



# IMA WEEKLY COVID-19 UPDATE

**RISK CONTROL WORKPLACE READINESS PRECAUTIONS**

**BENEFITS DEADLINE EXTENSIONS**



## **A FEW THINGS TO NOTE**

**This webinar is being recorded, the recording and slides will be made available to all registrants this evening via email**

**If you have a question, please enter it in the 'Question' field in the GoToWebinar interface**

**If we do not have time to answer all questions, written responses will be published later this week**

# AGENDA

WORKPLACE READINESS  
PRECAUTIONS

BENEFITS DUE DATE  
EXTENSIONS

# PANELISTS



**Rebecca Green**  
*Marketing Strategist*



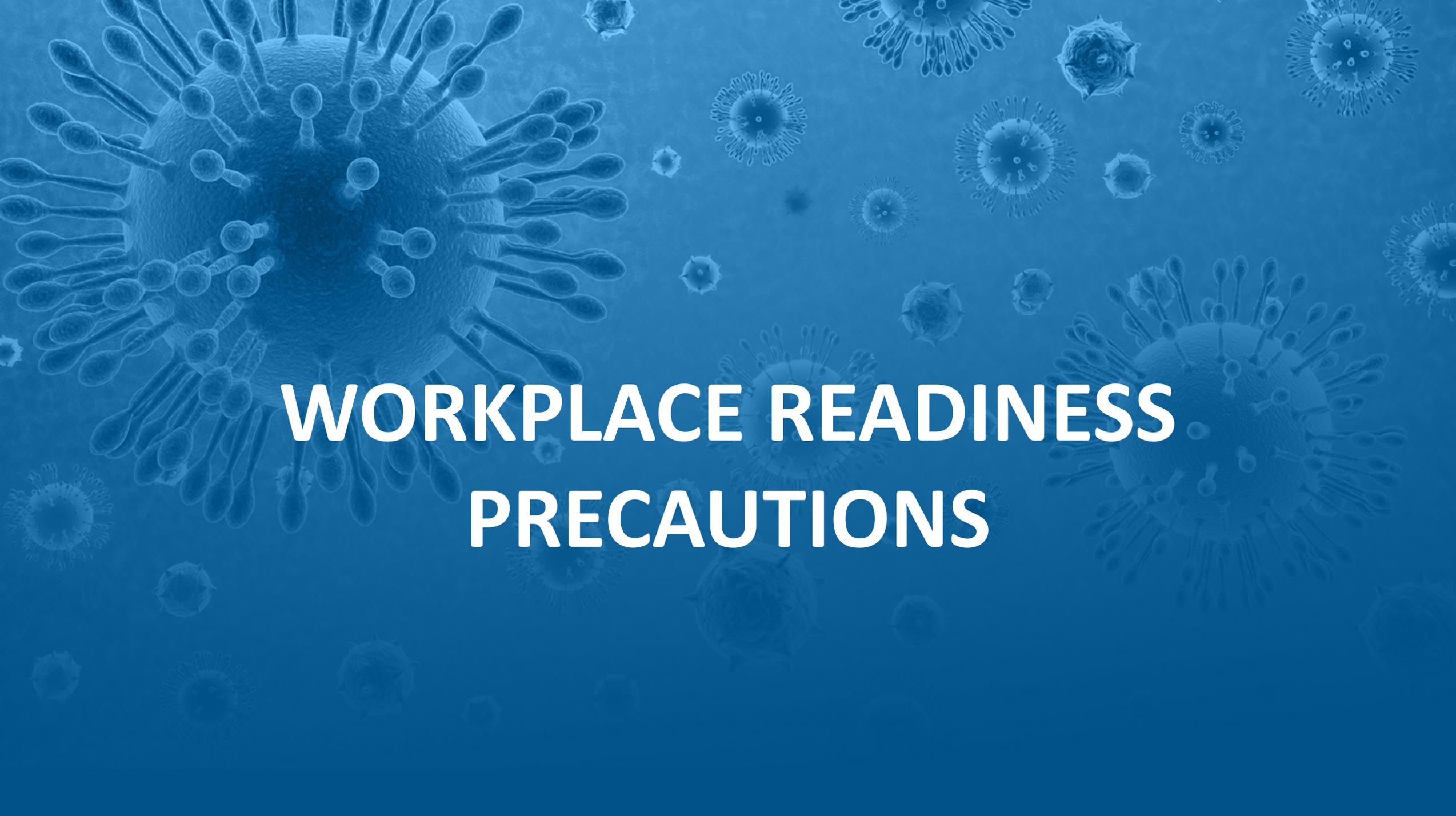
**Nicole Coughlin**  
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# **WORKPLACE READINESS PRECAUTIONS**

