



Employers'
Advisers Office

COVID-19: WorkSafeBC Claims

Frequently Asked Questions

Ministry of Labour

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Employers' Advisers Office (EAO)

The EAO is branch of the Ministry of Labour.

The mandate of the EAO is found under section 352 of the *Workers Compensation Act*. All services are complimentary as the expenses for the Office are paid out of the Worker's Compensation Accident Fund, funded entirely by the employers of British Columbia.

The EAO provides independent advice, assistance, representation and education to all employers or potential employers on workers' compensation issues. Advisers are available to discuss workers' compensation claims, assessments, experience rating, safety or other areas of concern with you, your management staff or your association.

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Why this Document was Prepared

Unlike other seminars and webinars created by the EAO, the *COVID-19: WorkSafeBC Claims* webinar was in panel format to answer employer questions regarding the impact of the pandemic on workers' compensation claims. To be as expeditious as possible, no handout material was supplied, other than a *Resource Guide*, containing a variety of links to help employers find the information they need.

This *Frequently Asked Questions* document was specifically prepared in response to numerous requests for a handout supplying the responses to questions posed during the three webinar presentations in May, 2020.

Disclaimer

This resource is for informational purposes only and may be used for non-commercial, personal, or educational purposes to help promote occupational health and safety. No part of this document may be copied, reproduced, or distributed for profit or other commercial enterprise, nor may any part be incorporated into any other publication, without written permission of the Provincial Government of British Columbia.

Please be advised that the answers contained in this document reflect information available as of June 12, 2020 and are accurate to the best of our knowledge. Use of this resource is at your own risk. The Province of British Columbia does not warrant the quality, accuracy, or completeness of any information contained herein.

Questions from Webinar Slides

Question 1: What's not new in claims adjudication?

Regardless of how COVID-19 impacts your operations, the claims process itself has not changed. Workers are required to report their injuries or potential exposures to their employers and file a claim with WorkSafeBC. Claims of alleged COVID-19 workplace transmission should be reported by employers in an *Employer's Report of Injury or Occupational Disease* ([Form 7](#)).

Injuries sustained by workers working from home as a result of COVID-19 social distancing policies or self-isolation should also be investigated and reported the same way as any other type of injury or disease.

To be accepted as a claim, an injury or illness needs to be work-related. Claims for a COVID-19 infection need to similarly be work-related (see the answer to [Question 3](#) below for the test applied by WorkSafeBC for COVID-19 claims).

Workers' and employers' ability to request a review and appeal of a claim decision has also not changed. If, for example, a claim for COVID-19 is accepted, the employer has the ability to challenge that decision at the Review Division and at the Workers Compensation Appeal Tribunal.

We recommend you manage COVID-19 related claims like any other claim and assist WorkSafeBC in helping the worker return to work when and how it is safe for the worker to do so. If you need help with managing your claims, one of our Advisers will be happy to help.

Question 2: One of my workers is showing symptoms of COVID-19. What do I do?

Employers are responsible for protecting the health and safety of their workplace. Any worker with COVID-19-like symptoms such as a sore throat, fever, coughing, or difficulty breathing, should be directed to self-isolate at home for a minimum of 10 days from onset of symptoms or until their symptoms are completely resolved.

The worker should also be directed to consult the [BC Centre for Disease Control](#) website and take advantage of the [BC COVID-19 Self-assessment tool](#).

Employers should ensure they have clear policies in place that set out when a worker should not come to work and that these policies are communicated with staff, including managers, supervisors, and workers.

In addition to these instructions to the worker, the employer should immediately clean and disinfect the symptomatic worker's work station or workplace and tools used. A policy for informing co-workers about potential exposures should also be in place, taking steps to ensure that only necessary information is shared and removing personal identifiers as much as possible (see [Privacy Concerns](#) below).

If the worker is alleging that they contracted COVID-19 at work, treat this as any other report of injury and complete and file the Form 7.

Question 3: One of my workers filed a claim stating they contracted COVID-19 at work. Are they going to get compensation?

WorkSafeBC will evaluate each claim on a case-by-case basis. Like any claim, there must be a causal link between the injury or disease and the workplace.

