On April 10th, OSHA published interim guidance regarding the enforcement of the Agency’s injuries and illness recording requirement of COVID-19 cases. Under OSHA’s recordkeeping requirements, COVID-19 is a “recordable illness,” and employers are responsible for recording cases if: (1) the case is a confirmed as COVID-19, as defined by Centers for Disease Control and Prevention; (2) the case is work-related; and (3) the case involved one or more of OSHA’s general recording criteria.

Under the interim guidance, OSHA will exercise enforcement discretion in areas where there is ongoing community transmission of COVID-19, and where the ability of employers to determine work-related transmission is difficult. OSHA will not enforce 29 CFR § 1904 to require trucking industry employers to make the work-relatedness determinations, except where:

1. There is objective evidence that a COVID-19 case may be work-related. This could include, for example, a number of cases developing among workers who work closely together without an alternative explanation; and

2. The evidence was reasonably available to the employer. For purposes of this memorandum, examples of reasonably available evidence include information given to the employer by employees, as well as information that an employer learns regarding its employees’ health and safety in the ordinary course of managing its business and employees.

In situations where an employer can make a work-related determination of a COVID-19 case, employers must make sure the case is listed as a respiratory illness and coded as such on the OSHA Form 300. Also, if an employee voluntarily requests that his or her name not be entered on the log, the employer must comply with the request.

OSHA states the enforcement policy is necessary for employers to focus their response efforts on implementing good hygiene practices in the workplace (OSHA’s guidance for delivery drivers) to mitigate the COVID-19’s effects.

The interim guidance is effective immediately and remains in effect until further notice.

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