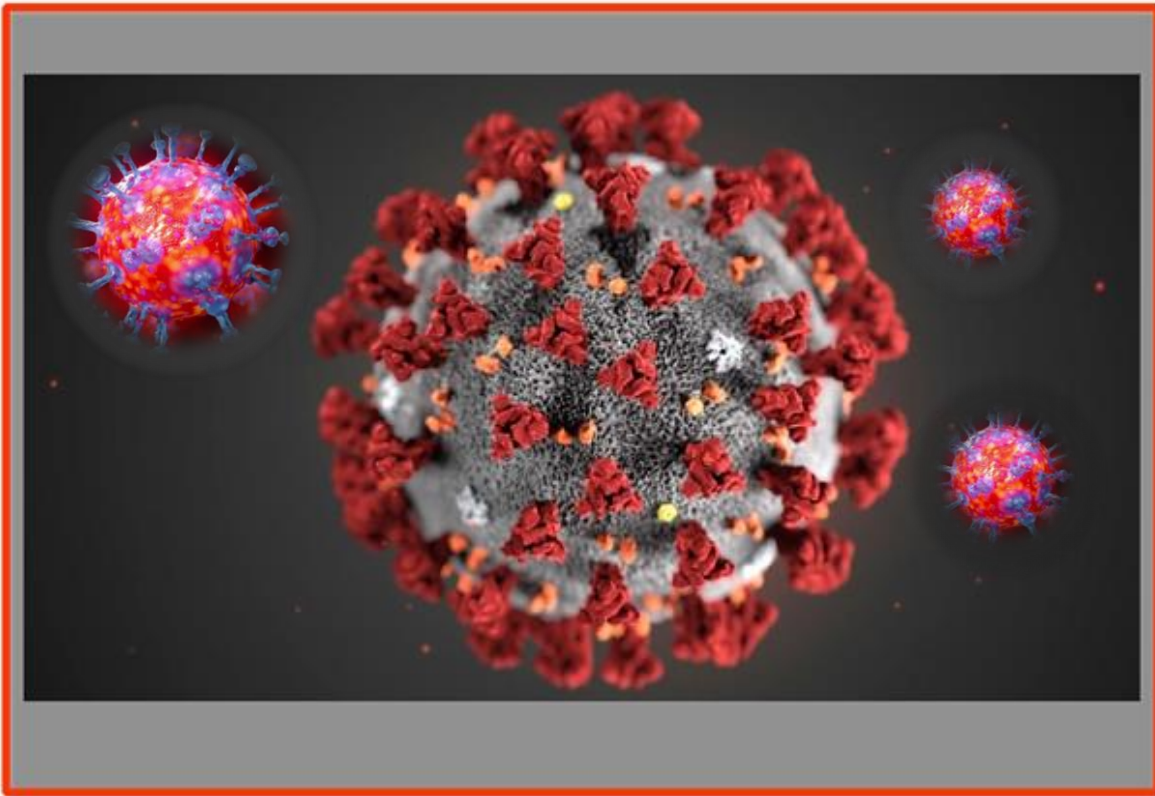


CUPE BC REGION GUIDE

FILING

WORKSAFEBC CLAIMS

COVID-19 – SARS-CoV-2

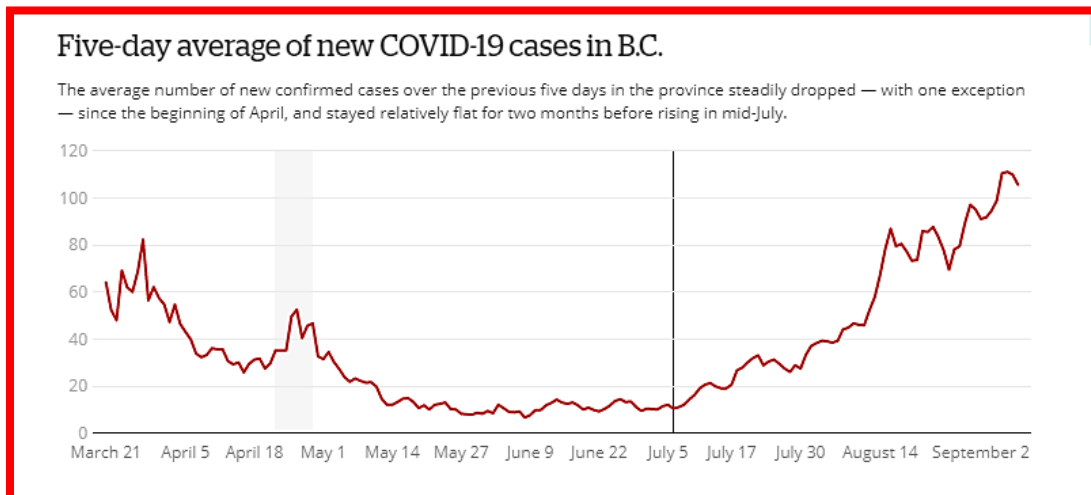


Tom McKenna, CUPE National Health and Safety Representative

Fall 2020

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The screenshot shows the BC Centre for Disease Control website. The header includes the logo, navigation links (Our Services, Health Info, Our Research, About, Contact, Health Professionals, Donate, Careers), and a search bar. The main content area is titled 'Common Questions' and includes a sub-section 'What you need to know' with a dropdown menu. The dropdown menu is open, showing the question 'What is coronavirus/COVID-19?' and its answer. To the right, there is a 'In this section' sidebar with a list of topics: COVID-19, About COVID-19, Testing & Isolation, Case Counts & Press Statements, Common Questions (highlighted), Childcare & Schools, and Colleges & Universities.

I. INTRODUCTION:

I.I. Purpose of Guide:

This updated Guide provides information for workers on how to file a WorkSafeBC claim in British Columbia for exposure to SARS-CoV-2 and the related respiratory illness COVID-19. The information for this Guide and the Fact Sheet is updated frequently. Please check the WorkSafeBC website often.

There are two documents – the Guide and a short Fact Sheet. Both are on the CUPE BC OHS Committee website at [https://www.cupe.bc.ca/occupational health and safety committee](https://www.cupe.bc.ca/occupational_health_and_safety_committee).

The CUPE National Health and Safety website at <https://cupe.ca/covid-19> should be used for all non workers compensation COVID-19 matters.

The screenshot shows the HealthLinkBC website homepage. At the top left is the British Columbia logo and the HealthLinkBC text. To the right is a search bar with the placeholder text "Enter your keywords". Below the search bar is a navigation menu with links for Home, Healthy Eating, Physical Activity, Mental Health & Substance Use, Medical Tests, Medications, Health Topics, Tools & Videos, Services & Resources, and Public Health Alerts. The main content area features a large banner image of a person's face being checked with a thermometer. Overlaid on the banner is a dark blue box with the text: "Coronavirus disease (COVID-19) BC's provincial health officer has declared COVID-19 a public health emergency. Find information about COVID-19, how to protect yourself, your family and your community." Below the banner, there is a section titled "Coronavirus disease (COVID-19)" with a link to the "BC COVID-19 Symptom Self-Assessment Tool". On the right side of this section, there is an orange box with the text: "((Public Health Alerts)) B.C. COVID-19 response update - Mar 21, 2020".

I.II. Background:

As per the BC Centre for Disease Control:

“Coronaviruses are a large family of viruses found mostly in animals. In humans, they can cause diseases ranging from the common cold to more severe diseases such as Severe Acute Respiratory Syndrome (SARS) and Middle East Respiratory Syndrome (MERS-CoV). The new coronavirus has been named COVID-19. While many of the characteristics of COVID-19 are still unknown, mild to severe illness has been reported for confirmed cases.”

