

# Workers' compensation reference guide on COVID-19 compensability

## Table of contents

The following information regarding how COVID-19 claims may be evaluated in each jurisdiction is provided as a convenience to the clients of Sedgwick Claims Management Services, Inc. It is believed to be accurate but is not represented as being comprehensive. It should be used as a guide to further investigation rather than as an exclusive resource for decision making regarding the design or implementation of workers' compensation program. To access information for a specific state, click to open the link or scroll down. Given the fluid nature of this situation, information for each state will be updated as necessary.

<a href="#">1.</a>	Alabama	<a href="#">19.</a>	Louisiana	<a href="#">36.</a>	Ohio
<a href="#">2.</a>	Alaska	<a href="#">20.</a>	Maine	<a href="#">37.</a>	Oklahoma
<a href="#">3.</a>	Arizona	<a href="#">21.</a>	Maryland	<a href="#">38.</a>	Oregon
<a href="#">4.</a>	Arkansas	<a href="#">22.</a>	Massachusetts	<a href="#">39.</a>	Pennsylvania
<a href="#">5.</a>	California	<a href="#">23.</a>	Michigan	<a href="#">40.</a>	Rhode Island
<a href="#">6.</a>	Colorado	<a href="#">24.</a>	Minnesota	<a href="#">41.</a>	South Carolina
<a href="#">7.</a>	Connecticut	<a href="#">25.</a>	Mississippi	<a href="#">42.</a>	South Dakota
<a href="#">8.</a>	Delaware	<a href="#">26.</a>	Missouri	<a href="#">43.</a>	Tennessee
<a href="#">9.</a>	District of Columbia	<a href="#">27.</a>	Montana	<a href="#">44.</a>	Texas
<a href="#">10.</a>	Florida	<a href="#">28.</a>	Nebraska	<a href="#">45.</a>	U.S. Longshore
<a href="#">11.</a>	Georgia	<a href="#">29.</a>	Nevada	<a href="#">46.</a>	Utah
<a href="#">12.</a>	Hawaii	<a href="#">30.</a>	New Hampshire	<a href="#">47.</a>	Vermont
<a href="#">13.</a>	Idaho	<a href="#">31.</a>	New Jersey	<a href="#">48.</a>	Virginia
<a href="#">14.</a>	Illinois	<a href="#">32.</a>	New Mexico	<a href="#">49.</a>	Washington
<a href="#">15.</a>	Indiana	<a href="#">33.</a>	New York	<a href="#">50.</a>	West Virginia
<a href="#">16.</a>	Iowa	<a href="#">34.</a>	North Carolina	<a href="#">51.</a>	Wisconsin
<a href="#">17.</a>	Kansas	<a href="#">35.</a>	North Dakota	<a href="#">52.</a>	Wyoming
<a href="#">18.</a>	Kentucky				

## Alabama

<b>Statutory Citation</b> Code §§ 25-5-110, 25-5-111 and 25-5-117	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	In Alabama, an occupational disease is defined as "a disease arising out of and in the course of employment... which is due to hazards in excess of those ordinarily incident to employment in general and is peculiar to the occupation in which the employee is engaged but without regard to negligence or fault, if any, of the employer." The employee would have the burden to prove by "clear and convincing" evidence that contracting the virus was due to hazards in excess of those ordinarily incident to employment in general AND that it is peculiar to the employee's occupation.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Alabama does not have presumptions in place for health care workers or first responders; therefore, those employees would have to meet the same burden of proof described above.
Any other considerations?	The "date of injury" for an occupational disease generally means "the date of the last exposure to the hazards of the disease in the employment of the employer in whose employment the employee was last exposed to the hazards of the disease."	