# WORKPLACE READINESS PRECAUTIONS

**Disclaimer: All requirements are constantly changing so although these are suggestive precautions or measures to take today, they may change tomorrow or next week. Therefore, ensure you do your own research to be as up to date as possible on guidelines.**

- State Specific Requirements
- Telecommuting & Working from Home
- Screening Questions
- Temperature Taking
- Social Distancing
- Hand Washing & Sanitation
- PPE

# STATE SPECIFIC REQUIREMENTS

Where to look:

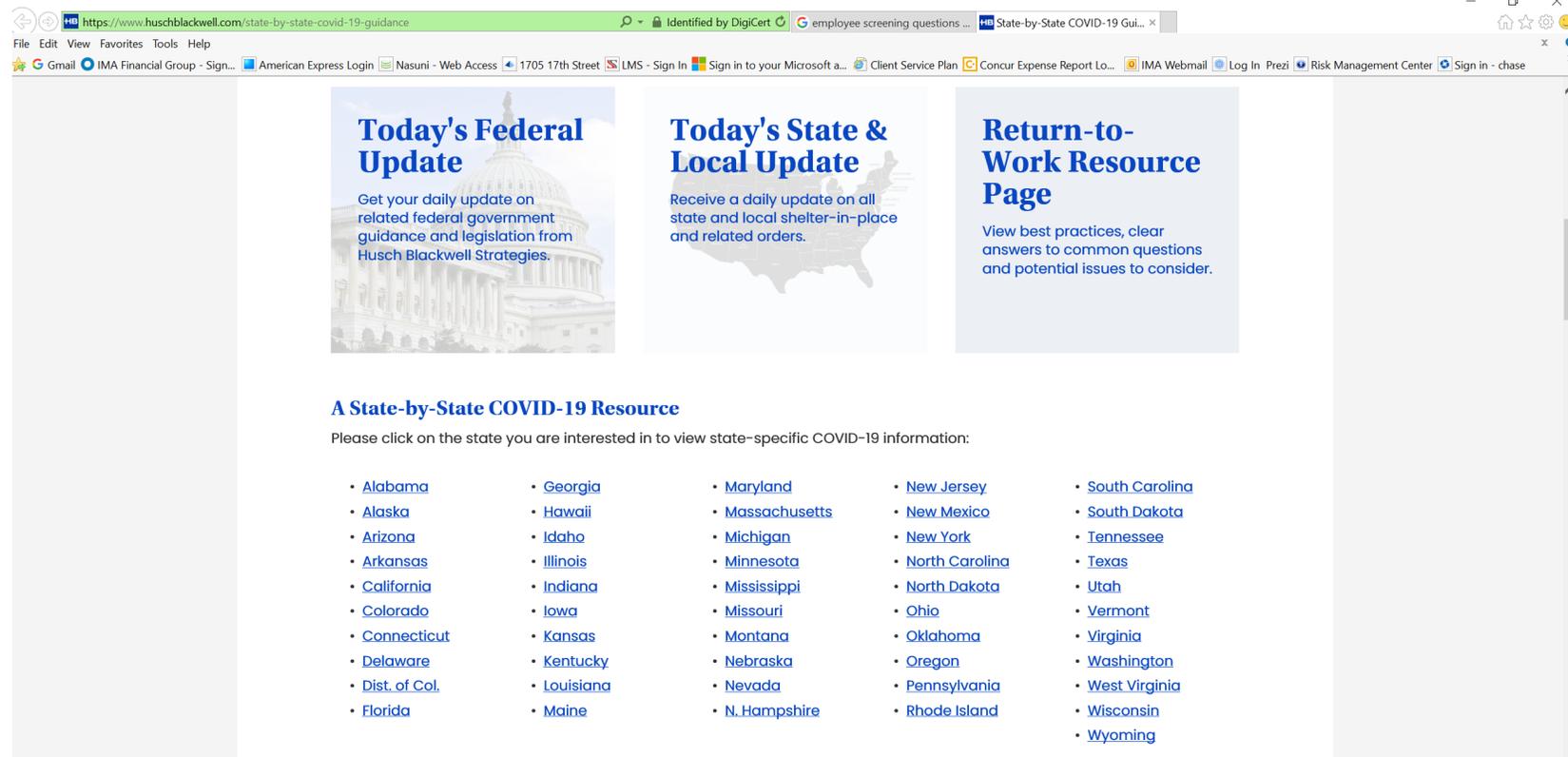
- Husch Blackwell website
- Research your state
- Go to the state and/or county website

