Engage PEO Client Alert:

OSHA Ramps Up COVID-19 Related Inspections
Launches National Emphasis Program and Updates Enforcement Plan

In response to a January 2021 executive order, the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) released a National Emphasis Program (NEP) on March 12, 2021, targeting industries where workers are at a high risk of contracting COVID-19. The NEP also includes an added focus to ensure that workers are protected from retaliation when complaining about unsafe or unhealthy conditions, or for exercising other rights protected by federal law.

The NEP expires one year from its effective date, although OSHA retains the ability to cancel the NEP at an earlier date or extend the NEP beyond its 12-month expiration date.

Overview

The NEP formalizes components for planned (programmed) and follow-up inspections in workplaces where employees have a high frequency of close contact. The NEP outlines various policies and procedures to identify and reduce or eliminate exposure to COVID-19 through inspection targeting, outreach, and compliance assistance.

These inspections will target establishments that have workers with increased potential exposure to COVID-19, and that put the largest number of workers at serious risk. OSHA has specifically identified the healthcare industry (e.g., hospitals, home health care, assisted living facilities) and industries where workers are at in increased risk of close contact with one another and the general public (e.g., animal processing plants, grocers, restaurants).

OSHA will also conduct follow-up inspections at establishments previously cited for COVID-19-related violations, and clarified that these inspections should be conducted on site (in person) as opposed to remotely. Keep in mind, inspections typically are not initiated under an NEP until a 90-day outreach period has been completed. Because OSHA has been educating employers on methods to keep their workers safe from COVID-19 throughout the pandemic, however, the 90-day outreach period has been met in OSHA's view. As a result, enforcement of the NEP may begin as early as two weeks from its effective date.

Many OSHA-State plans have already implemented several COVID-19 protections. While OSHA strongly encourages all OSHA-State Plans to adopt this NEP, adoption is not mandatory. Instead, a State Plan must notify OSHA within 60 days whether it already has a substantially similar policy in place, intends to adopt new policies and procedures, or does not intend to adopt the NEP.

Employers should prepare for potential increased OSHA enforcement efforts, and make sure they are maintaining a plan to reduce the risk of exposure to COVID-19 in the workplace.

If you have any questions, please contact Engage's Risk Team at wc@engagepeo.com.