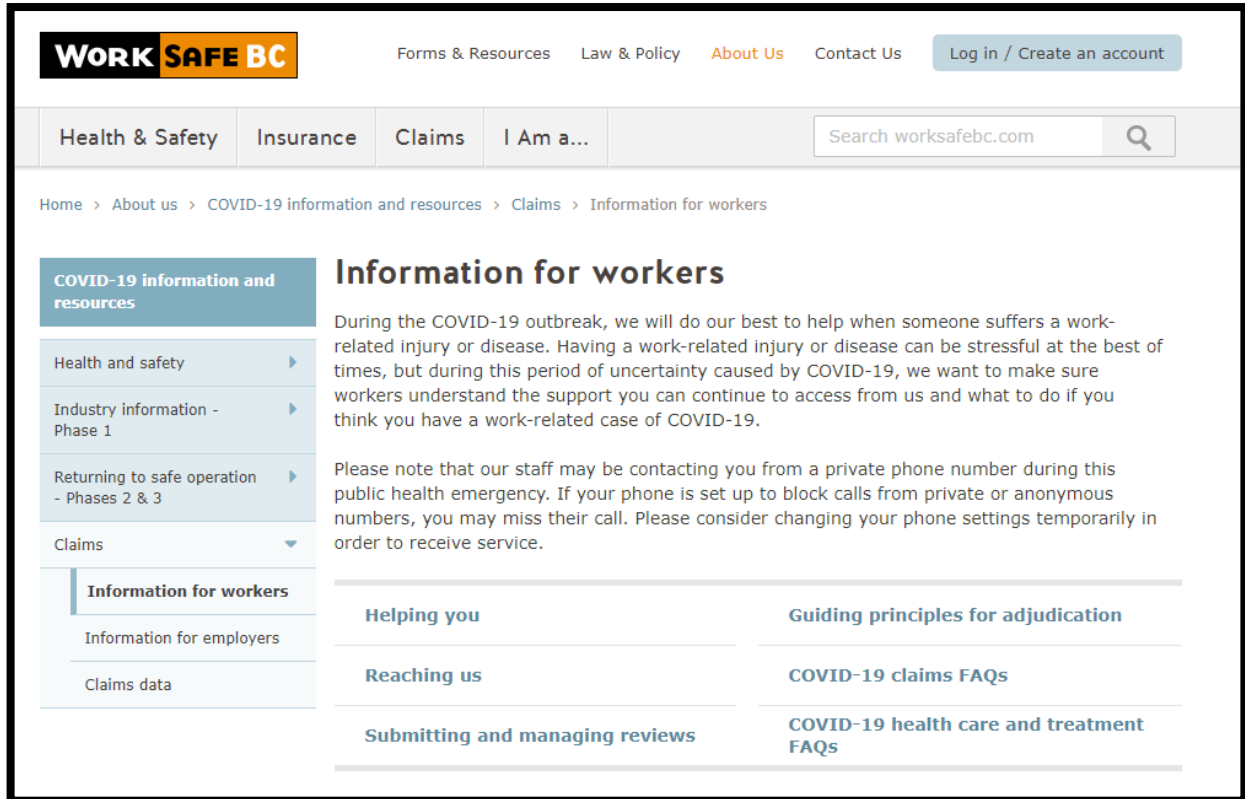


I.III. Cautions when using this Guide:

Sector and occupation specific information, including infection and mortality rates, frequently changes. There are new secondary long-term or permanent conditions related to COVID-19 that are not usually compensated by WorkSafeBC. This Guide is not legal advice. This Guide is subordinate to the WorkSafeBC legislation, Occupational Health and Safety Regulations (“OHS Regulations”) and Policies.

As per the above, please refer to WorkSafeBC, CUPE National Health and Safety branch materials, the Public Health Agency of Canada, the BC Centre for Disease Control, HealthLink BC and the various health authorities for further information and Guidance.

This Guide does not address Federal legislation or entitlements. As with all workers compensation claims, a gender and diversity lens should be applied to risk assessment, recognition, reporting, treatment, training, return to work and accommodation.



II. KEY POINTS:

When filing a WorkSafeBC claim for SARS-CoV-2 and COVID-19 and for assessing any related occupational health and safety requirements there are a number of important points for workers, Employers, CUPE Locals and CUPE National Representatives to consider. These include:

- There is only limited compensation Presumption in favour of work relatedness and only under certain circumstances. See Section III below.
- WorkSafeBC claims may be for time loss (“wage loss”), healthcare benefits or both. Check all income and wage rate data very carefully as errors often occur.
- While WorkSafeBC claims may be adjudicated under Section 5 of the *Workers Compensation Act*, it is more likely that they will be adjudicated under Section 6

Occupational Disease (of the *Workers Compensation Act*). For example, prevalence compared to the general population and duration of exposure are important considerations.

- For the claim to be compensable, there must be something in the nature of the employment which had causative significance. The nature of the employment must create a risk of contracting a kind of disease to which the public at large is not normally exposed. The nature of the employment must create a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large. For example, the employment caused workers to meet a much larger proportion of people with that disease than is found in the general public.
- Employers must have an updated Exposure Control Plan.
- Employers should be conducting the required hazard and risk assessments, as part of the Exposure Control Plan.
- See WorkSafeBC COVID-19 and returning to safe operation at <https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation>.
- Employers must involve the Joint Health and Safety Committee (or Worker Representative where there is no committee) in the health safety program.

Important initial steps for filing a workers' compensation claim include:

- Seek medical attention immediately, including contacting the applicable health authority.
- Advise the Employer immediately, including incident reports as required.
- Advise WorkSafeBC immediately e.g. by filing the WorkSafeBC Form 6 (as opposed to the WorkSafeBC Form 6A which is an Employer form that does not initiate a claim).
- Ask the Employer to file the WorkSafeBC Form 7 and obtain a copy of the Form.

- Include all relevant information in the WorkSafeBC Form 6 such as the occupation (which may have a higher than average exposure to SARS-CoV-2), the duration of exposure, the places of exposure, the presence of persons with symptoms and / or diagnosed COVID-19, evidence of work causation, etc.
- Ensure the information in the Form 6 and Form 8/11 (Physician’s reporting forms to WorkSafeBC) is consistent. Errors and contradictory facts complicate claims.
- Advise the JHSC and coordinate the health and safety issues as applicable.
- Obtain clinical records / chart notes from the treating practitioners.
- Have all relevant information available for calls from WorkSafeBC e.g. Teleclaim.
- Obtain a copy of the WorkSafeBC file. Ensure the contents are accurate and contain all relevant documents and evidence.
- Keep detailed logs of all calls, correspondence, meetings and treatment.

The screenshot shows the WorkSafeBC website interface. At the top, there is a navigation bar with the WorkSafeBC logo and links for Forms & Resources, Law & Policy, About Us, Contact Us, and a Log in / Create an account button. Below this is a secondary navigation bar with tabs for Health & Safety, Insurance, Claims, and I Am a... A search bar is located to the right of these tabs. The main content area features a breadcrumb trail: Home > Contact us > Departments and services > Claims. On the left, there is a sidebar with a 'Contact us' button and links for 'Departments and services' and 'Office locations'. The main heading is 'Claims', followed by the text: 'If you've been injured at work, we're here to help you with the claims process.' Below this is the 'Claims Call Centre' section, which includes contact information: Phone: 604.231.8888 (Lower Mainland), Toll-free: 1.888.967.5377 (Canada), Fax: 604.233.9777 (Lower Mainland), Toll-free: 1.888.922.8807 (Canada), Hours of operation: Monday to Friday, 8 a.m. to 6 p.m., and Mail: PO Box 4700 Stn Terminal, Vancouver, B.C. V6B 1J1. The 'Teleclaim Contact Centre' section follows, with the text: 'Contact us to report a work-related injury or illness.' and Phone: 1.888.967.5377.

WORK SAFE BC Forms & Resources Law & Policy About Us Contact Us Log in / Create an account

Health & Safety Insurance Claims I Am a... Search worksafebc.com

Teleclaim

8.5" X 11" poster with information about WorkSafeBC's Teleclaim Centre.

Call us to report your injury. 1.888.967.5377

Download PDF

Publication Date: Dec 2016
File type: PDF (4 MB)
Asset type: Poster

Available from the WorkSafeBC Store

Share via Email (Anonymously)





f t in e

WorkSafeBC claims for COVID-19 may be denied for the following reasons (sample reasons only for explanation purposes):

- 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.
- Refusal to wear personal protective equipment despite instructions from the Employer or the health authorities.

- Contradictory information in the WorkSafeBC Form 6, Form 7 and Form 8/11.

