

Help! We Think Our Employee Is Lying About COVID-19 Exposure or Symptoms

Article By:

Daniel A. Kaplan

Does this fact pattern sound familiar?

Employer has a COVID-19 policy requiring employees with COVID-like symptoms or exposure to a COVID-positive (or suspected COVID-positive) person to report the same to Human Resources. If reported, the employee is required to not come to work (or go home) and to self-isolate or quarantine for 14 days, consistent with [CDC Guidance](#).

Seems easy enough. But then an employee calls work exactly two weeks prior to a company-paid holiday, and reports not feeling well (fever, slight cough, and muscle fatigue) – typical COVID-19 [symptoms](#). The employee is told to stay home and “get better,” but not to come to work for 14 days consistent with CDC guidance and company policy.

Employee returns to work after the 14-day quarantine and the four-day holiday weekend and works for two weeks. But then, the employee reports to Human Resources that he was just informed by a friend, with whom he was at a bar the previous night (and with whom he was in close contact), that the friend has COVID-like symptoms. Consistent with company policy, employee is told to go home and quarantine/monitor for symptoms. Fourteen days later, employee returns.

The next month, employee informs Human Resources that he was told that yet another friend with whom he was in close contact suspects he may have COVID-19. Employee reports the friend had been helping him move, told him the next day he had been feeling really ill, and was just told that his roommate had COVID-19. Employee is sent home and told to quarantine for 14 days and monitor for symptoms. Fourteen days later, employee returns to work.

There have now been three instances in which employee has been away from work for 14-day periods. His reliability is in serious question. And worse, the company suspects he may not have been telling the truth, just so he could get off work. In fact, Human Resources was informed that the employee is a “big-time skier” and often skis during the winter. So what can you do? Here are some options (and you can go with more than one) for consideration.

- Question the employee about the circumstances of the symptoms or “close contact.” For instance, on a form, have employee describe in writing all facts supporting his claim that he

has experienced COVID-19 symptoms within the past 48 hours.

- Ask employee to describe all facts supporting his claim that within the past 14 days, he or any member of his household has been in close contact with someone who has recently tested positive for COVID-19 or has suspected COVID-19 symptoms.
- Require the employee to sign an attestation form stating that the claims of symptoms/close contact are true and accurate: **I certify that the above information is true and accurate and that any misrepresentation of the information provided could subject me to potentially adverse employment action, including but not limited to discipline and discharge.**
- As employers often do in suspected worker's compensation fraud matters, you can hire an investigator to "follow" or investigate the employee while supposedly quarantining. Is he, in fact, quarantining? Or is he spending his days on the ski slopes?

Unfortunately, there are no "perfect" fixes to these challenging situations. However, because the situation involves COVID-19 does not mean that the employer is handcuffed. Just like other situations where an employee may be suspected of being dishonest, you can investigate and take action based on upon any dishonesty. The world may have changed significantly since March 2020, and workplaces may have also changed since the onset of the pandemic; however, employee honesty will continue to be a legitimate work expectation – the lack of which may lead to a legitimate, nondiscriminatory adverse employment action.

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