

## Employers can now buy COVID self-tests for their personnel



### Who can buy a self-test?

Following a new Royal Decree of 11 May 2021 (BSG 14 May 2021), the employer can buy COVID self-tests at pharmacies. The company can provide its personnel with these self-tests, although without any further obligation. Until mid-May, only occupational health physicians could obtain COVID test-kits from the government for testing company personnel. These test-kits consisted of nose swabs to be applied by a doctor or nurse and the results had to be interpreted by medically trained personnel. The test-kits were delivered directly to the occupational health physicians.

An important nuance is that the tests requested by the occupational health physician are granted by the government for free. If a company decides to buy COVID self-tests at a pharmacy, it must pay the costs. Obviously, the company cannot ask for reimbursement from its personnel. The employer must pay the self-test, but will not have to pay any additional costs for medical services by a doctor or nurse since the workers can carry out the COVID self-tests by themselves.

Providing free self-tests to workers is expected to encourage self-testing on a regular basis, which can only benefit safety in the workplace.

### Can I require personnel to carry out COVID self-tests?

No, you cannot oblige your personnel to carry out a self-test. The Royal Decree of 11 May 2021 explicitly states that providing COVID tests cannot give rise to the obligation of using the tests. Workers must always consent to a self-test. As an employer, you cannot put pressure on your personnel to carry out self-tests. The tests must be carried out on voluntary basis. Similarly, an occupational health physician cannot force personnel to take COVID tests.

### What are the information obligations for employers?

The employer has a legal obligation to provide the necessary instructions for carrying out a COVID self-test, as well as to explain the steps that must be taken in case a worker tests positive for COVID-19.

In case of a positive result, we strongly recommend that employers urge these workers to contact their general practitioner and the occupational health physical to seek advice. In addition,

immediate measures can be taken by the company to avoid the further spread of COVID in the workplace.

### **Can a worker disclose test results to an employer or colleagues?**

Yes, workers can disclose the results of a COVID test to an employer or colleagues. However, the worker can never be obliged to disclose the test results. Test results are considered highly sensitive medical data, which, under current privacy legislation, cannot be processed, stored, or retained by the employer.

Clear and swift communication within the company about positive results is key when responding to questions and uncertainties from colleagues who will want to know whether they were in close contact with an infected worker. Before informing staff, company managers should discuss any planned communication with the infected worker.

For more information on conducting COVID-19 tests in your Belgium-based business, contact your CMS client partner or local CMS expert:

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