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

The Utah House of Representatives and Senate passed a bill that amended the Workers’ Compensation Act. It establishes a rebuttable presumption that first responders and health care workers who were exposed to COVID-19 while working contacted COVID-19 by accident during the course of performing his or her job duties. The first responder shall provide a copy of the positive laboratory test or written documentation of the physician’s diagnosis. The final bill has been prepared and is pending the Governor’s action.

Utah defines occupational disease under 34A-3-103 as “any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment.” It does not appear that Utah has issued special directives on whether COVID-19 would be a compensable injury outside of first responders and health care workers.

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

The following is the link to the House bill: https://le.utah.gov/~2020S3/bills/static/HB3007.html

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?

It does not appear that Utah has issued special directives on how it will address COVID-19 claims. This will be updated as additional information is obtained.

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

Please see the link to the House bill.
5. Is “Pharmacy” considered a first responder under the Workers’ Compensation Act?

No. First responders are defined under 34A-2-102(h) and limited to a law enforcement officer, emergency medical technician, advanced emergency medical technician, paramedic, firefighter, dispatcher and correctional officer.

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.

Please see the link to the House bill.

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.

The Utah legislature passed a bill specifically addressing first responders and health care workers.

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

It does not appear that Utah has issued special directives on how it will address COVID-19 claims. This will be updated as additional information is obtained.

§34A-2-408 holds that no compensation is payable for the first three calendar days following the injury, unless the period of temporary total disability extends beyond 14 calendar days. In that case, TTD benefits would be paid for the first three calendar days after the accident. The three day period does not have not consecutive.

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?

It does not appear that Utah has issued special directives on how it will address COVID-19 claims. This will be updated as additional information is obtained.

If the employee was unable to work due to the work injury, the employee is entitled to TTD benefits.
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 does not appear that Utah has issued special directives on how it will address COVID-19 claims. This will be updated as additional information is obtained.

If the employee was unable to work due to the work injury, the employee is entitled to TTD benefits.

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

It does not appear that Utah has issued special directives on how it will address COVID-19 claims. This will be updated as additional information is obtained.

If the employee was unable to work due to the work injury, the employee is entitled to TTD benefits.