



TOP 5 COVID-19 WORKERS' COMPENSATION QUESTIONS ANSWERED: ALABAMA

1) How are COVID-19 claims treated in Alabama?

While there is no case law on hand, the consensus is that COVID-19 claims will be treated as occupational diseases. There may be attempts to claim that these are accidental injuries due to a single exposure, but the Courts tend to view exposure cases as occupational disease.

2) Are COVID-19 claims compensable under the Alabama Workers' Compensation Act?

While unclear at this time, we feel that the Plaintiff will have a heavy burden to prove in order to have a Covid claim be found compensable. Alabama Code Section 25-5-110 describes occupational disease as (1) a disease arising out of and in the course of employment due to hazards in excess of those ordinarily incident to employment in general, (2) that are peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer, (3) caused by a hazard recognized as peculiar to a particular trade, process, occupation, or employment and (4) the disease is a direct result of exposure, over a period of time, to the normal working conditions of the trade, process, occupation, or employment.

3) What should employers do if an employee contracts COVID-19 and files a workers' compensation claim?

Due to the nature in which COVID-19 spreads, we recommend denying the claim, however, there must be a formal answer to any complaint filed. Once notified of the claim, we recommend that the adjuster conduct a detailed RECORDED phone interview and question the employee extensively as to any and all the places the employee has been and all the people the employee has been in contact with for the two weeks preceding their positive test. This should include all shopping, school functions for their children, sporting events, church or social meetings etc.

4) What should employers do if an employee who has an existing workers' compensation claim and is working light duty contracts COVID-19?

If the employer was accommodating the light duty requirement then TTD should not be reinstated as the employee is not out of work due to the on the job injury, but is out of work due to an unrelated event.

5) What should employers do if an employee who has an existing workers' compensation claim refuses to return to a light duty position offered because of COVID-19 risks?

If an employee refuses to accept the offered light duty position, then TTD shall be terminated as they are refusing reasonable work accommodations.