## Alaska

<b>Statutory Citation</b> Alaska Stat. § 23.30.395(24)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	In Alaska the definition of "injury" includes occupational disease or infection that arises naturally out of the employment. However, the employee must be able to demonstrate a link between working for the employer and the condition.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	<p>On April 9, 2020 <a href="#">Senate Bill 241</a> was signed into law that in part creates a conclusive presumption that health care providers, police officers, emergency medical technicians, firefighters including members of a volunteer fire department registered with the state fire marshal and paramedics who contract COVID-19 have contracted an occupational disease arising out of and in the course of employment. This presumption, which cannot be rebutted, applies retroactively to March 11, 2020. The presumption is triggered for the specified workers if exposed to COVID-19 in the course of employment and a COVID-19 diagnosis is received by a physician, a presumptive positive COVID-19 test result; or a laboratory-confirmed COVID-19 diagnosis. The Alaska Workers' Compensation Division released a <a href="#">bulletin</a> announcing this bill on April 10, 2020.</p> <p><a href="#">House Bill 76</a> in Section 11 retroactive to November 15, 2020 extends this conclusive presumption to December 31, 2021 for COVID-19 acquired by an employee employed as a firefighter, emergency medical technician, paramedic, peace officer or health care provider that had contact with a member of the public outside of the employee's home within 14 days before receiving the diagnosis. <b>This conclusive presumption is now expired.</b></p>
Any other considerations?		A COVID-19 claim for a remote site worker may be viewed differently. If a remote site worker immediately becomes sick within 1-2 days of arrival, then the person likely had the virus before working and the claim may not be compensable. If the worker had been on the site well past the usual incubation period of 10-14 days and then gets sick, it is more likely that infection arose out of employment.

## Arizona

Statutory Citation A.R.S. Sec 23-901.01, 23-901.03 and 23-1021	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>For an occupational disease to be deemed to arise out of the employment, all of the following requirements must exist:</p> <ul style="list-style-type: none"> <li>• A direct causal connection between the conditions under which the work is performed and the occupational disease.</li> <li>• The disease can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.</li> <li>• The disease can be fairly traced to the employment as the proximate cause.</li> <li>• The disease does not come from a hazard to which workers would have been equally exposed outside of the employment.</li> <li>• The disease is incidental to the character of the business and not independent of the relation of employer and employee.</li> <li>• The disease after its contraction appears to have had its origin in a risk connected with the employment, and to have flowed from that source as a natural consequence, although it need not have been foreseen or expected.</li> </ul>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Healthcare providers or first responders may be more likely to meet all of the above requirements.
Any other considerations?		<p>On May 14, 2020, the Industrial Commission of Arizona issued an <a href="#">advisory only announcement</a> about adjusting COVID-19 workers' compensation claims. It advises that COVID-19 workers' compensation claims cannot be categorically denied, and Arizona law requires all denials be well-grounded in fact and warranted by existing law. The Commission recommends that carriers and self-insured employers evaluate COVID-19 claims in conjunction with Arizona law, considering the following factors:</p> <ul style="list-style-type: none"> <li>• Nature of employment and risk of contracting COVID-19.</li> <li>• Whether identifiable exposure occurred at work.</li> <li>• Whether identifiable exposure occurred outside of work.</li> <li>• Timing between an identifiable exposure and development of COVID-19.</li> <li>• Reliability of evidence.</li> </ul> <p>The <a href="#">Industrial Commission of Arizona Substantive Policy Statement : COVID-19 Workers' Compensation Claims</a> reminds that Arizona Administrative Code R20-5-163(A)(1) and R20-5-163(A)(2) state that unreasonably delaying the payment of benefits or authorization for medical benefits constitute "bad faith." Additionally, R20-5-163(B)(1) states that "unfair claim processing practices" includes unreasonably issuing a notice of claim status "without adequate supporting information."</p>

