



STATE OF FLORIDA WORKERS' COMPENSATION COVID-19 QUICK GUIDE

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GENERAL PROVISIONS

When must an Employer's First Report of injury to be filed?

Within 48 hours after the injury.

What is the statute of limitations for the filing of an Employee's Claim form?

Two years from the date of injury or after the initial two years, within one year of the last payment of compensation or within one year of the last provision of authorized medical treatment or care.

When must an Employer/Insurer file contesting issues?

An Employer/Insurer must deny compensability within 120 days after the initial provision of benefits or payment of compensation. Failure to deny waives the Employer/Insurers right to deny compensability. The Employer/Insurer may still contest major contributing cause.

COMPENSABILITY

Under Florida state law, could COVID-19 be compensable as an occupational disease?

Per §440.151(2) Fla. Stat., COVID-19 can be found compensable as an occupational disease if the Employee can show that: the disease is a condition that is characteristic of and peculiar to an occupation, excluding all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular occupation. There must be epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee. No benefits are payable unless the employee suffers disablement or death as a result of the condition.

Could COVID-19 be compensable as an accidental injury?

Potentially as an exposure claim. Per §440.02(1) Fla. Stat., Florida law presumes that an injury caused by exposure to a toxic substance is not compensable. To overcome the presumption the Claimant must present testimony from a qualified expert that: shows that Claimant was in fact exposed to a specific substance while in the course and scope of employment; demonstrates the level of exposure; and proves that the level of exposure to the specific substance can cause the injury or disease sustained

If a person contracted COVID-19 while traveling on business, would that result in a compensable claim?

Yes, provided that the Employee can prove the elements of an occupational claim or exposure claim. Traveling on business is considered within the course and scope of employment if the Employee was performing a task beneficial to the Employer without a substantial deviation from the assigned task.

If a person is injured while teleworking, would those injuries be compensable?

An injury is compensable regardless of the location where the injury occurs provided that the Employee can prove that they were acting in the interest of the Employer at the time the injury occurred.

Are psychiatric claims compensable for a person that has actually contracted COVID-19?

Once the Employee shows a compensable physical injury, any psychiatric condition caused or exacerbated by that condition is considered compensable.

If a person were merely fearful of contracting COVID-19 at work, could the person have a valid psychiatric claim?

No, a mental or nervous injury due to stress, fright, or excitement only is not an injury arising out of employment.

BENEFITS

If an employee is forced to quarantine as a result of a possible exposure at work, must TTD benefits be paid?

If the Employee is unable to perform their job functions due to the worksite injury or illness, TTD benefits must be paid.

If COVID-19 were to be found compensable, what benefits might be due?

Medical treatment, indemnity benefits, and impairment benefits.

Must an employer/insurer pay for medical testing to rule out COVID-19?

Diagnostic testing is typically compensable under Florida law.

May an employer/insurer make voluntary medical payments without prejudice?

Yes, the Employer can choose to pay and investigate the claim for a period of 120 days without prejudice.

If an employee is working on light duty as a result of a workers' compensation claim and there is a layoff due to the economic downturn or government-mandated closure, is the employee entitled to TTD?

No. Temporary total disability benefits are only provided when an Employee is temporarily unable to return to work in any capacity due to the work-related injury or illness.

May an employer terminate medical benefits due to non-compliance with treatment as a result of fear of going to a health care provider during the pandemic?

Medical non-compliance occurs when a claimant fails to take reasonable steps to secure medical treatment. It is unlikely that the court would find medical non-compliance based on a legitimate fear of exposure during the pandemic. The court would apply a reasonable person standard to determine whether the Employee's fear was reasonable.

AREAS OF INQUIRY DURING COVID-19 INVESTIGATIONS

- Employee's job duties/length of employment
- Employee's symptoms/diagnosis/treatment/test results
- Employee's allegation regarding exposure (i.e., have co-workers/vendors/clients/patients tested positively?)
- Other possible sources of exposure (i.e., roommates/family/friends?)
- Recent travel (personal and/or business) – what/when/where/for how long/purpose
- Secondary employment
- Use of mass transit/public transportation/carpools
- Hobbies/recent events prior to diagnosis (e.g., concerts/sporting events/rallies)
- Social media activity
- Medical canvasses
- Experts (e.g., epidemiologists/infectious disease specialists/industrial hygienists)
- Results of governmental investigations (OSHA/CDC/local health authorities)
- Employer precautions (e.g., did the employer follow CDC guidelines, what other measures did employer take to prevent spread?)

HELPFUL LINKS

- [CDC Workplace Guidance](#)
- [Centers for Disease Control and Prevention – COVID-19](#)
- [EEOC's COVID-19 Page](#)
- [OSHA's COVID-19 Page](#)
- [OSHA's Guidance on Preparing Workplaces for COVID-19](#)
- [World Health Organization COVID-19 Updates](#)

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