WorkSafeBC Form 6 Application for Compensation and Report of Injury or Occupational Disease, page one of three. Note – the similar Form 6A does not initiate a WCB claim, it is only usually an internal employer document:

WORK SAFE BC				APPLICATION FOR COMPENSATION AND REPORT OF INJURY OR OCCUPATIONAL DISEASE		 	
<p>For your convenience, WorkSafeBC offers three options for reporting a work-related injury and filing a claim:</p> <ol style="list-style-type: none"> 1. Call our Teleclaim Centre – The fastest and easiest way to report an injury and file a TIME-LOSS CLAIM is to call us at 1.888.WORKERS (1.888.967.5377). One of our knowledgeable representatives will take your information over the phone, explain the process, and refer you to services to aid with your recovery and return to work. Teleclaim is available Monday to Friday, from 8 a.m. to 6 p.m. 2. Report your injury online – Go to worksafebc.com and select "Report injury or illness" to input your information. You can submit your report online and, once submitted, you can follow the status of your claim online. 3. Submit the paper form – Clearly PRINT your information on the form below, sign it, and submit it by fax or mail. FAX: 604.233.9777 in Greater Vancouver, or toll-free within BC at 1.888.922.8807 MAIL: WorkSafeBC, PO Box 4700 Stn Terminal, Vancouver BC V6B 1J1 				<p>For assistance, please call:</p> <p>A. Claims Call Centre at 604.231.8888 or toll-free throughout Canada at 1.888.967.5377, Monday-Friday, 8 a.m. to 6 p.m.</p> <p>B. The BC Legislature provides impartial advisers on all workers' compensation matters. The Workers' Advisers Office is independent and separate from WorkSafeBC and provides free advice and assistance to help injured workers with their claims. They have offices throughout the province and can be contacted at http://gov.bc.ca/workersadvisers or by telephone: Lower Mainland 604.713.0360, toll-free 1.800.663.4261; Vancouver Island 250.952.4393, toll-free 1.800.661.4066; Interior 250.717.2096, toll-free 1.800.663.6695.</p>			
Information about you		WorkSafeBC claim number (if known)		Customer care number (if known)			
Worker last name		First name		Middle initial			
Preferred first name			Gender		M <input type="checkbox"/> F <input type="checkbox"/>		
Date of birth (yyyy-mm-dd)		Personal health number (from BC CareCard)		Social insurance number			
Address line 1			Address line 2				
City		Province/state		Country (if not Canada)		Postal code/zip	
Home phone number (please include area code)			Business phone number (please include area code)			Business extension	
Do you need an interpreter? Yes <input type="checkbox"/> No <input type="checkbox"/>		Preferred language		What is your dominant hand? Left <input type="checkbox"/> Right <input type="checkbox"/>		Height	
						Weight	
Information about your employer							
Employer organization name							
Type of business (if known)				Operating location (if known)			
Address line 1				Address line 2			
City		Province/state		Country (if not Canada)		Postal code/zip	
Employer contact last name		First name		Employer phone number (please include area code)			Extension
Information about your employment							
1. What is your occupation?		2. Have you been employed by this firm for less than 12 months? Yes <input type="checkbox"/> No <input type="checkbox"/>			3. If yes, start date (yyyy-mm-dd)		
4. At the time of injury, were you (please check all that apply)							
Permanent <input type="checkbox"/>		Apprentice <input type="checkbox"/>		Self-employed <input type="checkbox"/>		Casual <input type="checkbox"/>	
Temporary <input type="checkbox"/>		Volunteer <input type="checkbox"/>		Principal/partner or relative of employer <input type="checkbox"/>		Other (please specify) <input type="checkbox"/>	
Full time <input type="checkbox"/>		Student <input type="checkbox"/>		Fisher <input type="checkbox"/>			
Part time <input type="checkbox"/>		New entrant to workforce <input type="checkbox"/>		Hired on a contract basis <input type="checkbox"/>			
5. How many employers do you have?							
6		(R17/12) Page 1 of 3 					

Guiding principles for adjudication

We are actively monitoring and adjusting to the COVID-19 pandemic to determine how we can best support workers, employers, and providers around the province, as well as our staff.

To ensure we do this, we are following these guiding principles from our Executive Leadership Team:

- Our staff will continue to support the rehabilitation of injured workers toward safe, successful, and durable return to work at the earliest opportunity, and pursue available alternate treatment options.
- Our staff will adjudicate claims within existing law and policy and make decisions based on the best evidence available.
- To the greatest extent possible, workers will not be penalized for situations beyond their control.
- To the greatest extent possible, individual employers will not have to bear costs for situations beyond their control.
- We will continue to adjust our operations as the COVID-19 situation unfolds.

COVID-19 claims FAQs

The following FAQs will help you determine what should be reported. New questions added on May 19 are marked with an asterisk (*).

When could COVID-19 be work related?

When a worker contracts COVID-19 as a direct result of their employment, they are entitled to compensation if the following conditions are met:

1. Evidence that the worker has contracted COVID-19, either:
 - a medical diagnosis in a medical report, or
 - non-medical factual evidence where other evidence establishes the existence of COVID-19.
2. The nature of the worker's employment created a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large.

Work-related example	Acute care hospital worker, who is treating patients who have been diagnosed with COVID-19. In these cases, they are at greater risk than the general public of contracting the disease.
-----------------------------	--

Claims submitted for COVID-19 contracted through a work-related exposure are adjudicated on a case-by-case basis. WorkSafeBC will look at details such as whether the worker has a diagnosis of COVID-19, their symptoms, and their employment activities.

If you believe you contracted COVID-19 while at work, you may file a claim to determine if you are eligible for workers' compensation benefits.

III. WORKSAFEBC LAW AND POLICY:

The Policies in Chapter 3 of the *Rehabilitation Services and Claims Manual*, Volume II ("RSCM") provide direction on the determination of whether a worker's personal injury or death arose out of and in the course of the employment. The primary test is "arising out of and in the course of employment" as per Section 5 of the *Workers Compensation Act*.

Section 6 pertaining to occupational diseases states that:

“Occupational disease

6 (1) Where

- (a) a worker suffers from an occupational disease and is thereby disabled from earning full wages at the work at which the worker was employed, or the death of a worker is caused by an occupational disease; and
- (b) the disease is due to the nature of any employment in which the worker was employed, whether under one or more employments,

compensation is payable under this Part as if the disease were a personal injury arising out of and in the course of that employment. A health care benefit may be paid although the worker is not disabled from earning full wages at the work at which he or she was employed.”

The screenshot shows the WorkSafe BC website interface. At the top, there is a navigation bar with the WorkSafe BC logo and links for Forms & Resources, Law & Policy, About Us, Contact Us, and a Log in / Create an account button. Below this is a secondary navigation bar with categories: Health & Safety, Insurance, Claims, and I Am a... A breadcrumb trail indicates the current location: Home > Law & Policy > Occupational Health & Safety > Searchable OHS Regulation & related materials > Workers Compensation Act > Workers Compensation Act. The main content area features a sidebar on the left with a search filter for 'Workers Compensation Act' and a list of related topics. The main content area displays the title 'Workers Compensation Act', a 'My Handbook (0)' button, and a section titled 'Workers Compensation Act Contents'. Under this section, there are links for 'Related Policies', 'Related Guidelines', and '+ Add to My Handbook'. The 'Definitions' section is visible, followed by 'PART 1 Compensation to Workers and Dependents', which lists various divisions and sections of the Act.

III.I. The *Workers Compensation Act* (BC):

There are two primary Sections that may be applicable. These are: Section 5 and Section 6. Section 6 will most likely be used by WorkSafeBC. Here is a comparison of the two:

Section 5 states that:

“Compensation for personal injury

5 (1) Where, in an industry within the scope of this Part, personal injury or death arising out of and in the course of the employment is caused to a worker, compensation as provided by this Part must be paid by the Board out of the accident fund.

(2) Where an injury disables a worker from earning full wages at the work at which the worker was employed, compensation is payable under

this Part from the first working day following the day of the injury; but a health care benefit only is payable under this Part in respect of the day of the injury.

(3) Where the injury is attributable solely to the serious and wilful misconduct of the worker, compensation is not payable unless the injury results in death or serious or permanent disablement.

