

H1N1 Flu Virus: What CUPE Members Need to Know!



The outbreak of H1N1 flu virus continues to concern CUPE members. A growing number of cases have been confirmed in different areas of Ontario as well as in other parts of Canada and throughout the world. Ontario's Ministry of Health and Long-Term Care is working closely with the Ontario Agency for Health Protection and Promotion and 36 public health units across the province to vigilantly pursue public health surveillance, identify cases and implement appropriate measures.

In Ontario, the majority of confirmed cases of the virus have been reported in healthy young adults and most cases have been mild. People between 5 and 24 years of age comprise a larger proportion of cases compared to other age groups. Younger children are most at risk of acquiring infection, presumably due to difficulty in maintaining routine practice in hand hygiene and appropriate coughing/sneezing etiquette.

Below is some information to help answer some of your questions and address some of your concerns:

What is H1N1 ("Swine Flu")?

H1N1 is a new influenza virus causing illness in people. It was first detected in people in the United States in April 2009. This virus is spreading from person-to-person worldwide, in the same way that a seasonal flu virus is spread.

How does H1N1 spread?

H1N1 can spread in the same way that the seasonal flu spreads. Flu viruses are spread from person to person through coughing or sneezing by people who have

influenza. Sometimes a person can become infected by touching a surface or object, with the flu virus on it, and then by touching their mouth or nose.

What happens when people get infected with H1N1? Is it serious?

Most people who become ill with H1N1 have recovered without requiring medical attention. However, illness with H1N1 has ranged from slight to serious. Like the seasonal flu, certain people are more at risk than others. This includes: people 65 years old and older, children younger than 5 years old, pregnant women, and people with certain medical conditions.

Employers are legally responsible for protecting their workers from all work-related hazards, including exposure to infectious diseases like H1N1 influenza.

What to do if you have an unresolved Health and Safety Concern:

1. The worker and the Joint Health and Safety Committee (JHSC) should immediately raise the concern in a formal way with the supervisor and consider identifying the supervisor's **personal legal responsibility under Section 27 (2) c of the Occupational Health and Safety Act (OHSA)**. If not satisfactory, the JHSC member should raise the concern as high as necessary to higher levels of supervisors, officers and if necessary board members (who all have personal legal responsibility under the OHSA) as quickly as possible if they think there is an imminent danger in any area.
2. If the concern is not resolved, and it poses an imminent threat to health or safety, the usual course is to call the Ministry of Labour (MOL) with an official complaint. The MOL may direct you to continue using the Internal Responsibility system, but remind the employer that our members have a work refusal right and need help now to avert injury and/or a work refusal/stoppage.
3. Some of our members have a *limited* right to refuse unsafe work, and in order to invoke that right, certain conditions must exist. CUPE has guidelines about the right to refuse unsafe work and what the limitations are to make such a refusal.

The right to refuse unsafe work is an **individual right**. The decision to refuse unsafe work is a personal decision that a worker can only make if he or she has reason to believe that he or she is in danger because of a reason outlined in section 43 (3) of the OHSA (e.g. *the physical condition of the workplace . . . is likely to endanger himself or herself*). **The Union cannot tell workers to refuse work**, the union can only educate the individual about his or her rights (e.g. by addressing to CUPE's guidelines).

4. Also, if a JHSC member believes "dangerous circumstances" exist (defined at section 44 of the OHSA) then the certified member can ask that a supervisor immediately investigate in the presence of the certified worker. If the danger is not resolved, then ask for a management side certified worker to investigate **immediately**. If after all that, the certified worker still believes that dangerous circumstances exist, then call the MOL to report an unresolved work stoppage and request that an inspector attend to investigate.

