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*The following information regarding how COVID-19 claims may be evaluated in each jurisdiction is provided as a convenience to the clients of Sedgwick Claims Management Services, Inc. It is believed to be accurate but is not represented as being comprehensive. It should be used as a guide to further investigation rather than as an exclusive resource for decision making regarding the design or implementation of workers' compensation program. To access information for a specific state, click to open the link or scroll down. Given the fluid nature of this situation, information for each state will be updated as necessary.*

*April 10, 2020*

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#### Statutory Citation

- Ala. Code §§ 25-5-110, 25-5-111 and 25-5-117
1. **Is COVID-19 generally compensable?** Possibly. In Alabama, an occupational disease is defined as “a disease arising out of and in the course of employment... which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer.” The employee would have the burden to prove by “clear and convincing” evidence that contracting the virus was due to hazards in excess of those ordinarily incident to employment in general AND that it is peculiar to the employee's occupation.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Alabama does not have presumptions in place for health care workers or first responders; therefore, those employees would have to meet the same burden of proof described above.
  3. **Any other considerations?** The "date of injury" for an occupational disease generally means "the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease."

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#### Statutory Citation

- Alaska Stat. § 23.30.395(24)
1. **Is COVID-19 generally compensable?** Possibly because in Alaska the definition of “injury” includes occupational disease or infection that arises naturally out of the employment. However, the employee must be able to demonstrate a link between working for the employer and the condition.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers and first responders will likely be able to demonstrate the link between their employment and contracting COVID-19. While firefighters have a presumption of compensability for certain diseases, COVID-19 is not among those currently listed.
  3. **Any other considerations?** A COVID-19 claim for a remote site worker may be viewed differently. If a remote site worker immediately becomes sick within 1-2 days of arrival then the person likely had the virus before working and the claim may not be compensable. If the worker had been on the site well past the usual incubation period of (10-14 days and then gets sick, it is more likely that infection arose out of employment.

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### Statutory Citation

- A.R.S. Sec 23-901.01 and 23-901.03

- 1. Is COVID-19 generally compensable?** Unlikely. For an occupational disease to be deemed to arise out of the employment, all of the following requirements must exist:
  - A direct causal connection between the conditions under which the work is performed and the occupational disease.
  - The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.
  - The disease can be fairly traced to the employment as the proximate cause.
  - The disease does not come from a hazard to which workers would have been equally exposed outside of the employment.
  - The disease is incidental to the character of the business and not independent of the relation of employer and employee.
  - The disease after its contraction appears to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence, although it need not have been foreseen or expected.
- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare providers or first responders may be more likely to meet all of the above requirements.
- 3. Any other considerations?** On request, and at no cost to us, the ICA will appoint a “medical committee” to evaluate these claims.

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### Statutory Citation

- Arkansas Code 11-9-601(e)(1)(a), 601(e)(2) and (3)
- 1. Is COVID-19 generally compensable?** No. In Arkansas no compensation is payable for any contagious or infectious disease unless contracted in the course of employment in or in immediate connection with a hospital or sanatorium in which persons suffering from that disease are cared for or treated.” Further “no compensation is payable for any ordinary disease of life to which the general population is exposed.”
  - 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Like, compensable cases would be limited to those trades and professions where direct exposure occurs to persons being treating for the virus already, namely healthcare workers at hospitals and clinics designated as quarantine centers. A plain reading of the statute would seem to also include emergency personnel like police/fire/EMT who may be exposed to contagious individuals “in the course” of their employment, although the locale of their position is not centered at a hospital or clinic where patients are being treated.

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### Statutory Citation

- California Labor Code Section 3600
1. **Is COVID-19 generally compensable?** Unlikely. The employee will have the initial burden to prove that the workplace was the medically probable cause of contracting the virus and based on substantial medical evidence that the risk of contracting COVID-19 by virtue of their particular employment was materially greater than that of the general public contracting the disease. The fact that an employee contracts a disease while employed will not establish a causal connection. In other words, the mere fact alone that the injury occurred while the employee was in the employer's service is not sufficient. See *Pacific Employers v. IAC* (1942). This narrower rule arises from the obvious problems of determining causation when the source of injury is of uncertain etiology, the product of invisible and often widespread viral, bacterial or other pathological organisms. See *LaTourette v. Workers' Comp. Appeals Bd.* (1998).
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** The ultimate determination will be very fact-driven; however, Public safety and healthcare workers that contract COVID-19 may be able meet the burden of proving that the workplace was the probable cause and that their risk was materially greater than that of the general public.
  3. **Any other considerations?** COVID-19 is not among the illnesses such as meningitis, MRSA and tuberculosis that are statutorily presumed compensable for public safety workers.
  4. **Additional information:** The California Labor and Workforce Development Agency provided a summary chart of benefits for workers impacted by COVID-19. Click [here](#) to review.

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### Statutory Citation

- C.R.S. §8-40-201(14)
1. **Is COVID-19 generally compensable?** Possibly. Exposure to a contagious disease does not necessarily mean the employee sustained a compensable injury. However, in Colorado, an "occupational disease" means a disease which results directly from the employment or the conditions under which work was performed, which can be seen to have followed as a natural incident of the work and as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as a proximate cause and which does not come from a hazard to which the worker would have been equally exposed outside of the employment.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers and first responders involved with the care and treatment of those who have the virus may be able to trace contraction of COVID-19 to their employment and prove their exposure was greater than outside of employment.

