

A COVID-19 Presumption for Workers' Compensation Would Threaten Oregon's Nationally Ranked Workers' Compensation System

The COVID-19 pandemic has created difficult situations for both employees and employers. One issue that has arisen is what happens for employees who contract the virus while at work. Currently, cases that have been contracted at work follow the same procedure that other occupational disease claims follow through the workers' compensation process. Oregon's strong workers' compensation program is working, and will continue to work, to cover work-related injuries, including those from COVID-19.

However, AFL-CIO, UFCW, SEIU and other public safety unions are pushing for an automatic presumption for all COVID-19 claims for employees who continue to work through the crisis, including grocery, construction, and agricultural employees. This provision would dispense with either the requirement that a worker prove that his or her injury arose out of and in the course of employment or the requirement that the claimant provide medical proof of the injury. In addition, any claim of an occupational disease must prove that the illness is not an ordinary disease of life but, rather, is specific to the type of industry or employment where the disease was contracted. By creating a presumption for a virus like coronavirus, the state would be putting employers in the impossible position of proving that their employees did not contract the virus at work. This is particularly difficult when the virus can be transferred by someone who is asymptomatic. The presumption would have the effect of requiring all COVID-19 cases to be covered by workers' compensation, when not all cases were actually contracted on the job.

Other states have considered, but not moved forward with, a similar presumption, including New York. The New York Compensation Insurance Rating Board studied the impact of a presumption for essential employee claims and estimates that the proposal to establish COVID-19 virus exposure as an occupational disease could exceed \$31 billion in costs to the workers' compensation system. Several states have adopted new presumptions, but often Oregon's workers' compensation system already covers what these other states are passing.

Adoption of such a proposal would potentially disrupt the continued health and balance of Oregon's highly successful workers' compensation system. It would also threaten the grand bargain between employers and employees that created a system that pays employees indemnity and medical benefits for workplace injuries regardless of fault. Part of that grand bargain was the creation of the Management Labor Advisory Committee (MLAC). Since its founding, all modifications to the workers' compensation law have first gone through the MLAC approval process. MLAC is committed to a stable, balanced, and fair workers' compensation system with adequate benefits for injured workers at an affordable cost to employers. Any proposed modifications to the workers' compensation law, such as this presumption, should first go through the MLAC process for review before being considered by the legislature.

We urge you to oppose the creation of such a presumption and instead to have these cases go through the usual workers' compensation process for such claims. This would allow employers and employees to have their claims evaluated in such a way that won't disrupt Oregon's workers' compensation system that is a model for other systems across the country.

For more information, please contact Shawn Miller (APCIA – 503-551-7738), Paloma Sparks (OBI – 541-337-4740) or Drew Hagedorn (AGC – 503-380-1075).



We Feed You



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