

EDITION NO: 1466
ADDRESSEE: ALL MEMBERS
FROM: CHIEF EXECUTIVE OFFICER
DATE: 10 JUNE 2009
SUBJECT: SWINE FLU – FURTHER ADVICE

Dear Member

In light of the increasing incidence of H1N1 Influenza 09 (Human Swine Flu) employers and employees need to be aware of their obligations to help prevent the spread of the illness and deal with employees who may have contracted the virus or are at risk of contracting the virus.

The challenge for employers is to create a management plan that has an emphasis on workplace safety while still ensuring services are delivered.

The following questions and answers have been developed to assist services. We have contacted the ANF regarding this advice. It is our understanding that they support its content.

1. *What are the health and safety obligations owed to employees and others that come into contact with your service?*

All employers have an obligation to provide a safe working environment. Under the Victorian OH&S Act this means that, so far as is reasonably practicable, employers should eliminate or otherwise reduce risks to the safety of employees and others.

To meet this obligation and to provide the best possible outcome for employees it is suggested that services as a minimum implement the following strategies:

- Ensure there is a contact person responsible for keeping up to date with the latest swine flu developments
- Communicate relevant information about the virus to employees
- Emphasise the importance of hygienic practices
- Ensure that employees, visitors, clients and suppliers are aware of any contingency arrangements

2. *What are the appropriate leave arrangements?*

Generally, an employee who is sick or who is caring for a sick relative or household member will use their accrued personal leave entitlements. Where an employee does not have sufficient personal leave entitlements they may be able to request that other leave, such as annual leave, is made available.

3. *Can an employee be directed to use their leave entitlements where an employee is ready willing and able to work?*

As a general premise an employer cannot require an employee to use their sick leave entitlements where an employee is not showing any sickness conditions / symptoms.

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4. Under what circumstances can employers direct employees not to attend work?

The decision to direct employees not to attend work in order to quarantine employees suspected of carrying the virus or because a site has been closed will be one for each service in accordance with government policy. Further clarification about the about the Victorian government's current management plan for the influenza can be obtained by calling the Swine Influenza hotline on 180 2007 or on www.health.vic.gov.au .

5. If employees are directed by an employer not to attend work are they paid?

There are no 'stand down' provisions in Victorian public health sector agreements or awards. As indicated above, where an employer directs an employee not to attend work they cannot require that the employee use their accrued leave entitlements. So where an employer makes a decision to close a service and / or directs employees not to attend work it follows that the time-off is paid time but is not offset against the employee's leave entitlements.

6. Where a site is closed can employers ask 'healthy' employees to perform different duties / functions or to work at another location?

Again this will be a decision for each employer based on whether it is reasonable to do so and will generally require the consent of the employee. In any case an employee must be reasonably capable of carrying out other duties / functions and similarly it must be reasonable for the employee to travel to a different place of work.

7. Can an employee refuse or decline to attend work?

Generally, an employee cannot decline or refuse to attend work unless it is unsafe to do so. It would be expected that an employer would have made every effort to ensure the workplace is safe so this circumstance does not arise.

8. Where can I get further assistance?

The Swine Influenza hotline is: 1802 007. If you have a question about the content of this Bulletin please call VHIA on 03 9861 4000.



Alec Djoneff
Chief Executive Officer