



STATE OF NORTH CAROLINA WORKERS' COMPENSATION COVID-19 QUICK GUIDE

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GENERAL PROVISIONS

When must an Employer file a Form 19? An Employer must file a Form 19 within five days of knowledge of the accident.

What is the statute of limitations for the Employee to file a Form 18? The Form 18 should be filed by the injured Employee within thirty days and must be filed within two years of the injury.

How long does an Employer have to accept or deny a claim? Normally, an Employer must accept or deny a claim within fourteen days.

COMPENSABILITY

Under North Carolina law, could COVID-19 be compensable as an occupational disease? Possible, but not likely. The Act lists twenty-eight occupational diseases, which does not include COVID-19. An Employee can also recover if his or her employment placed the Employee at an increased risk of contracting the disease. Just being at work with another Employee, who tested positive, should be insufficient. While some jobs do place Employees at a greater risk of contracting COVID-19, it has to be analyzed in the context of a worldwide pandemic. In addition, the Employee still has to show that he or she contracted COVID-19 at work as opposed to at home or in the community. The Act does not recognize the doctrine of “positional risk”.

Could COVID-19 be compensable as an accidental injury? Most likely, no. Again, the Act does not recognize the doctrine of “positional risk”. The mere fact that an Employee is sick does not constitute an “injury by accident”. Usually, there must be something unusual, which occurs while the Employee is working.

If a person contracted COVID-19 while traveling on business, would that result in a compensable claim? Most likely, no. The analysis above for occupational disease and injury by accident would apply.

If a person is injured while teleworking, would those injuries be compensable? Most likely, yes, if the Employee sustained an injury by accident in the course of his or her employment and that the home was his or her worksite. The Commission will likely examine factors such as how regularly the Employee worked from home; the presence of work equipment at home; and whether the Employee was working from home for his or her convenience or whether it is necessary from the Employer’s standpoint.

Are psychiatric claims compensable for a person that has actually contracted COVID-19? Possibly, if the Employee has a compensable COVID-19 claim and can establish a causal relationship to the psychiatric injuries.

If a person were merely fearful of contracting COVID-19 at work, could the person have a valid psychiatric claim? Most likely, no.

BENEFITS

If an employee is forced to quarantine as a result of a possible exposure at work, must TTD benefits be paid? No, the Employee must have a compensable workers' compensation claim in order to receive TTD benefits.

If COVID-19 were to be found compensable, what benefits might be due? The Employee would be entitled to seek the same benefits as any other compensable claim, which include: medical payments, temporary or total disability benefits, permanent partial disability benefits, and death benefits.

Must an employer/insurer pay for medical testing to rule out COVID-19? Normally, no. The Employer is generally not responsible for paying for preventative medical treatment.

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? It depends on whether or not there is other work available, for which the Employee is qualified and which meet his or her physical 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? Employees are generally required to cooperate with related medical treatment. If the Employee is uncooperative, the Employer can possibly be relieved of the obligation to pay medical benefits during the period of non-compliance. It is likely under the current pandemic conditions that the Commission would find the Employee's refusal to attend a medical appointment for fear of contracting COVID-19 as justifiable and not authorize the Employer to suspend the payment of medical benefits.

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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