

## **CORONAVIRUS DISEASE 2019 (COVID-19) OUTBREAK EXPOSURE TO COVID-19 AND WORKERS' COMPENSATION COMPENSABILITY ISSUE**

On February 11, 2020 the World Health Organization announced an official name for the disease that is causing the 2019 novel coronavirus outbreak, first identified in Wuhan China. The new name of this disease is coronavirus disease 2019, abbreviated as COVID-19. In COVID-19, 'CO' stands for 'corona,' 'VI' for 'virus,' and 'D' for disease.

There are many types of human coronaviruses including some that commonly cause mild upper-respiratory tract illnesses. COVID-19 is a new disease, caused by a novel (or new) coronavirus that has not previously been seen in humans.

The virus is thought to spread mainly from person-to-person. Between people who are in close contact with one another (within about 6 feet) and through respiratory droplets produced when an infected person coughs or sneezes.

<https://www.cdc.gov/coronavirus/2019-ncov/faq.html#spreads>

There is no universal rule on the compensability of COVID-19 claims and it is too new to have any reported case law to turn to for guidance. As general rule, while it is *possible* for COVID-19 to be a compensable workers' compensation injury or an occupational disease, compensability will depend upon the facts of each case, the jurisdiction's definition of injury and/or occupational disease and that jurisdiction's case law. As always, the burden of proof will lie with the Employee.

Employers are encouraged to let their workers' compensation insurer know if an employee tests positive for COVID-19. Because COVID-19 is an ordinary disease of life, as with all reported claims, a thorough and complete investigation will be necessary to determine work-relatedness and compensability.

Employers should be advised to keep detailed data on illness related absences and any confirmed cases among its employees. Obtaining this data for each reported illness regarding the prevalence of the virus in the workplace will be critical. While individual information cannot be shared, generalized data, if available, should be included with or gathered during the investigation of any reported claim and should include details. As to the infected individual, in investigating the claim, facts regarding the when, where and how the disease was contracted will need to be gathered such as:

- Date of report of illness
- Date of first symptoms of illness
- Date of absence from work due to illness
- Date of quarantine if suspected of exposure to illness
- Names of other employees and family in close contact
- Any recent travel to heavily infected areas with COVID-19

These types of questions that may not be part of a standard injury claim should be added to the investigation.

RAS will provide more information soon on how best to report claims with suspected COVID-19 exposure.