

COVID-19 EMPLOYER TOOLKIT

BACK TO BUSINESS GUIDE



TABLE OF CONTENTS

INTRODUCTION	2
Notice of Disclaimer	2
GOVERNMENT UPDATES	3
EEOC Guidance	3
Centers for Medicare and Medicaid Services (CMS) Guidance	3
OSHA Guidance	4
Fair Labor Standards Act (FLSA)	4
Additional Employer Resources	4
REOPENING A BUSINESS AFTER THE CORONAVIRUS SHUTDOWN	5
Determining When to Reopen	5
Conducting a Risk Assessment	6
Maintaining Workplace Safety Using OSHA and CDC Guidance	7
Continued Safety	8
TEMPERATURE + ANTIBODY TESTING CONSIDERATIONS	9
Temperature Check Process Best Practices	9
Antibody Testing Definition	10
VENDORS PROVIDING TESTING SERVICES	12
Temperature Check Vendors	12
COVID-19 Antibody Testing Vendors	13
Corporate Onsite Clinic Resources	13



INTRODUCTION

At MJ, we are committed to providing you with helpful information and resources to keep you informed during these uncertain times and help keep your employees and businesses, protected. Contained within this toolkit is information for your organization to consider as you plan to safely bring your employees back to work in light of the ongoing COVID-19 pandemic. The information compiled comes from the Centers of Disease Control (CDC), Occupational Safety & Health Administration (OSHA) and other third-party sources to help you as an employer explore best practices during these unprecedented times. As these best practices are subject to change and evolve, we encourage staying up-to-date on these topics. Prior to implementing any of the considerations referenced in this toolkit, we encourage you to consult directly with legal counsel. We encourage you to reach out to your MJ team if you have questions as this pandemic evolves.

NOTICE OF DISCLAIMER

This list of vendors providing testing services (Vendor List) and associated materials (collectively, "COVID-19 Employer Toolkit") are provided by MJ Insurance, Inc. ("MJ") to clients for informational purposes only. The COVID-19 Toolkit and Vendor List are not intended to be an exhaustive or definitive source to identify or mitigate risks associated with the COVID-19 pandemic. Further, the COVID-19 Employer Toolkit and Vendor List are not intended to be an endorsement, referral, or recommendation (legal, medical, scientific, business, or otherwise) for any particular vendor, expert, individual, company, technique, or method that you and/or your business should employ in responding to the COVID-19 pandemic and associated federal, state, and local guidelines and restrictions. MJ accepts no responsibility or liability whatsoever with regard to the COVID-19 Employer Toolkit and Vendor List, or any action or inaction taken by the client in response to or in connection with same. Information presented in connection with COVID-19 Toolkit and Vendor List:

- + Has been accumulated and prepared at the request of our clients, and in gathering this information MJ cannot guarantee the accuracy, quality, completeness, comprehensiveness, or timeliness of all information contained herein; and
- + May be linked to external sites over which MJ has no control and for which MJ assumes no responsibility;
- + Is intended for guidance and information only and may not cover all potential circumstances or the circumstances particular to your business.

We encourage you to seek expert advice when evaluating the use of the COVID-19 Toolkit and Vendor List.



BACK TO BUSINESS GUIDE

GOVERNMENT UPDATES

EEOC GUIDANCE

The EEOC provided updated FAQs on April 23, 2020 on how employers should comply with the ADA as it relates to COVID-19. View MJ's HR Compliance Bulletin found [here](#). The new FAQs provide information on the following topics:

- + Disability-Related Inquiries and Medical Exams
- + Confidentiality of Medical Information
- + Hiring and Onboarding
- + Reasonable Accommodation
- + Pandemic-Related Harassment Due to National Origin, Race, or Other Protected Characteristics
- + Furloughs and Layoffs
- + Return to Work

To stay up-to-date on EEOC guidance, refer to their resource page that consolidates various statements and guidance related to COVID-19 found here: <https://www.eeoc.gov/coronavirus/>

