1. Would a claim for COVID-19 be considered a compensable occupational disease injury under the Workers’ Compensation Act?

While not yet expressly held by the Industrial Commission of Arizona (“ICA”), it is highly likely that such a claim will be considered compensable under the general “arising out of” provision of A.R.S. §23-1021.

2. What is the jurisdictional rationale that makes the claim compensable? Provide all rules that would apply to make the claim compensable.

A.R.S. §23-1021 is intentionally broad to cover injury “arising out of and in the course of” employment.

3. If the employee is directed by the employer to quarantine due to possible exposure at work (and the employer is continuing full salary for 14 days), does the employer’s direction make the claim compensable under the Workers’ Compensation Act?

This has not yet been addressed by the ICA. A.R.S. §23-1021 states a claim may be compensable “wherever the injury occurred”. If the employee contracts the virus or falls ill on a delayed basis and there is sufficient evidence that the virus was contracted from employment, the claim will likely be compensable irrespective of a quarantine order.

4. Are “first responders” considered at greater risk than the general public under the Workers’ Compensation Act?

They are for certain specified occupational diseases, and those are expressly stated in the statutes. COVID-19 would obviously not be one at this time, though the state legislature could address this in the next legislative session.

5. Is “Pharmacy” considered a first responder under the Workers’ Compensation Act?

No.
6. Is the state calling for legislation that would eliminate the burden of proof for workers making a COVID-19 occupational disease claim? If so, please provide summary of what is being proposed.

Nothing has yet been proposed in the state legislature.

7. Has the state governor issued an executive order allowing for COVID-19 cases compensable under the Workers’ Compensation Act? If so, please provide copy of the executive order.

No.

8. If COVID-19 claims are compensable under the Workers’ Compensation Act, is the waiting period waived?

Not at this time.

9. If the claim is compensable under the Workers’ Compensations Act and the Employer pays the employee their full salary for the first two weeks during quarantine, how does this affect the TTD benefits?

The most likely outcome would be that full salary would count as a credit against benefits, or be considered to toll the time of benefit payment.

10. Can the TTD benefits start be delayed if the employee’s disability extends beyond 14 days if the employee receives their full salary for the first two weeks?

There has not yet been a determination by the ICA. That is a possibility or a credit could be applied, which could have an equivalent effect.

11. Can the TTD benefits be offset by the full salary paid to the employee?

As stated above, that is a possible outcome, though not yet determined by the ICA.