

Questions Asked Most Often and Answers You Need to Know

HIV/AIDS in the Workplace

Q. Why should I be concerned about HIV or AIDS in my business?

A. One in six large U.S. worksites (with more than 50 employees) and one in 15 small U.S. worksites (with fewer than 50 employees) have had an employee or employees with HIV infection or AIDS.

Workforce Implications

It is estimated that between 650,000 and 900,000 people in the United States are currently infected with HIV, the virus that causes AIDS, based on recent estimates from the Centers for Disease Control and Prevention (CDC).

HIV affects all segments of society, and the rate of infection is increasing among women, minorities, and youth — the current and future workforce.

Legal Implications

AIDS has generated many individual lawsuits across a broad range of health issues. People with HIV/AIDS are protected from discrimination in the workplace, just as any other employees with disabilities are protected under Federal laws. Some local and State laws may also provide protection from discrimination for people with disabilities.

Costs

If your workplace is not prepared, AIDS can adversely affect your legal and health care costs and the productivity of your employees. However, creating a supportive environment and implementing workplace education can significantly increase the ability of employees with HIV/AIDS to remain productive.

AIDS is preventable, and prevention is cost-effective. *Your efforts can lower your costs* and help your employees understand how to lower their risk of HIV infection.



What is my legal situation if I have an employee with HIV/AIDS?

A. Employers should be aware of Federal and State laws, as well as antidiscrimination laws, while addressing the concerns of employees with disabilities.

Federal Law

The Americans with Disabilities Act (ADA) of 1990 provides protection for employees with disabilities such as HIV/AIDS. Such disabilities are subject to the requirements of this law. The employment provisions of the ADA cover employers with 15 or more employees. There are also other Federal, State, and local laws that may affect your business in the area of HIV/AIDS.

Under the ADA, an employer may not refuse to hire a qualified applicant because the applicant has or is perceived to have HIV/AIDS. Also, unless it would impose “undue hardship” on the business, the ADA requires that the employer make reasonable accommodations that enable such employees to continue to perform essential job functions. Reasonable accommodations are determined on a case-by-case basis and may include job modifications, flexible scheduling, and leaves of absence.

ADA makes clear the need for workplace policies about disabilities, including HIV/AIDS, that help decrease employees’ concerns if they choose to disclose their HIV status. It is important to managers and supervisors in dealing with policy issues such as confidentiality and sensitivity to the problems of such employees.

Antidiscrimination

An employer must ensure that an employee with a disability is not subject to discrimination in hiring, job assignments, performance appraisals, termination, or other terms and conditions of employment because of his or her disability.

Antidiscrimination provisions also apply to an employee who is related to, is a caregiver for, or is associated with a disabled person.

State Law

Almost all states currently have antidiscrimination legislation covering HIV/AIDS. Your workplace may be covered by such State laws.

Some local communities have laws relating to HIV and AIDS.



How can HIV infection and AIDS affect my company's success?

A. If not addressed properly in the workplace, HIV/AIDS can affect your company's bottom line.

Productivity Issues

Addressing reduced productivity from coworkers of an employee with HIV/AIDS (or an employee perceived as being HIV-infected) can be costly. Educating employees about HIV/AIDS can help prevent this disruption. Reduced productivity of a worker with AIDS or of an employee who may be caring for a person with AIDS can be managed through flexible work arrangements, as required by the Family Medical Leave Act. (See ADA, FMLA brochure.)

Health/Life Insurance Issues

An employer who offers hospital and medical plans can expect to pay a share of the costs of care for an employee or an employee's dependent with HIV or AIDS. However, the average cost of treating an AIDS patient is comparable to the cost of treating a patient with cancer or heart disease.

New and improved treatments for HIV and AIDS, such as protease inhibitors and other antiretroviral drugs, can delay the onset of AIDS. These treatments often keep people with HIV or AIDS living longer and functioning better, allowing them to stay on the job years longer and to work more productively.