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### Statutory Citation

- C.G.S. § 31-275(15)
1. **Is COVID-19 generally compensable?** Unlikely. Infectious diseases are generally not considered compensable. The exception to this general rule is occupational diseases which the statute defines as “any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazard of employment.”
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Based on current case law if able to support their claim with medical evidence, healthcare workers directly caring for patients with COVID-19 may be able to pursue a claim under the occupational disease statute.
  3. **Any other considerations?**  
See [Estate of Doe v. Department of Correction](#), 268 Conn. 753 (2004)

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### Statutory Citation

- 19 Del. C. §2301 (4) and (16)
1. **Is COVID-19 generally compensable?** An employee alleging a COVID-19 infection must bear the burden of proof by providing substantial evidence that workplace exposure caused the infection. First, the claimant would need to establish a workplace exposure and second, that the exposure at work was the likely cause of the infection. Third, the claimant must prove "his ailment resulted from the peculiar nature of employment that placed him at higher risk rather than his own peculiar predisposition."
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers treating a patient infected with COVID-19 or employee handling materials known to have come from areas with high levels of infection are two cases that a workplace exposure could feasibly provide the basis for a work-related injury.
  3. **Any other considerations?** Available defenses include: Willful self-exposure to an occupational disease or failure to observe safety regulations posted in the workplace.

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### Statutory Citation

- D.C. Code § 32-1501 and 32-1521

1. **Is COVID-19 generally compensable?** Unlikely. The employee has the burden to prove that contraction of COVID-19 arose out of and in the course of employment for employees, unless their employment places them at a unique risk for this illness.
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employees found to be at an increased risk of contraction of this illness, such as health care employees, emergency medical personnel or employees required to travel to locations experiencing high numbers of infection will likely be found compensable. Even in those situations where employees subject to unique risk contract COVID-19, additional investigation could be performed to determine if there were other, non-work-related exposures.

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### Statutory Citation

- Florida Statute 440.151

1. **Is COVID-19 generally compensable?**  
In general, diseases and sicknesses are excluded from workers' compensation. The disease must result from the "nature of employment" AND must actually be contract while working. Additionally employment must be the major contributing cause meaning medical evidence is necessary to support that the condition is due to employment.
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** On April 6, 2020, the Florida Office of Insurance Regulation issued [Informational Memorandum OIR-20-05M](#) to remind industry stakeholders that first responders, health care workers, and others that contract COVID-19 due to work-related exposure would be eligible for workers' compensation benefits under Florida law and cites the above statute.

While the occupations indicated in the memorandum are more likely to meet the eligibility requirements for workers' compensation coverage, an investigation is still required to determine work exposure and causation.

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### Statutory Citation

- O.C.G.A. 34-9-1(4); O.C.G.A. § 34-9-280
1. **Is COVID-19 generally compensable?** No. Occupational Disease must meet each prong of a (5) part test. COVID-19 is an ordinary disease to which the general public is exposed; therefore, it cannot meet the criteria for occupational disease.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** In a few fact-intensive cases, maybe yes. For industries with specific demands, healthcare workers and first responders, it is possible that COVID-19 could be compensable, but a specific incident is required, such as an accidental needle stick after the needle has been used on an infected person or some unexpected contact with bodily fluids from an infected person.
  3. **Any other considerations?** COVID-19 is not and cannot be an occupational disease as COVID-19 has been a community based infection from the beginning.

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### Statutory Citation

- Hawaii Revised Statutes § 386-3(a) and 386-85
1. **Is COVID-19 generally compensable?** Possibly, unless there is substantial evidence to the contrary. In Hawaii, workers' compensation covers any employee who suffers a personal injury either by accident arising out of and in the course of employment or by disease proximately caused by or resulting from the nature of employment. No, unless contraction of COVID-19 is directly attributable to the employee's job duties.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Yes, if the contraction of COVID-19 is attributable to their job duties. For example, if a healthcare worker contracts COVID-19 because he or she cared for an infected patient, he or she may be eligible for workers' compensation.
  3. **Any other considerations?** The Hawaii Supreme Court has consistently construed the "substantial evidence" requirement liberally in accordance with the humanitarian purposes of workers' compensation. See [Lynedon Van Ness vs. State of Hawaii Dept. of Education](#) (2014).

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### Statutory Citation

- Idaho Code Section 72-102(22)

1. **Is COVID-19 generally compensable?** Possibly. In Idaho, occupational disease means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process. In pursuing an occupational disease claim, the employee has the burden to prove to a reasonable degree of medical probability that a causal connection between the condition for which compensation is claimed and the occupational exposure that led to contracting COVID-19. "Probable" is defined as "having more evidence for than against."
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** While this determination has to be based on the facts of each case, employees such as healthcare workers or first responders are more likely to be compensable than a claim for most workers.

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### Statutory Citation

- 820 ILCS 310/1(d)

1. **Is COVID-19 generally compensable?** Possibly. The Illinois Workers' Compensation Act is silent with regards to whether infectious diseases are compensable. However, occupational disease is defined as "a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation must arise out of a risk peculiar to or increased by the employment and not common to the general public. Further the statute provides that a disease is deemed to arise out of the employment if it is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease.

Ultimately the employee has the burden to prove: (1) he or she was exposed to COVID-19 at work, and (2) he or she is at a greater risk of contracting COVID-19 at work than in his or her non-employment life for COVID-19 to be compensable.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** There is an increased likelihood of compensability for workers in healthcare facilities, daycares, schools, etc. Their risk is higher than in everyday life outside of work. Additionally employees required to travel to a location with greater exposure to COVID-19 may be able to demonstrate greater risk than the general population.

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### Statutory Citation

- Indiana Code §22-3-7-10
1. **Is COVID-19 generally compensable?** No as it would likely be categorized as an "ordinary disease of life." Ordinary diseases of life to which the general public is exposed outside of the employment are not compensable.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Possible if an employee exposed to a highly contagious or infectious disease can establish by a preponderance of the evidence that the exposure was by accident and arose out of and occurred in the course of his or her employment.

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### Statutory Citation

- Iowa Code § 85A.8
1. **Is COVID-19 generally compensable?** Possibly. These claims are likely to be considered under an occupational disease analysis. For an occupational disease to be compensable, the disease must be causally related to the exposure to harmful conditions of the field of employment; and those harmful conditions must be more prevalent in the employment concerned than in everyday life or in other occupations.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Possibly. These types of workers present the most likely possibility of compensability if their job requires close contact with sick customers or patients and this exposure causes a worker to become ill.
  3. **Any other considerations?**  
If the disease appears to have its origin in a risk connected with employment and to have resulted from that risk, the claim may be compensable.

