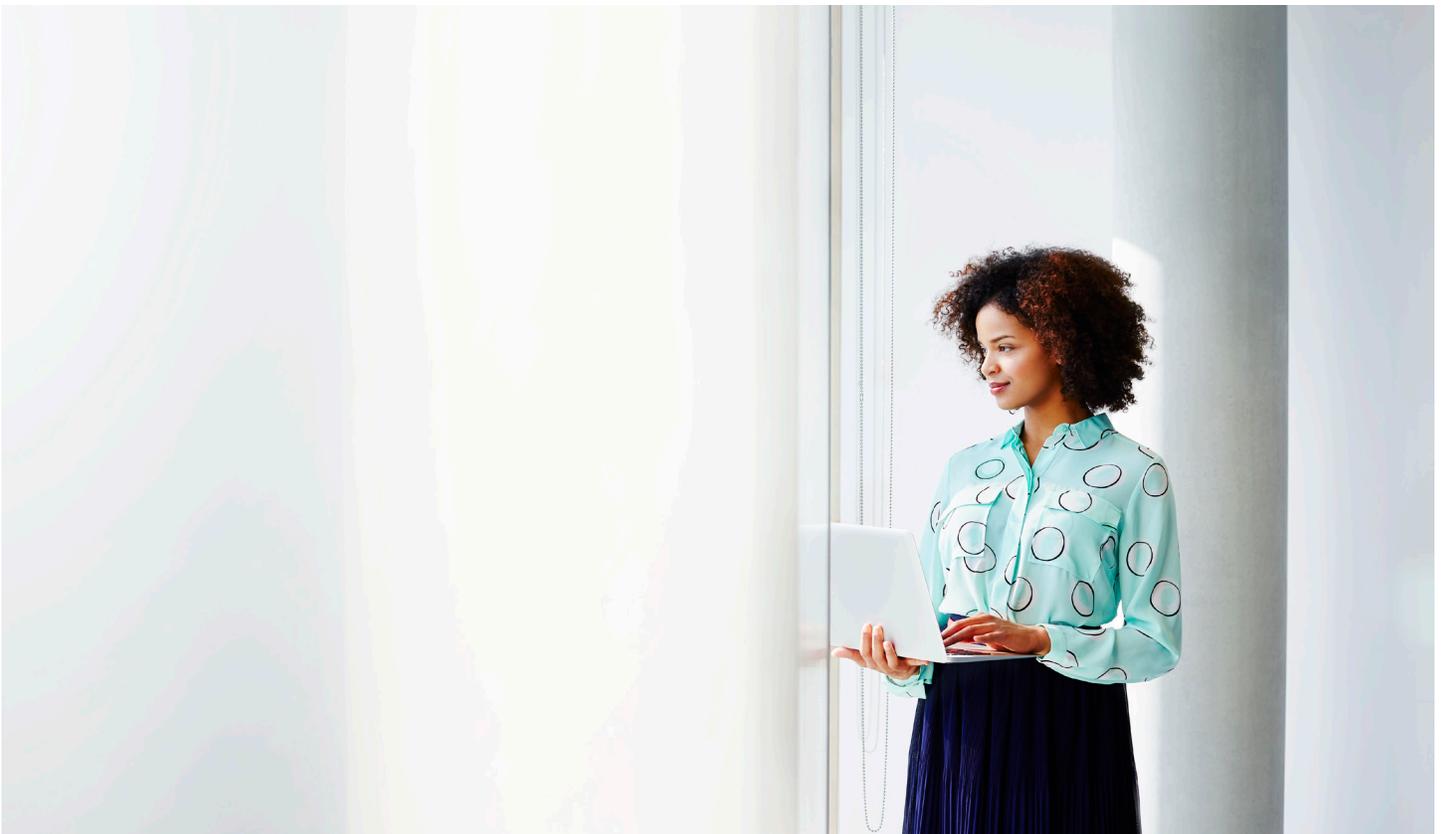


Workers' Compensation Guidance for COVID-19

April 2020



Workers' compensation guidance for COVID-19

As we assist our clients in navigating through this difficult time, we are hearing similar concerns regarding how workers' compensation will respond to COVID-19 or how workers' compensation in general will act for employees who already have open workers' compensation claims. As always, your claims team is available to assist in answering these questions, so please do not hesitate to notify us when they come up and we will assist in the response. Below are some high-level talking points for internal guidance only.

