



STATE OF GEORGIA WORKERS' COMPENSATION COVID-19 QUICK GUIDE

Prepared by

Sean W. Martin

Carr Allison

736 Market St, Suite 1320

Chattanooga, TN 37402

423-648-9832

swmartin@carrallison.com

www.carrallison.com

GENERAL PROVISIONS

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

Immediately upon knowledge of an alleged injury or death but no later than the 21st day following knowledge of the alleged injury or death.

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

One year from the date of injury. If benefits have been paid or treatment provided, it is one year from date of last treatment or two years from last payment of weekly benefits.

When must an Employer/Insurer file contesting issues?

On the 21st day following knowledge of the alleged injury or death.

COMPENSABILITY

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

Unlikely but possible. To be compensable, the employee has the burden of proving that the disease arises out of and in the course of the particular trade, occupation, process, or employment in which the employee is exposed to such disease. If the employee can prove that the particular disease arose out of their employment as defined above, they must then satisfy the following five factors:

1. A direct causal connection between the conditions under which the work is performed and the disease;
2. That the disease followed as a natural incident of exposure by reason of the employment;
3. That the disease is not of a character to which the employee may have had substantial exposure outside of the employment;
4. That the disease is not an ordinary disease of life to which the general public is exposed;
5. That the disease must appear to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence of those diseases.

Factors three and four weigh heavily against a finding that COVID-19 would be a compensable occupational disease. It would be hard for an employee to prove there is not substantial risk of exposure outside of the employment or that COVID-19 is not an ordinary disease of life that the general public is at equal risk of exposure.

Could COVID-19 be compensable as an accidental injury?

No. Diseases and illnesses are not considered compensable as an accidental injury.

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

Unlikely, see above

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

Yes, provide that the employee proves that injury arises out of and occurs in the course of the employment.

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

Not unless the contraction of COVID-19 is deemed a compensable occupational disease. In order for a psychic injury to be compensable, there must be a discernable physical injury

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

No.

BENEFITS

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

Not unless the employee actually tests positive for the virus and it has been determined that it is compensable. See response above for further explanation about whether COVID-19 is compensable.

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

If compensable, the employee would be entitled to reasonable and necessary medical treatment for the disease. The employee could also receive Temporary Total Disability benefits during the period of time the employee is out of work as the result of the virus. It is unlikely that the employee would be entitled to any permanent disability benefits as it does not appear that survivors of the virus have permanent injury or permanent limitations on their ability to return to work.

If the employee dies as a result of the virus, they would be entitled to death benefits.

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

No.

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

Yes.

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. The employee would only be entitled to TTD if the layoff was the result of their specific restrictions.

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?

Yes. Under Ga. Code Ann. §34-9-200, if the employee refuses to submit himself or herself to or in any way obstructs medical treatment provided for by the employer, upon order of the board his or her right to compensation shall be suspended until such refusal or objection ceases and no compensation shall at any time be payable for the period of suspension unless in the opinion of the board the circumstances justify the refusal or obstruction.

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](#)
- <https://sbwc.georgia.gov/>
- [OSHA's COVID-19 Page](#)
- [OSHA's Guidance on Preparing Workplaces for COVID-19](#)
- [World Health Organization COVID-19 Updates](#)

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