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

In Indiana, workers’ compensation benefits are paid by employers, not the State. Under our laws, the State cannot tell employers they must automatically cover employees who contract COVID-19. Whether an individual contracts the virus in the course and scope of their employment is a determination that must initially be made by the employer. This decision is routinely made at the time the employee notifies the employer of the injury, or in this case, contraction of the virus.

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

See Answer to Number 1.

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?

Indiana’s Department of Workforce Development urges Employers to consider making a prospective decision as to whether any vulnerable segment of their workforce will be presumptively covered under the provisions of the Indiana Worker’s Compensation Act should they:

   a.) Be quarantined at the direction of the employer due to a confirmed or suspected Covid-19 exposure,
   b.) Receive a Covid-19 diagnosis from a physician without a test,
   c.) Receive a presumptive positive Covid-19 test, or
   d.) Receive a laboratory-confirmed Covid-19 diagnosis.

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

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

A pharmacist is considered a health care provider under the Worker’s Compensation Act who are more susceptible to contraction of the disease as a direct result of their work duties.

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.

None to date.

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?

N/A

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

Employee is not eligible for TTD benefits if receiving payment from employer.

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?

It is unclear. Technically, the employee is not entitled to benefits until the employee has been out for 21 days.

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

Yes.