First, the worker has to provide evidence that they are, in fact, sick with COVID-19; this could be a medical diagnosis but it could also be based on non-medical factors. Then, WorkSafeBC will consider whether the nature of the worker's employment created a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large.

Some examples of significantly increased risk could include hospital workers treating COVID-19 patients or workers working without proper control measures in place.

If the employer has a COVID-19 Safety Plan and is following the relevant [orders and guidelines from the Provincial Health Officer](#), the employer should include this information in their Form 7.

We recommend reviewing WorkSafeBC website for a [COVID-19 Safety Plan template](#) and information and resources for various industry types.

Question 4: I have employees performing modified duties or on graduated return-to-work. What happens if the worksite shuts down or business operations are reduced due to COVID-19?

If an employer is no longer able to provide suitable alternate/modified duties, and the worker remains temporarily disabled due to the compensable injury, WorkSafeBC will pay total wage-loss benefits.

If an employer has reduced hours, then WorkSafeBC will need to review what hours are being worked, and determine if there is any resulting entitlement to wage-loss benefits. In other words, WorkSafeBC may pay the worker a top-up benefit to bring them back to their pre-injury earnings.

In either case, the claim continues, and WorkSafeBC will need to determine the next steps with regards to a treatment program and recovery.

It is important to stay in touch with the claims officer and let them know when worksite operations are scheduled to resume. It is also important to stay in touch with your worker. If the worker recovers, the claim is considered resolved and WorkSafeBC wage loss benefits should end.

Question 5: What happens if I have modified duties available and the worker is unable to attend work due to a quarantine or self-isolation?

Workers are expected to accept suitable offers of modified duties. If you have modified duties available but the worker is alleging they are unable to attend due to quarantine or self-isolation, WorkSafeBC will investigate the reasons for that quarantine or self-isolation. Some factors supporting a valid quarantine or self-isolation include:

- The Worker is symptomatic and suspected of having COVID-19,
- The Worker is confirmed to have COVID-19,
- The Worker is asymptomatic but has been recently exposed to the virus, or
- The Worker is asymptomatic but has returned from travel outside of the country in the past 14 days.

A worker who is a carrier or potential carrier of COVID-19 is at risk of endangering the health and safety of other workers by exposing them to the virus. In these cases, WorkSafeBC has found that any offer of modified duties in the workplace is unsuitable.

As an alternative, work-from-home options for modified duties may be considered for a worker who is in quarantine or self-isolation but feeling well.

In the event of a disagreement about the suitability of the modified work-from-home offer, WorkSafeBC will intervene at the request of the worker or employer to determine the suitability of the suggested modified duties. During this process, the worker will continue to receive temporary wage loss benefits.

If the worker's refusal is ultimately found to be unreasonable and the worker continues to decline the modified duties, the worker's wage loss benefits will be reduced by the amount the worker would have earned had they accepted the modified duties.

If the worker's refusal is ultimately found to be reasonable, WorkSafeBC will pay total wage loss benefits until the worker has recovered or other, suitable modified duties are offered.

If the worker recovers from the compensable condition, the claim will conclude and wage loss benefits will end. If at this time the worker is still in quarantine or self-isolation they

may be entitled to benefits outside of WorkSafeBC, such as [CERB](#) (please see our [Resource Guide](#) for links to other financial benefits).

Question 6A: I have workers working from home. If they injure themselves while at home, would they have a claim?

To be compensable, an injury must arise as a result of work, and that includes working from home. WorkSafeBC will consider what the worker was doing at the time of injury and whether that activity was connected to their employment.

Some examples of compensable injuries that may occur while working from home include:

- A worker who falls out of their chair while working
- A worker who falls while using an employer-provided treadmill desk
- A worker who develops a musculoskeletal injury as a result of a poor ergonomic set up in their home office

WorkSafeBC has Prevention resources available to employers regarding [risk assessments](#), [ergonomic assessments](#), and [working from home information to help prevent injuries](#). Some of these resources are included in our [Resource Guide](#).

Question 6B: I have workers working from home. If they contract COVID-19 while at home, would they have a claim?

For a COVID-19 claim to be accepted, the nature of the worker's employment needs to create a risk that is greater than the ordinary exposure risk of the public at large.