(4) In cases where the injury is caused by accident, where the accident arose out of the employment, unless the contrary is shown, it must be presumed that it occurred in the course of the employment; and where the accident occurred in the course of the employment, unless the contrary is shown, it must be presumed that it arose out of the employment.

(5) Where the personal injury or disease is superimposed on an already existing disability, compensation must be allowed only for the proportion of the disability following the personal injury or disease that may reasonably be attributed to the personal injury or disease. The measure of the disability attributable to the personal injury or disease must, unless it is otherwise shown, be the amount of the difference between the worker's disability before and disability after the occurrence of the personal injury or disease.”

Section 6 states that:

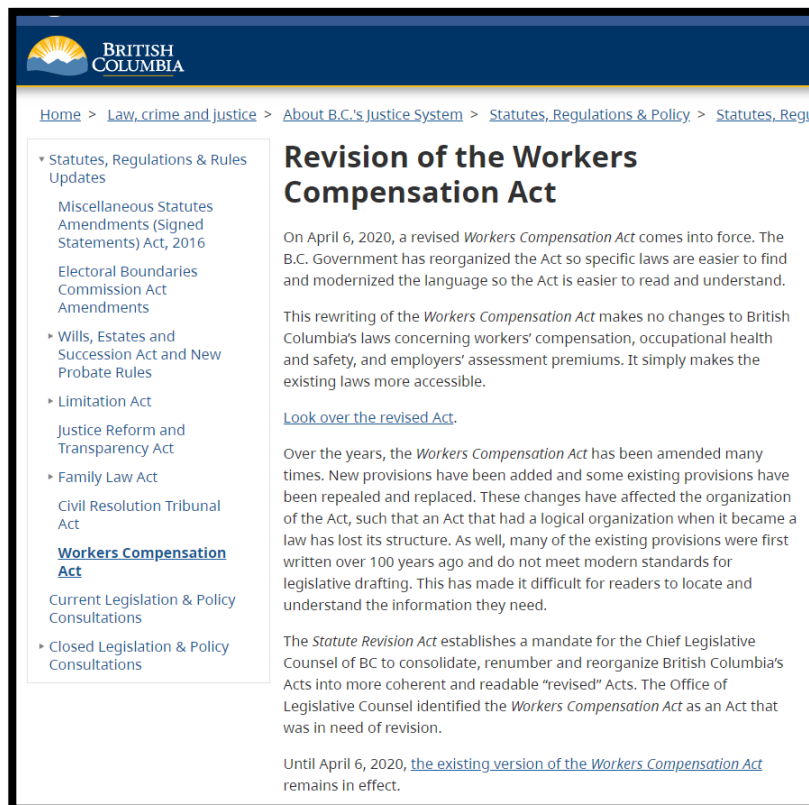
“Occupational disease

6 (1) Where

(a) a worker suffers from an occupational disease and is thereby disabled from earning full wages at the work at which the worker was employed, or the death of a worker is caused by an occupational disease; and

(b) the disease is due to the nature of any employment in which the worker was employed, whether under one or more employments,

compensation is payable under this Part as if the disease were a personal injury arising out of and in the course of that employment. A health care benefit may be paid although the worker is not disabled from earning full wages at the work at which he or she was employed.’”



The screenshot shows a webpage from the British Columbia government. The header includes the British Columbia logo and the text 'BRITISH COLUMBIA'. Below the header is a breadcrumb trail: 'Home > Law, crime and justice > About B.C.'s Justice System > Statutes, Regulations & Policy > Statutes, Regu...'. A left-hand navigation menu lists various legal topics, with 'Workers Compensation Act' highlighted in blue. The main content area features the title 'Revision of the Workers Compensation Act' in a large, bold font. Below the title, there are three paragraphs of text. The first paragraph states that on April 6, 2020, a revised *Workers Compensation Act* comes into force, reorganizing the Act for better readability. The second paragraph explains that the rewriting makes no changes to the substance of the law but improves accessibility. A link 'Look over the revised Act.' is provided. The third paragraph discusses the history of amendments and the *Statute Revision Act*'s mandate for consolidation. A final paragraph notes that the existing version remains in effect until April 6, 2020.

LEGISLATIVE ASSEMBLY OF BRITISH COLUMBIA

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BILL 23 – 2020: WORKERS COMPENSATION AMENDMENT ACT, 2020

Home > Parliamentary Business > 41st Parliament > 5th Session > Bills > First Reading > Bill 23 – 2020: Workers Compensation Amendment Act, 2020

Bill 23 – 2020: Workers Compensation Amendment Act, 2020

[Print View](#)

2020 Legislative Session: 5th Session, 41st Parliament
FIRST READING

The following electronic version is for informational purposes only.
The printed version remains the official version.

HONOURABLE HARRY BAINS
MINISTER OF LABOUR

BILL 23 – 2020
WORKERS COMPENSATION AMENDMENT ACT, 2020

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Explanatory Note

1 Section 6 (1) of the Workers Compensation Act, R.S.B.C. 2019, c. 1, is amended by striking out "Minister of Education, Skills and Training" **and substituting** "minister responsible for the School Act or the minister responsible for the College and Institute Act, as applicable,".

Explanatory Note

2 Section 13 is amended in paragraph (a) of the definition of "hazardous substance" by striking out "Hazardous Products Act (Canada)" **and substituting** "Hazardous Products Act (Canada)".

WORK SAFE BC Forms & Resources Law & Policy About Us Contact Us Log in / Create an account

Health & Safety Insurance Claims I Am a... Search worksafebc.com

Home > Law & Policy > Claims & Rehabilitation > Compensation Policies

Compensation Policies

The *Rehabilitation Services & Claims Manual (RS&CM)* is comprised of two Volumes of official policies of WorkSafeBC's Board of Directors respecting compensation and rehabilitation for injured workers and their dependants under British Columbia's *Workers Compensation Act (Act)*. The *Act* requires WorkSafeBC and the Workers' Compensation Appeal Tribunal to apply these policies when making decisions.

Volume I and Volume II apply to different categories of injured workers and their dependants, which are explained in the transitional provisions of sections 228 and 229 of the *Act*. To determine which Volume of the RS&CM applies to a worker's claim, please see [policy item #1.03](#).

Volume II of the RS&CM was created in order to implement new compensation policies reflecting significant legislative changes that were made in 2002.

For convenience, the law and policy applicable to the category of injured workers governed by the law in place immediately before the 2002 legislative changes are called the former provisions, and the law and policy applicable to the category of injured workers governed by the law in place after the 2002 legislative changes are called the current provisions. RS&CM, Volume I sets out the former provisions. RS&CM, Volume II sets out the current provisions.

[RS&CM, Volume II \(Current Policies\)](#)

[RS&CM Volume I \(Former Policies\)](#)

Claims & Rehabilitation

- Workers Compensation Act – Compensation Provisions for Claims
- Compensation Policies**
 - RS&CM, Volume II (current policies)
 - RS&CM, Volume I (former policies)
- Table of Effective Dates & Application of Published Compensation Policy
- Practice Directives
- Compensation-Related BOD Resolutions
- Compensation-Related Maximum Wage Rates
- Claims-Related Consumer Price Index (CPI) Adjustments
- Claims & Rehabilitation Policy – Archives

III.II. RSCM II Policy:

There are many different WorkSafeBC Policies that may apply depending on the circumstances of the claim.

The following are the more commonly used Policies with Policies 26.00 and 28.00 commonly applied by WorkSafeBC and appellate tribunals:

- 12.30 Infectious Agent or Disease Exposures
- 14.00 Arising Out of and In the Course of Employment

- 14.30 Hazards Arising from Nature (regarding personal protective equipment)
- 17.00 Deviations from Employment
- 19.00 Work-Related Travel
- 20.00 Employer Provided Facilities
- 22.00 Compensable Consequences
- 22.10 Compensable Consequences - Travel
- 22.40 Compensable Consequences - Certain Diseases and Conditions
- 26.00 The Designation or Recognition of an Occupational Disease
- 26.04 Recognition by Order Dealing with a Specific Case
- 26.20 Establishing Work Causation
- 28.00 Contagious Diseases
- 29.00 Respiratory Diseases

Caution: The numbering, wording and content of these change frequently.