## Arkansas

Statutory Citation Code 11-9-601(E) and 11-9-114	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>In Arkansas no compensation is payable for any contagious or infections disease unless contracted in the course of employment in or in immediate connection with a hospital or sanatorium in which persons suffering from that disease are cared for or treated. Further, "no compensation is payable for any ordinary disease of life to which the general population is exposed." However, <a href="#">Executive Order 20-35</a> effective June 15, 2020 provides that COVID-19, SARS-CoV2, and related viruses are an exception to the prohibition on compensation for ordinary diseases of life to which the general public is exposed. Additionally, the definition of "unusual and unpredicted incident" is modified to include exposure to COVID-19 as a respiratory accident or incident that may be found to have been the major cause of the physical harm. This modified definition supersedes <a href="#">Executive Order 20-22(3)</a>.</p> <p><a href="#">House Bill 1488</a> excludes COVID-19 or any mutation from "ordinary disease of life" and provides COVID-19 may be established by a preponderance of the evidence as an occupational disease if there is a causal connection between occupation or employment. These provisions apply from March 11, 2020 until <b>May 1, 2023</b>.</p> <p>An employee asserting an occupational disease claim for COVID-19 is still required to meet all requirements of proof for an occupational disease, including causal connection between employment and the disease.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>The likelihood that first responders and front-line health care workers who contract COVID-19 may be eligible for workers' compensation is increased with the issuance of <a href="#">Executive Order 20-19</a> by the governor on April 13, 2020. This order suspended several provisions of Arkansas Code to allow first responders and front-line health care workers to seek workers' compensation for the duration of this emergency, if they are able to demonstrate a causal connection, as required by law, between their diagnosis of COVID-19 and exposure to COVID-19 as a result of their employment or occupation.</p>

## California

<b>Statutory Citation</b> Labor Code Section 3600	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	<p>If COVID-19 is contracted or diagnosed prior to March 19, 2020, the employee will have the initial burden to prove that the workplace was the medically probable cause of contracting the virus and based on substantial medical evidence that the risk of contracting COVID-19 by virtue of their particular employment was materially greater than that of the general public contracting the disease. According to California Labor Code 3205.5, the applicable standard of proof is “by a preponderance of the evidence.” <i>Pacific Employers v. IAC</i> and <i>Maher v. WCAB</i> illustrate exceptions to the general rule that injury from a non-occupational disease does not arise out of employment.</p> <p>COVID-19 contracted or diagnosed on or after March 19, 2020 is subject to <a href="#">Executive Order N-62-20</a> issued by Governor Gavin Newsom on May 6, 2020. This order creates a time-limited rebuttable presumption that any COVID-19 related illness of a California employee arose out of and in the course of employment for purposes of awarding workers’ compensation benefits. To be eligible for an award of workers’ compensation benefits, the employee must test positive for COVID-19 or be diagnosed by a physician licensed by the California Medical Board with a confirmed positive test within 14 days of performing a labor or service at a place of work other than their home or residence on or after March 19 through July 5, 2020. This Order applies to all insurance carriers writing policies providing workers' compensation coverage as well as employers authorized to self-insure in California.</p> <p>Governor Newsom signed <a href="#">Senate Bill 1159</a> on September 17, 2020 that again created a rebuttable presumption for any worker who tests positive for COVID-19 while working at the employer’s direction outside of the home under specified circumstances. The three substantive sections of this legislation address the following:</p> <p><b>Section one:</b> Codifies Governor Newsom’s expired <a href="#">Executive Order N-62-20</a> for COVID-19 related claims occurring between March 19, 2020 and July 5, 2020. <b>Section two:</b> Applies a rebuttable presumption to COVID-19 related illness for front-line workers defined as peace officers, firefighters, fire and rescue service coordinators, health care providers, home care workers and providers of in-home supportive services (IHSS) for claims occurring from July 6, 2020, to January 1, 2023. <b>Section three:</b> Applies a rebuttable presumption for all employees other than front-line workers who test positive from July 6, 2020, to January 1, 2023, during an outbreak at the employee’s place of employment. This bill defines outbreak and the information reported by employers is to be used to determine if an outbreak has occurred.</p> <p><a href="#">Assembly Bill 1751</a> approved by Governor Newsom on Sept. 29, 2022, extended this presumption until <b>Jan. 1, 2024</b>. The bill also expanded eligible employees to include active firefighting members of a fire department at the State Department of State Hospitals, the State Department of Developmental Services, the Military Department, and the Department of Veterans Affairs and to officers of a state hospital under the jurisdiction of the State Department of State Hospitals and the State Department of Developmental Services.</p> <p>Evidence relevant to controverting the presumption includes, but is not limited to, evidence of measures in place to reduce potential transmission of COVID-19 in the employer’s place of employment and evidence of an employee’s non-occupational risk of contracting COVID-19.</p>

Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Front-line workers including healthcare providers who contract COVID-19 are most likely able to meet the burden of proving that the workplace was the probable cause and that their risk was materially greater than that of the general public as required if COVID-19 is contracted or diagnosed prior to March 19, 2020. COVID-19 contracted or diagnosed on or after March 19, 2020, through <b>January 1, 2024</b> , is subject to the rebuttable presumption created in Senate Bill 1159; extended by Assembly Bill 1751 that was initially Executive Order N-62-20 issued by Governor Gavin Newsom on May 6, 2020, both described above.
Any other considerations?	COVID-19 is not among the illnesses such as meningitis, MRSA and tuberculosis that are statutorily presumed compensable for public safety workers.	
Additional information	The California Labor and Workforce Development Agency provided a summary chart of benefits for workers impacted by COVID-19. Click <a href="#">here</a> to review.	

## Colorado

Statutory Citation C.R.S. §8-40-201(14); Rule 5	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	In Colorado, an "occupational disease" means a disease which results directly from the employment or the conditions under which work was performed, which can be seen to have followed as a natural incident of the work and as a result of the exposure occasioned by the nature of the employment, and which can be fairly traced to the employment as a proximate cause and which does not come from a hazard to which the worker would have been equally exposed outside of the employment. Among the categories of occupational disease that require the filing of a First Report of Injury are contagious diseases. However, for a contagious disease such as COVID-19 to be compensable, an employee has the burden to prove the disease was contracted at work in the course and scope of employment.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Healthcare workers and first responders involved with the care and treatment of those who have the virus may be able to trace contraction of COVID-19 to their employment and prove their exposure was greater than outside of employment.

## Connecticut

Statutory Citation C.G.S. § 31-275(15)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>Infectious diseases are generally not considered compensable. The exception is occupational diseases which the statute defines as "any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazard of employment." However, on July 24, 2020, the governor issued <a href="#">Executive Order No. 7JJ</a> that established a rebuttable COVID-19 workers' compensation presumption. An employee is required to satisfy the following order for the presumption to apply:</p> <ul style="list-style-type: none"> <li>• The employee must file a workers' compensation claim.</li> <li>• The employee must have lost one or more days of work due to COVID-19 between <b>March 10, 2020 and May 20, 2020</b>.</li> <li>• The employee must have been directed by their employer to work outside of the home at least one of the 14 days prior to missing work, and there was no work-at-home option.</li> <li>• The COVID-19 diagnosis must have been confirmed by a positive lab test, or symptoms must have been diagnosed as COVID-19, within 3 weeks of the missed work day(s).</li> <li>• A copy of the positive laboratory diagnostic test results or the written diagnosis must be provided to the employer or insurer.</li> <li>• If the date of injury was more than 14 days after March 23, 2020, the employee must have been employed by an essential employer, in accordance with <a href="#">Executive Order No. 7H</a> issued by the Dept. of Economic and Community Development (DECD).</li> </ul> <p>An employee who has contracted COVID-19 but who is not entitled to the presumption is still able to make a workers' compensation claim.</p> <p>This presumption may be rebutted if the employer or insurer demonstrates to a Commissioner by a preponderance of the evidence that the employment of the employee was not the cause of the employee contracting COVID-19.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Employees employed by an essential employer in accordance with <a href="#">Executive Order No. 7H</a> issued by the Dept. of Economic and Community Development (DECD) between March 10, 2020 and May 20, 2020 are covered by the COVID-19 rebuttable presumption. Among the list of essential businesses are the 16 critical infrastructure sectors, including essential health care operations, government agencies and the provision of goods, services, or functions necessary for the health, safety, and welfare of the public.</p> <p>Based on current case law, if able to support their claim with medical evidence, healthcare workers directly caring for patients with COVID-19 may be able to successfully pursue a claim under the occupational disease statute</p>

	outside the period specified in <a href="#">Executive Order No. 7JJJ</a> .
Any other considerations?	See <a href="#">Estate of Doe v. Department of Correction</a> , 268 Conn. 753 (2004)

## Delaware

Statutory Citation 19 Del. C. §2301 (4) and (16)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	An employee alleging a COVID-19 infection must bear the burden of proof by providing substantial evidence that workplace exposure caused the infection. First, the claimant would need to establish a workplace exposure and second, that the exposure at work was the likely cause of the infection. Third, the claimant must prove "his ailment resulted from the peculiar nature of employment that placed him at higher risk rather than his own peculiar predisposition."
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Healthcare workers treating a patient infected with COVID-19 or employee handling materials known to have come from areas with high levels of infection are two cases that a workplace exposure could feasibly provide the basis for a work-related injury.
Any other considerations?	Available defenses include: Willful self-exposure to an occupational disease or failure to observe safety regulations posted in the workplace.	