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### Statutory Citation

- K.S.A. 44-5a01(b)
1. **Is COVID-19 generally compensable?** Possibly. Kansas defines "occupational disease" as only a disease arising out of and in the course of the employment resulting from the nature of the employment in which the employee was engaged and which was actually contracted while so engaged. "Nature of the employment" means that to the occupation, trade or employment in which the employee was engaged, there is attached a particular and peculiar hazard of disease that distinguishes the employment from other occupations and employments, and creates a hazard of contracting disease in excess of the hazard in general. Ordinary diseases of life and conditions to which the general public is or may be exposed to

outside of the particular employment, and hazards of diseases and conditions attending employment in general are not compensable as occupational diseases. Ultimately a primary consideration in evaluating compensability of a claim for COVID-19 will be the nature of the occupation, trade or employment the employee was engaged

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers, nursing home employees, first responders and other medical providers are in a unique position to prove that exposure to and subsequent development of COVID-19 is a compensable occupational disease.

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#### Statutory Citation

- KRS 342.0011(1)
1. **Is COVID-19 generally compensable?** Unlikely. Communicable diseases are generally not compensable where the risk of contracting the disease is no greater for the employee than it is for the public at large. If, on the other hand, the employee is at a greater risk of contracting the disease because of his or her work, the employer may be liable for benefits.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** If an employee who works in a medical capacity—nurse/physician/EMT—contracts COVID-19, they may have a legitimate basis for a compensable claim.
  3. **Additional information:** An analogous case that is instructive involves a dock worker who was developed pneumonia that was found to be compensable. The Court of Appeals in [Dealers Transport Co. v. Thompson](#) explained that pneumonia is compensable as a work-related injury among dock workers “for the simple reason that the general public was not working on a loading dock . . . in cold and damp December weather.”

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#### Statutory Citation

- Louisiana Revised Statute 23:1020.1B(1); 23:1021(1) and 23:1031.1
1. **Is COVID-19 generally compensable?** Possibly. An occupational disease is defined by the Louisiana Workers' Compensation Act as only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process, or employment in which the employee is exposed to such disease. To receive benefits under the Act, an employee must establish by a preponderance of the evidence a chain of causation that the disease or illness is characteristic of and peculiar to a specific position or line of work.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** If a nurse or doctor treating a patient with COVID-19 then contracts this disease, this employee will more than likely be able to establish working conditions specific to their job as the cause of their illness.

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#### Statutory Citation

- 39-A Maine Revised Statute Ann. §§ 601-615

1. **Is COVID-19 generally compensable?** Unlikely. In Maine the term “occupational disease” means only a disease that is due to causes and conditions characteristic of a particular trade, occupation, process or employment and that arises out of and in the course and scope of employment.
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employees exposed to a serious risk of contracting a disease known to be highly contagious have been “injured” for purposes of compensation under the Maine Act. Thus, in [Russell v. Camden Community Hospital \(1976\)](#), the Maine Supreme Court found that a nurse exposed to tuberculosis while attending to a patient was entitled to compensation when she contracted the disease herself.

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#### Statutory Citation

- Maryland Code § 9-101(b) and (g)

1. **Is COVID-19 generally compensable?** Unlikely. It is not likely that the contraction of COVID-19 will be viewed as arising out of and in the course of employment for employees not subject to a unique risk for this illness. Even in those situations where employees subject to unique risk contract COVID-19, additional investigation could be performed to determine if there were other, non-work-related exposures.
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Unless there are some extenuating personal circumstances, the Commission is likely to find COVID-19 claims compensable for employees who are at an increased risk of contraction of this illness, such as health care employees or emergency medical personnel. Many employers in these fields are approaching this situation by requiring their employees to use personal time when taking time off for screening of COVID-19, but likely accepting those claims under workers' compensation when their employees test positive for COVID-19.
3. **Any other considerations?** The Commission will also likely consider employees who are required to travel and who contract COVID-19 as being subject to a unique risk. Those employees who contract COVID-19 will have an increased likelihood of their claims being found compensable.

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### Statutory Citation

- M.G.L. c.152 §1(7A)
1. **Is COVID-19 generally compensable?** Possibly. In Massachusetts, the definition of personal injury includes infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by an employee is inherent in the employment. Accordingly, a claim involving most employees who incidentally contract this disease from a co-worker will likely not be compensable, although occurring at work.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employments with inherent hazard of contracting COVID-19 would include the healthcare field including physicians, nurses, pulmonary therapists, physician assistants. However, the employee must still prove that an exposure occurred in the workplace (i.e., a patient or co-worker testing positive for COVID-19).
  3. **Additional information**  
If denying an infectious disease claim, use Form 104 and list Section 1(7A) as a defense and add "not inherent in the workplace" along with any other defenses.

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### Statutory Citation

- 418.401(2)(b)
1. **Is COVID-19 generally compensable?** Not likely as in Michigan, an ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. The employee would have the burden to prove that COVID-19 was contracted in the workplace and not outside of employment.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?**  
On March 18 2020, Michigan Workers' Disability Compensation Agency established emergency rules that are effective for 6 months to declare that first response employees that are exposed to COVID-19 suffer a personal injury that arising out of and in the course of employment compensable under the Workers' Disability Compensation Act if:
    - Is quarantined at the direction of the employer due to confirmed or suspected COVID-19 exposure.
    - Receives a diagnosis of COVID-19 from a physician.
    - Receives a presumptive positive diagnosis of COVID-19 test.
    - Receives a laboratory confirmed COVID-19 diagnosis.

This rule defines "first response employee" as any of the following:

- A person working in a health facility or agency, including hospitals, county medical care facility, freestanding surgical outpatient facility, a health maintenance organization, home for the aged, hospice, a hospice residence, mobile healthcare units, nursing home, psychiatric hospital.