CENTERS FOR MEDICARE AND MEDICAID SERVICES (CMS) GUIDANCE

The guidance posted on 3/11/2020 provides the following specific guidance: "...announcement implements the requirement for group health plans and group and individual health insurance to cover both diagnostic testing and certain related items and services provided during a medical visit with no cost sharing. This includes urgent care visits, emergency room visits, and in-person or telehealth visits to the doctor's office that result in an order for or administration of a COVID-19 test. Covered COVID-19 tests include all FDA-authorized COVID-19 diagnostic tests, COVID-19 diagnostic tests that developers request authorization for on an emergency basis, and COVID-19 diagnostic tests developed in and authorized by states. It also ensures that COVID-19 antibody testing will also be covered. Once broadly available, a COVID-19 antibody test could become a key element in fighting the pandemic by providing a more accurate measure of how many people have been infected and potentially enabling Americans to get back to work more quickly...."

Carriers of fully insured medical plans are evaluating and adjusting plan language to allow for both types of testing to be provided at no cost to the members which should be released within the next business week. Self-funded medical programs are also required to cover testing at no cost to the members and should consider electing to cover both in- and out-of-network and provide their direction to the contracted Third-Party Administrator.

Testing requirements outlined by CMS:



BACK TO BUSINESS GUIDE

- + <https://www.cms.gov/newsroom/press-releases/trump-administration-announces-expanded-coverage-essential-diagnostic-services-amid-covid-19-public>
- + <https://www.cms.gov/files/document/FFCRA-Part-42-FAQs.pdf>

OSHA GUIDANCE

OSHA's COVID-19 Resource Page: <https://www.osha.gov/SLTC/covid-19/>

OSHA's Guidance on Preparing Workplaces for COVID-19:
<https://www.osha.gov/Publications/OSHA3990.pdf>

OSHA highlighted the following **standards** for employers to consider in relation to the outbreak:

- + **The General Duty Clause**—Requires employers to provide a workplace that is free from recognized hazards that are causing or likely to cause death or serious physical harm.
- + **Personal Protective Equipment Standards**—This standard requires use of gloves, eye and face protection, and respiratory protection to prevent identified hazards.
- + **Bloodborne Pathogens Standard**—Applies to occupational exposure to human blood and other potentially infectious materials.
- + **Recordkeeping and Reporting**—Most employers with more than 10 employees are required to keep a record of serious work-related injuries and illnesses. COVID-19 incidents may qualify as recordable illnesses.

FAIR LABOR STANDARDS ACT (FLSA)

COVID-19 or Other Public Health Emergencies and the Fair Labor Standards Act Questions and Answers <https://www.dol.gov/agencies/whd/flsa/pandemic>

ADDITIONAL EMPLOYER RESOURCES

Reliable and up-to-date resources for information:

- + **MJ Insurance COVID-19 Resource Center** <https://www.mjinsurance.com/covid-19-resource-center/>
- + **CDC (Centers for Disease Control and Prevention)** <https://www.cdc.gov/coronavirus/2019-ncov/index.html>
- + **World Health Organization** <https://www.who.int/emergencies/diseases/novel-coronavirus-2019>
- + **Coronavirus (COVID-19)** <http://www.coronavirus.gov>
- + **SHRM** <https://www.shrm.org/resourcesandtools/pages/communicable-diseases.aspx>





REOPENING A BUSINESS AFTER THE CORONAVIRUS SHUTDOWN

As the coronavirus (COVID-19) pandemic continues to have an unprecedented effect on daily life, many business owners are looking forward to the future and a return to normalcy. However, even when stay-at-home orders are lifted and nonessential businesses are allowed to resume operations, there's a lot for organizations to consider before they reopen their doors. What's more, many of these considerations are workplace-specific and could be more involved depending on the industry you operate in.

To protect their customers and employees alike, it's important for organizations to do their due diligence before opening their business back up to the public following the COVID-19 pandemic.

DETERMINING WHEN TO REOPEN

While many essential businesses (e.g., hospitals, pharmacies, grocery stores and gas stations) have remained open during the COVID-19 pandemic, other operations deemed nonessential have shut down temporarily or changed the nature of their operations. Not only has this led to significant business disruptions, but, for many, it has critically impacted their bottom line.

