

# Bloodborne Pathogens: Employer Pays Travel, Time For Off-Site Medical Care.

U S Occupational Safety and Health Administration (OSHA) regulations require healthcare employers to provide immunizations for caregivers who face occupational exposure to bloodborne pathogens and to provide for post-exposure medical evaluation and treatment at no cost to the employee.

The phrase “at no cost to the employee,” the US Court of Appeals for the Third Circuit has ruled, means that the employer must also reimburse employees’ mileage and pay them for their time as if on duty if evaluation or treatment occurs off-site or outside regular work hours.

## **Needlesticks – Off-Site Testing Employees’ Mileage and Time Must Be Paid**

Two nurses who had needlesticks at the same nursing home filed complaints with OSHA.

The nursing home agreed to foot the bill for testing and re-testing for Hep B but refused to reimburse their mileage to and from the off-site medical clinic and did not compensate them for their time.

The US Court of Appeals agreed with OSHA that OSHA, being a Federal agency, can enforce Federal occupational safety and health regulations according to OSHA’s own interpretation of language in the regulations when the exact meaning of the language, as it often happens, is not crystal clear.

Although OSHA regulations do not expressly answer the question, the OSHA administrative board interpreted OSHA’s regulations to include paid time and reimbursed mileage within the broader mandate that immunizations, testing and care for bloodborne-pathogen-related issues must be provided “at no cost to the employee.”

**Secretary of Labor v. Beverly Healthcare**, \_\_\_ F. 3d \_\_\_, 2008 WL 4107489 (3rd Cir., September 4, 2008).