

## **What Local Unions Can Do To Prepare the Workplace for Pandemic Flu**

Pandemic flu can spread quickly and easily in the workplace. It is essential that employers take action **now** so workplaces can adequately deal with the health and safety issues that this pandemic (H1N1 influenza) will bring. The health and lives of workers depend on being prepared.

Your local union can play a crucial role in making sure that your employer takes action so that safety and health measures are in place to protect the workforce. This fact sheet outlines some actions that your local union can take to help make your employer ready.

### **Review the Employer's Safety and Health Programs**

The first step is to determine if the employer is ready to address the safety and health issues of pandemic flu in your workplace. The local union needs to look at the employer's existing programs, plans, and policies to see whether they include a pandemic flu infection control program. Ask the employer if they have developed any of the following documents and to provide the union copies of the following:

- Overall safety and health program for the workplace;
- Infection control program;
- Exposure risk determination for the pandemic (H1N1) flu virus;
- Methods of controlling pandemic flu exposure;
- Health surveillance plan to identify sick workers;
- Pandemic flu training and hazard communication; and,
- Housekeeping.

### **Use the Union's Safety and Health Committee**

The local union's safety and health committee should review all employer safety and health documents to determine if they adequately cover the necessary safety and health measures to deal with pandemic flu. In its review, the committee should review the employer's documents and programs and determine if programs:

- Are adequate for addressing the issue related to pandemic flu;
- Can be adapted with small changes to address the pandemic flu;
- Must undergo major revision; or,
- An entirely new program/plan/policy/procedure must be developed.

The local's safety and health committee should provide its review to the union leadership and suggest the small changes, major revisions, and new programs and policies that must be developed so workers are protected during a flu pandemic. The local union can then meet with the employer and, using the union safety and health committee's review, work together to put into place a pandemic flu plan.

## **Examine Other Policies**

A number of other policies that are likely to have an impact on workers during a pandemic also need to be examined. These policies should be modified to make sure they assist workers and the employer in the event of a pandemic.

Policies that should be reviewed or developed include:

- Sick leave and pay (this policy should encourage sick workers to stay home);
- Family leave and pay (should encourage workers to stay home to take care of sick family members);
- Absenteeism policy (should not penalize workers for staying home because of their own sickness or that of a family member);
- Working from home (telecommuting);
- Work shift flexibility and staggering work shifts (reduces the number of workers present at work at any one time to lower exposure risk);
- Travel policy (eliminate unnecessary travel); and,
- Medical removal protection (MRP) program (encourages sick workers to report symptoms and stay home while they are sick, by providing continuation of pay and benefits during the illness).

## **Implement Policies and Programs NOW!**

Pandemic flu safety and health policies and procedures should be implemented **NOW** if employers are going to protect their workforce.

Some of the safety and health actions that can take place now include:

- Worker training;
- Health surveillance procedures;
- Respirator medical evaluation and fit testing;
- Securing safety and health supplies (respirators and other PPE, soap and hand washing materials, etc.);
- Exposure and risk assessment;
- Encouraging and permitting workers to stay home when they have flu-like symptoms; and,
- Making seasonal flu vaccines available now, and H1N1 vaccines available when possible

## The Union's Role

Under the law, it is the employer's responsibility to provide a safe and healthy workplace. The union's role is to make sure the employer takes action **now** so that safety and health measures are in place to protect the workforce. The union must have ample input in developing the appropriate policies and protections.

## Legal rights to protect workers during a pandemic flu

There are a number of legal rights that a union and workers should be aware of:

- Right to refuse unsafe work under OSHA: Under Section 11(c) of the OSH Act, workers have **limited rights** to refuse to do a job if they believe in good faith that they are exposed to an "imminent danger" (danger of death or serious injury). This **may** apply to workers who are required to have close contact with people with suspected or confirmed cases of H1N1 flu and are not provided adequate protection.
- State Workers Compensation laws: If a worker catches the flu while at work, he or she **may** be eligible for workers' compensation benefits (which include paid time off and paid medical care).
- Family Medical Leave Act (FMLA): If a worker gets the flu, he or she **may** be covered under the protections of the Family and Medical Leave Act, which gives workers the right to time off from work (unpaid) and prohibits an employer from discriminating against them for absenteeism for the time off. A worker **may** also be entitled to time off from work (unpaid) to care for his or her spouse, child or parent who gets the flu. And, in addition, there **may** be a state law which gives workers similar or better protections.
- Provisions in the Collective Bargaining Agreement: check the contract for provisions that might provide or supplement protections.

## Can unions bargain over safety and health protections?

Yes! Some employers may refuse to meet with the union to talk about the union's ideas to protect workers during a pandemic flu. If that happens, the union needs to use their right to bargain with employers on health and safety conditions in the workplace. This is a right under the National Labor Relations Act (NLRA) for workers in the private sector. This is also a right under bargaining law that covers many federal, state, county, and municipal workers. It is an unfair labor practice for employers to refuse to bargain over safety and health conditions.

*This fact sheet has been adapted by the United Steelworkers International Union (USW) from a fact sheet on pandemic flu originally developed by the AFL-CIO in June 2009.*