



STATE OF PENNSYLVANIA WORKERS' COMPENSATION COVID-19 QUICK GUIDE

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GENERAL PROVISIONS

When must an Employer's First Report of injury to be filed? First Report of Injury by the Employer must be filed with the Bureau within 7 days or 48 hours if the injury results in death.

What is the statute of limitations for the filing of an Employee's Claim form? Three years from date of injury.

When must an Employer/Insurer file contesting issues? 21 days to file a Notice of Denial or a Temporary Notice of Compensation Payable or a Notice of Compensation Payable from date of notice. 20 days to answer a claim petition.

COMPENSABILITY

Under Pennsylvania law, could COVID-19 be compensable as an occupational disease? Yes.

Under Pennsylvania Workers' Compensation law in addition to claims for "injuries" brought under Section 301(c)(1) of the act (77 P.S. 411(1)), Section 301(c)(2) of the act (77 P.S. 411(2)) allows claimants to bring claims for compensation related to occupational diseases as defined in Section 108 of the act (77 P.S. 27.1). Section 108 enumerates specific diseases that have been associated with specific workplace exposures such as black lung, asbestosis and hepatitis. Section 301(e) of the act (77 P.S. 413) provides a "rebuttable presumption" to claimants asserting claims for enumerated occupational diseases set forth in Section 108 in situations where the claimant was employed in the occupation or industry in which the occupational disease has been established to be a hazard. In those situations, it is presumed that the occupational disease is caused by the employment. Unless this presumption is rebutted, claimants asserting claims for occupational diseases enumerated in Section 108 of the act would not need to prove that the disease was caused by workplace exposure.

Could COVID-19 be compensable as an accidental injury? Yes.

If a person contracted COVID-19 while traveling on business, would that result in a compensable claim? Possibly. The issue would be whether or not the claimant was in the course and scope of employment.

If a person is injured while teleworking, would those injuries be compensable? Yes. The issue would be whether or not the claimant was in the course and scope of employment.

Are psychiatric claims compensable for a person that has actually contracted COVID-19? Yes. This would be called a physical/mental claim and claimant only needs to show a causal connection between the physical injury and the mental injury.

If a person were merely fearful of contracting COVID-19 at work, could the person have a valid psychiatric claim? Possible. This would be a metal/mental claim and claimant would have to show abnormal working conditions.

BENEFITS

If an employee is forced to quarantine as a result of a possible exposure at work, must TTD benefits be paid? Not under present law.

If COVID-19 were to be found compensable, what benefits might be due? Benefits that are available for a typical work injury/disease. Indemnity and medical (reasonable and necessary medical causally related to the work injury/disease).

Must an employer/insurer pay for medical testing to rule out COVID-19? Not under the Act as it currently exists.

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? Possibly. There may be defenses.

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? A Petition would have to be filed with a Judge to suspend benefits for failure to undergo reasonable and necessary treatment and said Petition would have to be granted.

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?)

SENATE AND HOUSE BILLS

The Senate bill is SB 1106 and the House bill is HB 1189. See below for additional details about each bill.

The House unanimously passed House Bill 1189, protecting workers and first responders. HB-1189 would impact the COVID-19 response by:

- Ensuring employees cannot be terminated for abiding by stay-at-home orders or other quarantine measures.
- Increasing benefits for police and other first responders if they are personally impacted by COVID-19.
- Establishing a new employer tax credit program for employers of volunteer first responders.
- Extending renewal deadlines for PennDOT licenses that expire during the current emergency declaration. Calling on the Department of Health to produce an extensive report of COVID-19 cases in Pennsylvania with demographic information broken down by every ZIP code in Pennsylvania.

The Senate bill requires municipalities to pay no more or less in compensation or medical expenses than current law provides, while limiting the measure to the duration of the Governor's Public Health Declaration. This legislation builds on the original intent of the Heart and Lung Act, signed into law on June 28, 1935, which recognizes the need to continue payment of salary, medical, and hospital expenses of officers who are injured or contract certain diseases in the line of duty. Pennsylvania Senate Bill SB 1106 passed committee and is pending before the full Pennsylvania Senate. This bill adds COVID-19 to the PA Heart and Lung Act covering first responders. It provides for the payment of the salary, medical and hospital expenses of certain employees of State and local government who are injured or contract certain diseases in the performance of their duty; and providing that absence during such injury shall not reduce any usual sick leave period.

The Senate bill has passed committee and is before the full State Senate.

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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