



STATE OF WASHINGTON
Office of the Governor

MEMORANDUM

TO: Director Joel Sacks

FROM: Governor Jay Inslee

A handwritten signature in black ink, appearing to read "J. Inslee".

DATE: April 10, 2020

SUBJECT: Workers' Compensation During the COVID-19 Emergency

On March 5, 2020, I announced that the Department of Labor & Industries (L&I) would take steps to ensure workers' compensation protections for health care workers and first responders who are on the front lines of the COVID-19 (coronavirus) outbreak. Since that time, both my office and your department have received a number of questions regarding how L&I will review claims and how workers' compensation will work for other essential workers. The purpose of this memo is to answer these questions and support the work your department has implemented to review claims:

- Healthcare workers and Emergency Management Personnel are working every day with COVID-19 patients. The practices you have implemented, which assume these individuals' exposure meets workers' compensation criteria unless there is evidence that no on-the-job exposure occurred, are necessary and should continue;
- In some cases, other essential workers face exposure on the job, too. I want to make clear that when *any* work-based exposure is deemed allowable, it is our policy to pay for medical and time loss costs associated with the quarantine period – whether or not the individual ultimately contracts COVID-19;
- These claims have an impact on employers. Given the unique nature of our current challenges, I agree with your plan to relieve employers insured by L&I of the costs of allowed COVID-19 workers' compensation claims so that these costs are not used to calculate their future workers' compensation premium.

We all acknowledge and deeply appreciate the incredibly hard work of health care workers, first responders and others whose jobs puts them into direct contact with people infected with the virus. While most Washingtonians are doing their part by staying home and staying healthy, many brave individuals are putting themselves in harm's way simply by doing their job and serving our communities. When I announced that workers' compensation would cover medical expenses and wage replacement during quarantine for COVID-19 exposures, I told these workers that we had their backs. As this crisis continues, it is important that we continue to show them that we do.

In Washington over the past few months, the number of COVID-19 cases has dramatically increased while the availability of life-saving personal protective equipment (PPE) is at a premium. These conditions clearly indicate that workers in healthcare and emergency



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management occupations are at a higher risk than the typical worker in typical times. In fact, the Occupational Safety and Health Administration (OSHA) has designated health care workers as being at the highest risk of exposure to COVID-19.

The conditions of these occupations are particularly well aligned with the factors that L&I must consider when making claim determinations:

- Was there a high risk or greater likelihood of exposure or contracting the disease due to the worker's occupation?
- If not for their job, would the worker have been exposed or contracted the condition?
- Can the worker identify a specific source or event during their employment that resulted in exposure to COVID-19?

Workers from other occupations may meet these criteria as well, and I appreciate the attention your department is giving to all claims you receive.

I understand that there are challenges with the administration of COVID-19 claims as this crisis has continued and grown. The CDC criteria for quarantine has evolved since the initial L&I policy was announced. That policy originally required a public health official or medical provider order. I recognize it may be difficult to obtain this directive, particularly if claim documentation requires it to be in writing. I also understand that, to date, no claims have been denied for lack of this information. I appreciate that L&I has been allowing claims based on the information they have from the worker and/or the employer. Where needed, L&I staff are contacting the worker's medical provider's office or consulting with L&I's on-staff medical experts to confirm that the quarantine was reasonable. This is an important practice and should continue.

Consistent with my overall direction to mitigate economic hardships for businesses resulting from our COVID-19 response, I support the decision to ensure that individual employers insured by the department will not see their future workers' compensation experience rate increase as a result of accepting and paying the costs of these claims. Spreading the cost of these claims across all industries is consistent with insurance principles for catastrophic circumstances and is also consistent with how we are fighting this— by working together to support both workers and businesses financially impacted by COVID-19. This is the right thing to do.

Again, I want to thank you for your leadership and the department's hard work in serving the Washington workers who are protecting our fellow Washingtonians.