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# Return To Work Playbook

Compliance-Focused Insights to  
Help Your Organization Return to Work





## **Your access to Return to Work Compliance FAQs, visual aids for employee COVID-19 related accommodation, leave and benefit issues, and access to an employer COVID-19 Return to Work policy.**

**Disclaimer:** The COVID-19 crisis continues to evolve at a rapid pace, as do related best practices, legislative and regulatory requirements, federal, state and local guidance, and the latest science on transmission, testing, and immunity. This guide provides general information available at the time of drafting and we will diligently update the Guide as the landscape changes and evolves. Given the pace of developments, however, this Guide may contain information that is no longer applicable. Please always consult your own legal counsel with specific questions about the return to work process. Alliant Insurance Services does not provide legal advice or legal opinions. These documents are provided on an “as is” basis without any warranty of any kind. Alliant Insurance Services disclaims any liability for any loss or damage from reliance on these documents. These documents do not create an attorney-client relationship nor do they constitute attorney advertising.

## Introduction

As the country begins the process of opening up after initial COVID-19 shelter in place and quarantine orders, employers generally want to resume operations quickly while keeping their employees and their families as safe as possible. Returning to work is a complex challenge for employers that implicates many different disciplines, including occupational safety, employment practices, and data privacy, benefit plan compliance, among others. In addition, employees will be returning to work against a backdrop of constantly evolving information from State and Federal agencies about availability and effectiveness of testing, best practices for containment, and the nature of the virus itself. These variables create a host of operational and compliance questions for employers.

This Playbook contains information and tools that address common employer questions on the return to work process with a focus on employee testing and accommodation, employment practices, and leave requirements, as well as health, safety, and/or occupational health resources available to employers. Given the rapidly evolving nature of this situation, we will continue to provide periodic updates on these issues, and strongly recommend employers remain current on guidelines from the following agencies:

- [Department of Labor](#) (DOL)
- [Equal Employment Opportunity Commission](#) (EEOC)
- [Occupational Safety and Health Administration](#) (OHSA)
- [Centers for Disease Control](#) (CDC)
- [World Health Organization](#) (WHO)
- [UNESCO](#)

In addition, employers should be aware of any state and local COVID-related requirements that might be applicable. Our regularly updated chart (**Covid-19 Federal, State & Local Guidance**) on those state and local mandates is [available here](#).

The following are additional resources that may help guide you in the various areas your organization is navigating.

## Employer Return to Work Compliance Guide

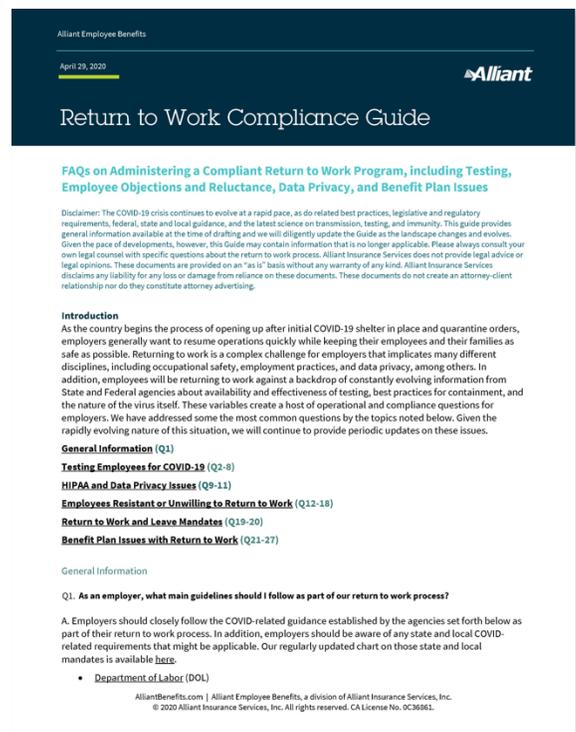
Regardless of an employer's return to work process, any approach can create a number of issues related to employee accommodation, required documentation upon return, leave requirements, and physical and mental health. In addition, employers will have a number of administrative issues to address, from potential requirements to advise the Centers of Disease Control (CDC) if one of their employees test positive for COVID, to what kind of changes employees can make to their benefit plan elections upon return to work. In an effort to support employers throughout this process, the Alliant Compliance department has prepared a [Return to Work Compliance Guide \(access it here\)](#) with a robust series of Frequently Asked Questions (FAQs) covering the following topics, among others: employee testing issues, data privacy concerns, leave mandates, and benefit plan issues with return to work.