However, we may be nearing a time when stay-at-home regulations are scaled back and all businesses are allowed to resume as normal. President Trump released his guidelines for "Opening Up America Again," an 18-page document with general guidance that state governors may use to reopen businesses by May 1. Ultimately, reopening businesses will be the decision of state governors, so monitor local news outlets for updates.

With these uncertainties, the question then is: How will business owners know it is acceptable to reopen? The following are some best practices to keep in mind:

- + **Review guidance from state and local governments**—The COVID-19 pandemic impacts states and regions in different ways. Just because a business is allowed to reopen in one region of the country doesn't automatically mean your operations will be allowed to resume as well. As such, it's critical to understand and review all relevant state and local orders to determine if and when your business is allowed to reopen.
- + **Understand the risks**—If and when the government allows all businesses to reopen, that doesn't necessarily mean COVID-19 is no longer a threat to your operations. What's more, some businesses may have greater COVID-19 exposures than others, underscoring the importance of performing a thorough risk assessment before reopening. Prior to conducting a risk assessment, it's important to review guidance from the Occupational Safety and Health Administration (OSHA), state and local agencies, industry associations as well as your local health department. More information on conducting a risk assessment can be found below.

Again, before reopening, it's critical to seek the expertise of legal, insurance and other professionals.



BACK TO BUSINESS GUIDE

CONDUCTING A RISK ASSESSMENT

Even after the government allows businesses to reopen, firms still need to determine if it makes sense to resume operations. Safely restarting your business won't be as simple as unlocking the front door.

Before reopening, businesses should perform a risk assessment to determine what steps must be taken. While the complexity of risk assessments will differ from business to business, they typically involve the following steps:

- + **Identifying the hazards**—When it comes to COVID-19, businesses need to think critically about their exposures, particularly if an infected person entered their facilities. When identifying hazards, it's a good idea to perform a walkthrough of the premises and consider high-risk areas (e.g., breakrooms and other areas where people may congregate). It's also important to consider what tasks employees are performing and whether or not they are especially exposed to COVID-19 risks when performing their duties.
- + **Deciding who may be harmed and how**—Once you've identified hazards to your business, you need to determine what populations of your workforce are exposed to COVID-19 risks. When performing this evaluation, you will need to make note of high-risk individuals (e.g., staff members who meet with customers or individuals with preexisting medical conditions).
- + **Assessing risks**—Once you have identified the risks facing your business, you must analyze them to determine their potential consequences. For each risk facing your business, you'll want to determine:
 - + How likely is this particular risk to occur?
 - + What are the ramifications should this risk occur?

When analyzing your risks, consider potential financial losses, compliance requirements, employee safety, business disruptions, reputational harm and other consequences.

- + **Controlling risks**—With a sense of what the threats to your business are, you can then consider ways to address them. There are a variety of methods businesses can use to manage their risks, including:
 - + **Risk avoidance**—Risk avoidance is when a business eliminates certain hazards, activities and exposures from their operations altogether.
 - + **Risk control**—Risk control involves preventive action.
 - + **Risk transfer**—Risk transfer is when a business transfers their exposures to a third party.

For COVID-19, control measures could include cleaning protocols, work from home orders and mandated personal protective equipment (PPE) usage. Additional workplace considerations can be found below.





BACK TO BUSINESS GUIDE

- + **Monitoring the results**—Risk management is an evolving, continuous process. Once you've implemented a risk management solution, you'll want to monitor its effectiveness and reassess. Remember, COVID-19 risks facing your business can change over time.

MAINTAINING WORKPLACE SAFETY USING OSHA AND CDC GUIDANCE

Once you conduct a risk assessment, you will need to act to control COVID-19 risks. Again, risks and the corrective steps that organizations take to address those risks will vary by business and industry.

