



How COVID-19 Will be Handled by L&I

Aspire is looking out for ABC members. This article is to help to provide insight on how the COVID-19, aka Coronavirus, will be handled by L&I. We have received numerous calls and emails about whether workers' compensation claims can be filed for exposure to the virus on the worksite.

Labor and Industries has defined how they view infectious diseases, and while they have not specifically named COVID-19, based on the examples they use (Influenza, H1N1, MERS, SARS) we anticipate that claims filed for COVID-19 will be treated the same way. To help understand the rules, we have provided a quick [Question and Answer](#) for you.

Q: Can the flu or COVID-19 ever be allowed as a work-related condition?

A: In most cases, exposure and/or contraction of the flu is not considered to be an allowed, work-related condition. Under certain circumstances, however, claims for the flu can be allowed at the sole discretion of the insurer.

Q: What are those circumstances that can lead to the flu or COVID-19 being allowed?

A: There are three criteria that L&I looks at to determine if the claim can be allowed. **All three** conditions must be met for the claim to be considered.

1. Was there an increased risk or greater likelihood of contracting the condition due to the workers' occupation? (e.g., first responder or health care worker)
2. If not for their job, would the worker have contracted the condition?
3. Can the worker identify a specific source or event during the performance of his/her employment that results in the exposure? (e.g., first responder or health care worker who has actually treated a patient with the virus)

Q: What is the condition in which claims for contraction will be denied?

A: A claim for the contraction of the virus will be denied when the contraction is incidental to the workplace or common to all employment (e.g., an office worker who contracts the condition from a fellow employee).

To help illustrate this distinction further, we have provided examples from a construction standpoint.

1. An electrician comes to work feeling unwell. He/she tests positive for COVID-19. He/she interacted with other employees at work. Two other employees test positive for COVID-19 and consider filing workers' compensation claims. Are they valid claims?
 - a. Their claims with L&I (if filed) would most likely be denied as their contraction was incidental to the workplace. Additionally, their occupation/job put them at no greater risk than their normal daily activities.



2. A contractor is asked to provide workers to help sanitize and clean a site in which COVID-19 was found. The workers are provided Hazmat suits, but one of the workers tests positive for the virus a week later. Is this a claim?
 - a. This could be considered a work-related claim because due to the nature of the work there was an increased risk of contracting the condition. Additionally, if not for the job they wouldn't have been exposed. Finally, the worker would have to identify the specific source while performing that job or event (e.g., the worker tore the hazmat suit while cleaning)

The [State](#), [CDC](#), and [WHO](#) have provided employers, and individuals with multiple resources on how to minimize the risk of contracting and spreading the virus. Governor Inslee and Director Joel Sacks just announced that benefits for workers compensation will be extended to any health care workers, and first responders that are quarantined by a physician or public health officer.

As additional information is released, we'll attempt to keep you up to date on any changes that occur. We at Aspire and ABC hope this information helps alleviate some of the fears regarding workers compensation claims involving COVID-19. If you have any questions regarding specific scenarios, we encourage you to reach to myself or your account manager at (253) 205-8150.