Being educated about and prepared for the impact of HIV or AIDS, including accommodations for an infected employee, can help mitigate other costs, such as:

- loss of a valued employee who may represent years of training and institutional memory
- potential legal costs from discrimination or privacy suits
- recruiting, screening, hiring, and training costs for a new employee
- potential adverse public relations
- disruption of the workplace when coworkers of someone with HIV do not know the facts about transmission and prevention

Q. Will the new combination therapies result in more people with HIV in the workplace?

A. It is likely. Although the new therapies don't work for everyone, many people taking the combination therapies are experiencing significant, sometimes dramatic, health gains. Some of these individuals are returning to the workplace. Businesses need to be prepared to accommodate and address issues associated with these workers with HIV.

Q. What steps can I take to avoid problems concerning AIDS in my workplace?

A. The first step is to build a comprehensive workplace program that consists of these five components:

1. Develop an HIV/AIDS policy.
2. Train supervisors, managers, and labor leaders.
3. Educate yourself and your employees.
4. Help educate employees' families.
5. Help educate the community through community service and volunteerism.

Clarify your workplace policies — written or unwritten — to all supervisors, managers, and employees. They need to understand and know how to manage the policies to ensure that they do not act in a discriminatory manner toward coworkers who are HIV-infected or who are caregivers to someone with HIV infection or AIDS.

Employees find workplace AIDS education to be extremely valuable, especially when the program is comprehensive, given on company time, and compulsory, so that employees aren't hesitant to attend. Look for ways to help your employees and their families respond to this health crisis in your community by supporting prevention education activities of local service organizations and sponsoring education for employees' families.

Q. When do I begin?

A. Act now! Your efforts can prevent HIV infection, including AIDS:

- because it makes good business sense, according to many employers who have already addressed the issue of AIDS in their workplaces
- because doing so can help avoid lost productivity, workplace disruption, potential lawsuits, and other problems faced by an employer who is not prepared for a first case of AIDS
- because efforts to educate employees can help prevent the spread of HIV and AIDS by enabling them to assess their personal risk and change their behavior accordingly

Most important — *start now!*

This concern will not just disappear. Act now to find out more about HIV infection and how it can affect your workplace and your employees so that you can be prepared to respond to this issue before it costs you valued workers, time, and money.

Q. Where do I go for help?

A. The following resources can provide the most accurate and up-to-date information and referrals to assist you with any questions you may have. In addition, State and local health departments, AIDS service organizations, and community AIDS organizations will be able to provide information on additional available resources.

CDC Business and Labor Resource Service

Provides information for employers on national, State, and local resources related to HIV/AIDS in the workplace. The Resource Service's reference specialists can help employers identify educational materials (brochures, posters, videos, and guidelines) suitable for the workplace. The Resource Service can also provide information on other organizations such as public health departments, civic groups, and local AIDS service organizations that provide workplace programs in local communities.

1-800-458-5231 (voice)

1-888-282-7681 (fax)

(Mon. – Fri., 9 a.m. – 6 p.m. E.S.T.)

www.brta-lrta.org

CDC National AIDS Hotline

Provides 24-hour, toll-free service with confidential information, referrals, and educational materials free of charge. Employees can call the Hotline for confidential information about HIV/AIDS transmission, prevention or risk reduction, testing, and related issues.

1-800-342-AIDS (2437)

1-800-344-7432 — Servicio en Español

1-800-243-7889 — TTY for deaf access

American Red Cross

Assists employers and employees by presenting a basic education program designed to increase knowledge and understanding of the impact of HIV infection on HIV-infected workers, coworkers, and employers. Contact your local chapter or call toll-free 1-800-375-2040.

These materials were developed in partnership with The National AIDS Fund.

The information in this publication is solely for general information and for educational purposes and is not intended to be legal advice. Businesses and individuals should consult an attorney for specific legal advice.