Thankfully, there are a number of OSHA and Center for Disease Control and Prevention (CDC) workplace controls to consider if your risk assessment determines that COVID-19 poses a threat to your employees or customers. For instance, you should:

- + **Implement administrative controls**—Typically, administrative controls are changes in work policies or procedures that reduce or minimize an individual's exposure to a hazard. An example of an administrative control for COVID-19 is establishing alternating days or extra shifts that reduce the total number of employees in a facility at a given time.
- + **Utilize Personal Protective Equipment (PPE)**—PPE is equipment worn by individuals to reduce exposure to a hazard, in this case, COVID-19. Businesses should focus on training workers on and proper PPE best practices. Employees should understand how to properly put on, take off and care for PPE. Training material should be easy to understand and must be available in the appropriate language and literacy level for all workers.
- + **Consider engineering controls**—Engineering controls protect workers by removing hazardous conditions or by placing a barrier between the worker and the hazard. For COVID-19, engineering controls can include:
 - + Installing high-efficiency air filters
 - + Increasing ventilation rates in the work environment
 - + Installing physical barriers, such as clear plastic sneeze guards
- + **Be adaptable**—You should be prepared to change your business practices if needed to maintain critical operations. This could involve identifying alternative suppliers, prioritizing existing customers or suspending portions of your operations.
- + **Create a dialogue with vendors and partners**—Talk with business partners about your response plans. Share best practices with other businesses in your communities, and especially those in your supply chain.
- + **Encourage social distancing**—Social distancing is the practice of deliberately increasing the physical space between people to avoid spreading illness. In terms of COVID-19, social distancing best practices for businesses can include:
 - + Avoiding gatherings of 10 or more people





BACK TO BUSINESS GUIDE

- + Instructing workers to maintain at least 6 feet of distance from other people
- + Hosting meetings virtually when possible
- + Limiting the number of people on the jobs site to essential personnel only
- + Encouraging or requiring staff to work from home when possible
- + Discouraging people from shaking hands
- + **Manage the different risk levels of their employees**—It's important to be aware that some employees may be at higher risk for serious illness, such as older adults and those with chronic medical conditions. Consider minimizing face-to-face contact between these employees or assign work tasks that allow them to maintain a distance of 6 feet from other workers, customers and visitors.
- + **Separate sick employees**—Employees who appear to have symptoms (i.e., fever, cough or shortness of breath) upon arrival at work or who become sick during the day should immediately be separated from other employees, customers and visitors, and sent home. If an employee is confirmed to have COVID-19, employers should inform fellow employees of their possible exposure to COVID-19. The employer should instruct fellow employees about how to proceed based on the CDC Public Health Recommendations for Community-Related Exposure.
- + **Support respiratory etiquette and hand hygiene**—Businesses should encourage good hygiene to prevent the spread of COVID-19. This can involve:
 - + Providing tissues and no-touch disposal receptacles
 - + Providing soap and water in the workplace
 - + Placing hand sanitizers in multiple locations to encourage hand hygiene
- + **Perform routine environmental cleaning and disinfection**—Businesses should regularly sanitize their facility to prevent the spread of COVID-19. Some best practices include:
 - + Cleaning and disinfecting all frequently touched surfaces in the workplace, such as workstations, keyboards, telephones, handrails and doorknobs.
 - + Discouraging workers from using other workers' phones, desks, offices, or other tools and equipment, when possible. If necessary, clean and disinfect them before and after use.
 - + Providing disposable wipes so that commonly used surfaces can be wiped down by employees before each use.

CONTINUED SAFETY

While resuming operations following the COVID-19 pandemic may seem like a daunting task, businesses don't have to go it alone. To help with this process, organizations can seek the help of





BACK TO BUSINESS GUIDE

their insurance professionals to determine what actions they need to take to ensure their business reopens smoothly. To learn more, contact MJ Insurance, Inc. today.

The information contained within the section "Reopening a Business after the Coronavirus Shutdown" is not intended to be exhaustive nor should any discussion or opinions be construed as legal advice. Readers should contact legal counsel for legal advice. Source: ©2020 Zywave, Inc. All rights reserved.