- A person working in a health care organization, including industrial or other clinic, occupational health care center, home health agency, visiting nurse association, laboratory, medical supply company, community mental health board.
- A person working as a practitioner as defined by regulation.
- A person working in a capacity as police officers, fire fighters, or employees of the police or fire departments, on-call members of a fire department of a county, city, village, or township, on-call member underwater diving team that contracts with or receives reimbursement from 1 or more counties, cities, villages, or townships, safety patrol officer who is engaged in traffic regulation and management for and by authority of a county, city, village, township or school, whether the officer is paid or unpaid, a volunteer civil defense worker who is a member of the civil defense forces as provided by law and registered on the permanent roster of the state of a political subdivision of the state, an on-call member of a life support agency that contracts with or receives reimbursement from 1 or more counties or an a member of an emergency rescue team recognized by 1 or more counties, cities, villages or townships within the state.
- A member of the state police or an officer of the motor carrier enforcement division of the department of the state police.

A denial of a claim under this rule presumptively creates non-compliance with the workers' disability compensation act and is subject to penalties.

### 3. Additional information

[https://www.michigan.gov/documents/lara/Workers\\_Disability\\_Compensation\\_Agency\\_COVID-19\\_First\\_Responder\\_ER\\_684245\\_7.pdf](https://www.michigan.gov/documents/lara/Workers_Disability_Compensation_Agency_COVID-19_First_Responder_ER_684245_7.pdf)

## Minnesota [back to top](#)

### Statutory Citation

- Minn. Stat. 176.011, subd. 15
1. **Is COVID-19 generally compensable?** Unlikely. In Minnesota ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the disease follows as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there is a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** On April 7, 2020, the governor signed [House Bill 4537](#), which creates a rebuttable presumption that for certain specified employees who contract COVID-19 have an occupational disease arising out of and in the course of employment.

This presumption applies to licensed peace officers; firefighters; paramedics; nurses or health care workers, correctional officers, or security counselors employed by the state or a political subdivision at a corrections, detention, or secure treatment facility; emergency medical technician (EMT) a health care provider, nurse or assistive employee employed in a health care, home care or longer term care setting with direct COVID-19 patient care or ancillary work in COVID-19 patient units; and workers required to provide child care to first responders and health care workers under Executive Orders 20-02 and 20-19.

The above employee's contraction of COVID-19 must be confirmed by a positive laboratory test or, if a laboratory test was not available for the employee, as diagnosed and documented by the employee's treating medical provider based on the employee's symptoms.

The presumption is only rebuttable if the employer or insurer shows the employment was not a direct cause of the disease.

This bill is effective for employees who contract COVID-19 on or after April 8, 2020 and sunsets on May 1, 2021. Prior to April 8, 2020, individuals who by nature of their position provides emergency medical care, or an employee who was employed as a licensed police officer; firefighter; paramedic; state correctional officer; emergency medical technician; or licensed nurse providing emergency medical care; and who contracts an infectious or communicable disease are presumed to have an occupational disease due to the nature of employment.

- 3. Additional information:** Any substantial factors that will be used to rebut the above presumption and which are known to the employer or insurer at the time of the denial must be communicated to the employee.

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#### Statutory Citation

- Mississippi Code 71-3-7

- 1. Is COVID-19 generally compensable?** No. In Mississippi, an occupational disease is deemed to arise out of and in the course of employment when there is evidence that there is a direct causal connection between the work performed and the occupational disease. The burden is on the claimant to prove the connection between the occupational disease and the job. In *Union Producing Company v. Dependents of Simpson* (1964) the Mississippi Supreme Court stated that "This Court has never held that the mere presence of an employee at work is sufficient in itself to constitute causal connection." The burden is on the claimant to prove the connection between the occupational disease and the job.
- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Although there is no precedent for an infectious disease being found to cause a workers' compensation claim, an employee working in a hospital or nursing home where the worker is confined and in active contact with infected people may have the evidence available to prove medical causation.
- 3. Any other considerations?** The burden is on the claimant to prove the connection between the occupational disease and the job.

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### Statutory Citation

- Missouri Revised Statute 287.067(7) and 287.020(3)(2)(b)

1. **Is COVID-19 generally compensable?** Potentially. Missouri statute provides that any employee who is exposed to and contracts any contagious or communicable disease arising out of and in the course of his or her employment is eligible for benefits as an occupational disease. To be compensable, the employee must prove that work was the prevailing factor in causing both the medical condition and disability resulting from the claimed occupational disease. "The prevailing factor" is defined to be the primary factor, in relation to any other factor. Additionally, to arise out of and in the course of employment, the illness cannot come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of an unrelated to the employment in normal non-employment life.
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** The Missouri Division of Workers' Compensation adopted an emergency rule, [8, MO ADC 50-5.005](#), creating a retroactive rebuttable presumption that first responders, defined as law enforcement officers, firefighters or emergency medical technicians (EMTs), who have contracted or been quarantined for COVID-19 have an occupational disease arising out of and in the course of their employment. This presumption is rebuttable if a subsequent medical determination establishes by clear and convincing evidence that the first responder did not actually have COVID-19 or the exposure resulting in contraction or quarantine was not related to their employment. The emergency rule filed April 8, 2020 becomes effective April 22, 2020 and retroactively applies to all first responder meeting the requirements until February 1, 2021.

Although this presumption does not apply to health care workers involved in the care and treatment of COVID-19 patients, the disease may still be compensable. When the employee works in situations where their exposure is greater than that of the general public, the courts look to the conditions of the employee's workplace to determine if it is a direct cause of the employee contracting the disease.

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### Statutory Citation

- Montana Code Annotated 39-71-116(23)(a) and 39-71-119

1. **Is COVID-19 generally compensable?** While it will depend upon the circumstances of the case, generally there would generally be no coverage because the injured worker must prove causation on a more probably than not basis (i.e. was the disease contracted in the course of employment or apart from their employment).
2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** A nurse at an ICU unit at a hospital filled with COVID-19 patients, they would have better odds of proving causation being contracted in the course and scope of employment.

