

COVID-19 & Workers' Compensation Q&A

Can I receive workers' compensation benefits if I get COVID-19 while working?

ANSWER: Yes. Depending on the facts, you may receive workers' compensation benefits in New York State due to COVID-19 exposure. Employers must carry workers' compensation insurance to pay benefits to workers who are made ill or injured due to their employment. This is known as a **work-related illness or injury**. Immigration status is not a factor.

For over a century, the New York State Workers' Compensation Board (Board) has responded to outbreaks and chronic injuries by ensuring that claims are handled quickly and benefits are paid promptly. From diseases like tuberculosis and asbestosis, to the tragedy of 9/11, and to the opioid crisis, the Board has always risen to meet the needs of injured workers across the state. COVID-19 is no exception.

What happens if I file a claim?

ANSWER: Your claim will be reviewed by your employer's workers' compensation insurance carrier. If the insurance carrier accepts the claim, your COVID-19 claim will be payable (known as **compensable**). If the carrier disputes the claim, a judge at the Board will decide whether the claim should be paid. The judge will listen to your testimony and the testimony of your medical provider to get the facts about where you work, whether you were exposed to COVID-19, the extent of your exposure, and whether exposure to COVID-19 was prevalent in your work environment.

What benefits are available?

ANSWER: The Worker's Compensation Law provides for:

- Payment of an injured worker's medical treatment for a work-related illness or injury.
- Wage replacement benefits if your illness prevents you from working.
- Benefits to an employee's surviving dependents in the event of death.
- Reimbursement of funeral expenses up to \$12,500 in New York City, Nassau, Suffolk, Rockland, and Westchester counties, and up to \$10,500 in the other counties of New York.

Which work environments are more likely to result in COVID-19 claims?

ANSWER: Individuals who work in an environment where exposure risks are significantly higher are more likely to have compensable COVID-19 claims. Some employees are working closely with the public in locations where COVID-19 exposure is documented. This includes health care workers, first responders, transportation workers, corrections officers, and food service workers. Some workers may also have work-related claims if they directly interact with the public while working, such as retail workers.

What information is needed to show that a COVID-19 claim is work-related?

ANSWER: Most workers will never be able to point to the moment or method of exposure to COVID-19, but workers **can** demonstrate the significantly elevated risk in their workplace by demonstrating the nature and extent of their work in an environment where exposure to COVID-19 was prevalent. You should provide details about where you work, how often you work, and the type of job duties you perform, especially those involving contact with the public. You need to have a medical report, from an authorized workers' compensation medical provider, stating that your work caused your illness. A positive test result is best, but a medical report, from an authorized workers' compensation medical provider, showing a diagnosis via PCR test, or by virtue of an examination by a treating physician, may be used.

How do I file a claim?

ANSWER:

1. Tell your employer, as soon as possible, that you are sick. Tell your employer in writing, via email or handwritten or typed letter. Do not send a text message, if you can avoid it.
2. Fill out the *Employee Claim (Form C-3)* (found at wcb.ny.gov) and send it to the Board. The address where to send the claim is on the form.
3. See a doctor authorized to treat workers' compensation patients when you can. You can now do so via video or telephone. You can search for a Board-authorized doctor at wcb.ny.gov.
4. Tell the workers' compensation doctor who treats you that you believe you contracted COVID-19 while at work. If your doctor agrees, the doctor will send the report to the insurance company and the Board.
5. If the doctor has your positive COVID-19 test result, the doctor should send that in. If you have the positive test result, either give it to your doctor or send a copy of it to the Board with your claim form.

How long does the process take?

ANSWER: When you tell your employer that you are ill due to your employment, your employer should immediately inform its insurance carrier. The insurance carrier has 18 days to act on the claim and begin paying benefits if it accepts it. As claims are received, the Board will make every effort to process those claims as quickly as possible. The Board holds hearings on disputed issues, when necessary, to ensure that benefits are promptly paid to affected workers, allowing them to pay their bills and continue supporting their families.

Is help available?

ANSWER: You can call the NYS Workers Compensation Board at **(800) 580-6665** if you're having difficulties or need information. Please let us know if you face resistance or obstacles to getting information about the claims process or are discouraged from filing a claim. We will help you. You can also write to AdvInjWkr@wcb.ny.gov.

The Chair sent a **letter to all insurance carriers**, encouraging them to be helpful to workers, and to investigate and pay claims as quickly as possible.

Please note: *The purpose of this document is to provide the public a general framework about viral exposure and contraction claims — it does not constitute legal advice or legal authority with respect to any individual potential claim for benefits under the Workers' Compensation Law. For legal advice, you should contact an attorney or Licensed Hearing Representative skilled in workers' compensation.*

The New York State Workers' Compensation Board protects the rights of employees and employers by ensuring the proper delivery of benefits and by promoting compliance with the law. To learn more about the Workers' Compensation Board, visit wcb.ny.gov.