Refer to WorkSafeBC for the most current information at

<https://www.worksafebc.com/en/law-policy/claims-rehabilitation/compensation-policies>.

The screenshot shows the WorkSafeBC website. At the top left is the 'WORK SAFE BC' logo. To the right are navigation links: 'Forms & Resources', 'Law & Policy', 'About Us', 'Contact Us', and a 'Log in / Create an account' button. Below the logo is a navigation menu with 'Health & Safety', 'Insurance', 'Claims', and 'I Am a...'. A search bar is located to the right of the menu. The breadcrumb trail reads: 'Home > Law & Policy > Claims & Rehabilitation > Practice Directives'. The main content area has a left sidebar with 'Claims & Rehabilitation' selected, and sub-links for 'Workers Compensation Act - Part 1', 'Compensation Policies', and 'Table of Effective Dates & Application of Published Compensation Policy'. The main heading is 'Practice Directives'. The text explains that Practice Directives are issued by the Compensation Practice and Quality Department to address specific compensation matters, serve to support quality decision making by highlighting key adjudicative considerations, and provide for a supporting business process and will include adjudicative examples or job aids to demonstrate appropriate application. It also states that Practice Directives are developed in consultation with subject matter experts within the Worker and Employer Services Division, and that advice and comment is also provided by the Review Division and the Policy, Regulation and Research Division.

III.III. WorkSafeBC Practice Directives:

The non-binding discretionary Practice Directive C4-1 for Adjudication of Contagious Occupational Diseases at <https://www.worksafebc.com/en/law-policy/claims-rehabilitation/practice-directives>, amended August 20, 2020, states, in part, that:

“Adjudicative Guidelines

Generally, when a contagious disease claim is accepted, it will be on the basis of a known medical diagnosis provided in a medical report. However, formal medical evidence is not always available at the time a claim is being adjudicated. In the case of a highly infectious disease where the symptoms are acute, shortlived and do not require medical intervention, a claim may be accepted in the absence of formal medical evidence where other evidence establishes the existence of a compensable contagious disease.

Workers suffering symptoms of highly contagious diseases are sometimes advised by their employers and/or healthcare providers not to seek medical treatment because of the potential public health risk of spreading the infectious disease to others in the community. This may occur, for example, with a disease such as the Norwalk virus, which has symptoms that are typically acute and short-lived (3-5 days) and that do not require medical intervention in order to resolve.

As a result, there may be little or no medical documentation available when deciding whether the worker has an acceptable claim and whether a disability exists. However, the non-medical factual evidence may indicate the existence of a disability caused by an occupational exposure that meets the evidentiary criteria for an acceptable contagious disease claim.

Evidence from the worker or other sources may be sufficient to establish a worker's entitlement to wage-loss benefits in cases where no medical report is available (RSCM Vol. II, Policy item #95.31). Similarly, the lack of a medical report does not preclude the acceptance of a worker's occupational disease claim where other evidence establishes the compensable nature of the worker's claim.

In investigating an occupational disease claim where there is no medical report, a WorkSafeBC officer may wish to consider:

- the nature of the employment and occupational setting and whether there was likely exposure to the infectious disease,
- whether there is a generalized outbreak of the disease in the worker's community,
- whether there has been a confirmed diagnosis of the disease at the employer's location and whether the worker's reported symptoms are consistent with that diagnosis,
- the time period between exposure and the onset of symptoms,
- whether the employer is protesting acceptance of the claim or has reason to believe workplace exposure was not the cause of the worker's reported illness,
- whether the worker reported symptoms of the contagious disease to the employer, the employer's first aid department, family physician or a medical clinic, and/or
- whether the worker was advised not to seek medical treatment due to the infection risk."

WORK SAFE BC Forms & Resources Law & Policy About Us Contact Us [Log in / Create an account](#)

Health & Safety Insurance Claims I Am a...

Home > Contact us > Departments and services > Review Division

Contact us

Departments and services

Office locations

Review Division

We provide impartial reviews of decisions made by WorkSafeBC under the Workers Compensation Act involving compensation, prevention, or assessments.

Contact us if you're a worker who wants to request a review or appeal a claim decision, or an employer who wants to request a review or appeal of decisions about claims, assessments, or health and safety enforcement.

Phone: 604.214.5411 (Lower Mainland)
Toll-free: 1.888.922.8804 (B.C.)


Fax: 604.232.7747 (Lower Mainland)
Toll-free: 1.855.433.9728 (B.C.)

Hours of operation: Monday to Friday, 8:30 a.m. to 4:30 p.m.


Browser: wcat.bc.ca/index.aspx

Navigation: [RSS](#) [Text Size](#) [Reset](#)


- Manual of Rules of Practice and Procedure (MRPP)
- Information Guides
- Forms
- Filing Documents
- Search Our Decisions
- Truth and Reconciliation Commission Calls to Action
- Workers Compensation Act and Regulations
- WorkSafeBC Policy
- Workers' Advisers
- Employers' Advisers
- Section 257 Application
- FAQs
- News
- WCAT Reports
- Appeal Expenses
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STARTING
AN APPEAL




RESPONDING
TO AN APPEAL



PREPARING
AN APPEAL



STATUS
OF AN APPEAL




AFTER
AN APPEAL

News

ALL IN-PERSON HEARINGS POSTPONED – EFFECTIVE MARCH 17 THROUGH APRIL 10, 2020. WCAT WILL CONTACT YOU TO ARRANGE A TELECONFERENCE HEARING OR TO SCHEDULE A NEW HEARING DATE. WCAT RECEPTION IN RICHMOND WILL ALSO BE CLOSED TO THE PUBLIC, EFFECTIVE MARCH 17 THROUGH APRIL 10, 2020. PLEASE SEE THE ATTACHED STATEMENT.
[more...](#) (Posted 2020/03/17)

Service of Court Documents – As part of its response to the coronavirus outbreak, the Workers' Compensation Appeal Tribunal has decided that up to May 31, 2020 it will accept service or delivery of pleadings (court documents, including petitions) from parties in court proceedings via email at WCATTCO@wcat.bc.ca. This measure is being taken to minimize the need for parties to attend our office in person.



We ask that visitors attending WCAT for oral hearings refrain from wearing scented personal hygiene products. Exposure to scented products can trigger a reaction which may require the vice chair to postpone the oral hearing.

III.IV. Appeal Decisions:

There are few Review Division and Workers' Compensation Appeal Tribunal ("WCAT") decisions. As per WCAT A1803549 Decision Date August 23, 2019, the WCAT determined that the following Sections of Policy were applicable to the claim and appeal:

"[27] Policy item #26.00, The Designation or Recognition of an Occupational Disease, of the Rehabilitation Services and Claims Manual, Volume II (RSCM II) confirms that the Board may recognize an occupational disease on a specific-case basis. This means that the Board may recognize a disease as an occupational disease if the merits and justice of an individual claim warrants its recognition as an occupational disease.

[28] Policy item #28.00, Contagious Diseases, of the RSCM II provides that a worker is not entitled to compensation simply because the worker contracted the disease while at work. For the disability to be compensable, there must be something in the nature of the employment which had causative significance. This means that in cases of contracting a contagious disease at work, it is a requirement for compensation that either:

- 1) The nature of the employment created for the worker a risk of contracting a kind of disease to which the public at large is not normally exposed; or
- 2) The nature of the employment created for the worker a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large. For example, if the worker's particular employment required the worker to meet a much larger proportion of people with the particular disease than is found in the population at large.

[29] Policy item #28.00 of the RSCM II also provides that there is no requirement that a worker with a contagious disease name a contact but there should be some evidence of a contact."

Also see WCAT Decision Number: A1803371 Decision Date May 21, 2019, which states:

“[51]... In such a case, it is not sufficient to show that the worker meets more people than in other occupations, but it would be “significant” to show that the employment caused the worker to meet a much larger proportion of people with that disease than is found in the general public.”

