



STATE OF OHIO WORKERS' COMPENSATION COVID-19 QUICK GUIDE

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GENERAL PROVISIONS

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

The employer is not required to file the First Report Of Injury (FROI), however, they must make available the necessary forms as soon as they are notified of a workplace injury and/or occupational disease.

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

One year.

When must an Employer/Insurer file contesting issues?

The Ohio Bureau of Workers' Compensation (BWC) or self-insuring (SI) employer will either accept or reject the FROI. If no response within 30 days of notification, the application will be forwarded to the Ohio Industrial Commission (IC) for formal adjudication.

COMPENSABILITY

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

Yes. An occupational disease (OD) claim generally results from repeated work-related exposure per ORC 4123.01(F). The work-related exposure has a harmful effect on the employee and there is a causal relationship between the exposure and the harmful effect that is confirmed by a medical diagnosis. The conditions of the employment create a greater hazard to the worker than to the general public. As such, COVID-19 might qualify as an occupational disease in Ohio if the employee can demonstrate a work-related exposure.

Could COVID-19 be compensable as an accidental injury?

Possibly. Accidental injuries must "arise out of and in the course of employment." If COVID-19 is contracted while an employee is engaged in work activities, the condition may be compensable. The key issue, as with the majority of states, remains causation. If the employee is unable to prove that there is a causal nexus between the employment and the condition, the claim is not compensable. As COVID-19 is widespread amongst the general population, causation will be a difficult hurdle for employees to prove in most instances. Having said that, there are some professions, e.g., health care providers, first responders, and employees of "essential businesses" where the likelihood of contracting the virus is significantly higher than the average worker; therefore, we expect that those workers' claims are more likely to be found compensable, assuming there is medical documentation (causation) to support the claim application.

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

The Ohio IC will apply the positional risk test in this situation, meaning that if the work travel placed the employee at risk for contracting the virus, the claim would be compensable if the employee is otherwise able to prove causation.

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

Yes, so long as the injuries arose out of and in the course of employment, and the employee's home is regarded as a worksite. Factors used in that determination are: 1) the quantity and regularity of work performed at home; 2) the presence of work equipment at home; 3) the special circumstances of the employment rendering it necessary and not personally convenient to work at home; and, 4) whether the employer acquiesced to the employee's regular use of the home as a work site or reasonably should have known the employee was working from home.

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

Yes, if an employee has a compensable workers' compensation claim and is able to establish a causally related psychological condition as a result of contracting the virus, any causally related psychological treatment or disability would also be compensable.

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

No. Given that the fear of COVID-19 is not unique to the work environment, a person's subjective fear of exposure is not a compensable claim.

BENEFITS

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

No. Unless the employee can prove that he or she contracted COVID-19 at work requiring disability, preventive measures such as quarantines would not be compensable.

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

An employee would be entitled to temporary total disability benefits, medical treatment, permanent partial disability benefits, and, potentially, dependency benefits. It is unknown to what extent COVID-19 will result in benefits, and, to the extent that there is psychiatric overlay, there exists the potential for additional benefits as a result of psychiatric impairment.

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

No. The BWC or SI employer should only be responsible for treatment once a compensable injury occurs. Preventive measures, such as testing, would not be allowed.

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

No.

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?

Not necessarily. While Ohio typically views temporary disability as a "medical" status, a claimant who is laid-off for economic reasons might not be eligible for TTD. The claimant would need to prove the "disability" was preventing employment and not an economic downturn.

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?

No. The Ohio BWC has indicated that a person's benefits should not be interrupted. Similarly, an employee that refuses to go to an IME appointment for similar reasons will not be penalized.

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://info.bwc.ohio.gov/wps/portal/bwc/site/worker/resources/covid19questions>
- [OSHA's COVID-19 Page](#)
- [OSHA's Guidance on Preparing Workplaces for COVID-19](#)
- [World Health Organization COVID-19 Updates](#)

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