



STATE OF TENNESSEE WORKERS' COMPENSATION COVID-19 QUICK GUIDE

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GENERAL PROVISIONS

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

As soon as possible, but no later than as follows:

- The 15th day of the month following the month in which the injury occurred for injuries resulting in 7 calendar days of disability or fewer;
- 14 calendar days after the report by an employer of the occurrence of the injury for injuries that result in death or in which the employee did not return to work within 7 calendar days; and
- No First Report of Work Injury is required to be filed for minor injuries such as scratches, scrapes, paper cuts and other injuries treated solely by minor first aid.

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

One year after the accident resulting in injury in instances where an Employer has not paid workers' compensation benefits to or on behalf of the employee. The statute of limitations is 1 year after the latter date of the last authorized treatment or time the employer ceased making payments of compensation to or on behalf of the employee in instances where the employee has voluntarily paid workers' compensation benefits.

When must an Employer/Insurer file contesting issues?

Decisions on compensability must be made within 15 days of the notice of injury. If the claim is denied, the Notice of Denial (C-23) must be filed with the Bureau within 5 business days of reaching that decision.

COMPENSABILITY

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

It is highly unlikely an employee in Tennessee would be entitled to workers' compensation benefits for contracting the coronavirus (COVID-19). Employees would have a difficult time proving their employment contributed more than 50% in causing the injury, considering all causes.

In a similar situation, a FedEx pilot tried to obtain workers' compensation benefits for allegedly contracting bird flu when travelling for work in China in 2014. The Tennessee Court of Workers' Compensation denied the claim for benefits, holding the claimant failed to establish by expert medical evidence that his illness arose primarily out of and occurred in the course and scope of his employment.

The Court has not issued any compensability decisions related to COVID-19 to date.

Could COVID-19 be compensable as an accidental injury?

Unlikely, see above

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

Unlikely, as determined in the FedEx case described above.

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

It depends. Compensability in teleworking cases depends on whether the employee was in the course and scope of employment at the time of the injury and whether the injury arose out of the employee's work. There are limited decisions on teleworking. In one such case, an employee that permanently worked from home was assaulted by her neighbor while making lunch in her kitchen. The Tennessee Supreme Court found the employee was in the course

and scope of her employment during the assault but denied benefits because the assault did not arise out of her employment. The Court indicated teleworking injuries may be compensable in situations where the injury is in some way related to the employment.

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

Unlikely, as the underlying COVID-19 claim is probably not compensable.

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

Unlikely. The workers' compensation Appeals Board has found fear of injury to be unreasonable within the framework of the workers' compensation act.

BENEFITS

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

Unlikely, as the employee did not suffer an "injury" as defined by the workers' compensation act.

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

Medical benefits to treat COVID-19, temporary disability benefits until maximum medical improvement, and potentially death benefits or permanent disability benefits if the employee recovers and receives a permanent impairment rating. Medical benefits for workers' compensation injuries are for life, so there is also the potential of unknown medical issues caused by COVID-19 that could arise in the future. The employee would also be entitled to income benefits for the period of time they are unable to work while recovering from the virus.

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

Unlikely under the workers' compensation system, unless the employee asserts a workers' compensation claim.

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

Voluntary payment of medical benefits may be used against an employer in the course of a workers' compensation claim. It would likely be less prejudicial to an employer if the benefits were available to all employees and not a particular employee asserting a claim.

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?

Unlikely. An injured employee is entitled to temporary disability benefits if: (1) the employee became disabled from working due to a compensable injury; (2) there is a causal connection between the injury and the inability to work; and (3) the employee established the duration of the period of disability. In this situation, the employee would have difficulty proving the inability to work was due to the injury rather than the economic downturn or government-mandated closure.

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?

Workers' compensation benefits may be suspended during the period of non-compliance but may not be completely terminated. Tenn. Code. Ann. §50-6-204(d)(8).

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://www.tn.gov/workforce/injuries-at-work.html>
- [OSHA's COVID-19 Page](#)
- [OSHA's Guidance on Preparing Workplaces for COVID-19](#)
- [World Health Organization COVID-19 Updates](#)

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