Colorado

Missouri

Kansas

Texas



The screenshot shows a web browser window with the URL <https://www.huschblackwell.com/state-by-state-covid-19-guidance>. The page features three main sections: "Today's Federal Update" (with a capitol building image), "Today's State & Local Update" (with a map of the US), and "Return-to-Work Resource Page". Below these is a section titled "A State-by-State COVID-19 Resource" with a list of states to click for more information.

**Today's Federal Update**  
Get your daily update on related federal government guidance and legislation from Husch Blackwell Strategies.

**Today's State & Local Update**  
Receive a daily update on all state and local shelter-in-place and related orders.

**Return-to-Work Resource Page**  
View best practices, clear answers to common questions and potential issues to consider.

**A State-by-State COVID-19 Resource**  
Please click on the state you are interested in to view state-specific COVID-19 information:

- [Alabama](#)
- [Georgia](#)
- [Maryland](#)
- [New Jersey](#)
- [South Carolina](#)
- [Alaska](#)
- [Hawaii](#)
- [Massachusetts](#)
- [New Mexico](#)
- [South Dakota](#)
- [Arizona](#)
- [Idaho](#)
- [Michigan](#)
- [New York](#)
- [Tennessee](#)
- [Arkansas](#)
- [Illinois](#)
- [Minnesota](#)
- [North Carolina](#)
- [Texas](#)
- [California](#)
- [Indiana](#)
- [Mississippi](#)
- [North Dakota](#)
- [Utah](#)
- [Colorado](#)
- [Iowa](#)
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- [Connecticut](#)
- [Kansas](#)
- [Montana](#)
- [Oklahoma](#)
- [Virginia](#)
- [Delaware](#)
- [Kentucky](#)
- [Nebraska](#)
- [Oregon](#)
- [Washington](#)
- [Dist. of Col.](#)
- [Louisiana](#)
- [Nevada](#)
- [Pennsylvania](#)
- [West Virginia](#)
- [Florida](#)
- [Maine](#)
- [N. Hampshire](#)
- [Rhode Island](#)
- [Wisconsin](#)
- [Wyoming](#)

# STATE SPECIFIC REQUIREMENTS



## Colorado – Public Health Order 20-28

### “Safer at Home”

- Designate a workplace coordinator
- Institute social distancing
- Sanitization
- Signage
- Ventilation
- Gatherings of less than 10 people
- Symptom monitoring protocols
- Prioritize telecommuting
- Accommodations for vulnerable individuals
- Provide PPE
- Interfacing with customers or the public
- Locations with more than 50 employees

# STATE SPECIFIC REQUIREMENTS



## Missouri

### “Show Me Strong Recovery Order”

- Implement basic prevention measures
- PPE
- Temperature checks
- Testing, isolating and contact tracing
- Sanitation
- Social distancing
- Minimize business travel
- Modify physical workspaces for social distancing
- Infectious disease preparedness and response plan
- Monitoring the workforce
- Prioritize telecommuting
- Return to work in phases or shifts
- Limit access to common areas
- Communicate workplace flexibilities and protections

# STATE SPECIFIC REQUIREMENTS



## Kansas – Public Health Order 20-29

### “Ad Astra: A Plan to Reopen Kansas”

- Most business may re-open
- Social distancing
- Cleaning & sanitation
- Public health practices
- Physical barriers
- Gatherings of less than 10 people
- Recommended to wear masks in public settings
- Minimize nonessential travel
- [covid.ks.gov](https://www.covid.ks.gov) outlines guidelines for businesses by industry
- Symptom monitoring protocols

