

Health Insurance Portability and Accountability Act (HIPAA), American with Disabilities Act (ADA) and COVID-19



The goals of HIPAA are to protect health insurance coverage for workers and their families when they change or lose their jobs (portability) and to protect health data integrity, confidentiality, and availability (accountability). The ADA is a civil rights law that prohibits discrimination based on disability.

Our Total Rewards Practice creates customized solutions that help social impact organizations meet talent management objectives.

HIPAA applies primarily to medical records maintained by health care providers, health plans, and health clearinghouses - and only if the facility maintains and transmits records in electronic form. Any health-related information, which exists outside of health care facilities and the files of health plans, is not covered by HIPAA. This means that workplace health records that relate to other employee benefits such as life insurance, disability, workers compensation, or long-term care insurance are not covered.

While HIPAA does not cover employers, the Americans with Disability Act (ADA) does. Employers are required to keep private all medical information about workers that they may obtain.

This one-pager offers practical advice to deal with a variety of potential scenarios related to COVID-19 against the backdrop of HIPAA and ADA regulations. However, you will still need to adapt our practical advice to the culture and needs of your organization.

SCENARIO - Employer becomes aware that an employee tests positive for COVID-19; or employee has been made aware that possible COVID-19 exposure has taken place and is recommended to self-quarantine.

RESPONSE

- Employer should notify its workforce of the potential exposure to the virus. If the employer has established a COVID-19 task force, draft your communication so that it aligns with your established communication objectives.
- In your communication, inform your workforce of the potential exposure and indicate your organization's preferred response. Consider adding notes referring to resources that help employees understand how the virus transmits. Share summaries of your organization's planned responses (cleaning, disinfecting, etc.).

Do not identify or include any details that would permit any means of identifying the ill employee.

If you are ready to improve your social impact organization's approach to Total Rewards or simply have a question, contact us. Someone from our team will be in touch shortly.

YOUR MISSION-DRIVEN ORGANIZATION. OUR HELP THROUGH COVID-19 CHALLENGES



SCENARIO

Employees within a single team or department begin to approach management with concerns about a single employee. These employees note that this one employee is coughing and sneezing frequently and it is making them nervous to be in the same environment. This department fulfills a specific function for the organization that cannot be carried out remotely. As such, employees must be present in this location to carry out the work.

RESPONSE

- Employer can use the information gained from the concerned employees and open a dialogue with the potentially ill employee. If the employee is sick, employer can ask the employee to go home and return to work upon doctor's guidance.
- The practice of requesting potential ill employees go home should be conducted consistently throughout your organization.
- Employer is not obligated and should not share details of the potentially ill employee's health with the concerned team members.
- If exposure has occurred to other employees, follow guidelines above for notification to the workforce.

SCENARIO

Employer receives a phone call from employee's parent/boyfriend/girlfriend/domestic partner, etc. The employee is gravely ill and has been taken to the hospital. Employee cannot remember or is unable to provide health insurance information. The significant other or parent cannot find the health insurance card.

RESPONSE

- Employer should be proactively reaching out to staff to make sure that employee and emergency contact information is up to date and easily available.
- Have readily available all benefit plan names and plan numbers.
- You are permitted to provide health plan name and plan number to an individual or entity for the purpose of health insurance payment and coverage.

Nonprofit HR

We have serviced hundreds of clients across all social sectors. Some of the areas Nonprofit HR's Total Rewards Team can partner with your organization are below. Contact us for specific examples of how we've supported organizations such as yours.

- Compensation Program Design, including Compensation Philosophy, Practices and Policies
- Job Description Review, Revision or Creation
- Benefit Program Design and Implementation
- Benefit Compliance to State and Federal regulations
- Retirement Plan Guidance and Support
- Leave Benefit Programs
- FLSA Compliance
- Market Valuation of Positions
- Performance Compensation Policies
- Rewards and Recognition Programs
- Executive Compensation and Benefit Program Design/990 Analysis and Reasonableness Testing
- Pay Equity Review and Recommendations