

# Coronavirus (COVID-19)

## Workers compensation FAQs

April 2, 2020

Over several weeks, the coronavirus (COVID-19) pandemic has moved swiftly in Australia and major disruptions to businesses and their employees have become an inevitable reality.

One of the critical challenges for any organisation during the outbreak is how to protect workers and workplaces in a way that complies with relevant work, health and safety (WHS) and workers compensation (WC) legislation.

### Employer workers compensation FAQs

Questions	Guidance
<p><b>What can you do if your business is under financial pressure and is making changes to worker arrangements?</b></p>	<p>Contact your insurance broker to:</p> <ul style="list-style-type: none"> <li>• Conduct a review of the estimated wages previously declared for the current policy year. Adjustments may result in a refund or reduction in remaining instalments</li> <li>• Re-evaluate your workers compensation classifications to reflect your adjusted business operating model to ensure compliance and possibly reduce premium</li> <li>• If you operate in WA, NT, ACT or Tas establish if a Claims Experience Discount for good workers compensation performance is applicable. It may be possible to facilitate early release of these discounts to ease your financial burden</li> <li>• Access support for making payments of weekly compensation to existing workers compensation claimants</li> </ul>
<p><b>Can a worker lodge a compensation claim for COVID-19?</b></p>	<p>In a similar way to any other workplace injury or illness, a worker can lodge a COVID-19 workers compensation claim.</p> <p>To make a claim they need supply a completed lodgement form and a valid Workers Compensation Certificate of Capacity to the determining authority/agent/insurer. The information that is required to support or dispute a claim will be critical to determining the validity of the claim and the Gallagher workers compensation team can help workers navigate these requirements.</p> <p>The normal restrictions regarding lodgement and notification to insurer/regulator still apply. If your business is moving or has already moved to remote working, it is important that you inform workers how to report incidents and injuries, and how to lodge any new claims or manage existing claims.</p>

### Options for lodging workers compensation forms

- claiming workers can take photos of important information and send it to an employer's nominated email/phone number
- they can ask their GP/allied health provider to directly fax or scan and email information to employers
- employers can set up a PO Box service to access important mail if the normal business location is secured and inaccessible

### Required documentation for lodging a workers compensation claim

The eligibility criteria (outlined below) for a valid claim for lodgement include:

1. a valid Certificate of Capacity
2. a valid Worker Claim form
3. a valid Employer Claim form
4. a payroll report showing the claiming worker's total earnings in the 12 months prior to the injury date

### If you choose to dispute a workers compensation claim you will need to:

- provide information about work/workplace controls that demonstrate employer concern about how employment conditions might bear on the possibility of contracting COVID-19
- consider if the worker was or was not directed to enter an area with a known viral outbreak
- confirm if there was any other known exposure (i.e. a similar worker with similar workplace exposure during the same period)
- confirm that there was no activity undertaken in breach of Department of Health recommendations
- outline control measures taken by the employer to prevent risk (i.e. working from home isolation, security protocols to prevent entry of third parties, health surveillance records, etc)

### How can a worker prove that contracting COVID-19 was work related?

Any virus, including COVID-19, is likely to be taken into account under the disease prevention section of the relevant *Workers Compensation Act* for each state and territory. However, with a virus like COVID-19 it is often difficult to accurately determine the exact time, date and place the illness was contracted.

Generally speaking all jurisdictions require employment to have substantially contributed to contracting the disease, which can be difficult to prove unless there is a sustained outbreak at a specific business, workplace or area.

Every claim is considered on its individual merits, taking into account the circumstances and supporting evidence of each.

	<p>Where a worker's employment puts them at greater risk of contracting the virus, the relevant state's employment contribution test may be easier to meet. For example, if their employment involves or involved:</p> <ul style="list-style-type: none"> <li>• travel to an area with a known viral outbreak</li> <li>• activities that include engagement or interaction with people likely to have contracted the virus</li> <li>• activities that contravene Department of Health recommendations.</li> </ul> <p><b>Entitlement</b></p> <p>Workers who have a valid workers compensation claim can access support and assistance (as required by workers compensation legislation), including but not limited to:</p> <ul style="list-style-type: none"> <li>• weekly lost wages compensation</li> <li>• payment of medical and rehabilitation expenses</li> <li>• return to work support</li> </ul>
<p><b>What stay at work/return to work strategies can assist affected workers during the response to COVID-19?</b></p>	<ul style="list-style-type: none"> <li>• Remind workers that they and their families can access your Employee Assistance Provider (EAP) whenever they need to</li> <li>• Regularly check in on exposed employees and their families and offer additional support if possible</li> <li>• Draft a return to work plan together</li> </ul>
<p><b>How does COVID-19 affect a worker with a current approved claim if they can no longer attend their primary place of work?</b></p>	<p>The obligation to provide safe duties still exists for employers. First consider if safe duties can be provided in the home around:</p> <ul style="list-style-type: none"> <li>• training</li> <li>• online work</li> <li>• job sharing</li> <li>• arranging a paperwork drop off on a periodic basis</li> </ul> <p>If there is no work from home solution, can alternative roles be found in the existing or another workplace location? Consider the following:</p> <ul style="list-style-type: none"> <li>• are there alternative work sites or locations within the workplace where the individual can be kept safe?</li> <li>• are the current claimants able to assist as COVID-19 champions to help with training, monitoring of other workers adhering to COVID-19 response plan, wearing PPE/maintaining safe distance, etc?</li> </ul>
<p><b>Will workers compensation claims be accepted if the worker is working from home?</b></p>	<p>As more businesses transition to work from home and remote working arrangement it is important to remember that, while a worker may not be in their usual working environment, if an employee is conducting work on your behalf anywhere it is still your responsibility to ensure a safe working environment. This means that it is important for your business to maintain its workers compensation insurance, even when staff are working remotely, as they are still covered by the insurance during their working hours.</p>

Working from home or remotely broadens the definition of a workplace but the employer's responsibilities stay the same. If the worker is performing tasks in the course of their employment at home, they are most likely covered by their employer's workers compensation insurance and they can make a workers compensation claim for an injury or illness suffered while working remotely.

