



Swine Flu: Employee sickness self certification and SSP payments - an update for Employers

This Q&A updates employers on the current arrangements for employee sickness self certification and the evidence required to make SSP payments during the swine flu pandemic.

How long will people with swine flu be ill and off work for?

Current UK data shows that while swine flu can be a serious illness, the majority of people experience mild symptoms.

The best current estimate of the length of illness is that around half of people who become ill recover within about 7 calendar days without needing to see a doctor. Approximately another 25% may need up to 10 calendar days to recover, but should not need to see a doctor. The remaining 25% could have symptoms for more than 10 calendar days. Anyone whose health is not improving by day 7 is strongly advised to seek further medical advice.

More information on Swine Flu-specific Planning Assumptions can be found at http://www.cabinetoffice.gov.uk/ukresilience/pandemicflu/risk/current_risk_assessment.aspx

Swine flu and Statutory Sick Pay (SSP)

How does swine flu affect Statutory Sick Pay (SSP) payments?

No changes have been made to the rules for payment of Statutory Sick Pay (SSP) during the outbreak of swine flu. The normal rules continue to apply.

How does Swine flu affect payments of SSP to agency or temporary workers?

Again there are no changes. Agency workers or temporary workers like other employees are entitled to SSP from the first day of their contract provided they satisfy all the other conditions for entitlement. However, they must have



undertaken some work under that contract to become entitled.

More information about the qualifying conditions and the payment of SSP are available from www.businesslink.gov.uk or from the E14 Help book provided annually by HMRC

Have changes been made to the arrangements for self certification and/or medical certificates?

No changes have been made to the existing arrangements for medical certificates and self-certification.

What evidence of illness can an employer ask for from their employee?

Employers are entitled to ask for reasonable evidence of the employee's incapacity for work in order to decide whether to pay Statutory Sick Pay. The employer is free to decide what evidence is acceptable. However, an employer cannot ask for medical evidence (including medical certificates) for the first 7 calendar days. During this period, employees self-certify.

We recognise that it is normal practice for employers to ask for a doctor's certificate after the self-certification period. However, other forms of medical evidence are equally acceptable. The decision on whether evidence is required and, if so, what evidence is acceptable, ultimately rests with the employer.

What flexibilities are open to employers around self-certification and medical evidence?

We encourage employers to consider using other arrangements (instead of a doctor's certificate) for gathering evidence of employee illness during the current swine flu pandemic to reduce the burden on GPs.

Some suggested flexibilities employers might want to consider are:

- Employers are free to decide on an extension to the self-certification period for their employees if they feel this is appropriate. This could, for



example, be an extension to 10 calendar days of self-certification for those with flu-like symptoms.

- Employers with access to qualified medical staff via an occupational health scheme could use these staff to contact those off sick with flu-like symptoms to satisfy themselves that the employee is ill and unable to work.
- Instead of a medical certificate, employers could ask for other proof of incapacity for work.

Employers that operate an Occupational Sick Pay (OSP) scheme and have their own rules about sickness evidence are encouraged to operate similar measures.

Do employers have to ask for a medical certificate when paying Statutory Sick Pay for illnesses lasting more than 7 days?

No. There is no requirement for a payment of SSP to be supported by a medical certificate.

HMRC do not require medical statements to support claims for the Percentage Threshold Scheme (PTS – see below) or for compliance checks.

Do employers have to ask for a medical certificate to show that an employee is fit to return to work?

No. It is not necessary for an employee to have a medical certificate to show they are fit for work after any period of illness.

Can Doctors refuse to give certificates?

Doctors have a duty to provide a medical certificate for SSP or benefit purposes, to a patient whom they have clinical responsibility for at that time. There are various rules around issuing medical certificates that Doctors must follow. For example, they cannot issue a medical certificate unless they have examined a patient on that day or the previous day and are able to make an adequate assessment of the patient's fitness or non- fitness for work.

Where a patient has previously been assessed as having swine flu, either by the



National Pandemic Flu Service or their GP and has been advised to stay at home whilst ill, a GP may, at their discretion, issue a medical statement after a telephone consultation. This is for the doctor to decide and depends on his clinical care of the patient.

Is there any Government help with the costs of Statutory Sick Pay?

Employers may be entitled to some help with the costs of SSP through a Government rebate known as the Percentage Threshold Scheme (PTS). This scheme helps employers get back some of the SSP they pay out if they experience high levels of sickness absence in any given month. Swine Flu absence is the type of situation that PTS was designed to help with.

If you have a number of staff off sick, you may be entitled to recover some of the SSP you pay out under the Percentage Threshold Scheme. Find out more from <http://www.businesslink.gov.uk/bdotg/action/detail?r.l1=1073858787&r.l3=1074407226&r.lc=en&type=RESOURCES&itemId=1074411759&r.l2=1073876962&r.s=m>

Possible legislative changes to the period of self-certification

If there is a further and widespread wave in this swine flu pandemic (see the Planning Assumptions highlighted above for more information on this) the Government is considering possible measures to reduce pressure on GPs, protect public health, and minimise the risk of further spread of swine flu.

One option being considered is to make a legal change to lengthen the period of self-certification beyond the current 7 day period. If this is adopted it would extend the period of during which an employer would be prevented from requiring an employee to provide a medical certificate.

Such a measure would only be implemented for a limited time, if absolutely needed and the decision would be taken by the Government's Civil Contingencies Committee and based on science advice and surveillance data. We will continue to monitor the situation and will seek to provide early indications



if this decision might be made to assist business with their planning.

Further information

If you require further information on any of the above, or if you would like to join our Business Advisory Network on Flu (BANF – see <http://www.businesslink.gov.uk/bdotg/action/detail?type=ONEOFFPAGE&itemId=1083024727&r.s=e&r.lc=en&r.i=1082470688&r.t=ONEOFFPAGE> for more details), please email banf@cabinet-office.x.gsi.gov.uk.