



ALABAMA | FLORIDA | MISSISSIPPI | TENNESSEE



COVID-19

Carr Allison has established a coronavirus response team to help our clients address concerns about COVID-19 and their employees. Our team members are ready to help.

Contact a member of our [COVID-19 Response Team](#) or your [Workers' Comp Team](#) with your questions.

Is COVID-19 compensable if the employee alleges to have contracted the virus at work?

Key Information

Alabama

- The word “disease” is generally defined as a serious disorder that has impaired the constitution or left in its wake some organic or chronic effect that has undermined an employee’s general health. This is a broad definition that is not limited to classically recognized diseases. The Courts have found that the term “disease” excludes temporary disorders that do not leave chronic effects on the employees. This exclusion removes ordinary colds, sniffles, and other routine illness that employees incur from time to time. An occupational exposure that only temporarily aggravates an employee’s peculiar allergic condition and does not permanently sensitize the respiratory pathways likewise falls outside the definition of “disease.”
- By definition, the employee must establish that the disease resulted from prolonged exposure to normal working conditions. The disease will be covered only if caused by hazards, in excess of those ordinarily incident to employment in general and different in character from those found in the general run of occupations. Finally, to be occupational, the disease must arise out of and in the course of employment.
- The issue with analyzing compensability for the coronavirus right now is that we know so little about it. Can they really say right now whether the employees got the disease while in the USA or another country?
- We researched caselaw in Alabama as relates to flu and other communicable diseases and did not really find any cases on point. All of the occupational disease cases deal with exposure to a substance or something particular to that company, not a generic type of exposure to a disease outbreak. We think that if the coronavirus continues on the path that we are seeing in other countries, it will be impossible for an employee to prove that he or she got the disease at work versus somewhere else.
- An employee could have just as easily have gotten the virus from a family member at home, someone in Wal-Mart, etc.

Florida

- In Florida there are two potential statutes that could be applied to the COVID-19 situation:
 1. Occupational Disease: one that is characteristic of and peculiar to an occupation, excluding all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular occupation. There must be epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee. No benefits are payable unless the employee suffers disablement or death as a result of the condition.
 2. Exposure Claim: Florida law presumes that an injury caused by exposure to a

Mississippi

- In Mississippi, there must be an accidental injury that arose in the course and scope of employment. This definition now includes occupational disease. The burden is on the claimant to prove the connection between the occupational disease and the job.
- As there is no precedent for an infectious disease causing a workers' compensation claim, we believe that general principles applying to manifesting medical conditions in the past, like a heart attack on the job, will apply. The Mississippi Supreme Court has stated that "This Court has never held that the mere presence of an employee at work is sufficient in itself to constitute causal connection." Instead, there must be some proof which shows that the infection occurred on the job, versus

toxic substance is not compensable. To overcome the presumption, the Claimant must present testimony from a qualified expert that: shows that Claimant was in fact exposed to a specific substance while in the course and scope of employment; demonstrates the level of exposure; and proves that the level of exposure to the specific substance can cause the injury or disease sustained.

- Under both of these scenarios the issue will be showing that the employment held an increased hazard for exposure. Unless the employee is a health worker or first responder, it is likely that Florida Law will presume that the condition is not work related.

Tennessee

normal "wear and tear" of life.

- Given that COVID-19 has very few mutations, there is no way to effectively trace person-to-person contact. As the infection spreads, the potential places where infections occur escalate beyond the workplace. Given also that there are work-at-homes or store closures in place, as the 14-day incubation period passes from the last date of work, the chances of a work-related infection are likely, in the short term, to be low and increasingly unlikely. On the other hand, working on an infected cruise ship, or nursing homes, or places where the worker is confined and in active contact with infected people would increase the evidence available to prove medical causation.

Georgia

- It is highly unlikely an employee in Tennessee would be entitled to workers' compensation benefits for contracting the coronavirus (COVID-19). Employees would have a difficult time proving their employment contributed more than 50% in causing the injury, considering all causes.
- In a similar situation, a pilot tried to obtain workers' compensation benefits for allegedly contracting bird flu when travelling for work in China in 2014. The Tennessee Court of Workers' Compensation denied the claim for benefits, holding that the claimant failed to establish expert medical evidence that his illness arose primarily out of and occurred in the course and scope of his employment.

- Georgia Workers' Compensation Act provides benefits for occupational diseases. COVID-19, if contracted at work, could meet the definition of an occupational disease and therefore would be compensable.
- To be compensable, the employee's work would have had to expose the employee to the disease greater than the chance of exposure in the general public. This would be a very case specific determination depending on the nature of the employers business and the work being done at the time of the exposure. First responders and health care workers would have a strong case that contracting COVID-19 while at work would be compensable.
- This would also be the case for plant nurses or similar medical professionals who could come in contact with a sick employees. Regarding other categories of

employees, the determination is difficult. It will turn on the work being performed, whether it increased the employees exposure to the virus, and whether they were exposed outside of work.

Do you have questions about Medicare Compliance or Labor/Employment?

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- [Contact the Labor/Employment Department](#)

Your Resources

- [Your WC Team](#)
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- [WC Cheat Sheet](#)
- [WC Go Team](#)
- [COVID-19 Response Team](#)
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