Specifically as it relates to COVID-19 screening, whether an employer should implement a screening protocol as part of its return to work approach will depend on a host of factors, some of which are within the employer's control and many of which are not. These issues include the nature of the employer's operation, the infrastructure and/or partnerships available to administer testing, the availability of tests, and the individual employer's cost-benefit analysis of testing.

Alliant has a robust Health and Productivity practice with clinical experts who are well versed in not only the clinical components of the various tests currently available, but also the vendors available in the marketplace. Employers considering testing that want a better understanding of this particular landscape or seeking to implement a specific type of testing program should contact their Alliant representative for additional information.

Regardless of approach, employers should understand that, at this stage, there is no test that provides even near 100% certainty in terms of protecting the workforce. Whether to test, and the type of test, is an employer-specific determination each should make in conjunction with internal or external legal advisors, taking into account all the risks and benefits of such a program, with the aim to develop a return to work policy that protects the most vulnerable of your employee population.

In addition to the [Return to Work Compliance Guide](#), employers may want to consult the [Coronavirus Compliance Guide](#) for detailed information on the new paid leave mandates available through the end of the year under the Families First Coronavirus Act (FFCRA), as well as



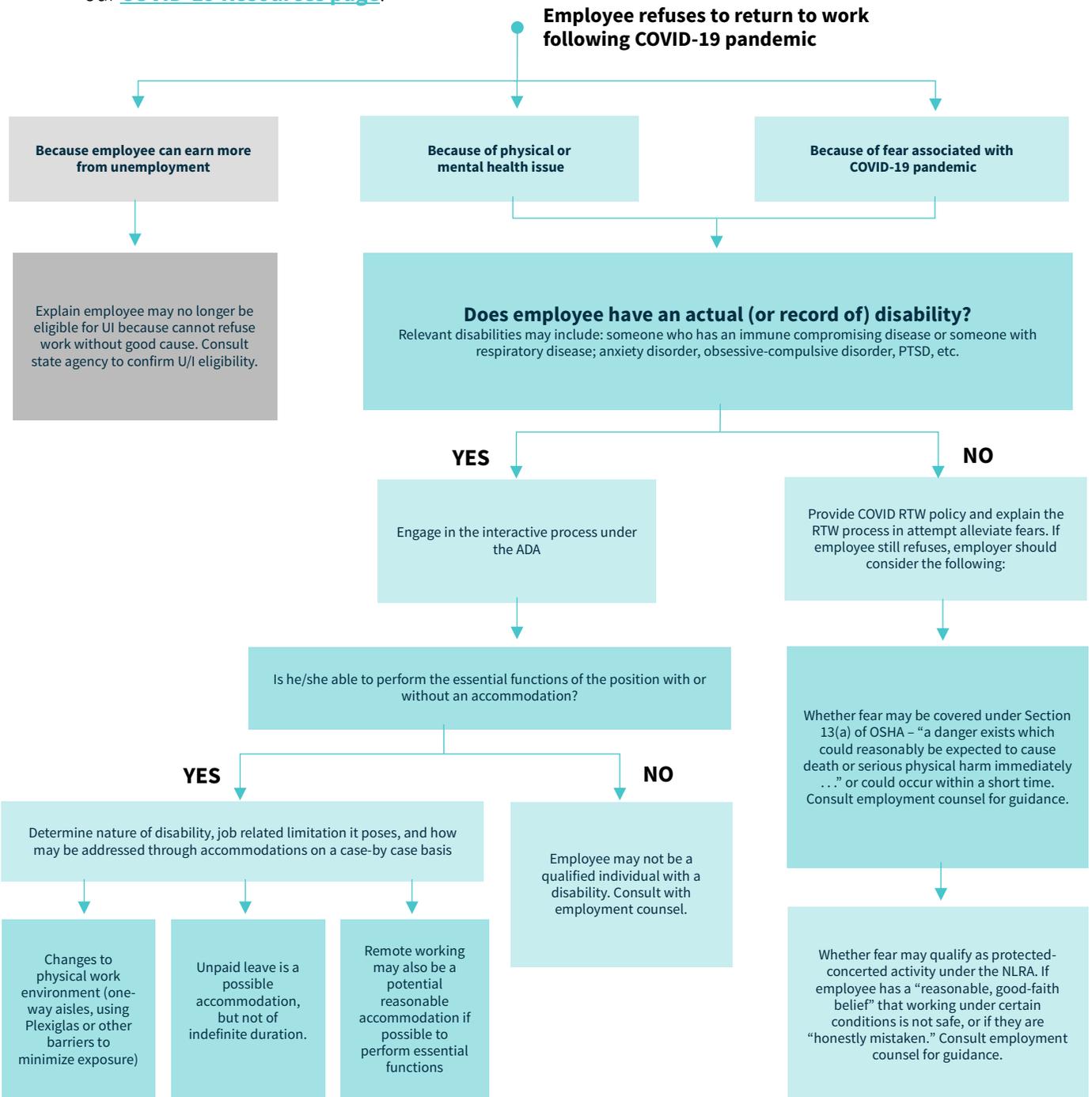
the following resources that can help employers manage the myriad implications of returning to work after this pandemic:

