Testing Employees for COVID-19

Pandemics like COVID-19, also known as coronavirus, create a variety of unusual circumstances that companies must be able to adapt quickly to and manage. As companies return to work during this pandemic there may be a desire to test employees for COVID-19 to minimize the spread of this virus within the workforce. This guide provides information and best practices related to testing your employees at the workplace for COVID-19.

Background

The U.S. Equal Employment Opportunity Commission ("EEOC") issued guidance to employers on April 23, 2020, that employers are allowed to test employees for COVID-19 before they enter the workplace. The EEOC explained that the Americans with Disabilities Act ("ADA") requires any mandatory medical tests of employees be "job-related and consistent with business necessity" and that "an individual with the virus will pose a direct threat to the health of others. HIPAA (Health Insurance Portability and Accountability Act) requirements still need to be maintained.

Types of Tests

- **Diagnostic:** Can show if someone has an active coronavirus infection. There are currently two types of tests, molecular (RT-PCR) tests and antigen tests.

- **Antibody:** Detects antibodies that are made by the immune system in response to a threat, such as a specific virus. Antibody tests should not be used to diagnose active infections, and researchers do not know if the presence of antibodies means that you are immune to the same virus in the future.

Source: Coronavirus Testing Basics, https://www.fda.gov/media/138094/download

Test Availability

- Test Iowa
    - Method: Individuals will take an assessment to determine if they are eligible for a diagnostic test
    - Results: typically available within 72 hours, but may be up to 7 days
    - Cost: Free

- Private Clinic/Lab
    - Method: Employer contacts clinic and arranges a day/time to meet their needs. Clinic provides tests, PPE, staff and testing guidance
    - Results: Dependent on needs state wide, but results are usually available within 72 hours
    - Cost: Varies by clinic. Cost per test and cost for required staffing

- Rapid Response Test On-Site/At-Home
    - Method: Company would develop internal process that will need to be followed
    - Results: Typically depend on type of test, but can be as short as 20 minutes
    - Cost: Varies by type of test and insurance coverage
    - Source: FDA EUA Approved Tests
      https://www.fda.gov/emergency-preparedness-and-response/mcm-legal-regulatory-and-policy-framework/emergency-use-authorization#covidinvitrodev

Testing Strategies

Employers will need to establish their own testing strategy before implementing a mandatory testing procedure. The strategy may include testing employees who are returning to work after taking any type of accrued leave, testing employees who are returning to work after traveling out of state (business or personal), and/or testing employees who have had a potential exposure to a positive case.

The CDC has developed their own considerations for the use of COVID-19 testing by employers:

- https://www.cdc.gov/coronavirus/2019-ncov/community/worker-safety-support/hd-testing.html
- https://www.cdc.gov/coronavirus/2019-ncov/downloads/community/Testing-Strat-flow-diagram.pdf

Recommended Guidelines for Employers

- Ensure testing is not broader than necessary to address a potential direct threat to company.
- Determine the conditions that an employee will be asked to test for COVID-19.
- Determine what conditions will be required for an employee to return to the workplace.
- Develop a plan of action to follow in case an employee refuses to submit to a test.
- If conducting testing on-site, employers should ensure the selected tests are reliable.
- For testing on-site, employees should be asked to sign a consent or acknowledgement form for the test.
- Continue to encourage employees to practice social distancing and good personal hygiene.
- Remember that employees may have a medical condition that requires an accommodation.
- Being aware that there may be an obligation under wage and hour laws to pay employees for time spent waiting to be tested, as well as time spent waiting for the results of the test, assuming the employee will not be admitted to the workplace until the employer has the results.

Additional Resources

Test Iowa sites and schedules: https://www.testiowa.com/en
CDC Test for Current Infection: https://www.cdc.gov/coronavirus/2019-ncov/testing/diagnostic-testing.html
Interpreting COVID-19 Test Results: https://www.whitehouse.gov/wp-content/uploads/2020/05/Testing-Guidance.pdf

For help responding to the COVID-19 emergency or implementing a response plan, contact: Marc Schneider (563-221-1596, maschn@iastate.edu) or Mike O'Donnell (515-509-4379, modonnll@iastate.edu)