- 3. Any other considerations?** According to the Montana Dept. of Labor & Industry, under current law workers' compensation benefits are payable for health care workers or first responders ill with COVID-19. Please click [here](#) for more information.
- 4. Additional information:** Only a Montana certified claims examiner can determine claim liability.

### Nebraska [back to top](#)

#### Statutory Citation

- Neb. Rev. Stat. 48-151(3)

- 1. Is COVID-19 generally compensable?**

No. Nebraska statute defines occupational disease as “only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment and excludes all ordinary diseases of life to which the general public is exposed.”

Further in *Risor v. Nebraska Boiler* (2009) the Nebraska Supreme Court held that “The requirement of the statute is that the cause and conditions of the disease be characteristic of and peculiar to the employment and that the disease is other than an ordinary disease of life. The statute does not require that the disease be one which originates exclusively from the employment. The statute means that the conditions of the employment must result in a hazard which distinguishes it in character from employment generally.”

- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?**

Employees who can prove that they contracted the disease through exposure in the workplace and the workplace exposed them to a higher concentration of the disease than other employments have a greater likelihood that benefits would be awarded under workers' compensation.

- 3. Any other considerations?** It should be noted that the Nebraska Supreme Court has noted one purpose of the act is to provide relief to injured workers to prevent them and their dependents from becoming a public charge.

### Nevada [back to top](#)

#### Statutory Citation

- Nevada Revised Statute 616A.265

- 1. Is COVID-19 generally compensable?** Possibly if the employee is able to establish by the preponderance of the evidence that exposure occurred in the course and scope of employment.

- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Yes, as the exposure of an employee to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his or her employment is deemed to be an injury by accident sustained by the employee arising out of and in the course of his or her employment.

### New Hampshire [back to top](#)

#### Statutory Citation

- New Hampshire Revised Statute 281-A:2(XIII)
1. **Is COVID-19 generally compensable?** No. New Hampshire statute includes "occupational disease" defined as an "injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment." Generally COVID-19 will be considered a "neutral risk" and in New Hampshire injuries that result from a "neutral risk" are not compensable. Neutral risks are risks that are the same for the general public. See [Appeal of Margeson](#), 162 N.H. 273 (2011)
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** An employee would be required to prove that his/her risk of contracting COVID-19 was greater than the general public's risk. Healthcare workers are likely the only employees that may be able to establish this, but each claim must be evaluated on a case-by-case basis.

### New Jersey [back to top](#)

#### Statutory Citation

- New Jersey Statute Ann. 34:15-31 and 15-31-5
1. **Is COVID-19 generally compensable?** Possibly. In New Jersey, an occupational disease claim must arise out of and during the course of employment. Additionally in an occupational disease claim, the employee must prove that the illness was produced by causes which are characteristic of or peculiar to the trade, occupation, or place of employment and the must show that the work contributed in a material degree to the illness. The employee has the burden of proving legal causation as well as medical causation.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** There may be certain professions where the causal link between the workplace and the contraction of the illness may be more likely to have occurred. For example, a healthcare worker treating or caring for patients who have tested positive for COVID-19 may have a stronger argument of a causal connection between exposure to the virus within the confines of the employment.
  3. **Any other considerations?** In analogous cases such as *Bird v. Somerset Hills Country Club and Raimoni v Morris County Park Police and Commission*, the employee was required to prove exposure was more probably than not during the course of employment.

**Additional information:** Due to the 2019 law change that granted "first responders" a presumption of compensability, the mere "potential exposure" may trigger a presumption if exposure at work can be demonstrated.

## New Mexico [back to top](#)

### Statutory Citation

- New Mexico Statute 52-1-19
1. **Is COVID-19 generally compensable?** Possibly. To be found compensable COVID-19 would have to arise out of and in the course of employment. There have been workers' compensation cases in New Mexico where the positional risk doctrine is the test applied to determine if an injury arises during the course of employment. The positional risk doctrine holds that an injury is compensable if it would not have occurred but for the fact that the employment placed the employee in the position where he/she was injured. Thus, if the injury occurred at work, it is generally accepted as work-related, regardless of the risk to the general public. However, the employee is still required to prove how, when and where they were infected.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** It is more likely that a claim involving healthcare employees involved in the treatment of COVID-19 is compensable.
  3. **Any other considerations?** If an employee is medically removed from work due their workplace exposure to COVID-19, there is a possibility that the employee is eligible to indemnity subject to the waiting period even if the disease does not develop.

## New York [back to top](#)

### Statutory Citation

- New York Workers' Compensation Law § 52(7) and 2(15)
1. **Is COVID-19 generally compensable?** Possibly. In New York a claim for COVID-19 may be established as an occupational disease or accidental injury. An occupational disease is one resulting from the nature of employment and contracted therefrom. Thus, an employee must establish a recognizable link between the affliction and some distinctive feature of the occupation. An accidental injury is one arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result. An employee need not identify one traumatic occasion. It is anticipated that most claims for COVID-19 will be presented as accidental exposure cases.

Whether the claim is an occupational disease or an accidental injury, it is the employee's burden to establish a causal relationship between the employment and the disability with competent medical evidence. Because COVID-19 is common in the community, the claim may not be compensable if the employee is unable to prove contact with an infected person in the course of employment with an incubation period matches that exposure.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employments requiring workers to work in close proximity to persons diagnosed with the disease due to the nature of the work are more likely to be able to prove a plausible means of contraction at work and compensability if the incubation period is consistent with onset of the disease.

- 3. Any other considerations?** Mere exposure would not trigger an award of benefits. If an employer requires isolation or quarantine, this in and of itself would not give rise to a claim. Similarly, diagnostic testing would not be covered in the absence of an actual affliction, except for first responders.

