

CA SB 1159

CLAIM REPORTING CHECKLIST

Overview

Governor Gavin Newsom signed SB 1159 on September 17, 2020 as part of his worker protection package. Senate Bill 1159 creates a presumption that an illness or death resulting from COVID-19 has arisen out of and in the course and scope of employment. This presumption will remove burdens of access to Workers' Compensation for those employees who most likely became infected at work (front line workers, health care workers, firefighters, and police officers). An employer may dispute the presumption with evidence such as: (1) measures in place to reduce potential transmission of COVID-19 in the employee's place of employment, (2) the employee's non-occupational risks of COVID-19 infection, (3) statements made by the employee, and (4) any other evidence normally used to dispute a work-related injury.

Specifically, under SB 1159, once an employer knows or reasonably should have known that an employee tested positive for COVID-19, the employer must report to their carrier/TPA within **3-business days**. This includes **both work-related and non-work related COVID-19 diagnoses**.

Employer Reporting Guidelines

Positive COVID-19 cases between 7/6/2020 and 9/17/2020 must be retroactively reported to the carrier/TPA by 10/29/2020!

- 1. The employer shall not provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless the employee alleges the COVID-19 is work-related.
- 2. The date that the employee tests **positive** (the date the specimen was collected for testing).
- 3. The specific address or addresses of the employee's specific place of employment during the **14-day period preceding the date of the employee's positive test**.
- 4. The highest number of employees who reported to work at the employee's specific place of employment in the **45-day period preceding the last day the employee worked**.

Positive COVID-19 cases on or after 9/17/2020 must be reported to the carrier/TPA within three business days.

- 1. For non-work-related COVID-19 exposures, the Employer must provide the following:
The bill prohibits employers from providing Personal Identifiable Information (PII). The employer may not provide identifying information about the employee unless that employee asserts the infection is work-related.

2. Employer must provide the date of the test.
3. Employer must provide each location the employee worked for the last 14 business days. If the employee was present or worked in one or more locations, each location must be reported.
4. The highest number of employees who reported to work during the 45 days before the last day the infected employee worked for each location.

Special Notes:

1. An **outbreak** (Rebuttable Presumption) is:
 - a. 4 or more employees testing positive for COVID 19 at a “specific place of employment” if there are fewer than 100 employees;
 - b. 4% of the employees test positive for COVID 19 at a “specific place of employment” that has 100 or more employees;
 - c. The place of employment is ordered to be closed by a Department of Health official due to risk of infection from COVID 19
2. A “**specific place of employment**” means the building, store, facility, or agricultural field where an employee performs or works at the employer’s direction. If the employee works at multiple locations, then the presumption would apply if an “outbreak” exists at any of those locations. Further, the employee’s positive test shall be counted for the purpose of determining the existence of an outbreak at all of those places of employment.

A “specific place of employment” does not include the employee’s home or residence unless the employee provides home health care to another individual at the employee’s home or residence. It does not apply to buildings or other locations that the employee did not enter.

PENALTY POTENTIAL: Employer or anyone acting on their behalf who fail to comply or intentionally report false or misleading claims data or fails to submit information when reporting will be subject to a civil penalty of up to ten thousand dollars (\$10,000) to be assessed by the Labor Commissioner.

For work-related COVID-19 exposures, please report claims to your carrier or TPA as you would in the normal course of business. Remember to provide the employee with a DWC-1 Employee Claim Form within 24- Hours of notice.

For more information, please contact your EPIC representative.