

MLAC – MANAGEMENT PROPOSAL

DRAFT COVID RULES

During all coronavirus state-wide emergency orders, the following will apply. Enforcement of the following will end at the expiration of state-wide emergency orders. Authority exists for the Director of the Consumer and Business Services to enact and enforce these rules under ORS 656.726(4) and ORS 654.003(3) through ORS 654.003(5).

(1) For the purpose of this rule:

(a) “Coronavirus” or “COVID-19” is the infectious respiratory syndrome caused by the virus SARS-CoV-2.

(b) “Coronavirus test” or “COVID-19 test” means a viral test that checks samples from the respiratory system, such as a swab from the inside of a nose, to determine if an individual has an infection of SARS-CoV2, the virus that causes COVID-19.

(c) “Quarantine” means to put or hold in isolation by order of a medical service provider to prevent the spread of coronavirus.

(2) Under OAR 436-060-0140, insurers and self-insured employers must conduct a “reasonable investigation” before denying a claim. When a worker has filed a claim for coronavirus or coronavirus exposure, a reasonable investigation must include:

(a) Determining whether the nature of the worker’s employment resulted in an exposure to coronavirus;

(b) Determining whether the worker did not work for a period of quarantine or otherwise at the direction of a medical service provider or public health professional, or the employer;

(c) If a worker has taken a coronavirus test, waiting for the worker’s test results;

(d) If the worker tests positive for coronavirus or is given a presumptive diagnosis of coronavirus, and the source of the coronavirus exposure is unknown, the insurer or self-insured employer must obtain a medical opinion prior to issuing a denial.

(3) Compliance with section (2) of this rule requires at least 14 days from date of employer knowledge or notice before determining whether to deny a claim.

(4) An insurer or self-insured employer with more than ___ coronavirus claims will be audited by the Director of the Department of Consumer and Business Services if its coronavirus claim denial rate is at least ___% higher than the average denial rate for coronavirus claims Oregon-wide. Audits under OAR 436-060-0200 consider whether insurers and self-insured employers have complied with investigation requirements and temporary disability payment requirements. Failure to reasonably investigate coronavirus claims or appropriately pay temporary disability will result in civil penalties as identified in OAR 436-060-0200.