



TOP 5 COVID-19 WORKERS' COMPENSATION QUESTIONS ANSWERED: FLORIDA

1) How are COVID-19 claims treated in Florida?

Covid-19 claims fall under the occupational disease statute in Florida (440.151). The law requires that the claimant prove by clear and convincing evidence, sufficient exposure, causation and that the disease resulted from the nature of employment, which means that the occupation in which they were engaged presents a particular hazard of contracting the disease. This is a very high burden and is particularly difficult to prove when the disease is prevalent in the general population.

2) Are COVID-19 claims compensable under the Florida Workers' Compensation Act?

Given the fact that the claimant must prove that the employment presents a particular hazard of contracting the disease, and that Covid-19 is a pandemic, it would be very difficult for the claimant to establish that a Covid-19 claim is compensable under Florida law.

3) What should employers do if an employee contracts COVID-19 and files a workers' compensation claim?

Due to the prevalence of Covid-19 in the community, we would recommend denying the claim. Obviously, there are factors to consider in accepting or denying the claim such as employee morale, costs of litigation, potential for a tort lawsuit and public relations. If the claimant works in some occupations, such as first responder, a presumption exists that requires acceptance of the claim.

4) What should employers do if an employee who has an existing workers' compensation claim and is working light duty contracts COVID-19?

The claimant's inability to work while on light duty must be causally related to the workers' compensation injury. Therefore, if the claimant has a back injury, for instance, and is working light duty and then cannot work because they contract Covid-19, the claimant would not be entitled to indemnity benefits for their back-injury claim. They would need to file a separate claim for the Covid-19 exposure if they feel they contracted it in the workplace.

5) What should an employer do if an employee who has an existing workers' compensation claim refuses a light duty job offer because of COVID-19 risks?

No compensation is due to an injured worker who refuses a reasonable offer of light duty employment. The burden is on the claimant to prove that their refusal was justified. Given the risk of Covid-19 in the general population, it does not seem that a refusal of light duty work based on a perceived risk of contracting Covid-19 would be considered justifiable by the Judge of Compensation Claims.