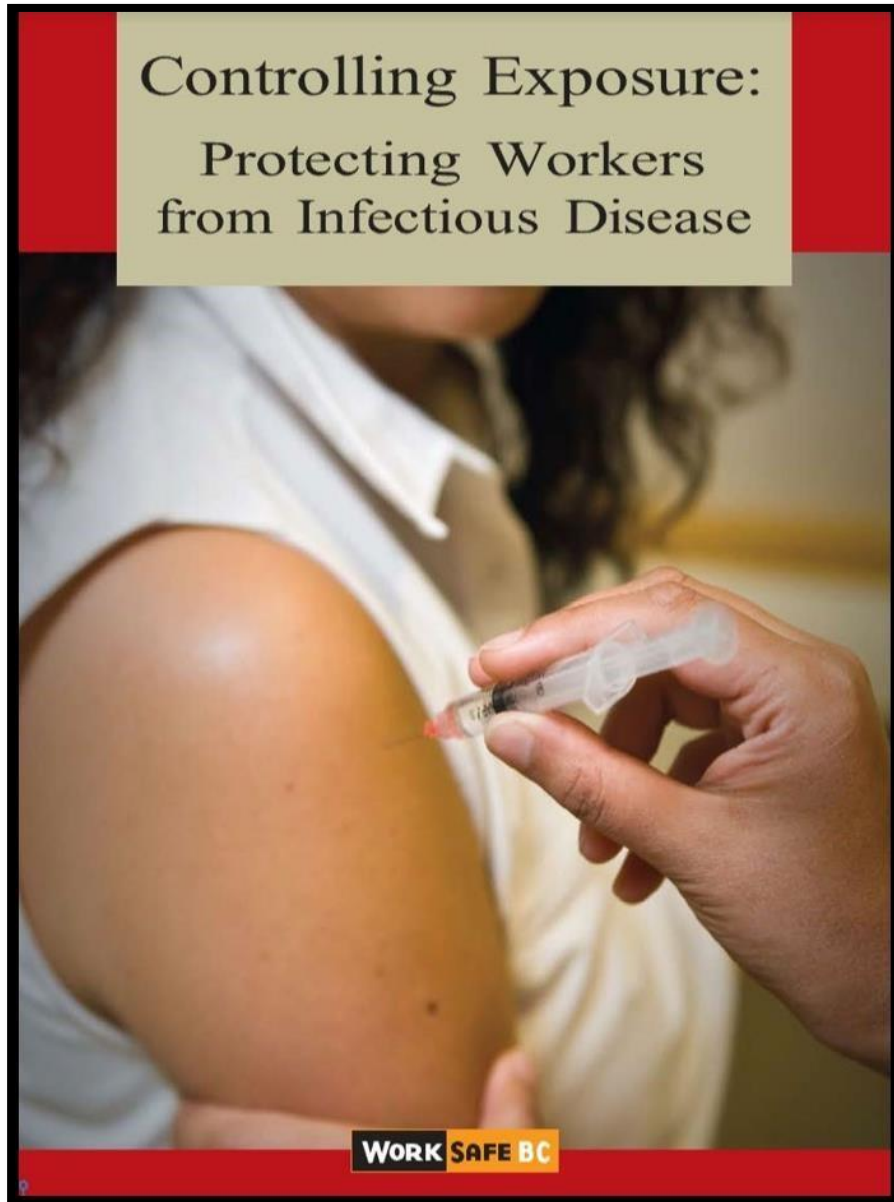
The data reflects the eligibility decision on the claim file as of the report date. These numbers will fluctuate over time, as eligibility decisions and employer information continue to be updated. This information will be updated weekly (**most recent update: September 2, 2020**).

COVID claims data by industry

	Eligibility Decision						Total
	Allowed	Disallowed	No adjudication required	Pending	Rejected	Suspended	
Total	352	305	42	71	2	68	840
Service - Health Care and Social Services subsector	252	154	17	39	1	29	492
Unknown employer or sector	2	41	6	12		16	77
Service – Other subsectors (including education, business and other services)	17	20	3	2	1	5	48
Self-insured employers	10	17	3	7		7	44
Public Sector	8	20	3	5			36

IV. HEALTH AND SAFETY CONSIDERATIONS:

There are overlapping workers compensation and health and safety obligations.



As per page three of the WorkSafeBC manual on Controlling Exposure: Protecting Workers from Infectious Disease:

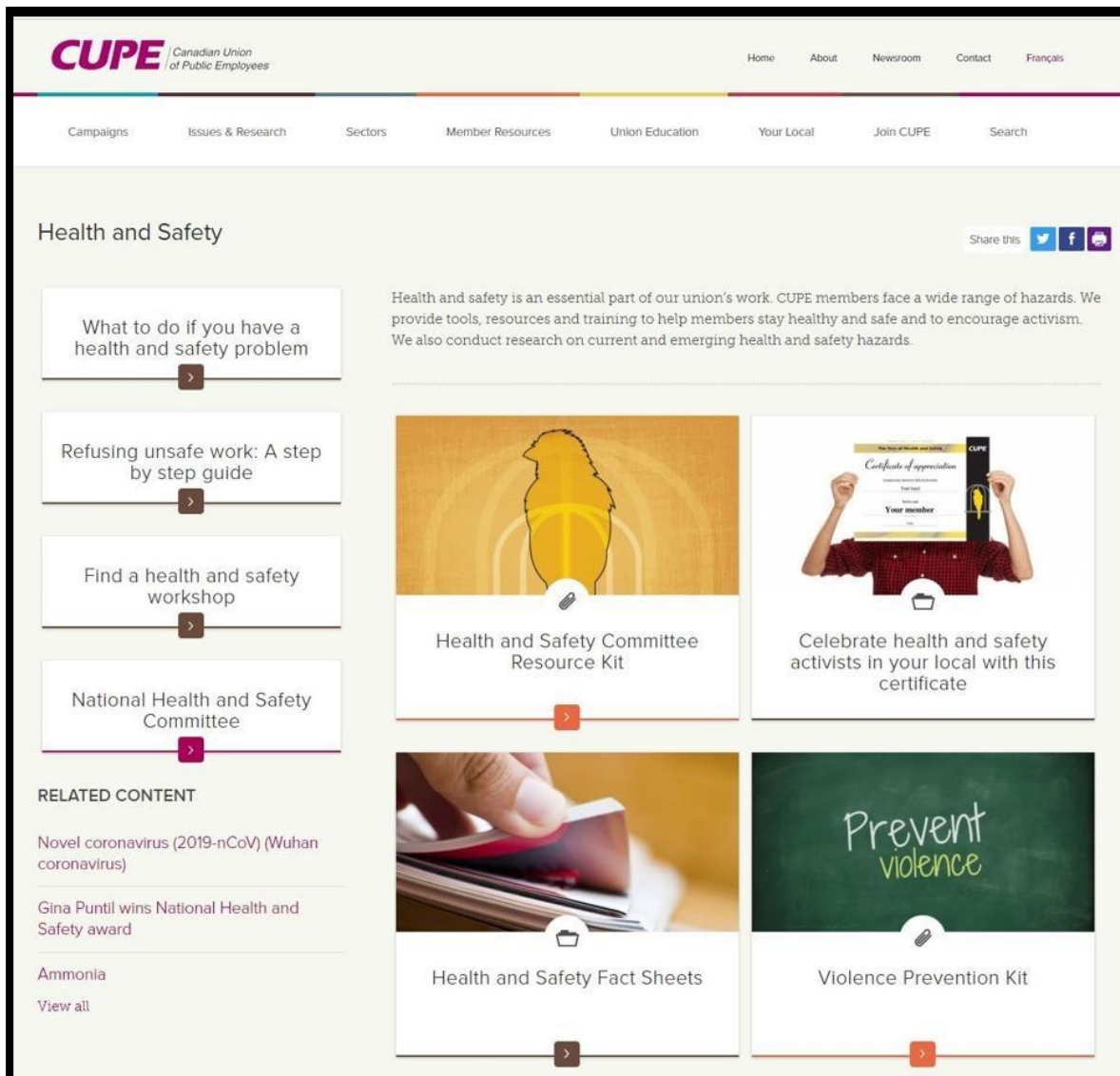
Employer requirements for protecting workers

Employers must do the following:

- Identify infectious diseases that are, or may be, in the workplace.
- Develop and implement an exposure control plan, when required (see “Exposure Control Plans” on pages 29–34).
- Inform workers about how they may be exposed to infectious diseases in the workplace.
- Educate, train, and supervise workers on safe work procedures, including hand washing and the proper use of personal protective equipment (PPE).
- Offer vaccinations as recommended in the BC Centre for Disease Control’s *Communicable Disease Control Manual*, without cost to workers who are at risk of occupational exposure.
- Purchase safety-engineered medical devices, where appropriate.
- Tell workers to seek medical attention, as required.

