

CUPE BC Region Fact Sheet for Filing WorkSafeBC claims for SARS-CoV-2 and COVID-19 - Part 2 of 2 – Fall 2020

I. PURPOSE OF FACT SHEET:

This Fact Sheet provides an overview of how to file a WCB claim for exposure to SARS-CoV-2 and symptoms of COVID-19. See the “CUPE BC Region Guide Filing WorkSafeBC Claims for COVID-19” for more information at https://www.cupe.bc.ca/occupational_health_and_safety_committee.

II. BACKGROUND:

Workers may contract the respiratory virus SARS-CoV-2 and develop COVID-19 symptoms, as well as numerous long-term or permanent secondary conditions. It is important for workers to file claims as required. Many claims are denied for the reasons in Section V below (as of Fall 2020).

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

When filing a WCB claim for exposure to SARS-CoV-2 and / or developing symptoms of COVID-19, 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-andreport-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.
- There is now a form of limited Presumption in compensation Policy for claims of this type.
- The WCB Form 6A is an Employer form that does not initiate a claim.

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

- Seek medical attention immediately, including contacting the applicable health authority.
- Advise the Employer immediately, including incident reports as required.
- Advise the WCB immediately e.g. by filing the WCB Form 6.

- 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 AND NOT IN ORDER):

- 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.

VI. RESOURCES AND INFORMATION:

Always check for the most current information at the WorkSafeBC website at:
<https://www.worksafebc.com/en/about-us/covid-19-updates/claims>.

It is important to report any related discipline, retaliation, or claims suppression to both the Local, the Joint Health and Safety Committee and the WCB.