

What Employers Should Know About COVID-19 and Workers' Compensation



Workers' Compensation

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Knowing today's complex environment and concerns regarding the coronavirus (COVID-19) pandemic, [this video](#) gathers five benefits and HR subject matter experts to highlight key considerations for employers to take action. Gallagher experts touch on business continuity planning, employee communications, HR policies and procedures, and multinational employees.

The COVID-19 pandemic has created a new set of challenges for employers looking to support the wellbeing of their workforce. From regulatory changes to flexible work policies, organizations must carefully address all aspects of wellbeing to help employees face the future with confidence. Gallagher leaders in compliance, human resources and organizational wellbeing share considerations for navigating this fluid situation. [View a recording of this one-hour presentation](#) for specific insights into the Families First Coronavirus Response Act (signed into law on March 18) and pandemic-specific policies and guidelines for HR professionals.

As the coronavirus (COVID-19) continues to spread globally, many employers are wondering if they can be held responsible if an employee contracts the illness and what precautionary actions should be taken to reduce risk. To help address these concerns, Gallagher offers the below guidance.

What should employers do to minimize risk?

Overall, employers should have a plan to protect workers, whenever possible, so as not to increase the risk of infection. Employers should review illness and absence policies to ensure they are allowing sick workers to stay home or avoid higher than average risk situations. Some cities, counties and states are issuing specific orders for shelter-in-place. Employers should monitor and comply with these orders through local governmental and health agencies.

The CDC has issued guidance and recommended strategies for employers, available on their website by [clicking here](#).

These strategies include:

- Encouraging sick employees to stay home and maintaining flexible policies so employees do not feel pressured to return to work too soon
- Separating sick employees who appear to have acute respiratory symptoms
- Emphasizing staying home when sick, respiratory etiquette and appropriate hygiene
- Performing active environmental cleaning of all frequently touched surfaces
- Advising before travel in accordance with the CDC's travel guidance

To respond to sporadic importations of COVID-19, the CDC advises employees and employers to take specific precautions when an employee is well but has an infected family member at home. Additionally, if an employee is confirmed to have COVID-19, leadership teams are asked to inform their employees while maintaining confidentiality. In each of these situations, it is advised that employers perform a risk assessment of potential exposure.

Are employees who fall ill from COVID-19 entitled to workers' compensation benefits?

Whether or not an employee affected by COVID-19 is entitled to workers' compensation benefits requires analysis of the particular case and an application of rules affecting compensability. Although these rules can vary from state to state, generally speaking, in order to be compensable an illness or injury must arise out of the employment and occur in the course of employment.

Certain classes of workers have a greater risk of contracting COVID-19 than the general public. Healthcare workers caring for those suffering from and exposed to the virus are one such group. Others at risk for contracting COVID-19 according to the Occupational Safety and Health Administration (OSHA) are:

- Clinical laboratory workers, if they collect or handle infectious specimens
- Airline and transportation workers, if exposed to infected people
- Border protection workers
- Waste management workers
- U.S. business travelers arriving from China or other international locations with confirmed cases

An otherwise “low” or “medium” risk employee who works with the public might have a claim but only if they can prove they were exposed at work. Contracting the virus at work is likely not enough to trigger the assertion that it is a compensable occupational illness. To be occupational and compensable requires something peculiar about the work that increases the likelihood of getting sick.

If a workers’ compensation claim is received alleging the illness from COVID-19, it is imperative that the workers’ compensation insurer is immediately notified. You should contact your specific carrier to understand what information they will need when you report a suspected COVID-19 related workers’ compensation claim. General guidelines to follow if an incident occurs include the following:

- Make it clear when you report a claim that it is a COVID-19-related accident to ensure the proper protocols are followed.
- Check to see if other employees or immediate family members are showing symptoms of COVID-19.
- Document when the person was diagnosed and when symptoms started.
- Find out if the person was in contact with someone known to be infected, and when and where that contact happened. This includes whether they or their family have recently traveled to locations with known infections.
- Determine if the infected person has been in contact with healthcare providers and if the facility has been notified.

In summary, precaution and preparation are key to an effective safety program when addressing the concerns for the current outbreak of the coronavirus. We hope that the information and instructions included in this advisory are helpful, and if at any time you require additional assistance, please do not hesitate to reach out to your Gallagher team.

ADDITIONAL RESOURCES

[Click here](#) to review OSHA guidelines regarding high/medium/low risk employees.

Regularly updated guidance from the World Health Organization (WHO) can be found by [clicking here](#).

For state-specific statutes on workers’ compensation and occupational diseases, please refer to this [Department of Labor site](#) that can direct you to each state’s workers’ compensation bureau.

This is an evolving risk that Gallagher continues to monitor through the CDC and the WHO. Please visit ajg.com/us/pandemic-preparedness for the latest information, or contact:

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