



COMMONWEALTH OF MASSACHUSETTS
Office of Consumer Affairs and Business Regulation
DIVISION OF INSURANCE

1000 Washington Street, Suite 810 • Boston, MA 02118-6200
 (617) 521-7794 • Toll-free (877) 563-4467
<http://www.mass.gov/doi>

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

MIKE KENNEALY
SECRETARY OF HOUSING AND
ECONOMIC DEVELOPMENT

EDWARD A. PALLESCHI
UNDERSECRETARY OF CONSUMER AFFAIRS
AND BUSINESS REGULATION

GARY D. ANDERSON
COMMISSIONER OF INSURANCE

BULLETIN 2020-xx

To: Workers' Compensation Insurance Companies and Self-Insurance Groups Covering Employers in Massachusetts

From: Gary D. Anderson, Commissioner of Insurance

Date: April 17, 2020

Re: Making Information Available and Addressing Health Care Worker and First Responder Risk During the COVID-19 Crisis

The Division of Insurance ("Division") issues this Bulletin 2020-XX to provide information to all Workers' Compensation Insurance Companies and Self-Insurance Groups ("WC Carriers") about the Division's expectations regarding steps WC Carriers are to take during the COVID-19 public health crisis. The Massachusetts workers' compensation statute, M.G.L. c. 152, defines personal injury to include "infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by an employee is inherent in the employment." This Bulletin addresses the need to educate workers about how to use WC Carriers' systems to obtain compensation for work-related COVID-19 personal injury and how to address the special risks of health workers.

The Coronavirus Risk

The public health and societal impact resulting from the spread of COVID-19 is dramatically impacting the Commonwealth. It is essential that government and business leaders take all appropriate steps to safeguard the general public and well-being of the Commonwealth's citizens. Insurance coverage plays a critical role in the stability of the Commonwealth's economy and the protection of its residents. COVID-19 imposes unique risks to our insurance market that Massachusetts has not faced for at least a generation.

The escalating COVID-19 public health emergency will produce an extraordinary demand on the Commonwealth's health care system that will require a degree of flexibility and responsiveness in the staffing of medical facilities that regular practices cannot accommodate. The Baker-Polito

Administration has issued directives and orders over the past weeks to address this demand, help prevent the spread of disease and improve access to treatment within our health care delivery system.

All of our efforts are devoted to swiftly getting our systems ready and eliminating administrative barriers so that first responders and health care professionals are ready, trained, and able to address this unprecedented public health crisis. These first responders and health care professionals are and will be responding in diverse locations to test and treat thousands of Massachusetts residents who are at risk of or are suffering the effects of COVID-19.

Consumer Education

The Division is notifying Massachusetts WC Carriers that it expects them to take the following steps to make the appropriate information available via consumer phone service lines and on their websites for their covered Massachusetts workers:

- WC Carriers should consider increasing resources as necessary to accommodate inquiries from workers about policy coverage benefits, and therefore WC Carriers should be reviewing their staffing plans to ensure that sufficient personnel are informed and available to field inquiries on the most up-to-date developments relating to COVID-19, especially information from the Massachusetts Department of Industrial Accidents ("DIA") and the Workers' Compensation Rating and Inspection Bureau of Massachusetts ("WCRIBMA");
- WC Carriers should develop clear lines of communications with key partners, such as the WCRIBMA and the DIA, to ensure that workers understand their rights with respect to filing claims for work-related COVID-19 injury;
- WC Carriers should prepare clear and concise descriptions of workers' compensation coverage benefits that may be triggered as the COVID-19 situation continues to evolve. WC Carriers should communicate the conditions under which COVID-19 triggers coverage, as consistent with statute, including that "personal injury" under a workers' compensation policy includes infectious or contagious diseases if the nature of the employment is such that the hazard of contracting such diseases by an employee is inherent in the employment. This coverage eligibility and benefits information should be posted prominently on WC Carrier websites and provided in response to worker inquiries;
- WC Carriers should develop clear and concise guidelines for their appeal and grievance processes to respond to COVID-19 claims;
- WC Carriers should ensure that workers do not experience a disruption of service if WC Carriers close their offices, including making available other avenues for workers to continue to submit inquiries and file workers' compensation claims;
- WC Carriers should proactively reach out to workers via app announcements, text, email, or other means to explain the above-listed assistance being offered to consumers.
- WC Carriers are to use the Catastrophe Number, Nature of Injury Code, and Cause of Injury Code established by the Workers' Compensation Insurance Organizations ("WCIO")

Bulletin 2020-XX
 April 17, 2020
 Page 3 of 3

for any claims attributed to COVID-19 with accident dates beginning December 1, 2019 and provide appropriate guidance to the use of such codes for all filing such claims.

The Division will be in contact with the WCRIBMA so it can collect a list of all WC Carriers' phone numbers and website links and maintain COVID-19-related contact information. The Division expects WC Carriers to provide the WCRIBMA with their contact information and update the information following any changes.

Health Care Worker and First Responder Risks

As resources are deployed to respond to the risks posed by COVID-19, more first responders and health care workers will be in locations where they will be at substantially greater risk of contracting COVID-19. Despite all the precautions that hospitals, health care centers and other care sites are taking to protect first responders and health care workers, there is elevated risk that such first responders and health care workers will be exposed to and contract COVID-19 in the course of their employment.

The Division expects WC Carriers to implement special procedures and protocols to respond to claims related to COVID-19. Specifically, WC Carriers will be expected to consider that first responders and health care workers are presumed to have contracted COVID-19 in the course of their employment if they can demonstrate: (1) they have been exposed to COVID-19 in the course of their employment; (2) between December 1, 2019 and 60 days after the termination of the state of emergency declared pursuant to Executive Order No. 591, they have been tested and found to have contracted COVID-19; and (3) they have been directed to quarantine to prevent them from exposing others to COVID-19. The Division expects that this applies to health care workers (including, without limitation, those who work in hospitals, health care facilities, health centers and nursing homes) where COVID-19 patients are being treated, as well as those who respond with emergency assistance and those who test Massachusetts residents for COVID-19.

Workers' compensation claims filed by such health care workers and first responders should be otherwise coordinated according to procedures that apply to all other workers who have been found to be eligible for workers' compensation benefits, and WC Carriers are expected to coordinate benefits with other available programs.

If you have any questions about this Bulletin, please contact Matthew M. Mancini, Director, State Rating Bureau, at (617) 521-7459.