



IDAHO INDUSTRIAL COMMISSION

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October 7, 2020

RE: COVID-19 Claim Filing

The disruption brought by the COVID-19 pandemic to our industry has caused many of us to reconsider certain aspects of claims handling. It is generally the case that ordinary diseases of life, e.g., cold or flu, are rarely compensable, due to the difficulty of proving the elements of a compensable claim. For example, it may be difficult to prove that a case of flu is causally related to a workplace exposure to a reasonable degree of medical probability. Further, for such an infection it may be hard to show that the risk of infection at a particular workplace is any different than the risk of infection generally inherent in all workplaces. This is not to say that infectious diseases cannot be compensable under Idaho law. With adequate proof of the elements of an occupational disease or accident/injury, infectious diseases may be compensable. Similarly, it is inaccurate to say that COVID-19 claims are not compensable under Idaho law, even though the worker pursuing such a claim may face a stiff headwind.

We realize this unprecedented public health emergency can be confusing to many employers. We see media reports of COVID-19 outbreaks at employer facilities which do not result in the expected numbers of workers' compensation claims filed. We also see wide variation of reporting among employers within the same industry. We would like to request your assistance in communicating the following information to employers to aid in their decision making on reporting COVID-19 workers' compensation claims.

When an employer believes it possible that its employee was infected at work, or when its employee claims to have incurred COVID-19 at work, a notice of injury or occupational disease must be filed in accordance with I.C. 72-602. The claims administrator may then investigate and determine compensability, as with any other claim.

In May 2020, the National Council on Compensation Insurance (NCCI) filed a rule change excluding COVID-19 claims from employers' experience rating calculations. Such injuries may be reported with the new Nature of Injury code "83" (COVID-19) and Cause of Injury code "83" (Pandemic) created by the Workers Compensation Insurance Organizations (WCIO) specific to COVID-19 infections.

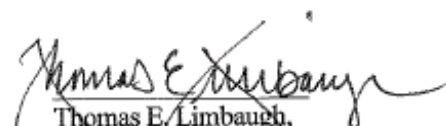
Therefore, given the current immunity of COVID-19 claims from employers' NCCI experience ratings, employers should have no great concern about filing I.C. 72-602 reports as required by law. Of course, the filing of such a report does not amount to an admission of liability. The Commission makes no presumptions as to compensability once notice has been filed.

We ask that you consider and communicate this information to your policyholders and/or self-insured employers. The above is not new law, but is an agency interpretation of existing law. Further questions or comments can be directed to:

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