

COVID-19 – WORKERS’ COMPENSATION REPORTING & FACT PATTERNS

COVID-19 is presenting challenges in the workers’ compensation system in terms of when a claim is to be reported to WCA. It is important to identify when a claim is to be reported so that over reporting does not take place. The information provided below is to assist in the initial reporting of an alleged work related COVID-19 claim.

REPORTING THE COVID-19 CLAIM – once the employer has knowledge of a claim for COVID-19, the employer must:

- PROVIDE THE CLAIM FORM (DWC-1) TO THE EMPLOYEE.
- SEND THE EMPLOYER’S REPORT OF INJURY (5020) TO WCA.

COMPENSABILITY (Is the claim work related?)

The two main compensability issues on a COVID-19 claim are:

ILLNESS – the employee must have sustained an COVID-19 illness. This means the employee must test positive for COVID-19. Currently, the CDC’s opinion is that COVID-19 symptoms appear up to 14 days after exposure.

When the employee is reporting a COVID-19 illness, you want to:

- Ask if the employee has been tested for COVID-19. If so, where did they get tested and what were the test results.
- Get specifics as to when the symptoms started and the symptoms (fever; chills; cough; shortness of breath; difficulty breathing; body aches; headaches; new loss of taste or smell; sore throat).

CAUSATION – work must have caused the COVID-19.

- Why does the employee believe they contracted COVID-19 from work?
- Has there been close contact with someone who was within 6 feet of a person with COVID-19 for at least 15 minutes? Who was the person, when were they with them and for how long?
- Have they been around anyone who has tested positive for COVID-19? Who was the person, when were they with them and for how long?
- Have they been around anyone who has been self-quarantined? Who was the person, when were they with them and for how long?
- Have they attended any gathering of where there were more than 10 people?

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Here are some sample situations that hopefully will help you to make a reasonable determination on how to handle an employee that is exposed to or are diagnosed with COVID-19. There will be other situations that do not fall neatly into one of these fact patterns, when that happens, please reach out to WCA for assistance.

SITUATION #1 – EMPLOYEE HAS NOT ASSERTED MEDICAL CONDITION WAS CAUSED BY WORK.

FACT PATTERNS

- Employee states he/she does not feel well.
- Employee states he/she does not feel well. Employee wonders if he/she has COVID-19.
- Employee states he/she has COVID-19.

EMPLOYER ACTION - do not provide a Claim Form (DWC-1) to the employee and do not file an Employer’s Report of Injury (5020) to WCA.

ANALYSIS

Employer is not on notice of a work-related injury because the employee did not attribute the medical condition to being caused by work.

SITUATION #2 – EMPLOYEE HAS ASSERTED MEDICAL CONDITION WAS CAUSED BY WORK.

FACT PATTERNS

- Employee states he/she has COVID-19 from work.
- Employee states he/she has COVID-19 from work, but the Employer is not sure the COVID-19 was contracted at work.

EMPLOYER ACTION:

- The employer must investigate the causal relationship of the allegations from the employee by asking the **CAUSATION** questions on page 1.
- Provide a Claim Form (DWC-1) to the employee and file an Employer’s Report of Injury (5020) to WCA.

ANALYSIS

Employer is on notice of a possible work-related injury because the employee has stated the medical condition was caused by work. Also, if an employee requests a Claim Form (DWC-1), it must be given to the employee regardless of what the employer thinks about the validity of the claim.