### North Carolina [back to top](#)

#### Statutory Citation

- N.C. Gen. Stat. § 97-52 and N.C. Gen. Stat. § 97-53
- 1. Is COVID-19 generally compensable?** The North Carolina Supreme Court in [Rutledge v. Tultex Corp. \(1983\)](#) held that for a disease to be occupational, the employee has the burden of proving an occupational disease is compensable. The employee must show (1) the disease is characteristic of and peculiar to a particular trade, occupation, or employment; (2) the disease is not an ordinary disease of life to which the general public is equally exposed outside of the employment; and (3) a causal relationship exists between the disease and the employment. The first two elements of the *Rutledge* test are satisfied if, as a matter of fact, the employment exposed the worker to a greater risk of contracting the disease than the public generally. The third element is satisfied if the employment significantly contributed to, or was a significant causal factor in, the disease's development.
  - 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Claims by health care workers and first responders may be more likely to be able to meet the above burden of proof.

### North Dakota [back to top](#)

#### Statutory Citation

- North Dakota Century Code 65-01-02(11)
- 1. Is COVID-19 generally compensable?** No. Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases are specifically excluded from workers' compensation coverage in North Dakota. COVID-19 fits into this exclusion. Even though it may be contended an employee contracted COVID-19 while working, the employee is not eligible for workers' compensation benefits for this type of illness.

North Dakota is a monopolistic state and WSI administers all claims. Click [here](#) to view a COVID-19 FAQ published by WSI for employers that address employee eligibility for benefits.

- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** On March 25, 2020, Gov. Doug Burgum issued [Executive Order 2020-12](#) to extend workers' compensation coverage for COVID-19 to front-line health care providers and first responders including firefighters, peace officers, correctional officers, court officers, law enforcement officers, and emergency medical technicians. This order is effective March 13, 2020 through the duration of the declared state of emergency.

According to the executive order, medical and wage benefits are provided up to 14 days if the specified employees are quarantined. No benefits will be paid after the quarantine period has ended unless the employee tests positive for COVID-19. If the virus is contracted on the job, the employee becomes eligible for full workers' compensation benefits just like any other compensable work injury claim.

### Ohio [back to top](#)

#### Statutory Citation

- Ohio Revised Code 4123.01(F)
1. **Is COVID-19 generally compensable?** Likely to be considered a non-scheduled occupational disease. With respect to “non-scheduled” occupational diseases, the injured worker must prove:
    - (1) the disease is contracted in the course of employment;
    - (2) the disease is peculiar to the claimant's employment by its causes and the characteristics of its manifestation, or the conditions of claimant's employment result in a hazard which distinguishes the employment in character from employment generally; and
    - (3) the employment creates a risk of contracting the disease in a greater degree and in a different manner than in the public generally.”
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employees such as healthcare employees and first responders still have the burden of proving that COVID-19 was contracted in the course of employment, or is disease is peculiar to employment or conditions of employment result in hazard or employment places at greater risk, but are more likely to meet the burden of proof to other workers.

### Oklahoma [back to top](#)

#### Statutory Citation

- Oklahoma Statutes Title 85A, Section 65(D)(1)-(3)
1. **Is COVID-19 generally compensable?** Unlikely. In Oklahoma, claims for COVID-19 would fall under the occupational disease category. Under this statute no compensation is payable for any ordinary disease of life to which the general public is exposed or for any contagious or infectious disease unless contracted in the course of employment. A causal connection between the occupation or employment and the occupational disease must be established by a preponderance of the evidence.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Health care workers, firemen and police may be covered for COVID if they are able to prove that the disease is due to the nature of an employment in which the hazards of the disease actually exist and is actually incurred in the course of employment.

## Oregon [back to top](#)

### Statutory Citation

- Oregon Revised Statute 656.005(7)(a) and 656.802

1. **Is COVID-19 generally compensable?** Unlikely. In Oregon, the first step in evaluating a COVID-19 claim is to determine whether the claim is to be properly considered an injury or occupational disease. Although it would seem that COVID-19 would be considered an occupational disease claim, in *Dynea USA, Inc. v. Fairbanks* the Oregon Court of Appeals determined a MRSA infection was not *per se* an occupational disease. The court explained that this determination is based on if the developed gradually or as the result of a discrete event, which will require a medical opinion.

To establish a compensable workers' compensation injury claim, the worker must show his or her claim arose out of and in the course of employment requiring medical services or resulting in disability or death. An occupational disease claim must arise out of and in the course of employment and must be caused by exposure to which an employee is not generally exposed except during his or her regular employment.

If an injury, the employee is only required to show that an event on the job constituted a material cause to the disability and need for treatment. If an occupational disease, the employee must demonstrate that employment exposures are the major contributing cause (i.e., greater than 50 percent) of the actual condition(s) causing the need for treatment. Each claim must be evaluated on a case by case basis.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** If the employment conditions were to place the worker at risk for exposure, then the condition may be compensable for employees such as healthcare workers or first responders.

## Pennsylvania [back to top](#)

### Statutory Citation

- 77 P.S. §§ 413 411 and 27.1(n)

1. **Is COVID-19 generally compensable?** Possibly. In Pennsylvania, there are two filing options available to employees for COVID-19 claims. The first is an "injury" that is "arising in the course of his employment and related thereto and such disease or infection as naturally results from the injury..." This claim requires that the employee provide medical evidence that they were exposed to COVID-19 in the workplace.

The second category is an "occupational disease" with an exposure that "the incidence of which is substantially greater in that industry or occupation than in the general population." The law includes a list of occupational diseases that are presumed to be work related. Diseases not specifically listed may be entitled to this "rebuttable presumption" under a catch-all provision which covers all other diseases to which the claimant is exposed by reason of his employment, and which are causally related to the industry or occupation, and the incidence of which is substantially greater in that industry or occupation than in the general population. To be entitled to the "rebuttable presumption," for non-enumerated diseases via the catch-all provision, an employee must establish all three of these elements.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers and first responders will likely be able to meet the standard of proof required for injury or occupational disease claims.
3. **Additional information:** The Pennsylvania Bureau of Workers' Compensation has provided guidance to employees regarding their filing options for COVID-19 claims. Click [here](#) to review.

