



OSHA EMERGENCY TEMPORARY STANDARD

FREQUENTLY ASKED QUESTIONS

These FAQs address the federal [Occupational Safety and Health Administration \(OSHA\) COVID-19 emergency temporary standard \(ETS\)](#). Providers must be also aware of, and comply with, the individual state requirements related to COVID-19 occupational safety and health requirements.

Q.1. Does this apply to non-medical home care, just caregiving agencies working in the client's home?

Both medical and non-medical home care providers are covered under the ETS, irrespective of whether the agency is Medicare certified. OSHA describes in-home healthcare providers as follows:

In-Home Healthcare Providers:

In-home healthcare workers provide medical or personal care services, like those provided in long-term care facilities, inside the homes of people unable to live independently. Patients receiving in-home care could receive services from different types of healthcare providers (e.g., a nurse administering medical care, a physical therapist assisting with exercise, a personal care services provider assisting with daily functions such as bathing). In addition, a number of workers may provide services to the same patient, while working in shifts over the course of the day. In-home healthcare providers have a high risk of infection from working close to patients and possibly their family members or other caregivers in enclosed spaces (e.g., performing a physical examination, helping the patient bathe)

In addition, in the preamble of the rule OSHA defines healthcare professional as those that generally have either licensure or credentialing requirements, although the terms “licensing and credentialing” are not in the regulatory text for the definition of healthcare services.

“Healthcare services are defined in paragraph (b) as services that are provided to individuals by professional healthcare practitioners, who generally have either licensure or credentialing requirements (e.g., doctors, nurses, emergency medical personnel, oral health professionals) for the purpose of promoting, maintaining, monitoring, or restoring health.”

Lastly, according to the response to a question submitted by NAHC, OSHA states the ETS applies to settings where any employee provides healthcare services or healthcare support services, as those terms are defined in the standard. Housekeeping, meal preparation, and other services that do not facilitate the provision of healthcare services are not covered under the ETS.

Therefore, non-medical homecare providers who provide personal care services by home care aides or personal care aides where credentials such as certifications or competency evaluations are required will be covered under the ETS. Home care providers that only provide non-direct patient care services such as housekeeping are not required to comply with ETS.

Q. 2. Can you please confirm that OSHA exempts administrative employees (e.g., in office billing, coding, etc.) from following these requirements (such as social distancing and masking). Understanding that the Office is not a direct caregiving workplace, the ETS did not seem clear that in-Office staff were exempt. If the caregivers are in the office, are they exempt from following these guidelines?

The exception at § 1910.502 (a)(2) (vi) for healthcare support services not performed in a healthcare setting (e.g., off-site laundry, off-site medical billing) applies to agency administrative staff that are working outside the location where healthcare is delivered applies to most home health agency administrative offices.

The entrance of field staff into the office does not render the office setting a healthcare delivery site for the purpose of the ETS. Employers must still ensure that the office employees are provided a safe working environment by following the OSHA [Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#), but the office staff is not subject to the ETS.

Q 3. Are vaccinated field clinicians coming into the office required to mask when coming in for meetings.

If the office is located outside of the setting where healthcare is delivered, employees working in the office are not subject to the ETS. Therefore, vaccinated employees are not required to wear a mask while in the office. Employers should follow OSHA [Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace](#) for any staff in a workplace setting where the ETS does not apply.

Q 4. Can agencies resume case conferences with staff or should it continue remotely?

See responses to questions #2 and #3

Q 5. Do the medical removal protection benefits apply regardless of where the employee was exposed/contracted covid? (acquired outside of work). Do the medical removal

protection benefits apply even if the employee says they were exposed outside of the workplace?

Any employee that is confirmed or suspected of COVID-19 must immediately be removed from the workplace and are eligible for the medical removal protection benefits regardless of where the employee contracted COVID-19.

The requirements for medical removal from the workplace and the medical removal protection (MRP) benefits due to an exposure to a COVID-19 positive person apply only to close contact in the workplace

.However, if the employee *tests positive or is suspected of having COVID-19* the MRP benefits apply even if the employee was infected outside of the workplace.

Q 6. Where the regulation states to collaborate with other employers- does this also mean we should share our written plan with facilities we enter and notify these facilities of "possible" exposures?

The ETS at (c)(7)(ii)(A) requires that each employer must effectively communicate its COVID-19 plan to all other employers, coordinate to ensure that each of its employees is protected as required by this section, and adjust its COVID-19 plan to address any particular COVID-19 hazards presented by the other employees.

Sharing the COVID-19 plan with other employers would be a strategy in effectively communicating the COVID-19 plan.