TEMPERATURE + ANTIBODY TESTING CONSIDERATIONS

If an employer is required by a state or local order to conduct on-site temperature tests (or elects to do so), the employer still has options to minimize risk. One approach is to have employees self-administer tests at designated locations on-site and show the reading to a test facilitator, who determines if the temperature is elevated and has the authority to send home affected employees. Another, more involved, approach is for the employer to administer the test. In either case, OSHA requires the employer to evaluate reasonably anticipated hazards and assess the risks to which workers may be exposed. Although OSHA has not issued recommendations specific to temperature taking, it has issued general COVID-19 workplace guidance. It is important to note that some people infected with COVID-19 may be asymptomatic in the beginning and may not have a temperature. Additionally, the presence of a temperature does not necessarily indicate that someone has COVID-19.

We strongly encourage employers to seek legal counsel prior to implementing ANY testing policies.

Many law firms have put together FAQs on testing employees for COVID-19. Here is one example:

<https://www.faegredrinker.com/en/insights/publications/2020/4/testing-employees-for-covid19-responses-to-faqs-from-employers>

TEMPERATURE CHECK PROCESS BEST PRACTICES

Neither the EEOC, CDC, nor OSHA have issued guidance on a process or requirements for taking employees' temperatures. In absence of this guidance, we share what one law firm has put together as their proposed best practices. We encourage clients to seek legal counsel before implementing a formal process. In addition to the information below, it is recommended that employers determine what to do if employees refuse to have their temperature taken. The following information is one law firm's best practices which can be found here:

<https://www.wilmerhale.com/en/insights/client-alerts/20200403-screening-employee-temperatures-what-employers-need-to-know>

The following best practices should be considered and implemented, as appropriate, in connection with temperature testing. Employers should:

- + Communicate clearly in advance with their workforces regarding temperature checks and related implications (e.g., being sent home).
- + Set a temperature screening threshold over which employees will not be permitted to enter the workplace. The CDC considers a person to have a fever when he or she has a measured



BACK TO BUSINESS GUIDE

temperature of at least 100.4 degrees Fahrenheit; many employers have adopted screening thresholds in the 100-100.4°F range.

- + Seek to facilitate testing in the least invasive way possible, including by attempting to procure devices that can register temperature without exposure to bodily fluids (e.g., no-contact thermometers). Ohio and Delaware COVID-19 screening guidance recommends touchless (forehead/temporal artery) thermometers if possible, but directs employers to disinfect thermometers if oral or other types of thermometers must be used due to procurement challenges.
- + Appoint someone with proper training—ideally an on-site medical staff person or other medical professional (e.g., R.N., M.A.) if possible—to facilitate or administer on-site temperature checks, as discussed below.
- + Maintain social distancing (e.g., by establishing multiple temperature check stations at large facilities to minimize crowding), clean and disinfect medical equipment, and take other COVID-19 related precautions.

ANTIBODY TESTING DEFINITION

The following excerpt is taken from the FDA: <https://www.fda.gov/medical-devices/emergency-situations-medical-devices/faqs-diagnostic-testing-sars-cov-2>

“...Another type of test, called a serology or antibody test, measures the amount of antibodies present in the blood when the body is responding to a specific infection, like COVID-19. This means the test detects the body's immune response to the infection caused by the virus rather than detecting the virus itself. In the early days of an infection when the body's immune response is still building, antibodies may not be detected. This limits the test's effectiveness for diagnosing COVID-19 and why it should not be used as the sole basis to diagnose COVID-19.

In response to an infection, such as COVID-19, the body develops an overall immune response to fight the infection. One component of the immune system's response is development of antibodies that attach to the virus and help eliminate it. The body's initial immune reaction produces general antibodies that attack many infections, called "IgM" antibodies. IgM antibodies indicate an active or recent infection. Because it takes time for the body to make IgM antibodies in response to SARS-CoV-2, their absence does not mean that someone is not infected. A test for IgM antibodies may give a false negative result in a patient with SARS-CoV-2, particularly early in infection. A patient may have a negative result early in infection even when they are symptomatic or asymptomatic but actively shedding the virus. Since IgM antibodies may not develop early or at all in infected patients, this type of antibody test is not used to rule out SARS-CoV-2 in an individual.