Risks related to working from home that may lead to claims include:

- no or limited control over employees' work from home environment increases risks in relation to them sustaining injuries that are compensable
- social distancing / self-isolation and mandated requirements to work from home will also increase the potential occurrence of stress-related conditions which employees may consider to be work related and compensable.

**What safety measures should I take to protect my people working from home?**

As it remains your responsibility to ensure your workers are working safely, even if they are at home or working remotely, your business needs to ensure that all your workers continue to follow safety standards.

- ensure that your worker completes an ergonomic risk assessment and training about how to work from home safely
- if a worker injures themselves while working from home, request that they get a medical certificate and keep detailed notes about the incident so you have adequate information to assess the injury and report to your workers' compensation insurance provider
- increase access to EAP and communicate options to all workers – distribute EAP phone details
- consider the increased risk of mental health issues arising from isolation from the workplace and working remotely from home
- make regular contact with workers via phone, Skype or online messaging. This helps isolated workers feel involved and updated, but it also gives them a sense of social support and engagement
- consult early with all workers and particularly with those who have identified vulnerabilities, or you believe may be most impacted by COVID-19, and create a work from home plan specifically tailored to them and their needs
- redistribute the contact details for trained mental health officer and/or human resources representatives who employees can reach out to while working from home
- encourage workers to discuss with you any specific or individual concerns they may have about working from home, the impact of any proposed control measures, not feeling connected to the team or COVID-19 generally

	<ul style="list-style-type: none"> <li>• document your risk assessments, consultation efforts and decision-making processes with respect to risk management</li> <li>• encourage workers to maintain a routine while self-isolating or social distancing</li> <li>• make time for casual conversations (with no agenda)</li> </ul>
<b>What safety measures should I take to protect my people that are staying at work?</b>	<p>For some businesses and industries, workers will have to remain on the job in their usual setting. It is important that employers in these areas ensure they are keeping staff safe to the usual standard but it is vital that businesses ensure they lower the risk of workers contracting COVID-19.</p> <ul style="list-style-type: none"> <li>• identify if your workplace is more high risk and likely to contract COVID-19 and put in place robust measures to reduce the possibility of it being considered the source of the infection (e.g. a more frequent, detailed cleaning regime). These might include:             <ul style="list-style-type: none"> <li>○ provision of enhanced hygiene assistance (hand wash/signs). Consider placing hand sanitiser at the entrance to bathroom/kitchen sink facilities to assist in controlling infection from handling taps or door handles</li> <li>○ requirements (which can be enforced) to restrict access to the workplace to individuals who are symptomatic</li> <li>○ enhanced education around how to avoid infection</li> <li>○ allowing individuals who raise concerns about potential infection to work from home.</li> </ul> </li> <li>• to minimise the number of claims encourage employees to work from home where possible</li> </ul>
<b>Does Workcover cover my worker's wages during their quarantine period?</b>	<p>Workers compensation does not cover wages during a quarantine unless:</p> <ul style="list-style-type: none"> <li>• there is a diagnosis of COVID-19 warranting the quarantine</li> <li>• the exposure in connection with work has been confirmed</li> <li>• there is an accepted workers' compensation claim for this illness.</li> </ul>
<b>Will Workcover reimburse my costs if I independently arrange for my worker to be tested for COVID-19?</b>	<p>Workers compensation will only reimburse costs if:</p> <ul style="list-style-type: none"> <li>• there is a positive diagnosis of COVID-19</li> <li>• the connection with work exposure has been confirmed</li> <li>• a workers compensation claim for this COVID-19 has been accepted</li> </ul>
<b>Are there any recommended business practices for managing unwell workers and personal leave?</b>	<ul style="list-style-type: none"> <li>• workers should be encouraged to self-report any injury or illness and understand that if they knowingly attend work in breach of a reasonable and lawful direction by either an employer's health and safety team, or government health and safety advice, they may break work health and safety laws, which could have personal consequences for them</li> <li>• encourage workers who have mild respiratory symptoms (coughing, sneezing, shortness of breath) and/or a mild temperature to stay home (or work from home) for at least 14 days</li> </ul>

- educate workers about their leave entitlements and ability to access personal leave balances if they are ill, self-isolating, believe they have been exposed/will be exposed or are caring for an ill family member
- allow for workers to take paid or unpaid leave where possible
- by law, any workers who have returned from overseas are required to self-isolate for 14 days. If you have not already, ensure you alert your workers to this development
- employers can request that workers provide medical certificates or statutory declarations as evidence of requiring sick leave. However, due to the increased strain on the healthcare system, it may be difficult to get an appointment, so consider what is reasonable in the circumstances
- also consider whether a medical certificate is required before workers return to work, based on the type of illness/injury they're recovering from

## Gallagher is here to help

### Claims management, safety training and education assistance

If your business has had to let go, or stand down key roles involved in Workers Compensation and Workplace Health and Safety, we can provide interim outsourced claims management, safety and training and education solutions.

### Online work health and safety training

With many businesses converting workforces to remote working arrangements, our suite of [E-Learning modules](#) are available to assist employees with ergonomics and well-being considerations of working from home. These modules also help employers meet their WHS obligations to provide a safe workplace.

If you would like additional information, please contact the Workplace Risk Team on 1300 789 467 or [enquirieswpr@ajg.com.au](mailto:enquirieswpr@ajg.com.au) to be directed to the appropriate technical specialist for your State.

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