Coronavirus Concerns Grow As World Health Organization Declares Pandemic

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Declaration of Coronavirus Pandemic by the World Health Organization

On March 11, 2020, the World Health Organization (WHO) declared a global pandemic regarding the 2019 Novel Coronavirus (also referred to as COVID-19, but more commonly known simply as the “Coronavirus”), which has spread to over 100 countries and territories. The WHO defines a pandemic – a designation that it has not used since the 2009 H1N1 influenza pandemic – as “the worldwide spread of a new disease,” and the Centers for Disease Control (CDC) describes it as “an epidemic that has spread over several countries or continents, usually affecting a large number of people.”

As of the date of the WHO’s designation, coronavirus has infected more than 115,000 individuals worldwide, and the number of cases in the United States has surpassed 1,000.
EEOC Pandemic Preparedness Guidance

In light of the WHO’s pandemic designation, employers should familiarize themselves with the United States Equal Employment Opportunity Commission’s (EEOC) “Pandemic Preparedness in the Workplace and the Americans with Disabilities Act” guide. In a March 4 news alert, the EEOC reminded employers of its 2009 guidance and made clear that the prohibitions set forth in the Americans with Disabilities Act (ADA) do not interfere with or prevent employers from following the CDC’s Interim Guidance for Business and Employers.

Nevertheless, as set forth in our prior blog post, employers should take note that the ADA places general restrictions on the kinds of inquiries that can be made into an employee’s medical status. Specifically, the ADA prohibits employers from making disability-related inquiries and requiring medical examinations, unless (1) the employer can show that the inquiry or exam is job-related and consistent with business necessity, or (2) where the employer has a reasonable belief that the employee poses a direct threat to the health or safety of the individual or others that cannot otherwise be eliminated or reduced by reasonable accommodation.

Some key takeaways from the EEOC’s pandemic guide are that employers: (i) may encourage teleworking and require the adoption of infection-control practices, such as regular hand washing; (ii) need not wait until an employee returning from travel develops symptoms to inquire about exposure to the Coronavirus; (iii) may require employees who have traveled to affected areas or were otherwise potentially exposed to stay home; and (iv) may ask employees about the reason for their absence from work.

Employers should continue to frequently monitor WHO, CDC, and U.S. State Department websites for the latest information about the rapidly evolving Coronavirus situation. It is also increasingly important to monitor state and city health agencies and government websites for localized considerations regarding the Coronavirus. On March 10, for example, New York Governor Andrew Cuomo deployed the National Guard to create a one-mile containment area around New York City suburb New Rochelle in an attempt to stem the Coronavirus spread from that area. Other cities and states are increasingly discouraging large gatherings.

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