

Advice to Victorian Public Health Services – Managing COVID-19 positive healthcare workers

Issued 28 September 2023, effective from 1 October 2023.

1. Introduction

This document applies to Victorian public health services, Ambulance Victoria and Forensicare (referred to throughout as '**Employer**') in relation to employees whose workplace is a sensitive setting as described in public health advice (i.e. hospitals and aged care).

Nothing in this document will, nor is intended to, limit or diminish an employee's right, benefit or entitlement under an enterprise agreement, award, or the *Fair Work Act 2009* (Cth). Nor does it limit or absolve an employer's legal or statutory obligations.

2. Public health advice

The Department of Health issues public health advice that applies to all members of the Victorian community about how to protect ourselves, our loved ones and at-risk Victorians.

That advice varies from time to time but currently (as at 27 September 2023), that advice includes that workers in sensitive settings:

- should stay home if unwell with symptoms of an acute respiratory infection and get tested for COVID-19;
- if testing positive for COVID-19, stay at home for at least 5 days from the onset of symptoms (returning day 6) and until acute symptoms have resolved. Asymptomatic cases (e.g. close contacts undertaking a test) should stay home for at least 5 days (returning day 6) from the date of taking a positive test.

Employers should require that additional transmission mitigation measures are in place upon affected workers' return to work until 10 days following symptom onset (or from date of taking a positive test for asymptomatic cases). The measures include requiring that N95/P2 respirators are worn and affected workers' acute symptoms have resolved or they are asymptomatic.

Who is a close contact

A close contact is a person who:

- lives with someone who has COVID-19, or stayed the night at their house
- spent more than 4 hours indoors in a house or other residence with a person who has COVID-19 while they were infectious.

An Employee who is a close contact of a COVID-19 case should:

- check with their Employer about testing and additional transmission mitigation measures during their 7-day close contact period ;
- if they develop any symptoms of an acute respiratory infection (including a runny nose, sore

throat, cough, fever or chills), stay home and take a test.

Employees and employers should refer to current public health advice on the Department of Health website at the relevant time: <https://www.coronavirus.vic.gov.au/checklist-contacts>.

2.1 Stay home when unwell or test positive to COVID-19

Any employee who:

- has symptoms of an acute respiratory infection (including a runny nose, sore throat, cough, fever or chills); or
- has no symptoms but has returned a positive COVID-19 test (e.g. a close contact) and therefore may be infectious,

should not attend the workplace for 5 days (returning day 6 and following the required additional transmission mitigation measures) and until acute symptoms have resolved

3. Access to paid leave

3.1 Personal (sick) leave

An ongoing (full-time or part-time) employee who is unwell with COVID-19 symptoms and/or tested positive for COVID-19, is entitled to access their paid personal (sick) leave entitlements under the enterprise agreement that applies to them.

This includes if the employee has no symptoms because COVID-19 is an “illness” for the purpose of sick leave entitlements and the employee may be infectious.

Notice and evidence requirements under the relevant enterprise agreement will apply.

3.2 Special leave in certain circumstances

Full-time and part-time employees

A full-time or part-time employee may test positive for COVID-19 but does not have sufficient sick leave to cover some or all of the period they need to stay home. This may be due to a previous need to use their sick leave entitlement or because they are a new employee and have not accrued enough leave at the time they test positive for COVID-19.

Employers are expected to do all that is reasonably practicable to support that person to remain away from the workplace in accordance with public health advice. This means employers must ensure that all options are explored to enable the employee to work from home if they are not unwell, undertaking normal duties, alternative duties or training for the required isolation period.

Where alternative options are not available, and the employee does not have enough sick leave to cover some or all of the period they need to stay home, the employee is entitled to be paid special leave for the portion that cannot be covered by sick leave.

Payment is conditional on compliance with notice and evidence requirements in the enterprise agreement that applies to them.

Employers cannot require an employee to access other leave types before being entitled to paid special leave.

Where an employer imposes an isolation period in excess of 5 days, special leave must be granted for the additional days.

An employee's right to make a WorkCover claim is not prejudiced by the employee seeking, or being paid, special leave.

Casual employees and independent contractors

Where a casual employee or independent contractor is required to be absent from work, the Employer may make arrangements with that person to work from home for some or all of the relevant period where reasonable and practical.

Where working from home is not practical, Employers should assess whether to provide casual employees with paid special leave on a case-by-case basis, taking into account:

- whether the casual has been employed and working for the health service on a regular and systematic basis for at least three months, and is anticipated to continue to be employed on a regular and systematic basis; and
- the likely work pattern for the employee concerned had there not been public health advice recommending they be absent.

4. Review

Health services should keep records of additional payments made in accordance with section 3.2 and make these available to the department on request.

This document will be reviewed from time to time having regard to its purpose and the terms of applicable industrial instruments that apply to healthcare workers. It will be reviewed no later than 31 January 2024.