



New COVID-19 Legislation – SB 1159

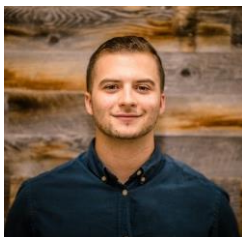
On September 17th, 2020, the state of California officially enacted SB-1159 which focuses primarily on the rebuttable presumption of COVID-related worker's compensation claims and reporting requirements for employers. From March 19th to July 5th, any employee who reported testing positive or being diagnosed for COVID-19 within the following 14 days of their last day of work was presumed to qualify for worker's compensation benefits unless the employer could provide sufficient evidence to indicate the illness was non-industrial. With the passing of SB-1159, effective July 5th, the rebuttable presumption is only applied if the employee works for an employer with five or more employees and the employee tests positive for COVID-19 within 14 days after reporting to their place of employment during a COVID-19 "outbreak". An "outbreak" exists if within 14 calendar days one of the following occurs:

- Employer has minimum of five employees
- If the employer has 100 employees or fewer at a specific place of employment, four employees test positive for COVID-19;
- If the employer has more than 100 employees at a specific place of employment, 4% of the number of employees who reported to the specific place of employment, test positive for COVID
- A specific place of employment is ordered to close by a local public health department, the State Department of Public Health, the Division of Occupational Safety and Health, or a school superintendent due to a risk of infection with COVID-19

For health care workers, peace officers, firefighters and other frontline workers, the presumption of compensability applies in most cases with a positive COVID test with a 30-day investigation period. All other employers with five or more employees, the 'outbreak' presumption applies only when an employee tests positive during an outbreak. SB-1159 allows for a 45-day investigation period for "all other employees" and provides for specific claim handling guidelines and transfer of information from the employer to the claims administrator.

SB 1159 will require employers to report to their carriers within 3 business days when they know or reasonably should know that an employee has tested positive for COVID (regardless of whether or not that employee would like to file a workers compensation claim). The employer shall not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee asserts the infection is work-related or has filed a claim form pursuant to Labor Code Section 5401. Also, as part of this law, any positive COVID tests from July 5th to September 17th need to be reported on this form within 30 business days (by October 30th).

Please feel free to contact our office with any questions you may have regarding this new legislation.



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