An example where the nature of the worker's employment may create a greater risk includes a worker interviewing clients in their home office without any protective measures in place. If the worker contracts COVID-19 from a client, their resulting illness will likely be compensable.

On the other hand, a worker working from home is not at greater risk of contracting COVID-19 from a family member simply because they are spending more time at home. In such circumstances, WorkSafeBC should not be accepting COVID-19 as a compensable claim.

Injuries or incidents that occur while the worker is working from home require an investigation. See [Investigations](#) below.

When Claims May Be Compensable

How is influenza different from COVID-19 when it comes to a worker making a claim?

The process and principles for adjudicating influenza and COVID-19 type claims are the same. In order for these types of claims to be accepted, there must be something in the nature of the worker's employment which had causative significance in the worker contracting the disease. WorkSafeBC considers whether the worker's employment created:

- a risk to the worker of contracting a disease to which the public at large is not normally exposed, or
- a risk to the worker of contracting a disease which is significantly greater than the ordinary exposure risk to the public at large.

These considerations are particularly relevant when a contagious disease has reached the pandemic phase and/or where cases are being contracted in the community at large.

What if a worker doesn't have access to Telehealth and cannot see a doctor to get a diagnosis? Will that affect the acceptance of a claim or subsequent benefits?

During the COVID-19 pandemic, WorkSafeBC has indicated they will consider medical reports involving telephone and video services when making decisions on an injured worker's claim benefits. Unfortunately, in some cases there may be a lack of access or delays in obtaining medical diagnoses.

WorkSafeBC may consider non-medical evidence from the worker, employer, and other sources and this non-medical evidence may be considered sufficient to establish the existence or continuation of disability.

If you have concerns about the evidence relied upon to establish a claim, we suggest that you contact your case manager to discuss your concerns or contact one of our Duty Advisers for additional assistance.

If a worker contracts COVID-19 as a result of commuting to / from work (for example on the bus or subway), is that a compensable claim?

In most cases, no, as injuries or death occurring in the course of travel from the worker's home to the normal place of employment are not compensable.

For example, an office worker may choose how they get to work. Perhaps they take the bus, ride their bike or drive. During this commute, they are not considered to be working. Therefore if that worker contracts COVID-19 while riding the bus to work, for example, they will not be entitled to a claim.

There are a few exceptions where travel to a workplace may be compensable; for example, if the employer is directing the worker to take an employer-provided bus to a remote work site. For more information on when injuries or illness sustained during travel may be compensable, please contact our Duty Adviser.

If a worker is not wearing the personal protective equipment provided, or is not wearing it correctly, and they contract COVID 19, would that be a compensable claim?

The workers' compensation system is a 'no fault' system, which means that blame is not taken into account when determining entitlement.

The system is based on the historical compromise: WorkSafeBC collects premiums from employers to compensate workers who are injured or ill as a result of employment, and in exchange, workers give up their right to sue their employers for that injury or illness. This is why regardless of fault, an entitlement to compensation exists if the criteria for establishing a claim are met.

There is an exception in policy where it may be found that an injury is attributable solely to the worker's serious and wilful misconduct and, as a result, is found not to be work-related. However, failing to wear personal protective equipment, without more, would likely not result in a claim being denied. If you require more information, please contact our Duty Advisers for more assistance.

If a worker goes on "stress leave" related to COVID-19 issues at work and at home, is this a claim?

The COVID-19 situation is uncertain and, for some people, scary. Many people are suffering from stress or anxiety as a result. However, this does not make a worker's COVID-19-related stress compensable.

In order to be compensable, an injury or disease must be shown to have been caused by work. Evidence would have to support a finding that the stress related to COVID-19 arose predominately from the nature of the worker's employment. In addition, a diagnosis by a psychologist or psychiatrist of a psychiatric mental disorder would also be required prior to WorkSafeBC accepting the claim.

This is not to minimize the significant impact stress can have. It's important to note that mental health is just as important as physical health. Employers should take measures to support the mental well-being of their workers.

There are a number of resources available to help both employers and workers through this difficult time. Some of these resources may be found near the bottom of WorkSafeBC's "[General Guide to reducing risks](#)" page on their website. You can also find the link to this page under the Phase 2 information in the banner on the WorkSafeBC home page.