# STATE SPECIFIC REQUIREMENTS



## Texas

- Fewer restrictions
- More businesses gradually opening
- Face coverings required if...
  - Social distancing
  - Symptom monitoring protocols

# TELECOMMUTING & WORKING FROM HOME

- Are your employees presently working from home?
- Why reopen the office?
- Benefits of continued WFH:
  - Health and family priorities
  - Zero commuting
  - Flexible schedule
  - Custom environment
  - Technology enables productivity
  - Save money
  - Eliminating the exposure to the virus → reducing the amount of responsibility on the organization to implement screening protocols

# COVID-19 SCREENING MEASURES

## Questionnaire

- ✓ Before temperature screening
- ✓ Do not directly ask if they have coronavirus (ADA & HIPAA regs)
- ✓ Have you traveled out of the country in the last 14 days?
- ✓ Are you currently experiencing fever over 100 degrees F?
- ✓ Have you had close contact with a person who has tested positive for COVID-19 in the last 14 days?
- ✓ Are you currently experiencing difficulty breathing or cough?

If the answer is YES to any of these questions, use your work's COVID-19 emergency plan right away.

# COVID-19 SCREENING MEASURES

## Temperature Screening

- Non-touch thermometers (infrared)
- Consider using a 3<sup>rd</sup> party or train the employee(s) on methods of temperature taking or use a kiosk
- Comply with HIPAA regulations
- Social distancing while waiting to be screened
- Be consistent on who is screened
- What to do in the event of a refusal
- Guests, visitors or customers



# COVID-19 SAFE PRACTICES

## Social Distancing

- Avoid in-person meetings
- No hand-shaking
- Increase physical space between people (employees to employees and employees to customers)
- Avoid large gatherings
- Have flexible worksites and work hours
- Downsize in-person operations
- Deliver services remotely
- Deliver products through pick-up or delivery



# COVID-19 SAFE PRACTICES

## Hand Washing & Sanitation

- Promote good hygiene
- Provide frequent breaks for handwashing
- Supplying hand sanitizer and disinfecting products
- CDC Guidance (**released May 5, 2020**)
  - Using EPA-approved disinfectant or alternatives
  - Removing or storing soft and porous materials
  - Leave certain doors open

**PREVENTION**  
STARTS WITH YOU.



# COVID-19 SAFE PRACTICES

## Personal Protective Equipment (PPE)

- OSHA General Duty Clause
- OSHA Standard 1910.132 (for general industry)
- Where is PPE required?
- What is the employer's responsibility?
- What about those who cannot wear a mask due to a medical condition?
- Proper discarding of PPE



# COVID-19 RESOURCES

- State Resource Guide
  - <https://www.huschblackwell.com/state-by-state-covid-19-guidance>
- CDC General Business Frequently asked Questions
  - <https://www.cdc.gov/coronavirus/2019-ncov/community/general-business-faq.html>
- Sample COVID 19 preparedness plan and template
  - [https://www.dli.mn.gov/sites/default/files/pdf/COVID\\_19\\_business\\_plan\\_template.pdf](https://www.dli.mn.gov/sites/default/files/pdf/COVID_19_business_plan_template.pdf)
- CDC Cleaning and disinfection
  - <https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/cleaning-disinfection.html>
- OSHA Guidance
  - <https://www.osha.gov/SLTC/covid-19/standards.html>
- IMA's recorded webinars and resources
  - <https://www.osha.gov/SLTC/covid-19/standards.html>



# **BENEFITS DUE DATE EXTENSIONS**

# BENEFITS DUE DATE EXTENSIONS

- Reporting: San Francisco HCSO
- Reporting: Form 5500 and Form M-1
- HIPAA Special Enrollment Rights
- COBRA Notifications, Notices, and Payments
- Claims and Appeals



# REPORTING: SAN FRANCISCO HCSO, AND FEDERAL FORMS 5500 AND M-1

While the San Francisco Health Care Security Ordinance and any required City Option payments remain in force, the annual employer reporting requirement due each April was canceled (*not delayed*)

The federal Department of Labor (DOL) announced automatic extensions to **July 15, 2020** for all 5500 filings due between **April 1 and July 14**