Over time, the body develops a second type of antibody in response to the infection that is more specific to the virus, called "IgG" antibodies. Most antibody tests detect IgG antibodies. On average, IgG antibodies take about 4 weeks to develop, but the time to development may vary substantially, and there is still a lot we do not know about SARS-COV-2. Since IgG antibodies generally do not



BACK TO BUSINESS GUIDE

develop until several weeks after infection, this type of antibody test, even though it is more specific to SARS-CoV-2, is not used to rule-out SARS-CoV-2 infection in an individual.

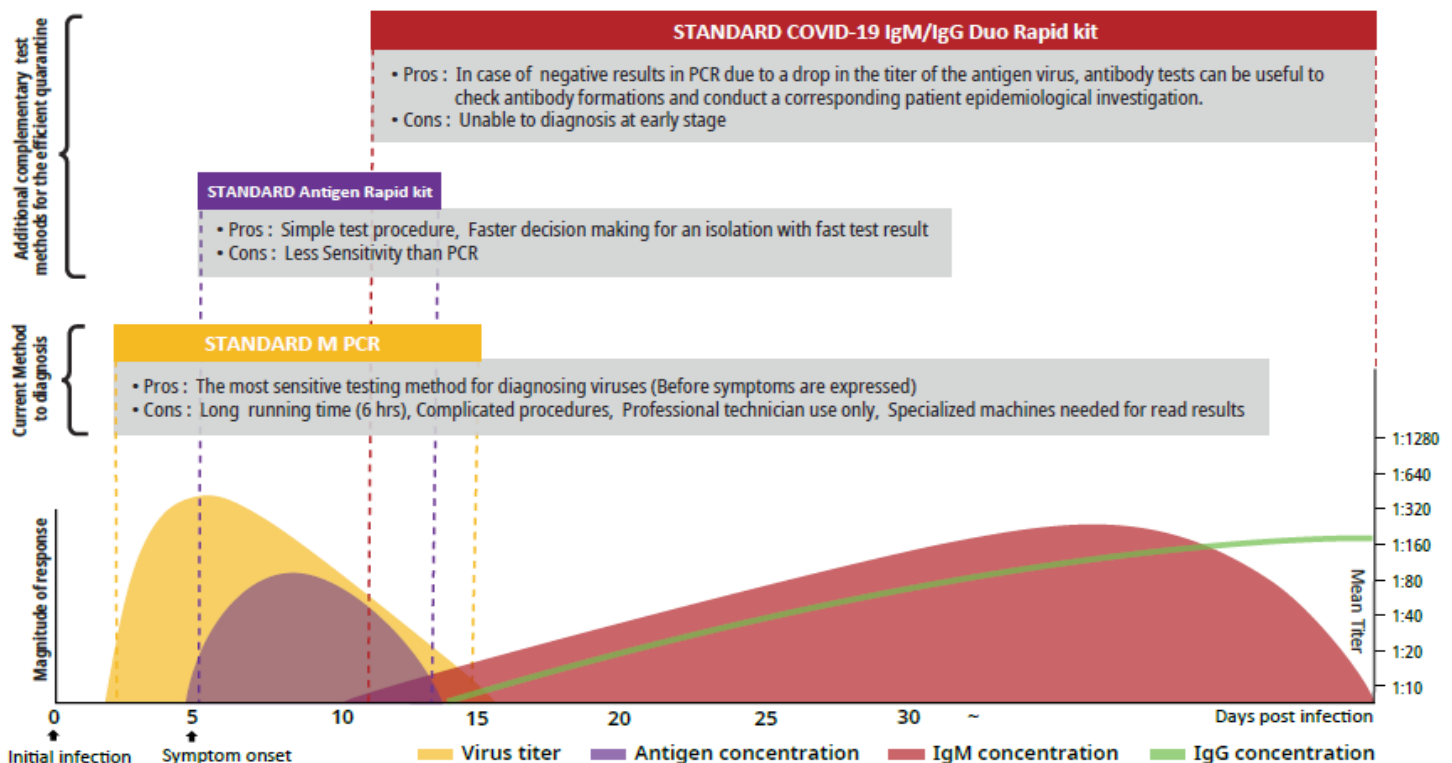
We also do not know how long IgM or IgG antibodies to SARS-CoV-2 will remain present in the body after the infection has been cleared."

