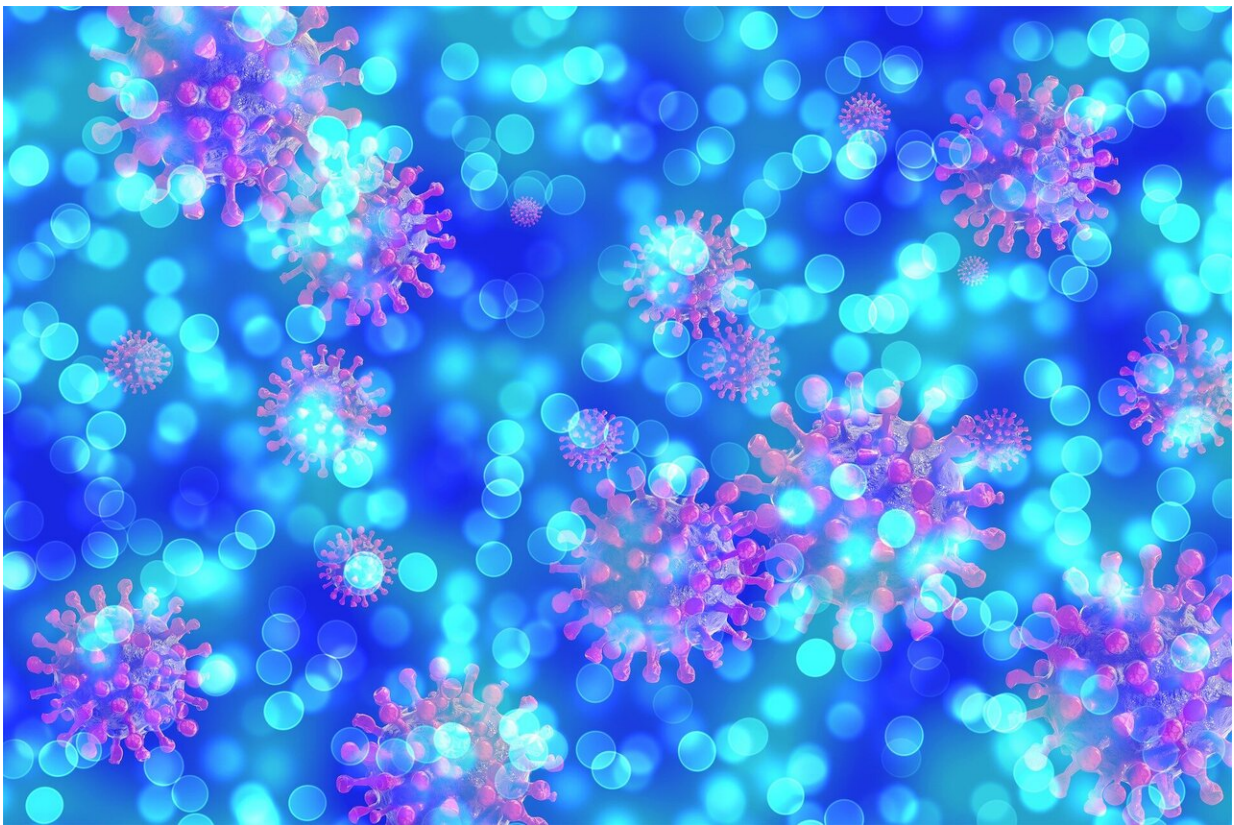


COVID-19: As offices reopen, here's what to expect if you're worried about getting sick on the job

July 7 2020, by Elizabeth C. Tippet



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If you're among the tens of millions of people returning to work or preparing to do so after months sheltering in place, you may be worried

it will put you and your family at increased risk of exposure to COVID-19.

The dilemma may be especially stark for the millions of Americans who can expect to see a significant cut in their unemployment insurance benefits [near the end of July](#), when the US\$600 per week subsidy from the federal government is set to expire.

As a [professor specializing in employment law](#), I don't have a lot of reassurance to offer. Employment law is a patchwork at the best of times—let alone during a global pandemic—and legal protections may not cover your situation. Like so many of the challenges people are facing right now, you may be mostly on your own, negotiating the least bad of many bad options.

Here is a basic overview of what your options are under some common scenarios.

