



STATE OF ILLINOIS WORKERS' COMPENSATION COVID-19 QUICK GUIDE

Prepared by

Les Johnson

SmithAmundsen LLC

150 North Michigan, Suite 3300

Chicago, IL 60601

312.894.3276

ljohnson@salawus.com

www.salawus.com

GENERAL PROVISIONS

When must an Employer's First Report of injury to be filed? As soon as practicable after notice of the illness.

What is the statute of limitations for the filing of an Employee's Claim form? Workers who seek compensation under the Illinois Workers' Occupational Diseases Act must file a claim within three years of the date of disablement.

When must an Employer/Insurer file contesting issues? No general filing requirements except when emergency motion or in response to demand for benefits.

COMPENSABILITY

- **Under Illinois law, could COVID-19 be compensable as an occupational disease? Yes. Generally, if a worker is in the course and scope of his employment, and contracts a harmful illness while on the job, they may have a viable claim against their employer under the Occupational Disease Act, 820 ILCS 310/et seq.**

“Occupational Disease” is defined as a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. In the case of an aggravation, it shall arise out of a risk peculiar to or increased by the employment and not common to the general public. 820 ILCS 310/1(d)

Could COVID-19 be compensable as an accidental injury? Probably not. An injury under the Workers Compensation Act must be traceable to a specific time, place, and event.

If a person contracted COVID-19 while traveling on business, would that result in a compensable claim? Traveling employees are generally covered provided they prove causation. In general, these types of employees are considered to be in the course of their employment from the time they leave home until the time they return home.

If a person is injured while teleworking, would those injuries be compensable? Yes, unless the worker was not at their established and employer-approved home work station at the time of the injury.

Are psychiatric claims compensable for a person that has actually contracted COVID-19? Yes, if the worker proved causation between the illness and the psychiatric issues. It would be an “injury” similar to psychological overlay issues that develop after prolonged back injuries.

If a person were merely fearful of contracting COVID-19 at work, could the person have a valid psychiatric claim? Not likely as they could not prove causation or a risk of contracting the disease greater than that of the general public. Additionally, Illinois does not generally compensate for “mental-mental” scenarios, such as the mental stress or fear causing psychiatric issues.

BENEFITS

If an employee is forced to quarantine as a result of a possible exposure at work, must TTD benefits be paid? Not unless they contract COVID-19 and prove causation to work.

If COVID-19 were to be found compensable, what benefits might be due? Medical treatment, temporary total disability benefits, permanent partial disability, which could include death benefits to qualified survivors. It is not known the extent of permanent disability that would be provable for COVID-19. As with any compensable work injury, the extent of the permanent disability will depend upon proved medical causation and thereafter, the work capabilities upon reaching maximum medical improvement.

Must an employer/insurer pay for medical testing to rule out COVID-19? Generally, no. The obligation for medical payments is triggered once the illness/injury occurs.

May an employer/insurer make voluntary medical payments without prejudice? Yes. The employer does not implicitly accept compensability or waive the right to dispute all benefits, including those already paid.

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? Yes, generally until they reach MMI and are discharged from curative treatment.

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? We expect that the pandemic will result in an exception to the general rule that non-cooperation with reasonable treatment provides a basis to terminate medical benefits. This will most likely extend to postponements of IME appointments.

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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