

THOUGHT LEADERSHIP

News

Additional EEOC RTW Guidance -- Part Two

Newsbrief

23 JUN 2020

The EEOC recently issued additional guidance on how employers should be handling various COVID-19 return to work issues. Here is part two of that guidance:

1. In contrast to not having a duty to accommodate the disability-related needs of employees' family members, employers still have a duty to engage in an interactive process to accommodate the disability-related needs of its employee. Employers can begin that process when a request is received from an employee. They can also solicit requests through RTW communications. You can even flag in your communications groups who may have such needs, including those over age 65 or with certain medical conditions. You are encouraged to be flexible when accommodating such needs, but required to be consistent.
2. This duty extends to requests for alternative screening methods if requested by an employee. It also extends to pregnant employees. While pregnancy is not a disability, medical complications arising from a pregnancy may be a disability and the safer approach is to engage in the interactive process with a pregnant employee who makes an accommodation request.
3. Finally, while you can require employees to take a test to detect whether they are infected with COVID-19, you cannot require them to take the antibody test. That is a prohibited medical examination. We also recommend that you don't provide any incentives to taking such a test, including for example, the relaxation of a self-quarantine period if they provide a positive antibody test.

Be safe and stay the course. And of course, let us know if we can help.

Thanks, Jack, Elizabeth and Jim