I've been called back to the office, but I don't like the idea of being in an enclosed space for nine hours a day.

Workers have good reason to worry about indoor spaces, as scientists [increasingly acknowledge](#) that the virus may be airborne.

If you have a [medical condition](#) that makes you especially vulnerable to the coronavirus, you may be entitled to a reasonable accommodation under the [Americans with Disabilities Act](#). That means your employer needs to engage in a dialogue with you to figure out if there is a way to limit your exposure—such as remote work, a temporary reassignment or a modified shift.

Alternatively, [some states](#) are allowing medically [vulnerable workers](#) to refuse work and remain on unemployment insurance.

If the business is opening in defiance of a state or local order, you might be able to file a complaint with a [state workplace health and safety agency](#). Or you could try negotiating a temporary or intermittent remote work arrangement with your employer.

Everyone else has little choice but to head back to the office.

I believe I'm being asked to work in unsafe conditions.

If you live in a state or city that has adopted a mask requirement—and your worksite is not allowing or enforcing the mask rules—look into how that requirement is being enforced. In Oregon, for example, the governor has [tasked](#) the state Occupational Safety and Health Agency with enforcing the rule. By contrast, the Texas governor's mask order is being enforced—somewhat inconsistently—by [local law enforcement](#).

For other [safety-related concerns](#), the first thing you are expected to do is talk to your employer about the unsafe condition. Be specific about the condition that concerns you and the fact that you are worried about your safety.

If you are unionized, conveying your concern to the union will enable it to address the problem on behalf of everyone. Even if you're not unionized, [banding together](#) with other employees to advocate for safer working conditions is [protected](#) under the National Labor Relations Act.

If your employer does not address your safety concerns, you can complain to the state workplace safety agency or the local branch of the

federal [Occupational Safety and Health Administration](#). The agency [should](#) send an inspector to examine the situation or at least send a letter to the employer inquiring about your complaint.

In the meantime, you should refuse to work only if you have no ["reasonable alternative"](#) and the unsafe condition would pose a "real danger of death or serious injury."

I have to go to work but have children at home and no child care options.

If you work for a company with fewer than 500 employees, you may be eligible for up to 12 weeks of paid leave under the [Families First Coronavirus Response Act](#). But if you've been using this leave over the spring or summer, you may be in a [dicey situation](#) by the fall if schools do not fully reopen.

Beyond those 12 weeks of leave, companies are not required to make accommodations for employee child care issues. But failing to do so can make for [bad PR](#), as Florida State University discovered when it tried to ban parents from watching their kids while working remotely.

I live with a family member who is in a vulnerable population, and I don't want to expose the person to the virus.

If you [need to care](#) for the family member—and work for a company with fewer than 500 employees—you may be eligible for leave under the [Families First Coronavirus Response Act](#). Your employer might request documentation that a health care provider advised the family member to self-quarantine.

Otherwise, you may be out of luck—and may not even get [unemployment insurance](#) if you refuse to work. That may mean doing your best to limit your exposure at work and [transmission at home](#).

I think I just got sick from exposure to the coronavirus at work.

You should be eligible for two weeks of paid [sick leave](#) under the [Families First Coronavirus Response Act](#) if you work for a company with fewer than 500 employees. If you are still sick after that, you may be eligible for [Family and Medical Leave](#). You'll also want to check your company's sick leave policy.

You might be eligible to file for workers' compensation, which covers [medical costs and provides some wage replacement](#) for workers who are injured because of work. State law varies a lot when it comes to workers' compensation, including whether infectious diseases like COVID-19 count as a workplace injury. Your claim will also [depend on](#) whether you can show that you contracted the coronavirus at work—as opposed to exposure from other places. [Some states](#) are issuing presumptions that certain kinds of front-line workers—like health care workers and first responders—contracted the virus at work.

My company asked me to sign a contract saying I waive my legal rights if I contract COVID-19.

If you are presented with a waiver to return to work, consider asking whether you are required to sign it. Sometimes workplace contracts are actually optional, but you may not find out without asking directly or reading the fine print.

But even if signing is mandatory, workers compensation claims are

generally not waivable. In other words, if you contract COVID-19 as a result of a workplace exposure, a waiver form shouldn't be a barrier to filing a claim and potentially receiving compensation.

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