

RISK INSIGHTS

EMPLOYERS' LIABILITY CONSIDERATIONS DURING THE COVID-19 PANDEMIC



The coronavirus (COVID-19) outbreak continues to be a top-of-mind concern for organisations and individuals across the globe. As COVID-19 becomes increasingly widespread, it's not only raising fears about the well-being of the general public, but it's also calling into question how insurance policies - like employers' liability cover - will or won't respond.

EMPLOYERS' LIABILITY AND COVID-19

In instances where an employee believes they contracted COVID-19 at work, a number of employers' liability considerations come into play. Generally, in terms of COVID-19, claims are evaluated on a case-by-case basis and cover may only be triggered if both of the following are true:

- The illness in question arises out of the course and scope of employment.
- The illness in question arises out of or is caused by conditions particular to their work and not an 'ordinary disease of life' (eg the common cold) to which the general public is exposed.

For COVID-19 claims, it's important to remember that every situation is different. In each scenario, you'll need to evaluate what jobs or tasks an employee was performing when they were exposed to COVID-19.

For example, health care organisations may be able to show when and how their employees fell ill from COVID-19 during the course of their work more confidently than construction firms. Typically, proving whether or not an employee contracted COVID-19 during their employment will be exceedingly difficult.

Employers that are dealing with a COVID-19 employers' liability claim should report it to a qualified insurance professional.

REPORTING POTENTIAL CLAIMS

When reporting potential claims:

- Include COVID-19 in the incident description.
- Investigate the incident. You'll want to report whether the worker involved in the claim came into contact with a person known to be infected with COVID-19. It's also important to confirm when the employee in question began to experience COVID-19 symptoms and whether or not they have tested positive for the disease. Moreover, employers must rely on the ill employee to provide workplace-specific information that could prove compensability.
- Determine if the worker could have fallen ill from a friend or family member.
- Provide details regarding the employee's perceived level of risk for contracting COVID-19. For instance, you'll want to highlight whether the employee works in a high-risk role (eg a medical professional).
- Include robust documentation on the measures your organisation has taken to protect employees from COVID-19. This includes travel and event restrictions, cleaning and sanitation practices, social distancing protocols and remote work plans.

Again, claims will be assessed individually, and a number of outside factors will determine whether or not employers' liability cover applies. Employers should make sure they are following all government protocols to properly protect their employees from contracting COVID-19 and speak with an insurance professional to learn more about how their cover may or may not respond to COVID-19 claims. For more information, contact us today.

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