- [COVID-19 Sick and STD Leaves Modeler](#) – assesses the potential cost of COVID-19 related sick leave and short-term disability payments
- [COVID-19 Risk Modeler](#) – identifies the number of members at higher risk of adverse reactions to COVID-19
- [COVID-19 Pricing Modeler](#) – looks at the potential cost of COVID-19 across your employee population
- [CARES Act Impact Modeler](#) – helps you understand the impacts and benefits of federal and state stimulus programs

More [information about the modelers is available here](#).

## Employee Accommodation Flow Chart

Employee leaves and accommodation is a complex area of the law in a standard operation, but can be particularly problematic in the context of a pandemic. In many cases, it is difficult for employers to even know what rules apply as they work through each individual employee’s situation. Below is a flowchart addressing common scenarios for an employee who may be having issues returning to work. This flowchart is also available on our [COVID-19 Resources page](#).



## Employee Leave and Benefits Chart

In order to understand the COVID-19-related return to work options for your employee population, it is necessary to also be familiar with the various federal, state, and local leave mandates, as well the availability of short-term disability benefits, benefits continuation requirements, and the impact of unemployment insurance in the employee’s state of residence. In addition to the modelers described above, which can analyze these issues in an employer-specific and detailed manner, Alliant Compliance has also prepared a chart with a quick, accessible overview of the options an employee may have for leave and benefits depending on their particular circumstance. This chart (**Employer Options for Leave, Wages, and Benefits based on COVID-19 Related Employee Circumstances**) summarizes state and local leave mandates and is updated regularly. It is available on [our COVID-19 Resources page](#).

Alliant Employee Benefits

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### Employer Options for Leave, Wages, and Benefits Based on COVID-19 Related Employee Circumstances

April 1, 2020

**Employer Options for Leave, Wages, and Benefits Based on COVID-19 Related Employee Circumstances**  
(Employers with fewer than 500 employees and public sector employers of any size)

	FFCRA Expanded FMLA	FFCRA Paid Sick Leave	Standard Unpaid FMLA	State/Local Paid Family and Sick Leaves	Short Term Disability Plans	State Disability Programs <sup>1</sup>	Benefits Continuation	Unemployment Insurance
<b>Employee Hours Reduced but still Working</b>	Not available <sup>2</sup>	Not available <sup>3</sup>	Not available	Not available	Not available	Not available	If the employee loses plan eligibility, offer COBRA. If not, benefits continue per applicable policy. See Alliant COVID-19 Compliance Guide for further discussion.	Possibly available depending on state law.
<b>Employee Unable to Work<sup>4</sup>:</b>								
<ul style="list-style-type: none"> <li><b>To care for a child as a result of place of care or school closures, or child care provider unavailable</b></li> </ul>	Available if worked at least 30 calendar days for employer. 2/3 pay up to \$200/day and \$10,000/total.	Available regardless of days worked. 2/3 pay up to \$200/day and \$2000/total for 80 hours.	Not available	Most likely. Many states have existing or emergency provisions. Review 50 state chart <a href="#">here</a> .	Not available	Not available	Benefits continue under expanded FMLA and PSL provisions	Not if receiving any paid leave

<sup>1</sup> We refer here to state wage replacement programs for an employee’s own illness or disability, and not any family leave related component of such programs (e.g., California and New York). Those programs are addressed under state/local paid family and sick leave.

<sup>2</sup> If an employee is unable to telework their normal schedule of hours because the employee needs to care for a child whose school or place of care is close, the employer and employee may agree that the employee can take expanded family leave intermittently while teleworking.

<sup>3</sup> Similar to FN 2, an employer and employee may agree to intermittent paid sick leave where an employee cannot telework the normal schedule of hours due to a qualifying Paid Sick Leave reason.

<sup>4</sup> Assumes employee still employed

## Employer Policy Template

Perhaps most importantly, an employer should implement a clear but flexible COVID-19 return to work policy that informs employees of their rights and obligations, and specifically sets forth—among other issues—the return to work process for individuals who were sick and/or self-quarantined, what happens if an employee has exposed other individuals in the work place, confidentiality of employee data, and employee requirements for personal protective equipment, hygiene, and sanitation. Alliant has drafted a template return to work policy for review by your legal advisor. Contact your Alliant representative if you are interested in that template policy.

