

## FAQs: Workers' compensation coverage for employees who contract COVID-19; other resources

### 1. What should I do if I believe I contracted COVID-19 while working?

- You may be eligible for workers' compensation benefits if you contract COVID-19 at work. Notify your employer as soon as possible after you develop symptoms you think could be COVID-19. There are time limitations for reporting an injury to the employer. See the information sheet at [www.dli.mn.gov/sites/default/files/pdf/infosheet\\_reporting\\_work\\_injury.pdf](http://www.dli.mn.gov/sites/default/files/pdf/infosheet_reporting_work_injury.pdf).
- Consider whether you might be covered by a new law, passed in April 2020, that says certain employees on the front lines of the COVID-19 pandemic, as described in questions 3 and 4 below, are presumed to have contracted a workers' compensation occupational disease if they become ill with COVID-19. *But even if you are not covered by the presumption law, you may be eligible for workers' compensation benefits.* See questions 5 and 6 for more information.
- Seek medical care from a health care provider and request a test. Provide a copy of the test results or, if no test was available, a diagnosis by a licensed health care provider to your employer or your employer's workers' compensation insurer. If you believe you could be entitled to the presumption under the new presumption law described in question 4, the diagnosis must be made by a licensed physician, licensed physician's assistant or licensed advanced practice registered nurse.
- Keep detailed records and be prepared to provide your employer with facts to support your claim as soon as you know or suspect you have COVID-19.

For example:

- Why do you believe you contracted COVID-19 at work? When were you exposed at work, who were you exposed to and when did you develop symptoms? Can you identify one or more people with COVID-19 you were exposed to?
- When did you develop symptoms, when did you contact a health care provider and when did you notify your employer of those symptoms?
- When did you last work? If you are no longer working for the employer, why not?
- If you think you might be covered by the presumption law, provide facts to show you were employed in one of the listed occupations (see question 4). What is your occupation? Where did you work at the time you became ill? What were your job responsibilities? Who did you have contact with as part of your job duties?
- If you are a health care worker, did you care for or assist a person with COVID-19 or did you work on a COVID-19 unit? What dates did you work with a person with COVID-19 or work on a COVID-19 unit? Do you know the names of people with COVID-19 you cared for or assisted? It may be helpful to keep notes of any close contacts you have had with COVID-19 positive people while at work.

## 2. What are an employer's obligations when an employee reports an injury or illness?

- The employer must file a first report of injury with the workers' compensation insurer or claim administrator. The insurer or claim administrator must notify the employee in writing within 14 days whether the employee's claim is accepted or denied.
- If the employer does not file a report of injury with its insurer or claim administrator, the employee may contact the Department of Labor and Industry's Workers' Compensation Division Help Desk for assistance (see question 15).

## 3. I have heard there is a new law about workers' compensation coverage of COVID-19. What does the new law do?

- The new law, effective April 8, 2020, provides that certain employees on the front lines of the COVID-19 pandemic, as described in question 4 below, are presumed to have contracted a workers' compensation occupational disease if they become ill with COVID-19.
- A summary of the new law, including a link to the new presumption law, is at [www.dli.mn.gov/sites/default/files/pdf/COVID-19\\_work\\_comp\\_presumption.pdf](http://www.dli.mn.gov/sites/default/files/pdf/COVID-19_work_comp_presumption.pdf).
- Additional FAQs about the new presumption law are at [www.dli.mn.gov/sites/default/files/pdf/COVID-19\\_work\\_comp\\_presumption\\_faqs.pdf](http://www.dli.mn.gov/sites/default/files/pdf/COVID-19_work_comp_presumption_faqs.pdf).

## 4. Who is covered by the new presumption law?

An employee is entitled to the presumption if they contract COVID-19 on or after April 8, 2020, while employed in one of these occupations:

- a licensed peace officer under [Minnesota Statutes, section 626.84, subdivision 1](#), a firefighter, a paramedic or an emergency medical technician;
- a nurse or health care worker, correctional officer or security counselor employed by the state or a political subdivision (such as a city or county) at a corrections, detention or secure treatment facility;
- a health care provider, nurse or assistive employee employed in a health care, home care or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units;
- a person required to provide child care to first responders and health care workers under [Executive Orders 20-02 and 20-19](#).

Note that Executive Order 20-82 and Executive Order 20-94 contain the following language: "Workers required to provide care to Eligible Children under this Executive Order, which extends the requirement under Executive Order 20-02, paragraph 11, and Executive Order 20-19, paragraph 18, will continue to enjoy the presumption provided under Minnesota Laws 2020, Chapter 72, section 1." The Minnesota Department of Education has more information about this in its document, "School-age care guidance and FAQs for 2020-21 school year," available at [www.dli.mn.gov/sites/default/files/pdf/dept\\_of\\_education\\_school-age\\_children\\_critical\\_workers.pdf](http://www.dli.mn.gov/sites/default/files/pdf/dept_of_education_school-age_children_critical_workers.pdf).

Under this new presumption law, an employee's date of injury is either the date the employee was unable to work due to contraction of COVID-19 or was unable to work due to symptoms that were later diagnosed as COVID-19, whichever occurred first.