Joint Health and Safety Checklist:

If your workplace does not already have a pandemic plan in place, consider putting pandemic influenza planning and prevention on the agenda of the next meeting of the joint health and safety committee or representatives. Don't know where to start? Here is a list of things to consider when developing a pandemic influenza plan:

- ✓ The plan should be in writing and accessible to all.
- ✓ Its main goal should be to eliminate worker exposure to the infectious virus by containing the spread of the virus throughout the workplace.
- ✓ The plan should include a thorough hazard assessment—taking into account the precautionary principle as per the recommendation of the late Justice Archie Campbell in the SARS report.
- ✓ To ensure knowledge and skills exist to reduce the spread of influenza, employers must provide appropriate education and training.
- ✓ There should be provisions for communicating the plan to all workers prior to and during the pandemic (communicating also includes staying in contact with employees who are staying at home).
- ✓ If protective equipment is deemed necessary for your workplace, the equipment must offer adequate protection to workers at risk. In cases of high-risk procedures, workers should be

- provided with powered air-purifying respirators (PAPR).
- ✓ Where staffing numbers are reduced because of illness, measures must be in place to address these shortages and their potential to endanger worker health and safety.
- ✓ In workplaces where workers are working closely with the public, measures to limit exposure are important (this might include anything from working from a distance from another person to implementing glass or plexi-glass between workers and the public).

- ✓ The most important defense against the influenza virus is frequent and thorough hand washing (Note: hand sanitizers must have a minimum of 60 % alcohol).
- ✓ Ensure that an Employee Assistance Program is available and accessible to workers during and after a pandemic to relieve stress and anxiety.
- ✓ Provide a list of resources workers can use to get more information on how to protect themselves and their families at home during a pandemic.

All Workers:

Workers and employers should work together to ensure that everyone is well informed and understands their rights, roles and responsibilities. Under Section 9 (18) of the Occupational Health and Safety Act, a Joint Health and Safety Committee should:

- a) Identify situations that may be a source of danger or hazard to workers;
- b) Make recommendations to the constructor or employer and the workers for the improvement of the health and safety of workers;
- c) Recommend to the constructor or employer and the workers the establishment, maintenance and monitoring of programs, measures and procedures respecting the health and safety of workers;
- d) Obtain information from the constructor or employer respecting,
 - a. The identification of potential or existing hazards of materials, processes or equipment; and
 - b. Health and safety experience and work practices and standards in similar or other industries of which the constructor or employer has knowledge;
- e) Obtain information from the constructor or employer concerning the conducting or taking of tests of any equipment, machine, device, article, thing, material or biological, chemical or physical agent in or about a workplace for the purpose of occupational health and safety; and
- f) Be consulted about, and have a designated member representing workers be present at the beginning of, testing referred to in clause (e) conducted in or about the workplace if the designated member believes his or her presence is required to ensure that valid testing procedures are used or to ensure that the test results are valid.

Health Care Sector:

There is a general duty for an employer to establish written measures and procedures for the health and safety of workers, in consultation with the joint health and safety committee or health and safety representative, if any. Such measures and procedures may include, but are not limited to, the following:

- Safe work practices;
- Safe working conditions;
- Proper hygiene practices and the use of hygiene facilities; and,
- The control of infections.¹

CUPE members in the health and long-term care sector should refer to the Health Care and Residential Facilities regulation under Sections 8 and 9.

¹ Ministry of Health and Long-Term Care (Available at: http://www.health.gov.on.ca/english/public/updates/archives/hu_09/provider/sf_docs/occupational_health_safety_requirements_health_care_20090512.pdf)

See Also:

- Pandemic influenza Fact Sheet: provides information on the spread of the disease and guidance on preventing exposures. (Available at: http://cupe.ca/health-and-safety/Pandemic_Influenza)
- Backgrounder on health care associated infections: highlights the importance of cleaning, laundry and other support services in infection prevention and control. (Available at: <http://cupe.ca/health-care/health-care-associated-infections>)

If you are ever in doubt, experience problems or need advice regarding workplace practices, grievances or any other matter, consult your Servicing Representative, who can make a referral to Blain Morin (blmorin@cupe.ca), Health and Safety Representative, CUPE National.

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