Employers should also encourage reporting of exposures, including needle-stick injuries.

The CUPE National Health and Safety website at <https://cupe.ca/covid-19> should be used for all nonworkers compensation COVID-19 matters in conjunction with the WorkSafeBC COVID-19 and returning to safe operation at <https://www.worksafebc.com/en/about-us/covid-19-updates/covid-19-returning-safe-operation>.



Employers, workers and government each have unique responsibilities for worker health and safety. As stated by the CCOHS:


“Due diligence is the level of judgement, care, prudence, determination, and activity that a person would reasonably be expected to do under particular circumstances.

Applied to occupational health and safety, due diligence means that employers shall take all reasonable precautions, under the particular circumstances, to prevent injuries or incidents in the workplace. This duty also applies to situations that are not addressed elsewhere in the occupational health and safety

legislation. Reasonable precautions are also referred to as reasonable care. It refers to the care, caution, or action a reasonable person is expected to take under similar circumstances.

Another term used is employers must do what is "reasonably practicable". Reasonably practicable has been described by the Labour Program (Canada) as taking precautions that are not only possible, but that are also suitable or rational, given the particular situation. Determining what should be done is usually done on a case by case basis.


To exercise due diligence, an employer must implement a plan to identify possible workplace hazards and carry out the appropriate corrective action to prevent incidents or injuries arising from these hazards.”



Introduction to Occupational Health and Safety and Joint Health and Safety Committees (“JHSCs”)
Version 5 – Summer 2020

Tom McKenna, National Health and Safety Representative

The information is not legal advice. The materials only address Workers Compensation and Occupational Health and Safety. Nothing in this presentation supersedes the WCB Act, OHS Regulations and Policy. There may also be Collective Agreement rights and obligations. This information is for CUPE use only, cannot be used in any other proceeding and is without prejudice and precedent to any labour relations matter, collective bargaining, grievance, arbitration, and WCB claim or appeal. Each case is subject to the fact pattern and to the changing jurisprudence. This information is subject to frequent changes in law, regulation and policy and will vary by both province and jurisdiction. The current law and policy should be reviewed as they change frequently. [There were many changes to numbering in the BC Workers Compensation Act in 2020.](#)



The screenshot shows the Government of Canada website with the following content:

- Government of Canada / Gouvernement du Canada
- Search Canada.ca
- MENU
- Canada.ca
- Coronavirus disease (COVID-19)
- Want to join the effort to limit the spread of COVID-19? [Download COVID Alert](#)
- Current situation
 - [COVID-19 outbreak update](#)
 - [Latest announcements](#)
 - [Get email updates](#)
 - [Epidemiological and economic research data](#)
 - [Canada's response](#)
- Financial and economic support
 - [For individuals and businesses](#)
 - [Canada Emergency Student Benefit \(CESB\)](#)
 - [Canada Emergency Response Benefit \(CERB\)](#)
 - [Canada Emergency Wage Subsidy \(CEWS\)](#)
- Your health
 - [Take a self-assessment](#)
 - [Symptoms and treatment](#)
 - [Prevention and risks](#)
 - [Mental and physical wellbeing](#)
 - [Non-medical masks](#)
 - [Quarantine \(self-isolate\) and isolate](#)
- Limiting the spread
 - [Reopening in your community](#)
 - [Managing your business](#)
 - [Personal protective equipment and medical supplies](#)
 - [Government guidance](#)
 - [Vaccines and drugs](#)
 - [Testing](#)
- Travel and immigration
 - [Travel, quarantine and borders](#)
 - [Canada-U.S. border](#)
 - [Global travel advisory](#)
 - [Assistance abroad](#)
 - [Immigration and citizenship](#)
 - [Recent flights with potential COVID-19 exposure](#)

V. RESOURCES AND APPENDICES:

V.I Resources:

The following list contains resources that may need to be accessed for issues pertaining to the COVID-19. The links may change periodically:

BC Centre for Disease Control. See

<http://www.bccdc.ca/about/newsstories/stories/2020/information-on-novelcoronavirus>.

BC Labour Relations Code. See http://www.bclaws.ca/civix/document/id/complete/statreg/96244_01 BC Labour Relations Board. See <http://www.lrb.bc.ca/>.

BC Human Rights Code. See http://www.bclaws.ca/civix/document/id/complete/statreg/96210_01.

BC Human Rights Tribunal. See <http://www.bchrt.bc.ca/>.

Canadian Centre for Occupational Health and Safety. See <https://www.ccohs.ca/oshanswers/diseases/coronavirus.html>.

Canadian Union of Public Employees. Health and Safety. See <https://cupe.ca/healthandsafety>.

Employment Insurance. See <https://www.canada.ca/en/services/benefits/ei.html>.

Employment Standards Act. See <https://www2.gov.bc.ca/gov/content/employmentbusiness/employment-standardsadvice/employment-standards>.

Freedom of Information and Protection of Privacy Act. See http://www.bclaws.ca/civix/document/id/complete/statreg/96165_00.

Occupational Health and Safety Regulations and general health and safety information. See <https://www.worksafebc.com/en/health-safety> and <https://www.worksafebc.com/en/law-policy/occupational-health-safety/searchableohsregulation>.

Right to Refuse. See <https://www.worksafebc.com/en/healthsafety/createmanage/rights-responsibilities/refusing-unsafe-work>.

WorkSafeBC Claims. See <https://www.worksafebc.com/en/claims> and <https://www.worksafebc.com/en/about-us/covid-19-updates/claims> WorkSafeBC.

Controlling Exposure: Protecting Workers from Infectious Disease. See <https://www.worksafebc.com/en/resources/health-safety/booksguides/controllingexposure-protecting-workers-from-infectious-disease?lang=en>.

WorkSafeBC Form 6. See <https://www.worksafebc.com/en/resources/claims/forms/applicationforcompensation-and-report-of-injury-or-occupational-disease-form-6?lang=en>.

WorkSafeBC Form 6A. See <https://www.worksafebc.com/en/resources/claims/forms/workers-report-of-injury-or-occupational-disease-to-employer-form-6a?lang=en>.

WorkSafeBC Form 7. See <https://www.worksafebc.com/en/resources/claims/forms/employers-report-of-injury-or-occupational-disease-form-7?lang=en>.

WorkSafeBC Practice Directives. See <https://www.worksafebc.com/en/lawpolicy/claimsrehabilitation/practice-directives>.

WorkSafeBC Rehabilitation Services and Claims Manual. See <https://www.worksafebc.com/en/law-policy/claims-rehabilitation/compensationpolicies>.

Workers Compensation Act. See http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/96492_00.

World Health Organization. See <https://www.who.int/>.

V.II. Appendices:

Appendix A – Filing WCB Claims – WorkSafeBC:

The following five screen shots from <https://www.worksafebc.com/en/about-us/covid19-updates/claims> pertain to filing WCB claims.

COVID-19 claims FAQs

The following FAQs will help you determine what should be reported. New questions added on May 19 are marked with an asterisk (*).

When could COVID-19 be work related?

When a worker contracts COVID-19 as a direct result of their employment, they are entitled to compensation if the following conditions are met:

1. Evidence that the worker has contracted COVID-19, either:
 - a medical diagnosis in a medical report, or
 - non-medical factual evidence where other evidence establishes the existence of COVID-19.
2. The nature of the worker's employment created a risk of contracting the disease significantly greater than the ordinary exposure risk of the public at large.

Work-related example Acute care hospital worker, who is treating patients who have been diagnosed with COVID-19. In these cases, they are at greater risk than the general public of contracting the disease.

