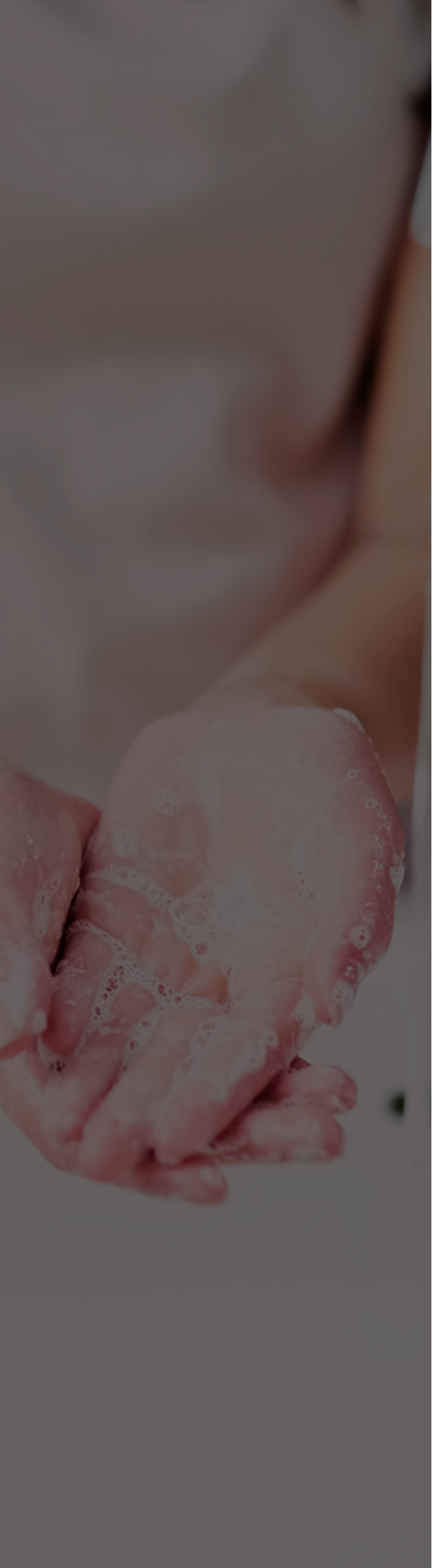

Coronavirus *(COVID-19)*

With the increasing effect of the Coronavirus (COVID-19) in the United States and worldwide, Cottingham & Butler understands that your team and (your business) has a lot to consider.

As an organization, we have been actively monitoring updates from the CDC, World Health Organization, the state, insurance carriers, and several other sources.

General Business Guidance:

The CDC has published interim guidance for businesses and employers that can be found here –

https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html.

CDC recommended strategies for employers to use now:

- Actively encourage sick employees to stay home
- Emphasize staying home when sick, respiratory etiquette, and hand hygiene by all employees
- Perform routine environmental cleaning
- Advise employees before traveling to take certain steps, such as checking the CDC traveler's health notices and checking themselves for symptoms of acute respiratory illness before starting travel

Health Insurance, Short-Term Disability, Leave Policies, ADA and Eligibility

Group Medical Plan Considerations:

Fully Insured Health Plans

If your plan is insured, you should contact your insurer to confirm coverage and cost-sharing parameters. Most insured carriers are eliminating prior authorization requirements for the coronavirus screening test and providing coverage of the coronavirus screening test at no out-out-pocket cost to the member. Actual medical treatment will be subject to plan parameters.

Self-Funded Health Plans

Self-funded plan sponsors should provide their claim administrator with written direction to waive prior authorization or cost sharing, if that is your businesses intent.

High Deductible Health Plans

The IRS announced that a HDHP may cover COVID-19 testing and treatment without a deductible or with a deductible below the required minimum deductible without losing HDHP status or losing tax-favored treatment for participants' HSAs. The notice applies broadly to "all medical care services received and items purchased associated with testing for and treatment of COVID-19". Please keep in mind, that if someone seeks treatment at an urgent care clinic or emergency room, there still is a cost associated with that visit.

Eligibility and Continuation

You need to check your group health plan document (or certificate of coverage if your plan is fully insured) to determine how long employees who are not actively working may remain covered by your group health plan, including Family Medical Leave (FML). Once all eligible leave periods expire, active employee coverage must be terminated (unless the insurance carrier or self-funded plan sponsor otherwise agrees to temporarily waive applicable eligibility provisions), and a COBRA notice must be sent. If your plan is self-funded and you would like to waive applicable plan eligibility provisions, you should first make sure that any stop-loss coverage insurance carriers agree to cover claims relating to participants who would otherwise be ineligible for coverage.

Short Term Disability: Diagnosis is NOT Disability

"To qualify for Short-Term Disability, the individual would need to be exhibiting symptoms of the virus. IE upper respiratory symptoms that cause shortness of breath and fatigue that inhibits the employee from performing the material and substantial duties of their occupation".

– large carrier claims director

Leave Policies

• Employees requesting leave could conceivably be protected by the Family and Medical Leave Act (FMLA) to the extent they otherwise meet FMLA-eligibility requirements. Generally, employees are not entitled to take FMLA to stay at home to avoid getting sick. As with many employment laws, when in doubt, the wisest approach is to work with counsel to ensure legal compliance, thereby minimizing exposure to costly litigation.

• Leave related to employer workplace restrictions for documented diagnosis, self-quarantine or government ordered quarantine is not considered disability.

• Employer leave policies including leave allowances, paid leave, work restrictions and return to work restrictions are subject to state and federal discrimination rules: age, sex, race, and bargain status (among others) are not factors in policy variance. However, treatment of bargained employees may be impacted by the collective bargaining agreement.

Americans with Disabilities Act (ADA)

During a pandemic health crisis, under the ADA, an employer would be allowed to require a doctor's note, medical examination, or a time period during which the employee has been symptom free, before it allows the employee to return to work. Specifically, an employer may require the above actions of an employee where it has a reasonable belief based on objective evidence that the employee's present medical condition would: 1) Impair ability to perform essential job functions with or without reasonable accommodation OR 2) Pose a direct threat to safety in the workplace.

Note an employer is not allowed to require an employee to take their temperature at work.

Eligibility and Continuation of Group Life, Disability and other Health and Welfare plans:

You need to check the eligibility and continuation provisions in these group plan documents to confirm how long employees not actively working may remain covered with premium. Plan documents specify continuation provisions for employees not protected by FMLA and may be status specific including Lay Off, Leave of Absence, other written employer leave policy.

Cottingham & Butler is prepared to serve our clients in this challenging time, so please do not hesitate to reach out. With an extremely high volume of requests for information, we will do our best to provide the quickest responses possible. Stay safe and healthy!

Additional Sources of Information and Helpful Links

Center for Disease Control (CDC)
www.cdc.gov/coronavirus/2019-ncov/

Department of Labor
www.dol.gov has an overview of several employee benefit issues, such as Family and Medical Leave Act.

Department of Labor pandemic site
https://www.dol.gov/agencies/whd/fmla/pandemic

Equal Employment Opportunity Commission (EEOC)
www.eeoc.gov has posted on their website information regarding the ADA, the Rehabilitation Act and the Coronavirus. They have posted guidelines and suggestions in the form of FAQs regarding workplace protections.

Health and Human Services (HHS)
www.hhs.gov HHS provides information on COVID-19, HIPAA and other information regarding the potential impact of COVID-19.