

Illinois General Assembly Issues Final Word on COVID-19 as a Workplace Injury for Worker's Compensation

In Illinois, worker's compensation is typically the only remedy offered to an employee who suffers an injury or occupational disease. Historically, communicable diseases have not been covered by worker's compensation because it is difficult to establish that the illness was contracted in the workplace.

However, COVID-19 is re-writing the rules. After a heated back and forth between the [Illinois Worker's Compensation Commission](#) and the [Illinois Manufacturers Association](#) regarding COVID-19 as a workplace injury, the Illinois General Assembly ended the debate by passing legislation creating a rebuttable presumption in favor of essential workers, who ostensibly contracted the virus at work during statewide quarantine shutdowns.

On May 22, 2020, the Illinois General Assembly overwhelmingly approved [HB 2455](#), which states in relevant part:

“[I]f the employee's injury or occupational disease resulted from exposure to and contraction of COVID-19, the exposure and contraction shall be rebuttably presumed to have arisen out of and in the course of the employee's first responder or front-line worker employment and the injury or occupational disease shall be rebuttably presumed to be causally connected to the hazards or exposures of the

employee's first responder or front-line worker employment."

Put simply, this creates worker's compensation protection for workers deemed "essential" under the Governor's [stay-at-home order](#). The bill also revises the state code to enhance sick pay and leave for workers who contract the virus, and provides death benefits to police officers and firefighters who die after testing positive for the virus or its antibodies if they contract the virus between March 9, 2020 and December 31, 2020,

Furthermore, the bill allows Illinois to continue qualifying for federal relief by extending unemployment benefits, waiving a one-week unemployment insurance waiting period, and expanding eligibility for unemployment to non-instructional education employees.

Employers May Rebut Employee Claims

The protections of HB 2455 are not absolute. Under the bill, employers may rebut worker's claims for COVID infections under certain circumstances. Those circumstances include, but are not limited to;

- Providing proof that the employee was exposed to an alternative source outside of the workplace;
- Demonstrating the workplace was following public health guidelines for two weeks prior to when the employee claims they contracted the virus; or
- If the employee was working from home for at least 14 days prior to the injury claim.

The best ways for employers to avoid worker's compensation claims under this new bill are to take extra measures to protect employees, keep track of all safety procedures and policies, and maintain open lines of communication with employees regarding their health and safety concerns.

Governor Pritzker is expected to sign the bill into law shortly.

Ross I. Molho

Iman Eikram

Clingen Callow & McLean, LLC

2300 Cabot Drive, Suite 500

Lisle, Illinois 60532

www.ccmlawyer.com

[630-871-2600]

The author, publisher, and distributor of this CCM Alert is not rendering legal or other professional advice or opinions on specific facts or matters. Under applicable rules of professional conduct, this communication may constitute Attorney Advertising.

© 2020 Clingen Callow & McLean, LLC. All rights reserved.

ccmlawyer.com