If a worker tests positive for COVID-19, does WorkSafeBC also cover their co-workers who may go into self-isolation as a result?

WorkSafeBC does not provide coverage for people who are symptom-free even when, on a precautionary basis, they are quarantined, self-isolating or sent home.

Where is WorkSafeBC at in their consideration of presumptive legislation for COVID-related claims in certain industries?

WorkSafeBC released a Discussion Paper for consultation on June 1, 2020 with proposed amendments to Schedule 1 to create a presumption of work-causation for communicable viral pathogens, including COVID-19. The consultation was done on an expedited basis and ended June 12, 2020.

The proposed amendments set out a presumption of work-causation for communicable viral pathogens which are (1) subject to one or more of four prescribed types of state or notice of public health emergency in British Columbia, and when (2):

- there is a risk of exposure to a source or sources of infection significantly greater than the public at large;
- the risk of exposure occurs during the applicable notice or emergency; and
- the risk of exposure occurs within the geographical area of the applicable notice or emergency.

The proposed amendments ensure a presumption is only triggered once the disease poses a significant risk, within the time and place of the emergency, and when the risk of exposure at employment is greater than for the public at large.

The consultation and amendment is being done on an expedited basis, with anticipated completion in six months. This time period includes the 90-day waiting period before the regulation comes into force, as required by the *Workers Compensation Act*.

Investigations

I have a worker working from home who has filed a claim. How do I find out the details of what happened to complete the Form 7, Employer Report of Injury?

An excellent tool for employers investigating an injury is the [Form 6A](#), Worker's Report of Injury or Occupational Disease to Employer. An employer can ask a worker to complete this form to provide information about the incident, and it can be used for all injuries, including working-from-home injuries.

Employers can also consider requesting the worker provide a video of pictures of the location where the injury occurred. We recommend employers consider developing a policy regarding how they will conduct investigations for injuries that may occur at home and share that policy with workers before they begin working from home, or as soon as possible thereafter.

Do I have to complete an Employer Incident Investigation Report (EIIR) if a person self-isolates as a suspected COVID-19 case?

No. Exposures to viruses, such as the virus that causes COVID-19, do not meet the definition of the types of incidents or accidents requiring an EIIR under the *Workers Compensation Act*.

However, if the worker does contract COVID-19, WorkSafeBC may require the employer to conduct an investigation. WorkSafeBC may also want to review the employer's COVID-19 Safety Plan. It is recommended that employers review this document periodically to ensure that controls in place are adequate to prevent exposure to the virus.

Returning to Work After a Claim

Is cost relief available for employers owing to delays in access to treatment during the pandemic?

Currently there are no provisions for cost relief associated with pandemic-related claims costs. However, WorkSafeBC is exploring whether new policy should be developed to address this issue.

In the meantime, WorkSafeBC is providing the following assistance for employers:

- Waiving premiums for the wages of furloughed workers of employers receiving the Canada Emergency Wage Subsidy (“CEWS”). This change will be retroactive to March 15, 2020, and will continue for the duration of the CEWS program (currently scheduled to end on August 29, 2020). Employers who are eligible to have their premiums waived will need to maintain documentation to identify workers who were furloughed as a result of COVID-19. Employers will not be charged a penalty or interest on first and second quarter premiums, up to the deferral date of October 20, 2020.
- While employers will be required to report their payroll for the first and second quarters by July 20, 2020, they can defer payment of these quarterly premiums until October 20, 2020 without penalty.

What happens if a worker refuses modified or alternate return-to-work options due to fears of exposure to COVID-19 at the workplace?

A generalized concern of exposure is not a sufficient reason to refuse to return to work.

Employers are encouraged to speak with the worker about their concerns and describe the measures put in place to reduce the risk of transmission.

What if a returning worker is immunocompromised, or has a non-compensable condition such as eczema that may be aggravated by the hand-washing and PPE requirements?

In some cases, the worker may refuse the return to work because they are concerned that they are at "high risk" of severe illness from COVID-19, including older people (65 and over), those with chronic health conditions, or who are immunocompromised; or if they live with, and are unable to isolate from, someone who is at a high risk of severe illness from COVID-19.

