

Workers' Compensation



My employee alleges that they contracted the coronavirus while at work.

Will this result in a compensable workers' compensation claim?

It depends...

If the employee is a health care worker or first responder, the answer is likely yes (subject to variations in state law). For other categories of employees, a compensable workers' compensation claim may be possible but would be specific to the facts of the individual case.

The virus is not an "injury" but is instead analyzed under state law to determine if it is an "occupational disease." To be an occupational disease, subject to state law variations, an employee must generally show two things:

- the illness or disease must be "occupational," meaning that it arose out of and was in the course of employment; and
- the illness or disease must arise out of or be caused by conditions peculiar to the work and creates a risk of contracting the disease in a greater degree and in a different manner than in the public generally.

The key point will be whether the employee contracted the virus at work while engaged in some activity benefiting the employer and whether the contraction of the disease was "peculiar" to their employment. Even if the employer takes all of the right steps to protect the employees from exposure, a compensable claim may be determined where the employee can show that they contracted the virus after an exposure, the exposure was peculiar to the work, and there are no alternative means of exposure demonstrated.

Absent state legislation on this topic, an employee seeking workers' compensation benefits for a coronavirus infection will still have to provide medical evidence to support the claim. Employers who seek to contest such a claim may be able to challenge the allowance if there is an alternative exposure or if the employee's medical evidence is merely speculative.

If you are ready to improve your social impact organization's approach to Total Rewards or simply have a question, contact us. Someone from our team will be in touch shortly.



Call us: 202.785.2060



Email us: covid19@nonprofithr.com

Nonprofit HR is the leading professional services firm focused exclusively on the talent and culture needs of the social impact sector.

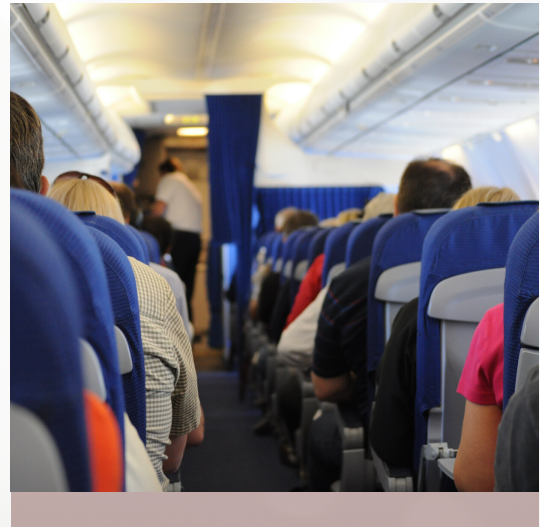


nonprofithr.com

YOUR MISSION-DRIVEN ORGANIZATION. OUR HELP THROUGH COVID-19 CHALLENGES

My employee contracted COVID-19 while on a business trip for my company. Is this a compensable workers' compensation claim?

It depends. While an employee who contracts a disease while traveling for business may be eligible for workers' compensation benefits in many jurisdictions, it will be specific to the facts of the individual case. In most states, the worker will need to satisfy the test for compensability previously outlined. States often differentiate between exposures that occur while "working" during a business trip versus exposures that occur during "down time." Some states create almost strict liability for any injury that occurs on a business trip, whether the employee is working or not coronavirus while traveling for business.



What are the likely benefits an employee will be eligible to receive if their coronavirus infection is found to be a compensable workers' compensation claim?

Except in rare situations, an employee diagnosed with the virus is not likely to have significant long-term health care problems. Therefore, medical costs associated with the claim are likely to be limited to visits to a primary care physician and anti-viral medications. More significant cases may involve hospital stays of two to three weeks.

The compensation costs should also be limited to the lost time associated to any recovery time. They may also be associated with lost time due to quarantine as required by the employer or local, state, or federal government agencies.

There could be more significant costs in extreme and rare situations involving complications from the virus. However, these cases would usually be limited to claimants who are older or suffer from immune deficiencies.

Total Rewards is not just about financials, it is also about creating programs that engage your staff, connect them to your organization, and allow them to grow their career while also managing their lives.

Contact us now. We will show you how to maximize service and performance recognition programs to engage and motivate your staff.