

# Worker's Compensation Insights

## Coronavirus Considerations

The coronavirus (COVID-19) outbreak continues to be a top-of-mind concern for organizations and individuals across the globe. As COVID-19 becomes increasingly widespread, it's not only raising fears about the well-being of the general public, but it's also calling into question how insurance policies—like workers' compensation coverage—will or won't respond. This Work Comp Insights provides a general overview of insurance considerations as they relate to COVID-19.

## Workers' Compensation and COVID-19

In instances where an employee believes they contracted COVID-19 at work, a number of workers' compensation considerations come into play. Generally, in terms of COVID-19, claims are evaluated on a case-by-case basis and coverage may only be triggered if both of the following are true:

- The illness in question arises out of the course and scope of employment
- The illness in question arises out of or is caused by conditions particular to their work and not an ordinary disease of life (e.g., the common cold) to which the general public is exposed.

For COVID-19 claims, it's important to remember that every situation is different. When it comes to compensability, you'll need to evaluate what jobs or tasks an employee was performing when they were exposed to COVID-19.

For example, health care businesses may be able to show when and how an employee got sick from COVID-19 during the course of their work more confidently than a construction firm. Typically, proving whether or not an employee contracted COVID-19 during their employment will be exceedingly difficult in most circumstances.

Additionally, states are going to have different thresholds for COVID-19 compensability. Some states may have more general language regarding workplace illnesses, and communicable and contagious diseases in their statutes, while others have issued specific guidance on COVID-19 claims. While many state laws allow compensation for "occupational diseases" that arise out of and in the course of employment, many state statutes exclude "ordinary diseases of life."

Still, employers that are dealing with a COVID-19 workers' compensation claim should report it to a qualified insurance professional. When reporting potential claims:

- Include COVID-19 in the incident description
- Investigate the incident. You'll want to report whether the worker involved in the claim came into contact with a person known to be infected with COVID-19. It's also

important to confirm when the employee in question began to experience COVID-19 symptoms and whether or not they have tested positive for the virus. Moreover, the burden of proof usually rests on the ill employee, and employers must rely on them to provide workplace-specific information that could prove compensability

- Determine if the worker could have become sick from a friend or family member
- Provide details regarding the employee's perceived level of risk for contracting COVID-19. For instance, you'll want to highlight whether the employee works in a high-risk role (e.g., a first responder).

Again, claims will be assessed individually, and a number of outside factors will determine whether or not workers' compensation coverage applies. Employers should review guidance from their state workers' compensation board and speak with an insurance professional to learn more about how their coverage may or may not respond to COVID-19 claims.

For more information, contact one of the National Ground Water Association's insurance partners to continue the discussion today.

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