## **5. Can I still make a workers' compensation claim related to COVID-19 if I am not employed in one of the occupations described in the presumption law?**

- Yes, an employee who has COVID-19 but who was not employed in one of the occupations described in question 4 can still claim a workers' compensation injury or occupational disease if they believe their illness is due to their employment.
- The employee should notify their employer that they believe they contracted COVID-19 due to their employment as soon as possible. The employee can also contact the Department of Labor and Industry's Workers' Compensation Division Help Desk for assistance. (See question 15 below.)

## **6. I believe I contracted COVID-19 from a coworker. My employer refuses to file a workers' compensation claim because they say I am not covered by the workers' compensation presumption under the new law and I must have contracted it in the community. What are my rights?**

- If you notify your employer that you believe you contracted COVID-19 at work and want to file a workers' compensation claim, your employer *must* report the injury to its workers' compensation insurer even if you are not covered by the new presumption law. The insurer must investigate your claim and notify you if it is accepting or denying your claim within 14 days. If your employer refuses to complete a report of injury, contact the Minnesota Department of Labor and Industry's Workers' Compensation Division Help Desk (see question 15).

## **7. What are my rights if my workers' compensation claim is denied?**

- Review the reasons the insurer denied your claim. Are the reasons accurate? Does the insurer have all the facts that you have? (See question 1.) You may contact the insurer's claim manager to provide additional medical information or other facts to support your claim. If the insurer continues to deny your claim, you can contact the Workers' Compensation Division Help Desk (see question 15). You can also contact a workers' compensation attorney for an opinion about your rights to challenge the denial. Attorneys will not charge a fee for an initial consultation.
- Information about denials of liability for COVID-19 is in DLI's newsletter *COMPACT special edition: COVID-19* at [www.dli.mn.gov/sites/default/files/pdf/special\\_edition\\_COVID-19.pdf](http://www.dli.mn.gov/sites/default/files/pdf/special_edition_COVID-19.pdf).
- More information about an employee's options if their claim is denied is at [www.dli.mn.gov/business/workers-compensation/claim-process-claim-denied](http://www.dli.mn.gov/business/workers-compensation/claim-process-claim-denied).

## **8. What benefits are available to employees under workers' compensation law?**

- Workers' compensation benefits include medical treatment, monetary benefits for wage loss and permanent disability, dependency benefits under Minnesota Statutes, section 176.111, and vocational rehabilitation benefits. An employee's guide to the Minnesota workers' compensation system is at [www.dli.mn.gov/sites/default/files/pdf/eeguide2wc.pdf](http://www.dli.mn.gov/sites/default/files/pdf/eeguide2wc.pdf).
- Other information about workers' compensation benefits is available on DLI's website at:
  - [www.dli.mn.gov/workers/workers-compensation-workers](http://www.dli.mn.gov/workers/workers-compensation-workers); and
  - [www.dli.mn.gov/business/workers-compensation/work-comp-minnesota-workers-compensationsystem-employee-information](http://www.dli.mn.gov/business/workers-compensation/work-comp-minnesota-workers-compensationsystem-employee-information).

## **9. Are employees entitled to workers' compensation benefits if they are exposed to COVID-19 at work and are required by their employer to self-isolate?**

- If an employee is not ill, but must stay home from work because they were exposed to COVID-19, they are not entitled to workers' compensation benefits. If an employee was exposed at work and later contracted COVID-19, the illness may be a workers' compensation injury. Some employers also provide COVID-19 leave for employees who self-isolate at home due to a COVID-19 exposure. There may be compensation for the time missed during mandatory isolation from the Families First Coronavirus Response Act (FFCRA), although that was due to expire Dec. 31, 2020. Learn more about FFCRA at [www.dol.gov/agencies/whd/pandemic/ffcra-questions](http://www.dol.gov/agencies/whd/pandemic/ffcra-questions).

## **10. Can an employer require an employee to sign a waiver agreeing the employer is not liable if an employee contracts COVID-19 on work premises? Can an employer fire an employee or refuse to allow an employee to return to work for refusing to sign a waiver?**

- No, these waivers and agreements are prohibited and are not enforceable under Minnesota law. Employees cannot sign away the right to file a workers' compensation claim and an employer may not discriminate against a worker for reporting an injury. It is also prohibited for employers to advise employees to not report an injury, agree to hold an employer harmless for an injury or relinquish rights an employee may have to workers' compensation benefits. A waiver agreement could expose an employer to liability for civil damages for obstructing employees from seeking workers' compensation benefits.
- More information about waivers and obligations under OSHA and labor standards laws is at [www.dli.mn.gov/sites/default/files/pdf/special\\_edition\\_COVID-19.pdf](http://www.dli.mn.gov/sites/default/files/pdf/special_edition_COVID-19.pdf).

## 11. Can I still make a claim if I become ill with COVID-19 due to a workplace exposure if my employer is not insured for workers' compensation?