- **When our locations close, what will happen to employees with current open workers' compensation claims?**
 - Employers who cannot accommodate (due to business closures, furloughs, etc.) those employees on restricted duty and working within restrictions will likely owe such employees statutory wage replacement benefits under the workers' compensation insurance claim until the employee is released to maximum medical improvement (MMI), or full pre-injury duty.
 - Direct any such employees to their indemnity workers' compensation adjuster for guidance.
 - If you or an employee need assistance in locating an indemnity adjuster at your carrier or third-party administrator (TPA), contact that TPA or carrier directly. Contact your Lockton claims consultant or injury counselor for additional assistance as needed.
 - Please note workers' compensation insurance is anticipated to continually act as primary to unemployment or other benefits.
- **What if my restricted employees cannot get to a doctor for a medical release?**
 - Currently, many occupational therapy clinics are offering online rehabilitation options.
 - Concentra and other occupational clinics are still open in many areas and anticipate remaining open.
 - Several telemedicine vendors offer verbal/telephonic releases in the Workers' compensation arena.
 - Contact your indemnity adjusters and Lockton claims consultants for assistance as needed.
- **What do I do if an employee tests positive for COVID-19?**
 - If the employee has been at a client location, the client should notify the local health department and Centers for Disease Control (CDC) for guidance.
 - If the employee alleges or indicates they got the virus from work, report a claim immediately to the workers' compensation carrier or TPA.
 - Any claims of work-related exposure should be reported immediately, not simply when the employee tests positive for the virus.
 - Please notify your Lockton claims consultant of any cases. Lockton is tracking client claims on a national basis.

- **How will my employees be paid for quarantine or COVID-19 diagnosis?**
 - Unless an insurer makes the exceptional decision to provide coverage outside of policy, essential employees asked to quarantine or self-isolate would not be paid wage replacement unless as they actually develop COVID-19 and COVID-19 was found by the carrier to have occurred both within the course and scope of employment subject to jurisdictional requirements.
 - If a claim is found compensable, workers' compensation would typically pay wage replacement benefits until the employee is released to return to work, whether or not work is available.
 - Workers' compensation would also typically pay medical benefits related to the compensable illness. Testing may or may not be paid.
 - It is anticipated claims will be investigated by the carrier, subject to best practices including the application of jurisdictional laws and procedures in the determination of compensability or liability.
 - Investigation of these claims should consider the following and clients should assist in gathering these details:
 - Actual receipt of medical documentation confirming diagnosis and cause. Confirm date of alleged exposure or confirmed diagnosis, recent travel events, dates/times and when physically present at workplace or alleged exposure location (liability). Evaluate for need for evidence of physical presence, including time cards and location video, if available.
 - Clients should be contacted by the carrier/TPA to discuss all claims alleging the coronavirus before any decisions are made to accept or deny. The following questions will be considered:
 - Has the employee attended or participated in a group or public activity such as a religious service, concert, shopping trip, sporting event, etc.?
 - Does the employee have a spouse, partner, roommate or children? Has a spouse, partner, roommate or child been diagnosed with or exposed to COVID-19 at school, work or travel?
 - What are the employee's typical daily activities? For example, do they go to the gym or local day care every day after work? Do they have other employment?
 - **Additional activity that clients can anticipate:**
 - If claims are administered by a TPA, in addition to any applicable carrier notice; consultation with the carrier should occur before any compensability decision is made.
- **I have reported a potential COVID-19 claim to my insurance carrier/TPA. Will it be handled as an incident only, medical only, or indemnity claim?**
 - Individual state laws require specific response/filings from insurance adjusters subject to state-imposed guidelines when indemnity exposure can be anticipated (wage loss and or permanency).
 - This will be a case by case determination informed by: (1) state law concerning time limits for compensability determinations; (2) TPA contracts defining the categories; and (3) protocols set by the carriers as this crisis unfolds.
 - Your medical only and incident only claims teams often report to different departments within the insurance network and unfortunately cannot be relied upon to know of any changes to these requirements on a day-to-day basis.
 - It is likely TPAs will assign all COVID-19 claims (or potential claims) to indemnity adjusters for investigation.
 - Request clarification from Lockton claims as needed.



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