Section (l)(3)(i)(C) states the employer must also notify other employers whose employees have been in close contact with the COVID-19- positive person in the workplace or worked in a well-defined portion of a workplace (e.g., a particular floor) in which the COVID-19 positive person was present during the potential transmission period if the employees were not wearing respirators and any other required PPE.

Q 7. Can training be web based if they have access to someone who can answer questions?

OSHA responded to a similar question on their website as follows:

Paragraph (n)(4) requires employers to ensure training provides an opportunity for interactive questions and answers with a person knowledgeable in the covered subject matter as it relates to the employee's job duties. A healthcare employer could utilize a virtual or online training but would need to ensure that training includes the ability to ask questions and receive answers promptly. When video- or computer-based trainings are used, this may require the employer to make available a qualified trainer to address questions after the training, or to offer a telephone hotline where employees can ask questions.

Q 8. If we are part of a hospital system do we need a separate plan or can we be incorporated in their plan?

The provider should have a COVID-19 plan that is specific to the agency and home health care. There might be parts of the health system's plan that can be applied to the HHA's, hospice's, or

personal care service provider's plan, such as, policies on standard and transmission precautions. However, other parts of the plan, such as, a workplace specific as hazard assessment would need to be specific the HHA, hospice or personal care service provider.

Section (c)(1) of the ETS states: The employer must develop and implement a COVID-19 plan for each workplace. If the employer has multiple workplaces that are substantially similar, its COVID-19 plan may be developed by workplace type rather than by individual workplace so long as all required site-specific information is included in the plan

Q 9. Regarding testing of employees. CDC said PCR or antigen test was OK. Are they saying antigen test if not acceptable?

If the employer is offering testing to determine the COVID-19 status of the employee who is suspected of having COVID-19 or has had a workplace exposure, the ETS requires that a PCR test be provided.

Q 10. If true, does every caregiver have to test for COVID before entering the clients home?

All employees must be screened for COVID-19 symptoms each day before beginning the workday. The employer may require a COVID-19 test as part of the screening. If so, the test must be provided at no cost to the employee.

Q 11. Do we have to conduct fit testing still per the respiratory protection program (i.e., to use N95 masks do we have to fit test our staff?)

Yes, whenever an employee is required to wear respirator, the provider must comply with the requirements of the OSHA Respiratory Protection Program (§1910.134), which includes fit testing.

Q 12. Do we have to quarantine employees who have been exposed by family members or have positive members of their household?

Employees should be quarantined in accord with the CDC's recommendations for COVID-19 exposures.

Q 13. Since OSHA is interested in all employees, would the employer be required to report COVID-19 positive cases for all employees (including in-office employees) or are they only required to report direct caregivers?

Below is a response from OSHA to a similar question NAHC sent regarding the ETS applicability.

“(HHA) may be excepted from the standard under paragraphs (a)(2)(v) and (a)(2)(vi), please note that you must determine the applicability of the ETS separately for each setting where your employees work. That is, each setting you describe—(1) an office environment and (2) every home healthcare setting—must be examined separately to determine if the ETS applies at that setting. Although some of your work settings may be excepted from the standard, OSHA encourages you to follow guidelines for COVID-19 at all your work settings [Protecting Workers:](#)

Q 14. if we are a skilled home care agency with more than 10 employees, would we need to pay up to a max of \$1400 for office staff?

See response to question # 13

Q 15. Do we start these logs from 7/21/21 forward or do we go back and include past employees? I have logs since 3/21/20.

The effective date for the ETS is June 21, 2021 when the standards were issued in the Federal Register. Employers must comply with all requirements in the ETS by July 6, 2021, except the requirements for ventilation, physical barriers, and training which must be implemented by July 21, 2021. Therefore, the recordkeeping standards must be implemented no later than July 6, 2021.

Q 16. Are we still exempt from yearly fit testing due to the pandemic and PPE supply? Or do we need to resume annual fit testing again.

All healthcare providers must comply with the OSHA Respiratory Protection Program at §1910.134, which includes annual fit testing. Modification to these requirements were permitted during shortages of PPE supplies early in the pandemic. However, OSHA has determined that there is no longer a supply chain shortage of PPE.

When there is a limited supply of filtering facepiece respirators, employers may follow the CDC's "Strategies for Optimizing the Supply of N95 Respirators" (available at: <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html>).

Q17. Can we enforce that employees use available PTO time before paying protection benefits?

Section (l)(5)(iv) reads: The employer's payment obligation under paragraph (l)(5)(iii) of this ETS is reduced by the amount of compensation that the employee receives from any other source, such as a publicly or employer-funded compensation program (e.g., paid sick leave, administrative leave), for earnings lost during the period of removal or any additional source of income the employee receives that is made possible by virtue of the employee's removal.