## District of Columbia

Statutory Citation Code § 32-1501 and 32-1521	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	Occupational diseases are limited to specific slow and insidious diseases of the body, such as silicosis. However, an employee alleging a work-related accidental injury that can demonstrate a work-related activity that may have resulted in or contributed to the injury is afforded a presumption of causal relationship in the absence of substantial evidence to the contrary.  On February 26, 2021, <a href="#">B24-0058, the "Workplace Safety during the COVID-19 Pandemic Emergency Act of 2021"</a> in part amends the Workers' Compensation Act to include COVID-19 as a compensable injury if contracted in the course and scope of employment. Should the rebuttal evidence presented by the employer and insurer be found sufficient, the burden turns to the employee to prove their claim. <a href="#">B24-0059, the Workplace Safety during COVID-19 Pandemic Temporary Amendment Act of 2021</a> , Law L24-0006 extended provisions related to the compensability of COVID-19 under public and private workers' compensation programs through <b>December 24, 2021</b> .

Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Employees found to be at an increased risk of contraction of this illness, such as health care employees, emergency medical personnel or employees required to travel to locations experiencing high numbers of infection will likely be found compensable. Even in those situations where there is likely a presumption for certain employees due to an increase d risk of contracting COVID-19, a thorough investigation should be performed to determine if there were other, non-work-related exposures.
Any other considerations?	A May 28, 2020 decision by the District Court of Appeal in <a href="#">Ramos v. District of Columbia Dept. of Employer Services</a> provides guidance on the level of evidence necessary to rebut the District’s presumption of compensability	

## Florida

Statutory Citation Statutes 440.02(1), 440.151 and 112.181	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	In general, diseases and sicknesses are excluded from workers' compensation. The disease must result from the "nature of employment" AND must actually be contracted while working and this is the claimant’s burden to prove. Additionally, employment must be the major contributing cause meaning medical evidence is necessary to support that the condition is due to employment.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	<p>On April 6, 2020, the Florida Office of Insurance Regulation issued <a href="#">Informational Memorandum OIR-20-05M</a> to remind industry stakeholders that first responders, health care workers, and others that contract COVID-19 due to work-related exposure would be eligible for workers’ compensation benefits under Florida law and cites the above statute.</p> <p>While the occupations indicated in the memorandum are more likely to meet the eligibility requirements for workers’ compensation coverage, an investigation is still required, and it remains the claimant’s burden to prove workplace exposure and causation.</p> <p>There are certain statutory presumptions relative to certain communicable diseases contracted by firefighters, paramedics, emergency medical technicians, law enforcement officers, and correctional officers.</p>

## Georgia

Statutory Citation O.C.G.A. 34-9-1(4); O.C.G.A. § 34-9-280	Are benefits available?	Details
Is COVID-19 generally compensable?	No	Occupational Disease must meet each prong of a (5) part test. COVID-19 is an ordinary disease to which the general public is exposed; therefore, it cannot meet the criteria for occupational disease.

Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	In a few fact-intensive cases, maybe yes. For industries with specific demands, healthcare workers and first responders, it is possible that COVID-19 could be compensable, but a specific incident is required, such as an accidental needle stick after the needle has been used on an infected person or some unexpected contact with bodily fluids from an infected person.
Any other considerations?	COVID-19 is not and cannot be an occupational disease as COVID-19 has been a community-based infection from the beginning.	