- This includes plans that renewed in Oct, Nov, or Dec 2019 (*to report the plan year that had just ended*)
- This also includes plans that renewed between July and Sept 2019 that had applied for a 2½ month extension and the extension due date falls within the April 1 to July 14 window
- Calendar year plans must file by July 31, which falls outside the automatic extension window...employers needing an extension will need to submit Form 5558 by July 31

This relief also extends to Form M-1 filings, which multiple employer welfare arrangements (MEWAs) must file every March 1...any MEWA that filed for an extension must now file by July 15, 2020

# NEW “OUTBREAK PERIOD” EXTENSIONS

The period **from March 1, 2020 through 60 days after the “announced end”** of the current crisis will be considered **an “Outbreak Period” to be completely disregarded** for several benefits deadlines

- HIPAA special enrollment rights
  - 30 days for marriage, birth, adoption, placement with employee for adoption, or loss of other coverage
  - 60 days for loss of Medicaid/CHIP or for newly qualifying for Medicaid/CHIP premium assistance
- All COBRA notification, notice, and payment deadlines
- All claims submission and appeal deadlines

We don’t have an “announced end” date, so we’ll provide some examples using April 30 as an illustrative end date, for an illustrative disregarded “Outbreak Period” March 1 – June 29

# 30-DAY HIPAA SPECIAL ENROLLMENT EXAMPLE

|  |                                     |
|--|-------------------------------------|
| Event date (such as a birth, adoption, placement for adoption, or loss of other coverage)                | March 31, 2020                      |
| Normal length of time allowed  | 30 days                             |
| Making the normal deadline for employee to notify plan and submit election form for retroactive coverage | April 30, 2020                      |
| Illustrative “Outbreak Period” to completely disregard   | March 1, 2020 through June 29, 2020 |
| Number of days that passed prior to March 1  | 0 days                              |
| Number of notification and election days remaining   | 30 days                             |
| Illustrative extended deadline (for retroactive coverage)  | July 29, 2020                       |

# 30-DAY COBRA EXAMPLE

|  |                                     |
|--|-------------------------------------|
| Event date (such as divorce or dependent losing eligibility)   | March 31, 2020                      |
| Normal length of time allowed  | 30 days                             |
| Making the normal deadline for employee or dependent to notify plan and preserve COBRA rights              | April 30, 2020                      |
| Illustrative “Outbreak Period” to completely disregard   | March 1, 2020 through June 29, 2020 |
| Number of days that passed prior to March 1  | 0 days                              |
| Number of notification days remaining  | 30 days                             |
| Illustrative extended deadline   | July 29, 2020                       |
| Employer then has 30 days from being notified of event to notify the plan that a notice is needed          | As late as August 28, 2020          |
| The plan then has 14 days from then to mail the notice   | As late as September 11, 2020       |
| The individual then has 60 days to make an election  | As late as November 10, 2020        |
| The individual then has 45 days to make all missed payments (for all retroactive coverage back to April 1) | As late as December 25, 2020        |

# 60-DAY COBRA ELECTION EXAMPLE

|  |                                     |
|--|-------------------------------------|
| Event date (such as termination of employment)                             | March 31, 2020                      |
| Notice actually provided   | April 1, 2020                       |
| Normal election window 60-day deadline                                     | May 31, 2020                        |
| Illustrative “Outbreak Period” to completely disregard                     | March 1, 2020 through June 29, 2020 |
| Number of days that passed prior to March 1                                | 0 days                              |
| Number of election days remaining  | 60 days                             |
| Illustrative extended deadline (for retroactive election)                  | August 28, 2020                     |
| The individual then has 45 days to make up missed payments back to April 1 | As late as October 12, 2020         |

# 30-DAY COBRA PAYMENT GRACE PERIOD EXAMPLE

|  |                                     |
|--|-------------------------------------|
| Event date (such as termination of employment)         | Late 2019                           |
| Normal monthly payment due                             | March 1, 2020                       |
| Normal 30-day grace period ends                        | March 31, 2020                      |
| Illustrative “Outbreak Period” to completely disregard | March 1, 2020 through June 29, 2020 |
| Number of days that passed prior to March 1            | 0 days                              |
| Number of grace period days remaining                  | 30 days                             |
| Illustrative extended grace period for March           | July 29, 2020                       |

All grace period payments are due to be made up by July 29, 2020

The individual similarly has this extended grace period to make up April, May, and June payments

