



COVID-19 Claim Guidance for Employers

Introduction

Amidst the chaos of the corona virus, Berkshire Hathaway understands that many employers have questions on responding to COVID-19 related claims. In order to focus their efforts on establishing good hygiene practices in the workplace, OSHA had recently updated the requirements for recording COVID-19 illnesses for industries outside of emergency medical services, firefighting and law enforcement. Therefore, we have created some guidance to follow if any of your employees may be faced with any COVID-19 related illness or death. Prior to using the guidelines below, check for updated guidance on responding to COVID-19 claims from the Centers for Disease Control and Prevention (CDC) and/or OSHA.

Responding to a COVID-19 claim

If an employee, supervisor or other source informs you that an employee may have contracted COVID-19, document the following information from the employee

or other reliable source (e.g. family member, friend, close contact) if the employee is unreachable:

- Full name, address, phone number, DOB, and job title
- Current state of health and any planned treatments
- History and timeline of developed symptoms to present
- Record of any/all medical treatment/testing including any OTC medicine. Most majority of test positives do not
- Where and how the virus was contracted during work-period of time they were working outside of the home
- Test results for any respiratory specimen verifying positive result for SARS-CoV-2. Keep these results confidential. If no testing has occurred, require the employee to get tested at an industrial clinic within your Medical Provider Network.
- If they meet the criteria, file your Workers Compensation at the [BHHC website](#).

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For California customers

As of May 6th 2020, the Executive Order (found on the [BHHC COVID site](#)), signed by Governor Newsom requires that the following criteria must be met in order to be compensable:

- The employee was working outside of their home at the direction of their employer sometime between March 19, 2020 and July 5, 2020.
- Within 14 days after a day worked outside of the home as described above, the employee is determined to have COVID-19 based on either:
 - 1 A positive test for COVID-19
 - 2 A diagnosis of COVID-19 by a qualified physician or surgeon and verified by a test within 30 days

If a fatality occurred during work hours

Proceed immediately to Section 3 below, "Recordkeeping and Reporting to OSHA." Any fatality occurring in a place of employment needs to be reported immediately. You can tell them the cause of death and if work related are still being investigated.

COVID-19 Testing for SARS-CoV-2

- If the employee tests negative: You do not need to report the illness to OSHA or to BHHC. However, if any of the recording criteria are met in Section 3 below, "Recordkeeping and Reporting to OSHA," then record the injury or illness as a non-related COVID-19 incident.
- If the employee tests positive: Follow any existing protocols in response to your Infectious Disease Control Plan (if established), and advise the employee to self-quarantine at home for a minimum of 14 days prior to reevaluating their return to work.
- If test results are unavailable: Although the Federal OSHA guidelines require a positive test result of SARS-CoV-2 to be considered a confirmed case, testing may not be available to all employees or special circumstances may occur where results are unavailable to employers. To ensure due diligence as an employer, Berkshire Hathaway recommends continuing to investigate the claim if any of the criteria in the next section are met.

Accident Investigation

Your trained, competent person for COVID-19 should conduct an Accident Investigation in coordination with the procedures in your Injury and Illness Prevention Program (IIPP). It should include the following information:

- All reportable information under Section 1, "Responding to a COVID-19 claim" above
- A Work Related Section evaluating the validity of contracting the virus at work. Generally, an objective determination that the claim is work related will be supported by substantial evidence (e.g. several employees also testing positive or showing noticeable symptoms for COVID-19 without alternative explanation). Topics include but are not limited to the following:
 - Identify exposures and interaction with the general public and their frequency during work
 - Contact tracing which identifies the employee's exposures to other people within the last 14 days. Include all contact at work, home and in public.
 - Review any pre-shift testing/screening results and analyze any trends during the timeline of the employee's claim and symptoms
 - Review any records within the last 14 days related to the company's Infectious Disease Control Plan (if available), e.g. routine disinfection or cleaning inspection records
 - Review the employee's compliance with your COVID-19 requirements
 - Work in tandem with your Workers Compensation carrier to investigate

If evidence from the work related section results in an objective determination:

- Report the illness to your local OSHA agency if it meets the recording criteria in Section 3, "Recordkeeping and Reporting to OSHA"
- File a claim with your Workers Compensation carrier at the [BHHC website](#)
- Record the illness in your OSHA 300 log

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- Advise the employee to self-quarantine for a minimum 14 days prior to reevaluating their return to work

If evidence does not objectively indicate result is work related:

- Advise the employee who tested positive to self-quarantine for a minimum 14 days prior to reevaluating their return to work
- Maintain the Accident Investigation as a “near miss”
- Advise all employees who worked with the affected employee to get tested
- Review good hygiene practices and implement an infection control plan (if not established)

Recordkeeping and Reporting to OSHA

- Employers exempt from maintaining an OSHA 300 log are not required to record the injury or illness regardless of COVID-19 determination
- Record the claim in your OSHA 300 log. Although testing results may be negative or unavailable, the following criteria is still required for recording any injuries or illnesses occurring in the workplace. The incident must result in one or more of the following to be OSHA 300 log recordable:
 - Death
 - Days away from work
 - Restricted work or transfer to another job
 - Medical treatment beyond first aid
 - Loss of consciousness
 - Significant injury or illness diagnosed by a physician or other licensed health professional, even if neither of the above are true
- For the purposes of days away from work, time spent in quarantine is not considered “days away from work.” This only holds for an employee with a separate work-related illness.

A case may be recorded as COVID-19 related if any of the criteria above are met and:

- Evidence of a positive test result for SARS-CoV-2
- No testing available, however, accident investigation concludes the injury is work related

In cases such as death or any duration of in-patient hospitalization:

You should report it to OSHA immediately, and through the investigation procedures in the next section, determine if the claim was in fact work related. All employers are required to report to their local Federal OSHA or State OSHA agency (if present) of any serious injury or illness to any employees occurring in the workplace. In this case, COVID-19 would be a serious illness due to the realistic possibility of death. Each employer is required to report the incident within 24 hours of the incident taking place, or within 8 hours of knowledge by the employer.

Conclusion

Berkshire Hathaway commends all of their customers for promptly responding to any COVID-19 related claims. Keep in mind, COVID-19 regulations and guidance are a dynamic evolving issue; make sure you research the CDC and/or OSHA websites for the most current information. If in doubt with any of these guidance procedures, or if you require any additional help, please contact your Loss Control Specialist or [e-mail us](mailto:losscontrol@bhhc.com). Thank you and stay healthy.

By making loss control visit(s), evaluations and/or recommendations, or providing safety materials, Berkshire Hathaway Homestate Companies and this Consultant have not and do not undertake or assume any duty to you or anyone else, including but not limited to: A) Identifying or reporting upon any hazard at your premises; B) Managing, controlling, or correcting any hazard; or C) Enforcing compliance with any local, state, or federal safety or health law. Our recommendations or safety materials may not address every possible loss potential, code violation, or exception to neither good practice nor will compliance with any submitted recommendations guarantee the fulfillment of your obligations as required by any local, state, or federal laws. Loss Control is your management's daily responsibility. You are urged to implement and maintain your safety and health management programs.

Please contact the Loss Control team at:
losscontrol@bhhc.com for any further questions.