## Hawaii

Statutory Citation	Are benefits available?	Details
Revised Statutes § 386-3(A) and 386-85		
Is COVID-19 generally compensable?	Possibly	Unless there is substantial evidence to the contrary. In Hawaii, workers' compensation covers any employee who suffers a personal injury either by accident arising out of and in the course of employment or by disease proximately caused by or resulting from the nature of employment. No, unless contraction of COVID-19 is directly attributable to the employee's job duties.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Yes	If the contraction of COVID-19 is attributable to their job duties. For example, if a healthcare worker contracts COVID-19 because he or she cared for an infected patient, he or she may be eligible for workers' compensation.
Any other considerations?	The Hawaii Supreme Court has consistently construed the "substantial evidence" requirement liberally in accordance with the humanitarian purposes of workers' compensation. See <a href="#">Lynedon Van Ness vs. State of Hawaii Dept. of Education</a> (2014).	

## Idaho

Statutory Citation	Are benefits available?	Details
Code Section 72-102(22)		
Is COVID-19 generally compensable?	Possibly	In Idaho, occupational disease means a disease due to the nature of an employment in which the hazards of such disease actually exist, are characteristic of, and peculiar to the trade, occupation, process. In pursuing an occupational disease claim, the employee has the burden to prove to a reasonable degree of medical probability that a causal connection between the condition for which compensation is claimed and the occupational exposure that led to contracting COVID-19. "Probable" is defined as "having more evidence for than against."

Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	While this determination must be based on the facts of each case, employees such as healthcare workers or first responders are more likely to be compensable than a claim for most workers.
Any other considerations?	On <a href="#">October 7, 2020</a> , the Idaho Industrial Commission issued an interpretation of existing law related to the filing of COVID-19 claims under workers' compensation and the compensability evaluation.	

## Illinois

Statutory Citation 820 ILCS 310/1(D)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>The Illinois Workers' Compensation Act is silent with regards to whether infectious diseases are compensable. However, <a href="#">House Bill 2455</a> signed into law June 5, 2020 provides that for specified first responders and front-line workers, there is a rebuttable presumption that an injury or occupational disease resulting from exposure to and contraction of COVID-19 arose out of and in the course of employment and is causally connected to the hazards or exposures of their employment. This presumption applies from March 9, 2020 through December 31, 2020.</p> <p>With the enactment of this bill, the employer has the burden to rebut the presumption. An aspect of this bill that differs from Illinois Workers' Compensation <a href="#">emergency amendment</a> withdrawn April 28, 2020 is the guidance on evidence to rebut the presumption of compensability which includes:</p> <ul style="list-style-type: none"> <li>• The employee was working solely in their home, except for home care workers, or was on leave for at least 14 days immediately prior to the employee's injury, occupational disease or period of incapacity.</li> <li>• The employer was using or enforcing, to the fullest extent possible, industry-specific workplace sanitation, social distancing and health and safety practices based on guidance issued by the federal Centers for Disease Control and Prevention or Illinois Department of Public Health, or was using a combination of certain controls and equipment to reduce COVID-19 transmission for at least 14 consecutive days prior to the employee's injury, occupational disease or period of capacity; or</li> </ul> <p>The employee was exposed to COVID-19 by an alternate source.</p>

<p>Is COVID-19 compensable with high risk workplace exposure exceptions?</p>	<p>Likely</p>	<p>The workers covered by the rebuttable presumption under House Bill 2455 are:</p> <ul style="list-style-type: none"> <li>• All individuals employed as police, fire personnel, emergency medical technicians or paramedics.</li> <li>• All individuals employed and considered as first responders.</li> <li>• All workers for health care providers, including nursing homes and rehabilitation facilities and home care workers.</li> <li>• Correction officers; and</li> <li>• Any individuals employed by essential businesses and operations as defined in <a href="#">Executive Order 2020-10 dated March 20, 2020</a>, as long as they are required by their employment to encounter members of the general public or to work in employment location of more than 15 employees.</li> </ul> <p>An employee who contracts COVID-19 but fails to establish the rebuttable presumption is still allowed to file for workers' compensation benefits.</p> <p>House Bill 4276 signed Feb. 26, 2021 retroactively extended the rebuttable presumption from Dec. 31, 2020 to June 30, 2021. <b>The presumption expired as of June 30, 2021.</b></p>
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## Indiana

