

OSHA Guidance on Recording Requirements for COVID-19

On April 10, 2020 the Occupational Safety and Health Administration (OSHA) updated its [guidance](#) on whether employers are required to record cases of COVID-19 in their [300 Logs](#) for reporting occupational injuries and illnesses. This includes all long term care providers including assisted living, skilled nursing facilities, and providers caring for individuals with intellectual and developmental disabilities.

In the memo, OSHA restated that COVID-19 is a recordable illness and employers are responsible for recording cases of COVID-19 if:

1. the case is a tested-positive confirmed case of COVID-19, as defined by Centers for Disease Control and Prevention (CDC);
2. the case is "work-related," which is defined as an event or exposure that either caused or contributed to the resulting condition or significantly aggravated a pre-existing injury or illness (this includes COVID-19 acquired from a co-worker or resident); and
3. the case involves one or more of the following:
 - death
 - days away from work
 - restricted work or transfer to another job
 - medical treatment beyond first aid
 - loss of consciousness
 - a significant injury or illness diagnosed by a physician or other licensed health care professional, even if it does not result in death, days away from work, restricted work or job transfer, medical treatment beyond first aid, or loss of consciousness.

NOTE: For COVID-19 infections, "work-related" is very difficult to determine since it has a long incubation period (i.e., 2-14 days) and is so easily transmissible in the community between individuals who are asymptomatic. Often healthcare workers' COVID-19 infections are attributable to community spread rather than "work-related". Providers need to do their best in determining "work-related" cases but may want to err on the side of over reporting to OSHA even though it may not be "work-related". Providers should consider contacting their legal counsel on this issue.

Employers of workers in the healthcare industry must continue to make work-relatedness determinations pursuant to [29 CFR § 1904](#). Healthcare employers will need to take a closer look at confirmed cases of COVID-19 in employees and note that there may be non-cluster scenarios where they must record the illness.