

FREQUENTLY ASKED QUESTIONS

Question #1: If the employer has less than 5 employees, does they have to comply with COVID-19 reporting?

Answer #1: No. Employers with less than 5 employees do not have to comply with the reporting requirements. However, you may need to follow your regular claim reporting process if your employee is claiming COVID-19 as a work related injury.

Question #2: Should I report all of my employees testing positive regardless of the occupation?

Answer #2: Yes, all employees with positive testing should be reported.

Question #3: When should an employer 'know or reasonably should know' when someone tested positive?

Answer #3: An employer 'knows' an employee testing positive when someone in a supervisory or managerial position receives a copy of the positive test or other information directly from the employee who tested positive. An employer 'reasonably should know' that an employee tested positive when there is sufficient evidence to support the fact that an employee tested positive from sources other than that employee. Examples can include, but are not limited to, knowing the employee is sick and/or suffers symptoms (fever, cough, shortness of breath, etc.) known to be caused by COVID-19 and off work, but was confirmed to be exposed to individuals that already tested positive.

Question #4: What kind of 'test' must I verify was performed by the employee?

Answer #4: The 'test' must be a 'PCR test'. This test is used to detect the presence of an antigen – a toxic substance in the blood, like COVID). If someone reports they took a 'serology test' – a test usually done to detect if someone developed antibodies in the blood to fight off the virus -, that test should not be used to require the employer to report that employee to your Claims Administrator.

Question #5: What if I know it was not work related (i.e. employee just got back from vacation, family got it first, etc.)

Answer #5: You are required to report all positive tests, regardless of if you believe your employee did not get it at work.

Question #6: Who is the Claims Administrator and how do I make a report to them?

Answer #6: Your Workers' Compensation Claims Administrator is LWP Claims Solutions. Positive COVID-19 test reporting can be done by completing the LWP COVID-19 Occurrence Reporting Form and emailing it to covid@lwpclaims.com or faxing it to 408-725-0395.

Question #7: How does an employer determine 'the last date of work' in order to start calculating the 45 day period?

Answer #7: The last date of work is from the last date on which the employee physically worked at a specific location, or locations, at the direction of the employer.

Question #8: Who decides whether or not there is an outbreak?

Answer #8: LWP Claims Solutions will make that determination based on the information that is supplied by the employer in accordance with the employer's obligations above.

Question #9: What if my employees work from home?

Answer #9: Unless your employees are in home health care workers who assist a non-family or house member, employees who work from home are not covered by this law.

Question #10: What if my employee works from home and also works from jobsite?

Answer #10: As long as the employee is directed by the employer to work from a specific jobsite at some point in time during this coverage period, then this law applies to that particular employee as well.

Question #11: What does specific work location mean?

Answer #11: A "specific work location" means the building, store, facility or agricultural field where the employee worked at your direction. Many workers may transition between multiple places of employment during their shift. So tracking the locations that they are required to work at is essential.

Question #12: Do I have to submit a COVID-19 Occurrence Reporting Form even if my employee does not want to pursue a workers' compensation claim?

Answer #12: Yes, the law now requires employers with more than five (5) total employees to report every employee who tests positive for COVID-19 by a PCR (Polymerase Chain Reaction) test regardless of whether or not a workers' compensation claim will be filed.

Question #13: Will a workers' compensation claim be set up for every COVID-19 Occurrence Reporting Form I submit?

Answer #13: No. However, if an employee wishes to file their exposure as a workers' compensation claim, please follow your normal claims reporting procedure in addition to the COVID-19 Occurrence Reporting Form.