<p><b>Statutory Citation</b> Code § 22-3-7-10</p>	<p><b>Are benefits available?</b></p>	<p><b>Details</b></p>
<p>Is COVID-19 generally compensable?</p>	<p>No</p>	<p>It would likely be categorized as an "ordinary disease of life." Ordinary diseases of life to which the general public is exposed outside of the employment are not compensable.</p>
<p>Is COVID-19 compensable with high risk workplace exposure exceptions?</p>	<p>Likely</p>	<p><a href="#">Senate Bill 232</a> retroactive to Jan. 1, 2020 adds any variant of severe acute respiratory syndrome (SARS) including COVID-19 to the list of "exposure risk disease" for which emergency and public safety employee death and disability is presumed to be in the line of duty.</p> <p>On April 2, 2020, the Workers' Compensation Board posted Website Notice address COVID-19 compensability decisions. The agency points that first responders, health care providers as well as others directly involved in the provision of services and others whose jobs necessarily entail close interaction with many people in a public setting are more vulnerable to exposure and possible infection. However, indicates that the state cannot tell employers they must automatically cover employees who contract COVID-19.</p>

## Iowa

Statutory Citation Code § 85A.8	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	These claims are likely to be considered under an occupational disease analysis. For an occupational disease to be compensable, the disease must be causally related to the exposure to harmful conditions of the field of employment; and those harmful conditions must be more prevalent in the employment concerned than in everyday life or in other occupations.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	These types of workers present the most likely possibility of compensability if their job requires close contact with sick customers or patients and this exposure causes a worker to become ill.
Any other considerations?	If the disease appears to have its origin in a risk connected with employment and to have resulted from that risk, the claim may be compensable.	

## Kansas

Statutory Citation K.S.A. 44-5A01(B)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	Kansas defines "occupational disease" as only a disease arising out of and in the course of the employment resulting from the nature of the employment in which the employee was engaged, and which was actually contracted while so engaged. "Nature of the employment" means that to the occupation, trade or employment in which the employee was engaged, there is attached a particular and peculiar hazard of disease that distinguishes the employment from other occupations and employments, and creates a hazard of contracting disease in excess of the hazard in general. Ordinary diseases of life and conditions to which the general public is or may be exposed to outside of the particular employment, and hazards of diseases and conditions attending employment in general are not compensable as occupational diseases. Ultimately, a primary consideration in evaluating compensability of a claim for COVID-19 will be the nature of the occupation, trade or employment the employee was engaged.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Healthcare workers, nursing home employees, first responders and other medical providers are in a unique position to prove that exposure to and subsequent development of COVID-19 is a compensable occupational disease.

## Kentucky

Statutory Citation KRS 342.0011(1)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	Communicable diseases are generally not compensable where the risk of contracting the disease is no greater for the employee than it is for the public at large. If, on the other hand, the employee is at a greater risk of contracting the disease because of his or her work, the employer may be liable for benefits.