If individual only pays March and April payments by July 29, then COBRA ended back on April 30 and claims from May forward must be reprocessed as not covered

# TIMELY CLAIM/APPEAL EXAMPLE

Normal timely filing of claims

365 days from example claim date of  
December 31, 2019

Count up the # of days between claim and March 1

60 days

Subtract that from total # of days for timely filing

305 days

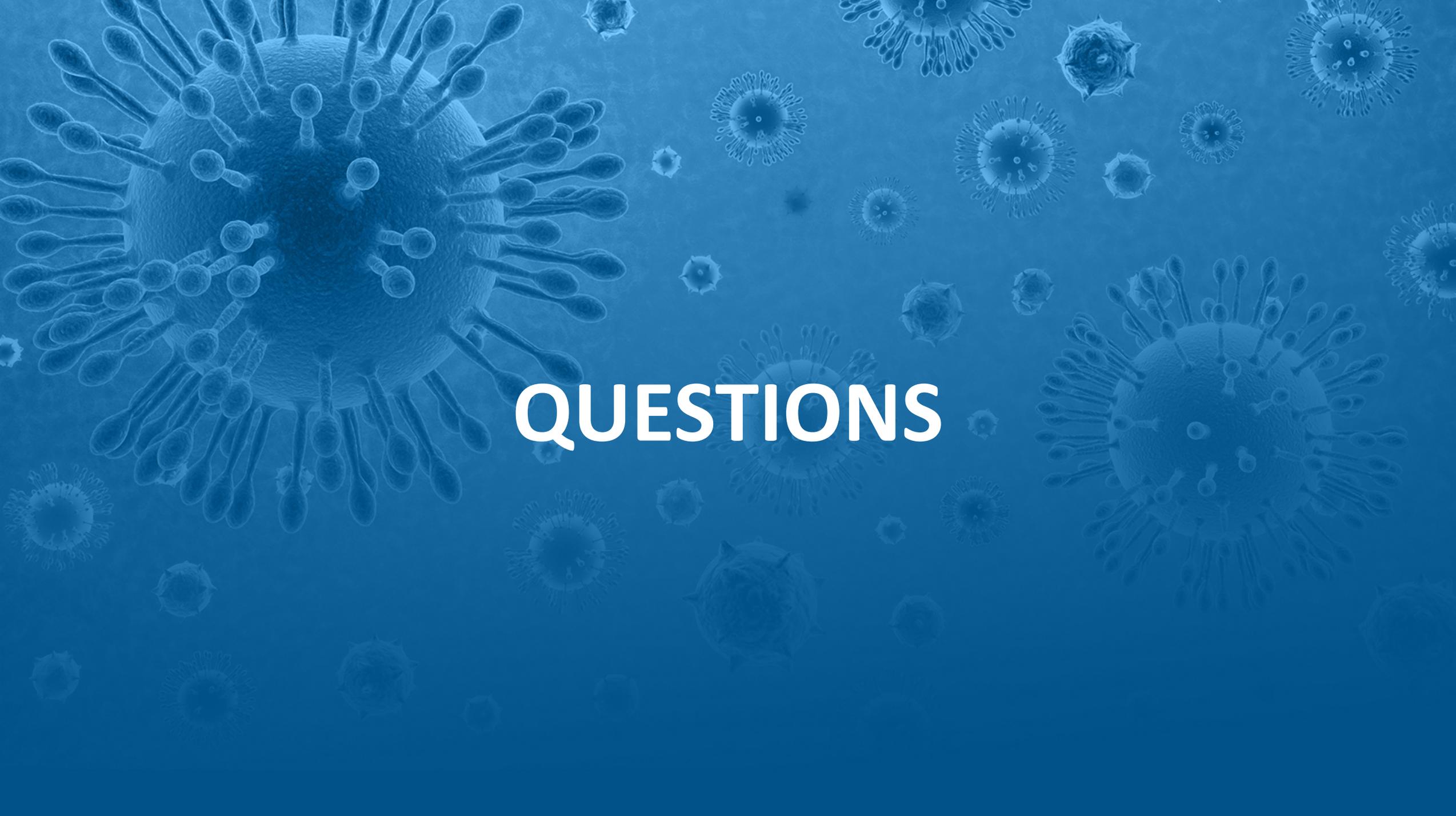
“Outbreak Period” days are disregarded, so remaining #  
days won’t start being deducted again until afterward