- Yes, you can contact the Workers' Compensation Division Help Desk to verify your employer's workers' compensation coverage (see question 15). If your employer has no coverage, the state of Minnesota's Special Compensation Fund will investigate and administer the claim. You should still provide your employer with prompt notice of your claim and with a copy of your positive test results or documentation of your COVID-19 diagnosis.

## 12. I need assistance with returning to work. Who can help me?

- DLI's Vocational Rehabilitation unit (VRU) provides vocational rehabilitation services to injured workers. VRU works with injured workers with accepted workers' compensation claims and those whose claims have been denied by the employer or insurer when there is pending litigation. Contact the Workers' Compensation Division Help Desk to see if you are eligible for VRU assistance (see question 15).
- When an injured worker is eligible for rehabilitation services, an individualized rehabilitation plan is developed. Services might include assistance in returning to the date-of-injury employer or finding new employment.
- Injured workers do not have to pay for VRU services, unless agreed to in a settlement. The costs are paid by insurance carriers, self-insured employers or special state funds.

## 13. Is other relief available to workers who contract COVID-19, aside from workers' compensation benefits?

- Yes, an information sheet about other worker protections is available at [www.dli.mn.gov/sites/default/files/pdf/MN\\_worker\\_protections\\_related\\_to\\_COVID\\_19.pdf](http://www.dli.mn.gov/sites/default/files/pdf/MN_worker_protections_related_to_COVID_19.pdf). This information sheet is available in English, Hmong, Somali and Spanish at [www.dli.mn.gov/updates](http://www.dli.mn.gov/updates). A video is also available in English, Hmong, Somali and Spanish at [www.dli.mn.gov/workers/worker-rights-and-protection/worker-protections-during-covid-19-video](http://www.dli.mn.gov/workers/worker-rights-and-protection/worker-protections-during-covid-19-video)
- Topics include:
  - use of sick leave;
  - Family and Medical Leave Act (FMLA);
  - Families First Coronavirus Response Act (FFCRA);
  - employers cannot discriminate and employee's right to a reasonable accommodation;
  - reminders for employers;
  - workers cannot be fired or denied the opportunity to be rehired for applying for unemployment insurance;
  - unemployment benefits;
  - protections for workers who contract or have been exposed to COVID-19;
  - workers' compensation;
  - changes to working conditions, overtime mandates and work location changes;
  - hours worked and hours paid – salaried exempt employees and volunteers; and

- workplace safety and health requirements, reporting health and safety concerns at work and refusal to work.

## 14. What other information is available about COVID-19 in the workplace?

- In August 2020, DLI published *COMPACT special edition: COVID-19*, its online workers' compensation newsletter, available at [www.dli.mn.gov/sites/default/files/pdf/special\\_edition\\_COVID-19.pdf](http://www.dli.mn.gov/sites/default/files/pdf/special_edition_COVID-19.pdf). Articles in the special edition include:
  - Denials of liability related to COVID-19 illnesses;
  - Filing a first report of injury for COVID-19 claims;
  - COVID-19 and OSHA recordkeeping;
  - How the Office of Workers' Compensation Ombudsman can help with claims;
  - Discontinuing benefits on COVID-19 claims: Specificity of reason, layoffs; and
  - Waiver of workers' compensation rights prohibited.
- In addition to the resources described in these FAQs, DLI's webpage has a variety of COVID-19 resources at [www.dli.mn.gov/updates](http://www.dli.mn.gov/updates), including:
  - Stay Safe Plan for safely reopening Minnesota;
  - COVID-19 Preparedness Plan template and instructions (available in Burmese, English, Hmong, Somali and Spanish);
  - Frequently asked questions: COVID-19 and school employee rights and protections;
  - COVID-19 workers' compensation claims statistics (updated every two weeks);
  - Frequently asked questions for employers and employees related to COVID-19;
  - Minnesota OSHA printable handouts and resources related to COVID-19;
  - Minnesota worker resource guide for employees in processing and manufacturing plants;
  - Unemployment insurance; and
  - updates from DLI's work units and divisions.

## 15. Where can I get help with questions?

- **Workers' compensation:** Contact DLI's Workers' Compensation Division Help Desk at 651-284-5005 (press 3), 800-342-5354 (press 3) or [helpdesk.dli@state.mn.us](mailto:helpdesk.dli@state.mn.us).
- **Wage and hour related:** Contact DLI's Labor Standards unit at 651-284-5075, 800-342-5354 or [dli.laborstandards@state.mn.us](mailto:dli.laborstandards@state.mn.us).
- **Workplace safety and health:** Contact DLI's Minnesota OSHA Compliance unit at 651-284-5050, 877-470-6742 or [osha.compliance@state.mn.us](mailto:osha.compliance@state.mn.us).
- **Discrimination:** Contact the Minnesota Department of Human Rights' Discrimination Helpline if your employer denied you a reasonable accommodation, at 833-454-0148 or by submitting the online form at <https://mn.gov/mdhr/intake/consultationinquiryform/>.
- **Unemployment insurance:** Visit the Minnesota Department of Employment and Economic Development's website at [www.uimn.org](http://www.uimn.org) and see FAQs about unemployment insurance at [www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp](http://www.uimn.org/applicants/needtoknow/news-updates/covid-19.jsp).