

Blog Post

Dealing with the Monkeypox Virus at Work

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Just as employers have figured out how to navigate the COVID-19 virus, the next one is poised to take hold – the monkeypox virus. Now declared a global and national public health emergency by the World Health Organization and the U.S., the monkeypox virus continues to spread with almost 10,000 cases in the U.S. and more than 30,000 globally (as of this posting). This new virus brings new considerations for employers.

The Monkeypox Virus: What Is It?

According to the Center for Disease Control (CDC), monkeypox is caused by an infection with the monkeypox virus, which is from the same family as smallpox (not chicken pox). The first human case recorded was in 1970 and before the current outbreak, monkeypox was generally confined to countries in central and western African. As of now, the virus has spread to more than 88 countries.

While the transmissibility of the monkeypox virus is still being studied, the CDC warns that the virus can spread to anyone having direct contact with lesions or infected body fluids, by touching fabrics or surfaces used by someone with monkeypox, or through contact with respiratory secretions. An individual infected with the monkeypox virus will typically experience symptoms that include fever, swollen lymph nodes, headache, muscle ache, back

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ache, exhaustion, chills, respiratory symptoms, and a rash that will go through several stages (including scabbing before healing). Symptoms typically arise within three weeks of exposure and last from two to four weeks. The monkeypox virus is not usually fatal, but infected individuals can suffer severe scarring, blindness, or infections. The CDC does not recommend that everyone be vaccinated against the monkeypox virus at this time. However, vaccination should be considered for individuals who have a known or presumed exposure, are at a high risk for severe disease caused by infection with the monkeypox virus (including, but not limited to, people with HIV infection or other immunocompromising conditions, who are pregnant, or who are increased risk for serious adverse events following the second generation vaccine created for smallpox prevention called ACAM2000) or may be more likely to get monkeypox. According to the CDC, people may be more likely to get monkeypox if they:

- Have been identified by public health officials as a contact of someone with monkeypox;
- Are aware that one of their sexual partners in the past two weeks has been diagnosed with monkeypox;
- Had multiple sexual partners in the past two weeks in an area with known monkeypox; and
- Whose jobs may expose them to orthopoxviruses (the *genus* containing viruses such as smallpox, monkeypox, and other viruses), including lab workers who perform testing for orthopoxviruses or handle cultures or animals with orthopoxviruses and some designated healthcare or public health workers.

Considerations for Employers

With a general duty to provide and maintain a workplace free from recognized hazards, employers should be considering potential impacts of the monkeypox virus if an employee is exposed. While

the Occupational Safety and Health Administration (OSHA) has not issued specific guidance for employers relating to monkeypox, the CDC has published Isolation and Prevention Practices for People with Monkeypox (CDC Prevention Practices), which can be considered in assessing the safety of the workplace.

Prevention Practices

While the monkeypox vaccine is not readily and widely available in the United States, employers should encourage employees who are concerned about the virus to consult with their healthcare providers about the availability and advisability of the vaccine for them.

In addition, employers should encourage many of the same workplace practices observed during the COVID pandemic, including frequent handwashing, sanitizing, requiring the use of protective gear such as face coverings and gloves, and regular cleaning and disinfection of the workplace.

If an employee contracts monkeypox, the employer should encourage the employee to seek medical treatment immediately and to follow medical advice regarding monitoring, isolation, and the use of personal protective equipment.

Healthcare employers must be especially vigilant and ensure that workers are complying with OSHA requirements for protecting workers against occupational exposure to infectious disease, as well as the CDC's Infection Prevention and Control of Monkeypox in Healthcare Settings.

The CDC Prevention Practices recognizes a variety of ways an infected person can prevent the spread of the monkeypox virus, including encouraging isolation for the duration of the illness. However, if an individual is unable to isolate and is symptomatic, the CDC Prevention Practices recommends that an infected person:

- Avoid close or physical contact including sexual and/or close intimate contact with other people;
- Wear protective items to cover any lesions;
- Wear a well-fitting mask (should fit closely on the face without any gaps along the edges or around the nose);
- Avoid public transportation;
- Do not share items that have been worn or handled by other people or animals;
- Clean and disinfect items that have been worn or handled and surfaces that have been touched by a lesion;
- Avoid sharing utensils or cups;
- Avoid crowds and congregate settings; and
- Wash hands often with soap and water or use an alcohol-based hand sanitizer, especially after direct contact with the rash.

With the above prevention practices in mind, employers can advise employees on how to protect themselves from the monkeypox virus, emphasize existing hygiene practices, and encourage employees with lesions (or other symptoms) to stay at home or work remotely. Employers should review their own safety programs to ensure that it includes infection disease protocols and otherwise aligns with OSHA guidance.

Reviewing Policies and Reminding Management of Policies

Employers should revisit employment policies or practices that may be implicated if a monkeypox virus exposure occurs in the workplace, including policies relating to leave, paid time off, accommodations, retaliation, and the discrimination or harassment complaint procedures. For instance, employers should consider applicable state and local paid leave laws to determine whether employees may be entitled to paid leave due to the monkeypox virus, including but not limited to time off to be

vaccinated. Further, it also may be a good time to remind supervisors and/or managers about recognizing and handling requests for accommodations, and any related policies, to ensure no discrimination occurs in considering such requests.

While anyone can get the monkeypox virus, at this stage members of the LGBTQ+ community are disproportionately impacted. The disease brings with it the increased potential for targeting those individuals with discrimination, harassment, and retaliation. Employers should be prepared to handle any discrimination complaints and follow proper procedure.

Employers should also be careful in drafting any policies or communications relating to the monkeypox virus to include language making clear that the virus can be contracted by *anyone*, notwithstanding their sexual orientation.

ADA and FMLA Considerations

Depending on the severity of the monkeypox virus symptoms, it may be considered a “serious health condition” under the Family and Medical Leave Act or a “disability” under the Americans with Disabilities Act (ADA). Employers should consider the impact of the monkeypox virus on a case-by-case basis.

Employers should be careful when requesting confidential or medical information from employees in support of leave or accommodation requests. Medical information obtained in connection with either one should be maintained confidentially and separate from the employee’s personnel file.

Contact your Akerman attorney for more information regarding monkeypox virus in the workplace or any other employment related needs.

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