Using our illustrative March 1 to June 29  
Outbreak Period, the extended 365-day  
deadline is April 30, 2021

# OTHER GENERAL FLEXIBILITY

General employer flexibility to “act reasonably, prudently, and in the interest of the covered workers and their families who rely on their health, retirement, and other employee benefit plans for their physical and economic wellbeing. **Plan fiduciaries should make reasonable accommodations to prevent the loss of benefits or undue delay in benefits payments** in such cases and should attempt to **minimize the possibility of individuals losing benefits** because of a failure to comply with pre-established timeframes.”

This flexibility also applies to certain disclosures “if the plan and responsible fiduciary **act in good faith and furnish the notice, disclosure, or document as soon as administratively practicable under the circumstances**. Good faith acts include use of electronic alternative means of communicating with plan participants and beneficiaries who the plan fiduciary reasonably believes have effective access to electronic means of communication, including email, text messages, and continuous access websites.”



**QUESTIONS**

# POLL RESPONSES

WHEN IS YOUR COMPANY PLANNING ON RETURNING EMPLOYEES BACK TO THE WORKPLACE?



23%

We never left

24%

Within two weeks

35%

Within one month

14%

Longer than one month

4%

We have not started planning

# RESPONSES TO YOUR QUESTIONS

**Are people really going to do the temperature screening?** This seems like a thing folks recommend and no one will actually do, particularly for small-ish offices. We can barely get folks to wear masks consistently.

Yes, we have several clients already conducting temperature screening for their offices and worksite locations. Again, this decision to conduct temperature screening depends on the category of business you fall into, meaning if you're considered an essential business or not and also depends on the employers decision based on the level of risk they want to assume. Temperature screening is one screening method. If you chose not to do it and you're not an essential business, that's completely fine, just ensure other screening measures are in place such as sanitation protocols and social distancing.

**What is the role of the coordinator?** What are they expected to do on a daily basis?

Colorado's guidelines don't go into that level of depth. What we decipher this as is similar to an emergency response coordinator. That person would be the main point person for coordinating COVID return to work protocols, safe practices and procedures.

**Are we allowed to refuse a visitor service in a hotel if they answer "yes?"**

Just with other types of refusal of service, if the business is private they have the right to refuse service to anyone as long as it's not subjective to race, religion, nationality or sex and a number of other factors. Many hotels and businesses that serve customers have a sign posted at entrances or in a prominent location that says "management reserves the right to refuse service". When it comes to COVID-19 you cannot refuse service because someone is from a specific state or county that has an uptick in coronavirus cases. However, if they are exhibiting signs and symptoms of COVID-19 and willingly admit "yes" they have it or have recently tested positive, you can refuse service. We recommend running this question by your local legal advisors before making it a practice within your business.

# RESPONSES TO YOUR QUESTIONS

**When considering whether to require masks, is there a difference between requiring masks that actually protect the employee vs face coverings that protect others from the employee (i.e. all employees from each other)?**

There is a difference between these two but again, implementing the appropriate type of mask and protective measure is dictated by that hazard risk assessment as outlined by OSHA and what local regulations and restrictions say.

**Can we use personal thermometers and take their word for it that they don't have a fever or MUST we have someone else take their temp?**

Again, it's up to the employer and the level of risk they want to assume. If the employer chooses an honor system when it comes to employee's temperatures, then they should have other measures in place. OSHA's general duty clause states that employers must "provide a safe workplace free of recognized hazards". If an employer does nothing when it comes to return to work protocols and protecting their workforce it can be construed that they are not doing enough to protect employee's safety and health.

**How do the new HIPAA special enrollment extensions work with Section 125 rules?**

Section 125 does not have hard and fast deadlines. HIPAA is where the concept of 30-day and 60-day deadlines comes from. The IRS wants changes to be reasonably close to and consistent with the underlying qualifying event, so cafeteria plans typically just utilize HIPAA's deadlines across the board for all other types of qualifying events. The new flexibility amends official HIPAA deadlines, making it reasonable to delay enrollment. Given the general flexibility discussed on our final slide where the government wants employers to be reasonably flexible to ensure people are covered, we don't anticipate issues with section 125.