

SCREENING & TESTING EMPLOYEES: FREQUENTLY ASKED QUESTIONS

COVID-19 RETURN TO THE WORKPLACE FAQ

As states continue their phased re-opening of businesses, more employers are faced with the challenge of complying with local authority guidance and implementing protocols to return their employees to the workplace safely. In response, we have seen an explosion of screening and testing vendor solutions ranging from digital symptom checker apps to onsite thermo scanners and virus/antibody testing services. The following FAQs reflect questions commonly asked by our customers.

What federal, state, and local guidance applies to employers related to screening & testing employees returning to the workplace?

The CDC issued [general guidelines](#) outlining what a return to office buildings should look like, including:

- Conducting daily health checks
- Conducting a hazard assessment of the workplace
- Encouraging employees to wear cloth face coverings in the workplace, if appropriate
- Implementing policies and practices for social distancing
- Posting CDC signage (“Stop the Spread”)
- Training personnel on new protocols
- Disinfecting the work environment

The CDC offers guidance for screening & testing, but decisions about testing are made by state and local health departments or healthcare providers and employers. For example, some states require daily screening of employees and essential visitors. Employers should remember that guidance from public health authorities is likely to change as the COVID-19 pandemic evolves. Therefore, employers should continue to follow the most current information on maintaining workplace safety. Click [here](#) for a state by state list of screening and temperature check laws and executive orders.

What are the various types of screening and testing resources available to employers?

	Description	Considerations
Symptom Checkers	<ul style="list-style-type: none"> • Employees self-report symptoms daily via a digital app and receive a badge with OK to return to the workplace and/or guidance on care and follow-up 	<ul style="list-style-type: none"> • Features and costs vary widely • Inexperienced vendors • Ability to implement for a large number of employers

	Description	Considerations
Temperature Checks (Thermo Scanners)	<ul style="list-style-type: none"> Scans temperature without skin contact Hand-held device or kiosk administered by employer staff or third-party service 	<ul style="list-style-type: none"> Some infected do not have a temperature Most require basic user training Wide range of cost per device
Virus Testing (PCR)	<ul style="list-style-type: none"> Tests for current infection Nasal/oral swab performed at the test site or worksite by a third party 	<ul style="list-style-type: none"> Frequency - may test negative one day and positive the next Cost to test asymptomatic population regularly Accuracy varies - use tests and labs approved by the FDA
Immunity/Antibody Testing	<ul style="list-style-type: none"> Tests for the presence of virus antibodies Serologic/blood test at a lab, test site, or worksite 	<ul style="list-style-type: none"> Meaning of results unknown Immunity level and duration of immunity are TBD
Contact Tracing	<ul style="list-style-type: none"> Identification of persons who may have come into contact with an infected person Collection of information about these contacts 	<ul style="list-style-type: none"> Primarily offered to the public by health departments Limited availability and cost of private services for employers

I What EEOC guidelines apply to COVID-19 related screening & testing of employees?

Under [EEOC guidelines](#) (“What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws”), employers are allowed to take two actions to protect their workforces:

1. Temperature screening and
2. Checking for symptoms of the coronavirus

Employers can also exclude workers that they suspect have symptoms from the workplace.

The EEOC laws, including the ADA and Rehabilitation Act, continue to apply during the time of the COVID-19 pandemic. EEOC laws do not interfere with or prevent employers from following the guidelines and suggestions made by the CDC or state/local public health authorities about steps employers should take regarding COVID-19.

EEOC parameters employers should have in mind when considering whether to screen employees for COVID-19 include:

- Just as with temperature screening, screening/testing for COVID-19 must be conducted on a nondiscriminatory basis, which likely means that all employees entering the worksite must be tested.
- Assuming the results of such testing are retained, they need to be retained as confidential medical records according to the ADA and applicable HIPAA requirements.
- Any screening, test, or inquiry that is broader than necessary to address the potential direct threat is prohibited.
- Although unlikely, it is possible that an employee could have a medical condition that could require the employer to determine whether it can provide the employee with an accommodation, such as making

available an alternative testing method to the method being used (likely nasal swab).

- Employers will need to consider how to handle an employee's refusal to submit to a test. For example, the employer could bar access to the worksite for an employee who refuses to cooperate.

Please Note: Adherence with the federal and state guidance provided in this FAQ does not preclude potential legal liability concerning their employees or visitors to an employer's place of business. Employers implementing screening and testing procedures should discuss their plans with their legal counsel.

What resources does Brown & Brown offer to support employer's return to the workplace screening & testing efforts?

Brown & Brown maintains a **COVID-19 Screening & Testing Vendor Inventory** of organizations that provide return to workplace services to employers, including symptom checker apps, onsite temperature checks, and testing. Please note that the vendor marketplace is changing daily with new vendors, solutions and features, and other vendors no longer offering services. We will do our best to keep the inventory up to date.

What are some of the questions employers should ask vendors about their symptom checker apps?

- What experience does your company have with digital solutions for employers?
- What support do you provide employers to develop a screening strategy?
- What is the implementation process and how long does it take?
- What types of customization are available to employers?
- How extensive are the screening triage questions and how does the checker triage users to the appropriate level/site of care/provider?
- What reporting and analytics are available to the employer?
- How is data privacy maintained?

Ask your Brown & Brown service team for the most recent version of the **COVID-19 Screening & Testing Vendor Inventory**.

Please Note:

- *We are not medical experts. We are not offering medical advice or counsel on appropriate testing measures or other related medical information.*
- *We are not recommending any specific types of testing or any particular vendors.*
- *Employers should review any protocol, testing, or employment decisions made related to COVID-19 with your employment law counsel.*

In addition to the resources outlined above, we also offer a comprehensive **Return to Workplace Toolkit**, access to a deeply discounted **Employment Law Helpline**, and access to the **Brown & Brown Relief Center** (for discounts on health and well-being services) to our customers.

Customized in-depth clinical and behavioral health consulting services for managing a safe return to the workplace are also available.

Please be advised that any and all information, comments, analysis, and/or recommendations set forth above relative to the possible impact of COVID-19 on potential insurance coverage or other policy implications are intended solely for informational purposes and should not be relied upon as legal advice. As an insurance broker, we have no authority to make coverage decisions as that ability rests solely with the issuing carrier. Therefore, all claims should be submitted to the carrier for evaluation. The positions expressed herein are opinions only and are not to be construed as any form of guarantee or warranty. Finally, given the extremely dynamic and rapidly evolving COVID-19 situation, comments above do not take into account any applicable pending or future legislation introduced with the intent to override, alter or amend current policy language.