

WORKERS' COMPENSATION AND COVID-19

Q: How might workers' compensation insurance respond to the COVID-19?

A: Two tests must be satisfied before any illness or disease, including COVID-19, qualifies as occupational and thus compensable under workers' compensation:

- The illness or disease must be "occupational" meaning that it arose out of and was in the course and scope of the employment; and
- The illness or disease must arise out of or be caused by conditions "peculiar" to the work.

Q: Does COVID-19 create a workers' compensation exposure to my business?

A: The short answer is, not likely, but it depends on the occupation. It is no more occupational than the flu.

Unless!

Only if it is proven that the employee has an increased risk of contracting the virus due to the peculiarity of his or her job might COVID-19 be considered occupational and thus compensable. Compensability as an occupational illness requires something about the job that increases the risk of exposure and illness.

Source: "Coronavirus and the CGL", Chris Boggs, Executive Director of IIABA, March 12, 2020.)

Q: So what are some potential risks?

A: Considerations are given based on "arising out of employment" or where an employer may place an employee in an "increased risk" to contract the disease/virus. Each situation is examined on a case-by-case basis to determine compensability.

Examples of potential risks include:

- Healthcare worker that contracts the virus present in the healthcare facility
- Airline or transportation worker that contracts the virus that is linked to a passenger
- Delivery employee that contracts the virus that is later linked to a known contaminated site
- Service employee that contracts the virus that is later linked to a large gathering or event.
- Hotel employee that contracts the virus that is linked to a known contamination site.

(Source: "Coronavirus Disease FAQ". www.usi.com. March 5, 2020.)

Statements on this document as to policies and coverage provide general information only and does not constitute legal or professional advice. Coverage details regarding specific insurance should be discussed directly with a licensed intermediary

