

Date: 07/08/20

Regarding: MLAC Covid19 Issues

Below is a list of Covid problems identified by testimony to MLAC, both in writing and verbal. These are divided into 2 listings below: Worker Safety/Employment issues and Work Comp Claims.

Worker Safety/Employment Issues:

- 1) The spot for the optional SS# on the 801 might discourage undocumented workers from filing claims.
- 2) Retaliation (termination or discrimination) for filing a claim. Employers not allowing employees to file a Covid19 claim or not telling employees they have the right to a file claim the coronavirus.
- 3) PPE: not enough or not the right kind (N95) and certainly not everyone wearing PPE. Customers at grocery stores are not wearing face coverings. Some employees at work refuse to wear a face covering, etc. Lots of unnecessary exposure because people refuse to wear face coverings.
- 4) Concern around what should occur when face coverings are not used at places where they are mandated, i.e. how does a business enforce the use of face coverings with the public without putting employees in danger?
- 5) Not all workplaces have the mandatory face covering requirement, and social distancing is not always occurring.
- 6) What should happen to a worksite if appropriate PPE is not available despite an employer's best attempts to acquire it?
- 7) Lack of a consistent method and means by which employees can record potential exposures.
- 8) OSHA is inundated with complaints about lack of PPE or ineffective PPE, lack of social distancing, inadequate sanitation, and employers not complying with the laws. Evolving standards from fed/state government make enforcement more challenging.
- 9) Contact tracing: Hospitals are interpreting OHA guidelines to mean that they don't have to notify employees who have been exposed and when questioned, are saying it's a "waste of resources." Do they want employers to do the contact tracing? How overburdened are OHA's contract tracers currently?
- 10) Are the requirements for contract tracing different between industries? For example, is it not required for health care workers?
- 11) Are employers required to inform employees when a fellow worker tests positive for COVID-19? If yes, what should the timeline be for notification by the employer, and to which workers – only those that were known to have come into contact with the positive employee, the whole workforce, or something in between?
- 12) If notification by the employer is required, what additional information should be provided? (Guidance for testing and quarantine information, available benefits, ability to file a claim, etc.?)
- 13) Is sharing this information a HIPAA violation?
- 14) If employees are provided with paid time off by their employer due to the need to quarantine and/or a positive test, should that paid time off come from personal banks?

- Not all workers in Oregon have paid time off, and not all employers are required to comply with the paid sick time under the Families First Coronavirus Response Act.
- 15) Wages for someone in quarantine for 14 days, but they never become sick or seek medical care. Nevertheless, they were not allowed to work for 14 days.
 - 16) Employees trying to figure out how to pay for the Covid test if it's negative, thus not covered in an accepted work comp claim.

Work Comp Claim Issues:

- 1) Denials within 14 days.
- 2) Clarity around whether or not COVID-19 can be a workplace injury/occupational disease.
- 3) Injury vs. Occupational Disease standard application.
- 4) Seemingly bad faith denials from a couple specific employers.
- 5) Workers who believe they've been exposed, but don't have access to a coworker's positive Covid test result which is needed to prove a more-likely-than-not causation. (Unequal access.)
- 6) Early on, CDC indicated 30% of Covid test results were giving a false negative reading. Is this still happening/what is the current accuracy percentage?
- 7) Inconsistency in claims processing between the carriers. A couple examples:
 - a. How exposure is handled related to claim acceptance or denial and time loss
 - b. Level of investigation required for the acceptance/denial process is unclear
- 8) Are there ways to lessen or eliminate the effect of COVID-19 claims on an employer's experience rating, and what would that look like?