Key Components of a COVID-19 Screening Program

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Stopping the spread of coronavirus is critical to overcoming the COVID-19 pandemic. As testing is ramping up around the country, some states and localities have imposed health screening requirements in an effort to identify persons at risk of being infected and stopping them from infecting others. Whether mandatory or recommended, screening employees and visitors could play an important role in curbing the spread of COVID-19. However, developing and implementing a screening program raises a range of issues organizations need to think through carefully.

Below are some examples of screening program mandates/recommendations around the country:

- **Iowa.** On March 26, 2020, Governor Kimberly Reynolds mandated that until April 16, 2020, all hospitals, nursing facilities, intermediate care facilities, residential care facilities, hospice programs, and assisted living facilities must screen all staff at the beginning of their shift for fever or respiratory symptoms, absence or shortness of breath, new or changing cough, or sore throat, and take employees’ temperature.

- **Ionia County, MI.** On March 23, 2020, the County’s Health Officer mandated that all persons providing childcare services for compensation must develop and implement a daily screening program for all staff, children, parents, and other visitors entering the facility. The program must include screening for symptoms of a respiratory infection, such as temperature of 100.4 degrees or higher, severe cough, and/or shortness of breath.

- **Delaware.** On March 22, 2020, Governor John Carney and the Delaware Division of Public Health strongly recommended that all employers screen employee temperatures each day before work, and those with a temperature of 99.5 degrees or more be sent home. Employers also should require employees to complete a basic questionnaire addressing other symptoms of COVID-19.

- **Ohio.** Governor Mike DeWine issued a similar recommendation on March 19, 2020, suggesting that employees be sent home with a fever at or above 100.4 degrees.

Setting up such a screening program requires care planning. Below are some key steps organizations should consider:

- **Identify a Program Leader.** With state and local guidance changing rapidly, the leader needs to be informed and practical, as well as sensitive to concerns about confidentiality.

- **Understand Applicable Mandates and Recommendations.** Organizations need to develop and implement their programs based on applicable guidance. This can be challenging considering the various federal, state, and local agencies that could issue screening guidelines. Our COVID-19 team has been tracking these and other laws and guidance here.

- **Develop a Plan.** Where possible, the program leader should work with appropriate persons in the organization, e.g., legal and HR, to outline the program in writing. The program should include components such as:
  - **Designating responsibility.** In addition to designating who is responsible for the program as a whole, responsibility for conducting the screening (third party or other employees), maintaining records, addressing disputes about the program, handling requests for information concerning the
 screenings, etc. also should be made clear.

- **Identifying who is subject to screening.** Persons subject to screening might include applicants, employees, contractors, and/or visitors. Note that employers with employees represented by a union may need to bargain and obtain union agreement before implementing the program, particularly if the state or locality is making only a recommendation and not a mandate.

- **Establish procedures for administering the screening.** The program needs to set forth the logistics of the screening process. If possible, consult with an available health care professional while doing so. These logistics include where the program can be conducted, identifying the best time of day to conduct the screening, how to position the persons to be screened in order to maintain distancing, obtaining notice/consent (if required), requiring the use of personal protection equipment (PPE), identifying equipment to use when taking temperatures, determining the information to collect in questionnaires, who should receive the results of the screening, and other procedural steps. Determining who will conduct the screening also is an important consideration. Whether the person(s) who administer the screenings are employees of the organization or a third party, consider having an appropriate agreement in place to confirm confidentiality and security of information, among other things.

- **Plans for persons who refuse the screening.** The organization needs to be ready to deal with individuals who refuse the screening. For applicants and employees, the HR department should be involved and prepared. For customers or visitors, the organization should ensure customer relations or similar personal are ready. In either case, the program should try to anticipate concerns that may be raised such as confidentiality, logistics of data collection, and securing the data.

- **Arrange for confidential and secure collection, storage, and, if necessary, transmission of screening data.** For employee medical information, the Americans with Disability Act requires confidentiality be maintained. Additionally, numerous state data breach notification laws generally require notification if an individual’s medical information is accessed or acquired by an unauthorized person. While the EEOC and California have softened their positions on the kinds medical-related questions employers may ask employees, appropriate safeguards should be in place to protect individually identifiable medical information collected as part of a screening program. These safeguards should include clear guidelines on the circumstances under which such information may be disclosed.

- **Training on program requirements.** If applicable, the organization should provide those employees responsible for administering the program a reasonable opportunity to understand the program requirements and get their questions answered. This includes making sure employees understand how to use any equipment required during the screening, such as a particular thermometer, and completing screening questionnaires. Persons conducting the screening also should have a clear understanding when screening results will require them to prohibit a screened individual from entering the facility.

- **Communicate.** Developments concerning COVID-19 and government reactions happen fast, but organizations should try to provide as much notice as possible to those who would be subject to the screening. Organizations also should not ignore communicating with those found to have COVID-19 symptoms. Having information available to inform such individuals about best practices for self-quarantine and other measures to prevent further spread can be very helpful.

As COVID-19 spreads, more state and local governments may require or recommend organizations conduct coronavirus screening at their facilities. Organizations also may decide to proactively establish such a program. In either case, the program should be carefully considered and implemented.

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