### Rhode Island [back to top](#)

#### Statutory Citation

- Rhode Island General Law §28-34-1

1. **Is COVID-19 generally compensable?** Unlikely. An illness is compensable if facts and circumstances of a particular case establish a causal connection between the injury and the nature of employment. However, Rhode Island follows the “actual-risk” doctrine, which means that an employee must show that the injury arose out of an actual risk of employment. In claims of infectious disease, the employee must prove that the contraction of the disease is an actual risk of the employment.

The Rhode Island Supreme Court in *Dawson v. A & H Mfg. Co.* (1983) held that in order to establish a predicate for application of the actual-risk theory, the employee would be required to sustain the burden of showing that this risks even though common to the public, was in fact a risk of his employment.” This doctrine could potentially apply to healthcare workers, but for nearly all other employments COVID-19 should be considered non-compensable.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers and first responders are likely to be able to prove contraction of COVID-19 arose out of an actual risk of employment, but most other employments will be considered non-compensable.

### South Carolina [back to top](#)

#### Statutory Citation

- South Carolina Code Ann. 42-11-10

1. **Is COVID-19 generally compensable?** Possibly, although in South Carolina, no disease is deemed occupational disease when:
  - It does not result directly and naturally from exposure in this State to the hazards peculiar to the particular employment;
  - It is a contagious disease resulting from exposure to fellow employees or from a hazard to which the worker would have been equally exposed outside of his employment;
  - It is one of the ordinary diseases of life to which the general public is equally exposed, unless such disease follows as a complication and a natural incident of an occupational disease; or unless there is a constant exposure peculiar to the occupation itself which makes such disease a hazard inherent in such occupation.

- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers and first responders may be able to meet their burden to prove that COVID-19 results from a hazard that is recognized as peculiar to a particular trade, process, occupation or employment.

### South Dakota [back to top](#)

#### Statutory Citation

SDCL 62-8-1-(6)

- 1. Is COVID-19 generally compensable?** Possibly. South Dakota defines occupational disease as “a disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment and includes any disease due or attributable to exposure to or contact with any radioactive material by an employee in the course of employment.” For an employee who is infected with COVID-19 to be covered by workers’ compensation, the worker must establish COVID-19 is an “occupational disease” and their occupation requires exposure to COVID-19. See *Sauer v. Tiffany Laundry & Dry Cleaners* (2001).
- 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Occupations such as physicians and nurses will more likely be able to prove that exposure to COVID-19 is an essential part of the job.
- 3. Additional information:** Click [here](#) to review guidance provided by the South Dakota Dept. of Labor and Regulation.

### Tennessee [back to top](#)

#### Statutory Citation

- Tennessee Code Annotated section 50-6-102(14)
- 1. Is COVID-19 generally compensable?** Unlikely. In Tennessee an occupational disease must arise primarily out of and in the course of employment and must cause either disability or death. To arise primarily out of and in the course and scope of employment, it must be shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the condition considering all causes.  
  
In *Michael Wieland v. Fedex Express Co.* (2015), an analogous case, the court found that a pilot who contracted swine flu when travelling for work in China failed to establish by expert medical evidence that his illness arose primarily out of and occurred in the course and scope of employment and the employer was not obligated to provide medical benefits or temporary disability benefits.
  - 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** Employees at high risk for exposure will have to meet the same burden of proof as all other workers.

## Texas [back to top](#)

### Statutory Citation

- Tex. Lab. Code § 401.011(34)

1. **Is COVID-19 generally compensable?** Unlikely. In Texas the definition of occupational disease excludes “an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease.”

The employee has the burden of prove that an *exposure to the virus actually occurred at work* and that her or his work *created a greater risk of exposure* to the virus as compared to the general public. Given the nature of this condition, expert medical opinion based on a reasonable medical probability will be required evidence will be required to establish a causal relationship.

2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Generally occupations that place the employee at greater risk of contracting the disease such as healthcare workers treating infected patients are more likely able to prove compensability.
3. **Any other considerations?** Emergency responders and other persons identified in DWC Rule 122.3, (all law enforcement officers, fire fighters, emergency medical service employees, paramedics, correctional officers, employees of a juvenile probation department, and any other emergency response employee or volunteer) have additional requirements to meet to establish a compensable COVID-19 claim as follows:
  - a. Had a test performed within 10 days of an exposure to COVID-19 that indicated the absence of COVID-19; and
  - b. Provide the employer with a sworn affidavit of the date and circumstances of the exposure to COVID-19 and a copy of the results of the test required by Texas Dept. of Health.

For Texas non-subscribers to workers' compensation, COVID-19 is likely not covered under work injury benefit plans as diseases the general population is exposed to are often excluded.

## U.S. Longshore [back to top](#)

### Statutory Citation

- 33 U.S.C. § 902(2)

1. **Is COVID-19 generally compensable?** Unlikely. Longshore law provides that “Any disease arising out of exposure to harmful conditions of the employment, when those conditions are present in a peculiar or increased degree by comparison with employment generally.” There is a three-step test for determining whether an employee has a compensable occupational disease:

- I. First, the employee must suffer from a "serious derangement of health" or "disordered state of an organism or organ.

- II. Second, the specific working conditions of the employment must be the cause of the disease.
- III. Third, the hazardous conditions must be "peculiar to" one's employment as opposed to other employment or general living. In other words, there must be something extraordinary about the work exposures that directly relates to the condition allegedly disabling the affected worker.

In general, a Longshore or Defense Base Act claimant will not be successful alleging a claim for infection or illness unless there has been a specific incident of exposure; general exposure to co-employees or the public will not meet the standard for compensability.

