

CUPE BC Region Fact Sheet for Filing WorkSafeBC (“WCB”) claims for the 2019-nCoV Coronavirus (“COVID-19”)

I. PURPOSE OF FACT SHEET:

This Fact Sheet provides an overview of how to file a WCB claim for exposure to COVID-19. Please see the “BC Region Guide Filing WorkSafeBC Claims for the Coronavirus” (now called COVID-19) for additional detailed information at https://www.cupe.bc.ca/occupational_health_and_safety_committee

II. BACKGROUND:

COVID-19 is a virus in the same family as SARS (Severe Acute Respiratory Syndrome), although it has a much lower fatality rate than SARS. As per the BC Centre for Disease Control (February 11, 2020) the risk of infection from this virus remains low at this time in BC, subject to updates.

III. FILING WCB CLAIMS – KEY LEGISLATION AND POLICIES (NOT AN EXHAUSTIVE LIST):

When filing a WCB claim for exposure to COVID-19 some important points to consider include:

- WCB claims may be adjudicated under Section 5 of the *Workers Compensation Act* but it is more likely that they will be adjudicated under Section 6 Occupational Disease. There are many different WCB Policies that interpret the *Workers Compensation Act* and may apply to a claim. Policies 26.00 and 28.00 are most commonly applied by the WCB. Each claim will vary.
- WCB claims may be for time loss (“wage loss”), healthcare benefits or both.
- Workers should file the Form 6 – Application for Compensation and Report of Injury or Occupational Disease. The Employer should file the Form 7 – Employer’s Report of Injury or Occupational Disease. See <https://www.worksafebc.com/en/resources/claims/forms/application-for-compensation-and-report-of-injury-or-occupational-disease-form-6?lang=en>
- The appeal tribunals and WCB have said that the nature of the employment usually must create a risk of contracting the disease to which the public at large is not normally exposed, as one example. Each claim will vary according to the facts.

IV. INITIAL STEPS FOR FILING A WORKERS’ COMPENSATION CLAIM:

- Seek medical attention immediately.
- Advise the Employer immediately, including incident reports as required.
- Advise the WCB immediately e.g. by filing the WCB Form 6.
- The WCB Form 6A is an Employer form that does not initiate a claim.

- Ask the Employer to file the WCB Form 7 and obtain a copy of the Form 7.
- Include all relevant information such as the occupation (which may have a higher than average exposure to the COVID-19), duration of exposure, places of exposure, presence of persons with symptoms and / or diagnosed COVID-10, evidence of work causation, etc.
- Ensure the information in the Form 6 and Form 8 / 11 (Physician's reporting forms to the WCB) is consistent.
- Advise the health and safety committee as applicable to address health and safety issues.
- Obtain clinical records / chart notes from the treating practitioners. Be careful of privacy issues.
- Have all relevant information available for calls from the WCB e.g. Teleclaim, for consistency.
- Obtain a copy of the WCB claim file. Ensure the contents are accurate and contain all relevant documents and evidence. Check wage loss, income, and payroll information very carefully.
- Keep detailed logs of all calls, correspondence, meetings and treatment.

V. REASONS WHY A CLAIM MAY BE DENIED (SAMPLE REASONS ONLY):

- Lack of presence of persons with diagnosed COVID-19 in the workplace.
- Limited exposure duration.
- Prevalence of COVID-19 in the workplace as opposed to the general public.
- Lack of a confirmed diagnosis.
- Volunteering as opposed to work related duties.
- Symptoms and / or diagnosis occurring during periods of time off such as vacation, non-work related travel, etc.
- Contradictory information in the WCB Form 6, Form 7 and Form 8 / 11.
- Report any related discipline, retaliation, or claims suppression to both the Local and the WCB.

VI. RESOURCES AND INFORMATION:

See the BC Region Guide Filing WorkSafeBC Claims for the Coronavirus for additional detailed information at https://www.cupe.bc.ca/occupational_health_and_safety_committee and WorkSafeBC at <https://www.worksafebc.com/en>

The information that formed the basis for this Fact Sheet and the Guide may change frequently.