

## Employers Should Stay the Course as WHO Declares H1N1 Pandemic

June 11, 2009

The World Health Organization (WHO) today raised its pandemic alert level to its highest level, Phase 6, the pandemic phase, in response to the ongoing global spread of the H1N1 virus. The increased alert level relates only to the spread of the virus, signaling significant outbreaks of the virus in at least two regions of the globe. WHO's declaration has no bearing on the severity of the virus, which WHO continues to describe as "moderate," with most cases requiring no treatment at all.

While WHO's announcement is an important public health development, absent specific direction from WHO or from the Centers for Disease Control (CDC), **it does not change a U.S. employer's legal obligations to its employees, nor does it change an employer's response with respect to the spread of H1N1, the guidelines for which have been developed over the last several weeks.** Accordingly, employers are encouraged to ensure that they have in place emergency preparedness plans and, assuming they do, to "stay the course" unless and until public health officials give additional guidance.

The WHO declaration itself requires all countries, including those with no reported cases of H1N1, to enact plans to prevent the continuing spread of the pandemic and to increase monitoring efforts to track the spread of the virus.

### Declaration Was Widely Expected

Given the fact that there have been at least 28,774 confirmed cases of H1N1 in 74 countries, the announcement was widely expected. In fact, U.S. health authorities say that the declaration itself will not alter at all how they are handling H1N1, as they have had in place steps to track and control the spread of the virus since it was first discovered in this country earlier this year. Infectious disease experts are now suggesting that the first wave of H1N1 is beginning to wane in the United States and Mexico, consistent with what many view as a 12-week life-cycle for influenza outbreaks.

### Conclusion

The spread of H1N1 is a public health crisis, and employers can and should look to federal, state, and local health officials for guidance and direction. While we do not anticipate new guidance resulting directly from WHO's declaration, employers need to stay informed and stay current with what continues to be an evolving situation and be prepared to respond to and, where appropriate, defuse employee fears. To that end, employers should be prepared to respond to employee inquiries by acknowledging the declaration and reiterating universal precautions suggested by the CDC at <http://www.cdc.gov/H1N1FLU/>. Provided that they remain compliant with the Americans with

Disabilities Act (ADA) and other employment laws, employers may also direct sick employees to remain at home and seek medical treatment, impose travel restrictions on their employees, and maintain good workplace hygiene practices.

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