According to a recent [brief](#) by the World Health Organization (WHO), "WHO continues to review the evidence on antibody responses to SARS-CoV-2 infection. Most of these studies show that people who have recovered from infection have antibodies to the virus. However, some of these people have very low levels of neutralizing antibodies in their blood, suggesting that cellular immunity may also be critical for recovery. As of 24 April 2020, no study has evaluated whether the presence of antibodies to SARS-CoV-2 confers immunity to subsequent infection by this virus in humans."

The chart below from Henry Schein describes some of the COVID-19 tests. It is important to note that as of April 22, 2020, the FDA has issued "emergency use authorization" for four serological (antibody) tests. The FDA is continuing to evaluate the validity of serological tests and more information can be found here: <https://www.fda.gov/news-events/press-announcements/coronavirus-covid-19-update-serological-test-validation-and-education-efforts>

This type of testing is not addressed under employment regulations in terms of a return to operations protocol. Employers considering this test should consult with their onsite clinics, occupational healthcare providers, and/or medical insurance programs to determine how and where an employee might receive these tests. This test under federal mandate is covered in full under medical plans with no cost share to the members.

Epidemiology and Test Overview





BACK TO BUSINESS GUIDE

VENDORS PROVIDING TESTING SERVICES

The vendor lists below are not a complete listing of all available vendors nor is it a specific recommendation to utilize these vendors. This list has been compiled as a support to employers if a relationship is not currently maintained for these types of services. MJ Insurance does not singularly recommend/endorse any of these providers. Once again, MJ strongly encourages all employers to seek legal advice prior to implementing any testing policies.

TEMPERATURE CHECK VENDORS

ATLAS – ONSITE EMPLOYEE SCREENING AND TEMPERATURE CHECK

Highlights:

- + Provides onsite nurses to perform testing
- + Protocol development and program management
- + Non-contact temporal thermometers
- + One or more onsite healthcare professionals at each shift change
- + Range of cost based on location, hours needed and volume seen with a range from \$60 per hour to \$120 per hour
- + 4-7 day turnaround from proposal to onsite testing.

Contact steps:

- + Your MJ Service team will help coordinate receiving a proposal. MJ has procured group pricing to help lower the cost for our employers

TRUE CARE 24 – ONSITE EMPLOYEE SCREENING AND TEMPERATURE CHECK

Highlights:

- + Solutions specific multiple industries.
- + Provides onsite nurses to perform testing
- + Non-contact temporal thermometers
- + One or more onsite healthcare professionals at each shift change

Contact information:

- + support@truecare24.com
- + 1 (855) 932-3344





BACK TO BUSINESS GUIDE

COVID-19 ANTIBODY TESTING VENDORS

DPC – NEAR SITE CLINIC-BASED TESTING WITH 48-HOUR TURNAROUND OF ANTIBODY TEST

Highlights:

- + Provides FDA approved Antibodies test to members
- + In some markets they can come onsite or to individual homes
- + Billed direct to Employers, with one-page engagement agreement
- + Test is \$250 per test when provided at a clinic location
- + Direct access to employee homes or employer offices is available in some markets
- + Reporting of results available to members for use in return to work clearance protocol

Contact steps:

- + Contact Jessaca Latteier to coordinate and determine market availability in your area
- + jessaca.latteier@mjiinsurance.com

CORPORATE ONSITE CLINIC RESOURCES

FOR AN EMPLOYER WHO IS CONTRACTED WITH AN ONSITE CLINIC VENDOR OR EMPLOYS MEDICAL STAFF FOR EMPLOYEE HEALTH. MJ INSURANCE CAN WORK WITH OUR INDUSTRY PARTNER TO ORDER TESTING SUPPLIES TO BE ADMINISTERED BY CLINIC STAFF.

Contact Information:

- + Your MJ Service team will help coordinate
- + Henry Schein Medical is the supply company



MJINSURANCE.COM