

Who would get a presumption?

(8)(a) As used in this subsection, “essential worker” means a subject worker who, at an employer’s direction, must or may work at the subject worker’s work site as a:

Firefighter, a police or peace officer, a public safety personnel or officer as defined in ORS 181A.355,

Medical services provider including emergency medical technicians, physicians, nurses, physician and nursing assistants, hospital or medical clinic employees, pharmacy technicians, and home health and long term care employees,

Grocery or retail store employee,

Provider of janitorial or house-keeping services,

School employees,

Child care employees who remained on the job to care for essential worker’s dependents,

An agricultural worker as defined in ORS 315.163,

Employees at subject workers worksite where 10% or more of the employees have tested positive or presumed positive,

Employees whose job classification are not covered but who were nevertheless working with the public shall be covered under the presumption during a period in which a declaration of a state of emergency issued by the Governor is in effect for a location that includes the subject worker’s work site.

When would they get a presumption?

(b) A subject worker’s death, disability, impairment of health, loss of work time or expenses of medical treatment or services, including diagnostic or preventative medical treatment or services, is presumed to be compensable as an occupational injury or disease if:

(A) the subject worker is an essential worker; and

(B) the subject worker is exposed at work to a known or suspected source of COVID-19/SARS-CoV-2 and the employer, medical provider or federal, state or local public health authority required the subject worker to remain away from the subject worker’s work site ; or

(C) the subject worker is exposed at work to a known or suspected source of COVID-19/SARS-CoV-2 and becomes symptomatic with COVID-19/SARS-CoV-2; or

(D) the subject worker becomes symptomatic and receives a diagnosis of COVID-19/SARS-CoV-2 from a medical provider or a federal, state or local public health authority; or

(E) the subject worker receives a laboratory-confirmed diagnosis of COVID-19/SARS-CoV-2; or

(F) the subject worker receives a presumptive positive test result for COVID-19/SARS-CoV-2.

How would an employer rebut the presumption?

(c) An insurer or self-insured employer may rebut the presumption set forth in paragraph (b) of this subsection, or may deny a claim filed under this section for exposure to or infection by COVID-19/SARS-CoV-2, only:

(A) with clear and convincing evidence that the conditions identified in paragraph (b)(A), (B), (C), (D), (E), and/or (F) do not apply to the subject worker; **and** (should be OR)

(B) with clear and convincing medical evidence that the conditions identified in paragraph (b) (B), (C), (D), (E), and/or (F) were caused by a known and confirmed source of COVID-19/SARS-CoV-2 unrelated to work as an essential worker.

(d) Notwithstanding ORS 656.027 (6) [Portland also].

SECTION 2. This 2020 Act being necessary for the immediate preservation of the public peace, health and safety, and emergency is declared to exist, and this 2020 Act takes effect on its passage and shall apply to work on or after March 8, 2020 and until 180 days after the date a declaration of a state of emergency issued by the Governor is lifted.