

## A Reminder to Employers to Prepare for H1N1

Kai McGintee | September 16, 2009

With summer coming to a close and influenza season right around the corner, the concern over H1N1 is heating back up. The Secretary of the United States Department of Health and Human Services has determined that a public health emergency involving H1N1 exists nationwide.

Maine state health officials anticipate the H1N1 virus to spread and escalate this fall. On September 1, 2009, Maine State Governor Baldacci signed a "Proclamation of Civil Emergency Due to a Highly Infectious Agent" to facilitate the distribution and administration of both the seasonal flu and the 2009 H1N1 flu vaccines. Dr. Jose Montero, Director of Public Health at DHHS, has emphasized that the continuing presence of H1N1 means that all persons "need to take precautions to prevent becoming ill and passing this virus, and other illnesses, to other people."

As a result, it is important that employers be reminded of their obligations under the Occupational Safety and Health Act to maintain a safe workplace free from recognized hazards and take precautions to protect their work force from a potential influenza pandemic.

To assist employers in this effort, on August 19, 2009, the Centers for Disease Control ("CDC") released new federal guidelines for employers to follow to deal with H1N1 concerns in the workplace. The new guidelines emphasize that employers must be able to respond to the flu in a flexible way and with varying levels of severity should outbreaks become more serious. The guidelines provide that "during an influenza pandemic, all sick people should stay home and away from the workplace, hand washing and covering coughs and sneezes should be encouraged, and routine cleaning of commonly touched surfaces should be performed regularly."

The Equal Employment Opportunity Commission has already issued guidance approving such preventative measures and clarified that requiring infection control practices does not implicate the Americans with Disabilities Act.

To prepare for the upcoming flu season, employers should review and follow the precautionary measures outlined in the CDC guidelines.

**Below are a few examples of the CDC's recommendations to employers to prepare for H1N1 in the workplace:**

- o Review normal absenteeism rates and monitor personnel for unusual increases in absenteeism;
- o Plan for how business will operate in the event of significant absenteeism from sick workers; and
- o Prepare to institute flexible workplace and leave policies for sick workers or those who have to stay home to care for sick family members or for children who are dismissed from school.

**For a complete list of the CDC's recommendations, employers should visit the following websites:**

- o Updated Guidance for Businesses and Employers for the Fall Flu Season, including Communications Tool-kit with Fact Sheets and Q&A:  
[www.flu.gov/plan/workplaceplanning/index.html](http://www.flu.gov/plan/workplaceplanning/index.html)
- o H1N1 Influenza Resources for Businesses and Employers: [www.cdc.gov/h1n1flu/business/](http://www.cdc.gov/h1n1flu/business/)

**Maine Employers can get more information on H1N1 at:**

- o Maine CDC H1N1 Weekly Updates: Check the weekly updates (currently posted Thursday mornings) on H1N1 in Maine on Maine CDC's H1N1 website. Now available as an RSS feed:  
<http://www.maineclu.gov>
- o Health Alert Network: Sign up to receive urgent updates from Maine CDC's Health Alert Network (HAN). The easiest and quickest way is to sign up is through the HAN Alert RSS feed at [www.mainepublichealth.gov](http://www.mainepublichealth.gov) (midway down the center of the homepage).
- o Call or Email :
  - For clinical consultation, outbreak management guidance, and reporting of an outbreak of H1N1 call Maine CDC's toll free 24-hour phone line at: 1-800-821-5821.
  - General Public Call-in Number for Questions: 1-888-257-0990  
NextTalk (deaf/hard of hearing) - (207) 629-5751  
Monday - Friday 9 a.m. – 5 p.m.
  - Email your questions to: <mailto:flu.questions@maine.gov>

**New Hampshire Employers can get more information on H1N1 at:**

- o New Hampshire DHHS Guidance for Businesses: A link to this publication can be found at [http://www.dhhs.state.nh.us/DHHS/DHHS\\_SITE/swineflu.htm](http://www.dhhs.state.nh.us/DHHS/DHHS_SITE/swineflu.htm)
- o New Hampshire DHHS H1N1 Weekly situation updates can be accessed at:  
[http://www.dhhs.state.nh.us/DHHS/DHHS\\_SITE/swineflu.htm](http://www.dhhs.state.nh.us/DHHS/DHHS_SITE/swineflu.htm)
- o Telephone inquiries may be made to the NH Division of Public Health, DHHS: 603-271-4496 or 2-1-1 (<http://www.211nh.org>)

For more information or assistance, please feel free to contact Kai W. McGintee ([kmcgintee@bernsteinshur.com](mailto:kmcgintee@bernsteinshur.com), 207-774-1200), Ronald W. Schneider, Jr. ([rschneider@bernsteinshur.com](mailto:rschneider@bernsteinshur.com), 207 774-1200), Karen Aframe ([kaframe@bernsteinshur.com](mailto:kaframe@bernsteinshur.com), 603-623-8700) or any member of Bernstein Shur's Labor and Employment Group.