



# COVID-19 & WORKERS COMP

## WHEN TO REPORT A CLAIM

### CALIFORNIA'S NEW COVID-19 PRESUMPTIONS

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#### What You Need to Know

On May 6, 2020, Governor Newsom signed an Executive Order which provides a temporary, rebuttable presumption that COVID-19-related illnesses are compensable if the following are true:

1. The employee was working outside of their home at the direction of their employer sometime between March 19, 2020 and July 5, 2020 and Within 14 days after a day worked outside of the home as described above,
2. The employee is determined to have COVID-19 based on either a: a positive test for COVID-19 or b: a diagnosis of COVID-19 by a qualified physician or surgeon (as defined below) and verified by a test within 30 days

Employers should provide individuals meeting the above criteria with a DWC-1 form and also inform MMC via [RISK@MMCHR.COM](mailto:RISK@MMCHR.COM). It is important that employers report claims timely, as the Executive Order reduces the time frame to make a compensability decision to 30 days. For employers that are required to provide up to 80 hours of COVID-19-related sick leave, either due to the Families First Coronavirus Response Act or Governor Newsom's Executive Order N-51-20, this benefit should be used first, before any temporary disability is paid. As this order covers days worked through July 5, 2020, employers may wish to carefully consider their options as to when and how they bring individuals back to the office or workplace on or prior to this date. Below are additional recommendations for employers, details of the Executive Order and how we will be dealing with COVID-19 claims.

#### When to Report a COVID-19 Claim

Per the new Executive Order, employers should report a claim (and provide a DWC-1 to the employee) if items 1 and 2 above are met. For the purposes of item 2, a qualified physician or surgeon is one who holds a license issued by the California Medical Board. For employees who may have contracted a COVID-19-related illness before May 6th, but on or after March 19th, the employee must obtain a certification on or prior to May 21st documenting the period for which the employee was temporarily disabled and unable to work. We would encourage employers to file a claim without waiting for the certification, so that the Insurance Carrier will have sufficient time to investigate the claim. Employers should also report any employee fatalities due to COVID-19, where the employee worked outside the home between March 19, 2020 and July 5, 2020. There is no need to report a possible exposure – where the employee is showing no symptoms – although the employer may wish to encourage the employee to self-quarantine for 14 days. Finally, employers should still report claims for any employee who is at a heightened risk for COVID-19 (such as a healthcare worker) and who becomes ill or is diagnosed with COVID-19 prior to March 19, 2020 or after July 5, 2020. Even though this is outside the current Executive Order, they may have a compensable claim.



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### How We'll Handle These Claims

Once a claim is submitted, we will submit it to the Insurance Carrier where it will be handled by a dedicated team of Claims Professionals and reviewed by in-house medical and legal experts, as appropriate. They will work to ensure that employees get the care they need and are due. If the claim was based on a diagnosis, the employee will need to have an actual test within 30 days of the date of diagnosis, which will also inform the compensability decision. As with any other claim, they will do an **investigation** appropriate to the facts and circumstances, while ensuring the employee is receiving appropriate compassionate care and benefits. The Executive Order notes that the presumption may be 'controverted by other evidence' and so they will attempt to gather sufficient information from employers, employees and providers to decide whether to accept or deny the claim.

The Executive Order does add a couple of specific requirements related to **TD benefits**:

1. The employee must be certified for temporary disability within 15 days after the initial diagnosis and must be re-certified every 15 days thereafter, for the first 45 days following diagnosis - ideally this certification is done within our MPN, by a predesignated workers' compensation physician or a physician in the employee's group health plan.
2. Employees who have COVID-19 related sick leave benefits (80 hours for many employees), have to use these first, before TD benefits will be paid.

As always, if you have any questions about a particular claim, please contact the Claims Professional assigned to the claim. If you have more general questions, please reach out to the RISK department at [RISK@MMCHR.COM](mailto:RISK@MMCHR.COM).