear whether this virus poses any more risk than the typical flu (as noted, however, the data changes by the minute, it seems). So, the jury is out, so to speak, for the time being. Having said that, there are a lot of unknowns, the virus may become a greater threat than currently appears, and given media attention and public concern it is prudent to have policies in place that make sense. And, as employers, we have to be flexible enough, given this situation, to realize that those policies may morph over time, as events transpire.

Finally, *and hopefully*, our President and Congress will do the right thing to help businesses, particularly our mid to smaller size businesses. We need to put in place a national plan to support folks who may not be able to work due to a coronavirus quarantine. We need to figure out ways to help our employers get over and through this medical and business risk.

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