Claims submitted for COVID-19 contracted through a work-related exposure are adjudicated on a case-by-case basis. WorkSafeBC will look at details such as whether the worker has a diagnosis of COVID-19, their symptoms, and their employment activities.

If you believe you contracted COVID-19 while at work, you may file a claim to determine if you are eligible for workers' compensation benefits.

When do I report a case of COVID-19 to WorkSafeBC?

Report it if it meets the criteria. As shown in the example, if you are at significantly greater risk than the general public of contracting the virus while at work, and you lose time from work after contracting the virus, report the claim to WorkSafeBC.

However, if you are not at greater risk than the general public of contracting the infection, do not report.

What happens if I was performing modified duties or a graduated return-to-work and my employer shuts down due to COVID-19?

You will be paid during the shutdown. You won't sustain any loss of benefits due to work disruptions. If your employer does not pay you during the shutdown, WorkSafeBC will provide you wage-loss benefits for the duration of your scheduled graduated return-to-work plan and/or the period of time that you are unable to work due to your injury.

Does WorkSafeBC cover people for a quarantine or self-isolation period?

No. WorkSafeBC does not provide coverage for people who are symptom free even when quarantined, self-isolating or sent home on a precautionary basis.

***I am receiving wage-loss benefits from WorkSafeBC and have been laid off by my employer. Will I continue to receive benefits?**

Yes. Your entitlement to wage-loss benefits continues as long as you remain unable to work owing to your injury. Wage-loss benefits end when you no longer have a disability or the disability is deemed permanent, in which case you would be assessed for permanent disability benefits.

***I have received the Canada Emergency Response Benefit (CERB) and/or the B.C. Emergency Benefit for Workers. Will they be factored into my average earnings or deducted from my wage-loss benefits?**

No. The CERB and B.C. Emergency Benefit for Workers are benefits, not earnings. These financial benefits are not being provided as payment for labour or services provided, and are not considered employment earnings for WorkSafeBC purposes.

If, during the COVID-19 pandemic, your employment has been significantly disrupted by a closure or your usual earnings have been reduced, WorkSafeBC will consider excluding those time periods when calculating short-term and long-term average earnings on future claims.

***I'm currently looking for work. How do I submit information related to my job search when I'm unable to meet with employers in person or leave my home?**

Please keep written records of your job-search activities. Our vocational rehabilitation staff remain available to support you and take information by phone, or you can forward your records to your vocational rehabilitation consultant when possible, by fax, mail, or email (if you have provided us with consent).

***I am physically able to return to work but am concerned about risk of exposure to COVID-19 at my workplace. Can I stay on wage-loss benefits?**

No. While it's natural to be concerned about the risks of exposure, a generalized concern is not a sufficient reason not to return to work. We encourage you to speak to your employer to find out what measures have been put in place to reduce the risk of transmission.

If you are in a high-risk category owing to age or an underlying health condition, it may be possible for your employer to accommodate your concerns. If you still have health and safety concerns that you feel are not being adequately addressed by your employer, we suggest you call our Prevention Information Line, toll-free, at 1.888.621.7233.

***Can I communicate with my WorkSafeBC officer using email?**

You will be given the option to use email during the claims process to share information such as completed forms and return-to-work plans, and asked for your written consent.

When providing that consent, you can indicate if you are also consenting to WorkSafeBC emailing personal information to your authorized representative, employer(s) or their authorized representative, and service provider (e.g., physiotherapist, training program).

This consent, and all communications via email, will be recorded and captured.

If you would like to use email to communicate with WorkSafeBC, but haven't been given the option yet, please call your WorkSafeBC officer to discuss.

COVID-19 health care and treatment FAQs

How can I access doctors and health care providers during the COVID-19 pandemic?

The provincial health officer has advised health care professionals to minimize direct physical contact where possible and to provide care to patients via telephone and video technology where appropriate.

During the COVID-19 pandemic, WorkSafeBC will consider medical reports involving telephone and video services when making decisions on an injured worker's claim benefits.

Most clinics now offer care from your doctor and clinic care providers by telephone or video, which you can access through your smartphone, tablet, or computer. This allows you to get care while maintaining physical distancing or in self-isolation or quarantine. After your video or phone assessment, if you need to be seen in person, the provider may make arrangements to do so safely.

To sign up for a video or telephone appointment, please contact your local health care provider and explore if they can provide clinical services remotely by telephone or video. If you need to come into an office to be seen, check the provider's website for instructions. If they do not have a website, call the provider as there might be a message advising how to secure a phone or video appointment.

Before your appointment, please access the Doctors of B.C.'s [FAQs and tips on preparing to use video or telephone for clinic visits](#) (this link will take you to an M-Files page to download the PDF).

What if I don't have access to Telehealth and cannot see my doctor? Will my benefits end?

WorkSafeBC is responsible for gathering the necessary information to support decisions on claim benefits. WorkSafeBC considers the individual circumstances of each case to determine if there is sufficient evidence when making these decisions. In all cases, decisions will be made based on the best evidence available.

WorkSafeBC considers medical and non-medical evidence when making decisions on claim benefits. While the best evidence of disability is usually medical evidence, on some occasions, particularly during the COVID-19 pandemic, evidence from the worker, employer, and other sources may be sufficient to establish existence and continuation of disability.

If you had difficulty accessing medical care and have questions about your claim benefits, please contact the officer handling your claim, or our [Claims Call Centre](#) if you don't have an officer's contact info.

What if my health care or treatment provider is temporarily closed and not able to provide treatment? Will this affect my benefits?

If you remain temporarily disabled, WorkSafeBC will continue to pay your wage-loss benefits, even if you are not able to attend a program with your treatment provider. Please discuss with your claims officer, as alternate means to achieve your treatment goals may be available (e.g., telephone or video conference, activity/home exercise prescription forms).

I'm in a treatment program and can't attend because either I have been diagnosed with COVID-19 or am self-isolating due to potential exposure. What should I do?

If you are an injured worker participating in a treatment program, please be assured that the health care providers we partner with are taking appropriate precautions under the direction of the public health officials.

Do not attend if you are ill with a cold, flu, or fever; are at high risk of contracting COVID-19; or have recently travelled outside of the country.

If you are not comfortable attending or travelling to treatment because of concerns about your ability to maintain appropriate physical distancing, you are not required to attend. Please discuss with your claims officer or our [Claims Call Centre](#) if you don't have an officer's contact info.

How do I fill my prescriptions? Can new prescriptions be provided during virtual care visits?

Commonly prescribed medications may be provided digitally at the doctor's discretion. However, controlled medications like opiates and stimulants are typically not provided virtually. Prescriptions may be sent directly to a specific pharmacy for pick up.

Can existing refills be provided during virtual care visits?

The provincial health officer has announced that patients are able to obtain refills of their regular prescriptions at pharmacies to reduce non-essential physician visits and build capacity for doctors to treat COVID-19 cases.

This means patients who require a refill of their regular medications do not need to visit a doctor or nurse practitioner for an updated prescription. Instead, a pharmacist can provide patients with a refill or emergency supply of their medications.

In all cases, please practice physical distancing while in a pharmacy or when receiving a delivery of medications. Do not visit a pharmacy in-person if you are experiencing symptoms or are self-isolating. Tell your pharmacy if you are experiencing symptoms or are self-isolating and require medications to be delivered to you.

***My surgery, which is necessary to my return to work, was postponed owing to COVID-19. Will my benefits continue?**

Yes. When a surgery that is expected to assist in your return to work is postponed owing to the pandemic, your benefits will continue. In certain circumstances, if you are able to return to work in some measure in a different role, WorkSafeBC may support you in finding suitable employment opportunities.

What if I have a fever or a new cough, flu, or cold-like symptoms?

Please do not walk-in to the clinic. Instead book an online telephone or video appointment, or call the provider, who will book one for you.

If your symptoms are moderately severe or you have previous medical conditions, call 811 or please go directly to your closest hospital emergency room.

For more information please consult the [BC Centre for Disease Control website](#) .

If you think you may have symptoms of COVID-19, please refer to the [BC COVID-19 Self-Assessment Tool](#) .

Non-medical information about COVID-19 is available 7:30 a.m. to 8 p.m. at 1-888-COVID19.