Workers at high risk may believe that their only option is to stay at home. Although the BC CDC recommends that workers at high risk stay separate from other people as much as possible, they have not equated this with staying at home. However, it is helpful for employers to consider what accommodation may be made for such workers to address the health and safety concerns; for example, offering a different shift or duties that minimize contact with others, installing physical barriers, and/or other effective means of separation.

Similarly, in the case of a potential aggravation of a pre-existing condition, employers may want to work with the worker and if applicable, the Claims Officer to determine whether any special accommodations may be offered to the worker, such as special soap, hand cream or gloves, for workers with eczema.

It is important to note that if a worker refuses what they believe to be unsafe work, the employer is required to investigate and take steps to remedy a potential hazard. See [Prevention Questions](#) below.

Additional Questions

During the webinars, we received many questions pertaining to occupational health and safety (Prevention), financial assistance, medical issues, and privacy. Set out below are the type of questions asked and where you may find assistance. If you require clarification or further information, please contact the EAO's Duty Adviser line, Monday to Friday, 8:30 a.m. to 4:30 p.m. at 1 800 925-2233.

Prevention Questions

What do I do if my worker refuses to come to work because it is believed to be unsafe for reasons related to COVID-19?

The EAO has a [webinar](#) posted on our website, along with a [Participant Handbook](#), addressing this refusal of unsafe work in light of COVID-19.

Can we make testing, including temperature checks, mandatory?

Employers are not required to implement health monitoring for COVID-19, such as checking temperatures or recording symptoms.

Some employers may still consider incorporating temperature checking into their COVID-19 policies, and if the temperature is 37.3 degrees Celsius or more, to send them home. Similarly, an employer may wish to ask each worker prior to entering the workplace whether they are suffering from a fever, cough or shortness of breath and, if the answer is yes, to send them home.

However, employers need to be aware of the limitations of such checks as they alone may not provide enough information to determine whether or not a worker is ill.

In addition, employers should be aware of potential privacy issues when implementing such a policy, in addition to human rights and other employment law concerns. If you plan to implement such a policy, we advise you first seek legal advice.

Where do I get information about a Safety Plan?

Please go to WorkSafeBC's website for information about the [COVID-19 Safety Plan](#).

When do I need an Exposure Control Plan?

Exposure Control Plans are required when “occupational exposure” to COVID-19 could be reasonably anticipated, such as employers in the health and social service sectors or group homes. In addition, workers employed in other types of communal living settings, such as workers in corrections, would also be expected to have a plan.

Please go to WorkSafeBC’s [FAQ page](#) for information about Exposure Control Plans.

Medical Questions

For any questions with regard to isolation, quarantine, testing, or when a worker may safely come back to work

Information regarding COVID-19 protocols change frequently. Please contact your local health authority or the [BC Centre for Disease Control](#) for information.

If a symptomatic worker tests negative for COVID-19, but then exhibits similar symptoms a month later, what do I do? Is there any direction on how to deal with workers who may become symptomatic multiple times?

Each time a person is symptomatic, you have to go through the same steps, including self-isolation and quarantine. Contact your local health authority for guidance, and/or the [BC Centre for Disease Control](#) for information.

Financial Assistance Questions

My worker is in isolation due to COVID-19. Do I need to pay them if they’re not working?

Please contact the [Employment Standards Branch](#) for information regarding your obligation to your workers during COVID-19.

Do I need to provide a Record of Employment (ROE) to my worker to allow them to apply for Employment Insurance?

Please consult the federal government’s webpage regarding [Record of Employment and COVID-19](#).

Privacy Concerns

Am I required to ask for and disclose information to my staff about a co-worker's illness or suspected illness?

Employers are required to make workers aware of all known or reasonably foreseeable hazards in the workplace to which they may be exposed. This includes the hazard of a contagious pathogen.

However, disclosure of a worker's suspected illness raises privacy considerations. Employers will want to ensure they have proper policies and procedures in place regarding the collection, use, storage, and disclosure of personal information that is reasonably necessary to manage health and safety.

We recommend employers seek legal advice when creating and implementing such privacy policies in the workplace.