

Work from home: Worker's Comp and OSHA

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May 15, 2020

The Covid-19 pandemic has forced many organizations to accommodate work from home arrangements. This accelerated a trend already in existence. According to SmallBizGenius's 2020 round-up of remote work statistics, there has been a 140% increase since 2005 in the number of individuals who work from home. It is apparent to me (and many others) that work from home arrangements will continue to increase at an accelerated rate once the current crisis is over. Once employees have actually been able to do their job from home it will be increasingly difficult to argue that their work must be done on-site. Employers may also see the benefits of freed up real estate and reduced on-site costs.

This applies to healthcare organizations as well. Many of the administrative and support functions of hospitals, clinics and other healthcare providers have been accomplished by employees working from home. during the pandemic. Expect this to continue.

HR needs to make sure that they have a plan for this work arrangement. Policies need to be reviewed to insure that they appropriately address the on-site and remote employee. New policies may need to be created to address the remote employee. HR should determine which positions qualify for work from home arrangements as this should be clearly addressed in any job postings. There are also many other concerns for which HR should proactively be prepared.

Work from home, OSHA and Worker's Comp

One issue that is often overlooked is that of Worker's Compensation and OSHA requirements. Yes, both of these apply to work from home employees.

There is often confusion about both programs and even if they are one and the same. They are not. In a nutshell, Worker's Compensation requires employers to maintain a form of insurance that provides a replacement for an injured

employee's wages and medical benefits in exchange for the employee relinquishing the right to sue the employer for the tort of negligence.

The Occupational Safety and Health Administration (OSHA) requires employers to report an employee's injury or illness by recording it on the OSHA 300 Log. Specific rules differ with each state.

I am not going to go into a detailed description of both programs. That is best left to many other websites that specialize in both programs. I am also going to assume the most HR professionals have a working knowledge of both programs. In many organizations, Worker's Compensation program is administered by HR or they work closely with Risk Management. However, HR needs to be aware of the special implications of both programs on work from home arrangements.

Generally, Worker's Compensation covers any injury occurring out of, or in the course and scope of employment. Whether it is OSHA reportable is a separate issue related to the severity and type of injury/illness. This general rule covers employees working within the scope of their employment from home. That does not mean that every injury that occurs during the employee's work hours in the home would be covered.

For example, Jane works from home. During her workday, she stops to remove groceries from her car and falls. This would probably not be covered as it is considered a normal activity of the home and not work related. However, if Jane is carrying a box of paper to her second floor office and trips and falls on the stairs, this most likely would be covered.

What about ergonomic issues? Since most work from home positions include clerical tasks, the potential for ergonomic injuries is huge. Does the employee have work stations/chairs that minimize the possibility of injury? Is the employee using a computer sitting on the kitchen table?

6 Proactive Steps

If HR is going to be proactive in managing Worker's Compensation risk for work from home employees, what should they be doing?

1. ***Talk to your Worker's Compensation insurance carrier.*** They have

more experience than you do in work from home employment arrangements. Additionally, they are plugged into insurance and legal networks that provide more information on the issues, risks, and legal actions related to remote employment than you could possibly access on your own. They will have valuable advice on how your work from home should be structured.

2. ***Develop policies and procedures for work from home positions.***

Work hours, conditions, communication responsibilities, periodic on-site requirements should be defined in advance. Safety issues and responsibilities of both employer and employee should be defined. What are the restrictions on activities expected by the employer during work hours? (Come on - we all know the employees will be commingling business and personal activities. That is part of the attraction of work from home!)

3. ***Conduct an on-site home inspection.*** Many are reluctant to do this but there is no better way to insure that the work will be done in a safe environment than seeing it for yourself. It does not mean that you inspect the entire premises, but rather that you examine the area where the work will be done. Which brings me to my next point...

4. ***Require a specific area be designated for work.*** Whether it is an office, den, or computer station, there should be a specified work area. This allows you to determine that the specific location is reasonably safe and free from hazard-or even unnecessary distractions. Are there fire/electrical issues? It is also more productive than allowing John to work from his laptop by the pool, Starbucks, the garage or ?

5. ***Insure ergonomic safety.*** This may be the biggest issue from work from home employees. Most of us may not have work surfaces the proper height or adjustable chairs. Either provide appropriate work stations/chairs or make it a requirement for work from home employment.

6. Require work from home employees to acknowledge receipt of appropriate policies/procedures or conditions. If your Employee Handbook does not cover work from home, share policies with employee and require acknowledgment. Additionally a Work From Home form could also describe any required work area modifications or restrictions on where/how the work can be done.

Work from home can be win-win for both the employer and the employee. Worker's comp and OSHA issues should never be the reason to disregard this alternative work arrangement. With awareness and planning up-front, HR can minimize any potential risks for both the employee and employer.

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