### Utah [back to top](#)

#### Statutory Citation

- Utah Code Ann. 34A-2-102(k) and 34A-3-103
1. **Is COVID-19 generally compensable?** Unlikely. Currently in Utah, a compensable occupational disease means any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment. Thus, in order to determine whether an employee is entitled to medical and disability benefits for COVID-19, the employee has the burden to prove that his or her work for the employer medically caused the contraction of the disease.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Employees such as healthcare employees treating persons infected with COVID-19 may be more likely to be able to establish that contraction of COVID-19.

### Vermont [back to top](#)

#### Statutory Citation

- Vermont Statute Ann. Title 21 Sec. 601(23), 601(11)(H)(i) and Sec. 618
1. **Is COVID-19 generally compensable?** Possibly. In Vermont, an occupational disease is defined as a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment and arises out of and in the course of the employment. The "arising out of" requirement is one of positional risk fulfilled when an injury or disease would not have occurred but for the fact that the conditions and obligations of the employment placed claimant in the position where the employee was injured.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Healthcare workers would be more likely to be able to prove that he or she contracted COVID-19 as a result of the specific characteristics relating to their industry or occupation.
  3. **Any other considerations?** Firefighters and members of a rescue or an ambulance squad, disability or death resulting from lung disease or an infectious disease either one of which is caused by aerosolized airborne infectious agents or blood-borne pathogens and acquired after a documented occupational

exposure in the line of duty to a person with an illness is presumed to be compensable, unless it is shown by a preponderance of the evidence that the disease was caused by nonservice-connected risk factors or nonservice-connected exposure.

### Virginia [back to top](#)

#### Statutory Citation

- Virginia Code § 65.2-400 and 65.2-401
1. **Is COVID-19 generally compensable?** Unlikely. In Virginia “occupational disease” is defined as diseases that arise out of and in the course of employment, but does not include “ordinary diseases of life” to which the general public is exposed outside of the employment unless an employee is able to prove by clear and convincing evidence that the disease did not result from causes outside of employment.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Yes, if that infectious or contagious disease is contracted in the course of employment in a hospital or sanitarium or laboratory or nursing home, or while otherwise engaged in the direct delivery of health care, or in course of employment as emergency rescue personnel and volunteer emergency rescue personnel arose out of and in the course of employment.

### Washington [back to top](#)

#### Statutory Citation

- Revised Code of Washington 51.08.140
1. **Is COVID-19 generally compensable?** Unlikely. In Washington, "occupational disease" is defined as such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title. In most cases, exposure and/or contraction of COVID-19 is **not** considered to be an allowable, work-related condition. However, treatment of COVID-19 may be allowed under workers' compensation when work-related activity has resulted in probable exposure to the virus and certain criteria are met. In these cases, the worker's occupation must have a greater likelihood of contracting the disease because of the job (i.e. first responders or health care workers). There must also be a documented or probable work-related exposure, and an employee/employer relationship.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** First responders or healthcare care workers who contract the disease may be able to provide documented or probable work-related exposure to COVID-19.
  3. **Any other considerations?** A policy statement issued on March 6, 2020 by the Washington Dept. of Labor and Industry, clarified that workers' compensation benefits must be provided benefits for health care workers and first responders who are **quarantined** by a physician or public health officer during the time they're quarantined after being exposed to COVID-19 on the job. The policy also applies to others who may have accepted claims for **exposure to COVID-19**; for example, those who are not considered health

care workers but are working in facilities with documented exposures or others whose claims may be approved.

- 4. Additional information:** Click here to view the news release from Gov. Jay Inslee and L&I Director extending workers' compensation coverage to quarantined health workers and first responders.

### West Virginia [back to top](#)

#### Statutory Citation

- WV Code 23-4-1(f)
- 1. Is COVID-19 generally compensable?** Possibly, although in West Virginia, no ordinary disease of life to which the general public is exposed outside of the employment is compensable. Each claim must be evaluated individually because the Code provides that a disease is considered to have been incurred in the course of or to have resulted from employment only if upon consideration of all the circumstances: (1) That there is a direct causal connection between the conditions under which work is performed and the occupational disease; (2) that it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment; (3) that it can be fairly traced to the employment as the proximate cause; (4) that it does not come from a hazard to which workers would have been equally exposed outside of the employment; (5) that it is incidental to the character of the business and not independent of the relation of employer and employee; and (6) that it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction.
  - 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** An employee such as a healthcare worker or first responder may be able to meet the criteria outlined in 1 through 6 above.

### Wisconsin [back to top](#)

#### Statutory Citation

- Wisconsin Statute §102.01(c)
- 1. Is COVID-19 generally compensable?** Possible. Infectious diseases are recognized as occupational workers' compensation claims in Wisconsin as long as the standard is met establishing the work exposure was either the sole cause of the condition or at least a material contributory causative factor in the condition's onset or progression.
  - 2. Is COVID-19 compensable with high risk workplace exposure exceptions?** If an employee is, as a consequence of the nature of their employment exposed to a greater risk of contagion (e.g. a nurse, doctor, or other health care worker in a workplace in which they are caring for virus-infected patients) than would otherwise be the case, they need not prove a particular exposure for the claim to be compensable.
  - 3. Any other considerations?** For employees who are self-quarantining as a precaution, there is no injury or disease causing lost time. An employee must sustain an injury, or physical or mental harm caused by an accident or disease, to be entitled to workers' compensation benefits under Wisconsin law.

### **Wyoming** [back to top](#)

#### **Statutory Citation**

- Wyoming Statute Ann. § 27-14-102(a)(xi)(A)
1. **Is COVID-19 generally compensable?** No. In Wyoming the definition of injury does not include any illness or communicable disease, unless the risk of contracting the illness or disease is increased by the nature of employment.
  2. **Is COVID-19 compensable with high risk workplace exposure exceptions?** Possibly as the risk of contracting an illness or communicable disease for these workers is increased by the nature of their employment.
  3. **Any other considerations?** Wyoming is monopolistic and claims are administered by the Wyoming Dept. of Workforce Services.