Nothing in the ETS precludes an employer from requiring an employee to use employer-paid vacation, paid time off (PTO) or paid sick leave to off-set the medical removal protection benefits.

Q 18. Does this regulation in any way allow vaccinated staff to provide patient care without a face mask?

Unless an exception to the ETS is met, employers must provide and all employees must wear a face mask indoors (workplace) and when in a vehicle with others related to work, regardless of vaccination status.

Q 19. Are staff permitted in a medical office to not wear a mask if they are not within 6 feet of another person. The desk is not in a room alone?

If the office staff meets an exemption to the ETS, OSHA recommends employers follow the [Protecting Workers: Guidance on Mitigating and Preventing the Spread of COVID-19 in the Workplace | Occupational Safety and Health Administration \(osha.gov\)](#)

Q 20. Home Health Exception: All employees fully vaccinated. How is ALL defined? We send one person to the home at a time. Is that one employee considered "ALL"?

All employees refer to employees that work in the healthcare setting subject to the ETS. Therefore, all employees of the agency would need to be fully vaccinated in order to meet the exception.

Q 21. Please clarify, the exception does not apply unless all employees are vaccinated? An individual may not be exempted if they are vaccinated?

Correct. See response above

Q 22. We rent our building; my question is do we need to draft a letter to our landlord they need to clean the ventilation system in the building.

From the OSHA ETS FAQs: There may be situations where workplaces have an HVAC system but employers are not in control of the system, such as at healthcare offices or clinics located within larger commercial buildings. In these situations, employers have no obligation to maintain their HVAC systems but nonetheless should coordinate with the building owner or operator to ensure that the requirements of paragraph (k) of the standard are met.

Q 23. When you talk about employees who have had an exposure, are you talking about unprotected exposure? We care for COVID positive patients so we have staff constantly who have been exposed.

Under paragraph (1)(3)(i)(A), the employer must notify each employee who has been in close contact in the workplace with the person who is COVID-19 positive while not wearing a respirator and any other required PPE.

Q 24. What if the employee was exposed outside of work, like exposed to someone at home?

The ETS COVID-19 exposure notification requirements apply only to exposures that have occurred in the workplace.

Q 25. If an employee is exposed but is not symptomatic - does the employee have to be removed from work.

Unprotected employees that have been exposed to COVID -19 in the workplace must be removed from work unless the employee:

Is not experiencing either recent loss of taste and/or smell with no other explanation or both fever ($\geq 100.4^{\circ}$ F) and new unexplained cough associated with shortness of breath; AND

Either has been fully vaccinated against COVID-19 (i.e., 2 weeks or more following the final dose) or had COVID-19 and recovered within the past 3 months.

Q 26. Is screening for field staff by exception allowable? Like if they develop symptoms then follow the needed communication to supervisor/employee health.

No, section 1(1)(i) requires that the employer screen each employee before each workday and each shift. The employer may require employees to conduct self-screening.

Q 27. If providing non-medical homecare to a resident of an ALF or in SNF - then do my caregivers fall under these ETS regs since client is in facility?

Correct. In addition, when employees of different employers share the same physical location, each employer must effectively communicate its COVID–19 plan to all other employers, coordinate to ensure that each of its employees is protected as required by this ETS, and adjust its COVID–19 plan to address any particular COVID–19 hazards presented by the other employees.

Q 28. As far a contingency plan is concerned for employees in a patient’s home is it expected that the nurse leave the home and reschedule the visit? Is that the only acceptable contingency plan?

OSHA does not prescribe the strategies employers must include in their contingency plans for employees who enter private residences. However, employers must include policies and procedures in their COVID–19 plans to protect their employees entering those locations, including procedures for leaving the worksite if protections prove inadequate.

Q29. How are the MRP benefits to be calculated for part-time and PRN employees?

OSHA recommends using the follow payment schedule for employees who are employed part-time or have an irregular work schedule.

For a part time employee who has been removed from work in accordance with the standard, employers may calculate pay due the employee under the medical protection benefits based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the part-time employee’s schedule varies (e.g., PRN), employers could satisfy the requirements of the medical protection removal benefits of the standard by using a six-month average to calculate the average daily pay for the employee. Reliance on a six-month average would be consistent with IRS guidance on variable work schedules regarding allowable tax credit reimbursement under the America Rescue Plan Act. See #32 at <https://www.irs.gov/newsroom/tax-credits-for-paid-leave-under-the-american-rescue-plan-act-of-2021-determining-the-amount-of-the-tax-credit-for-qualified-sick-leave-wages>