<p>Is COVID-19 compensable with high risk workplace exposure exceptions?</p>	<p>Possibly</p>	<p>On April 9, 2020 Kentucky's governor issued <a href="#">Executive Order 2020-277</a> directing that an employee removed from work by a physician due to occupational exposure to COVID-19 is entitled to temporary total disability (TTD) benefits during the period of removal even if the employer ultimately denies liability for the claim. Further, this order suspends the 7 days waiting period for TTD, so benefits are payable from the first day the employee is removed from work.</p> <p>According to the order, for the exposure to be "occupational" there must be a causal connection between the conditions under which the work is performed and COVID-19, the result of the exposure can be seen to have followed as a natural incident to the work and the exposure must be occasioned by the nature of the employment.</p> <p>For purposes of this order there is a presumption that removal of the following workers from work by a physician is due to occupational exposure to COVID-19:</p> <ul style="list-style-type: none"> <li>• Employee of a healthcare entity</li> <li>• First responders (law enforcement, emergency medical services, fire departments)</li> <li>• Correction officers</li> <li>• Military</li> <li>• Activated National Guard</li> <li>• Domestic Violence Shelter workers</li> <li>• Child Advocacy workers</li> <li>• Rape Crisis Center staff</li> <li>• Department for Community Based Services workers</li> <li>• Grocery workers</li> <li>• Postal Service workers</li> <li>• Childcare workers permitted to provide child care during the state of emergency</li> </ul> <p>This order applies to claims reported as of April 9, 2020 for the duration of the state of emergency under Executive Order 2020-215 or until this order is rescinded. It applies to all insurance carriers writing policies providing workers' compensation coverage as well as employers authorized to self-insure in the Commonwealth of Kentucky.</p> <p>On April 15, 2020 the Kentucky Department of Workers' Claims issued a <a href="#">notice</a> clarifying Executive Order 2020-277. According to this notice, the Executive order only applies to the issue of payment of TTD benefits and has not application to resolution of any issue beyond the scope of the order. Additionally, TTD benefits are subject to offset of FMLA benefits paid by the federal Families First Coronavirus Response Act and unemployment benefits.</p> <p><a href="#">House Joint Resolution 1</a> enacted during special session convened Sept. 7, 2021 extended Executive Order 2020-277 related to the payment of workers' compensation temporary total disability to employees removed from work by a physician due to occupational exposure to COVID-19 until January 15, 2022, but struck the presumption that removal of certain workers from work by a physician is due to occupational exposure to COVID-19.</p>
<p>Additional information</p>	<p>An analogous case that is instructive involves a dock worker who developed pneumonia that was found to be compensable. The Court of Appeals in <a href="#">Dealers Transport Co. v. Thompson</a> explained that pneumonia is compensable as a work-related injury among dock workers "for the simple reason that the general public was not working on a loading dock... in cold and damp December weather."</p>	

## Louisiana

Statutory Citation Statute 23:1020.1B(1); 23:1021(1) and 23:1031.1	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	An occupational disease is defined by the Louisiana Workers' Compensation Act as only that disease or illness which is due to causes and conditions characteristic of and peculiar to the particular trade, occupation, process, or employment in which the employee is exposed to such disease. To receive benefits under the act, an employee must establish by a preponderance of the evidence a chain of causation that the disease or illness is characteristic of and peculiar to a specific position or line of work.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	If a nurse or doctor treating a patient with COVID-19 then contracts this disease, this employee will more than likely be able to establish working conditions specific to their job as the cause of their illness.

## Maine

Statutory Citation 39-A Maine Revised Statute Ann. §§ 601-615	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	In Maine the term "occupational disease" means only a disease that is due to causes and conditions characteristic of a particular trade, occupation, process or employment and that arises out of and in the course and scope of employment.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Yes	Employees exposed to a serious risk of contracting a disease known to be highly contagious have been "injured" for purposes of compensation under the Maine Act. Thus, in <a href="#">Russell v. Camden Community Hospital</a> (1976), the Maine Supreme Court found that a nurse exposed to tuberculosis while attending to a patient was entitled to compensation when she contracted the disease herself.

## Maryland

Statutory Citation Code § 9-101(B) AND (G)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	It is not likely that the contraction of COVID-19 will be viewed as arising out of and in the course of employment for employees not subject to a unique risk for this illness. Even in those situations where employees subject to unique risk contract COVID-19, additional investigation could be performed to determine if there were other, non-work-related exposures.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Unless there are some extenuating personal circumstances, the Commission is likely to find COVID-19 claims compensable for employees who are at an increased risk of contraction of this illness, such as health care employees or emergency medical personnel. Many employers in these fields are approaching this situation by requiring their employees to use personal time when taking time off for screening of COVID-19, but likely accepting those claims under workers' compensation when their employees test positive for COVID-19.
Any other considerations?	The Commission will also likely consider employees who are required to travel and who contract COVID-19 as being subject to a unique risk. Those employees who contract COVID-19 will have an increased likelihood of their claims being found compensable.	

## Massachusetts

Statutory Citation M.G.L. C.152 §1(7A)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	In Massachusetts, the definition of personal injury 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. Accordingly, a claim involving most employees who incidentally contract this disease from a co-worker will likely not be compensable, although occurring at work.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Employments with inherent hazard of contracting COVID-19 would include the healthcare field including physicians, nurses, pulmonary therapists, physician assistants. However, the employee must still prove that an exposure occurred in the workplace (i.e., a patient or co-worker testing positive for COVID-19).
Additional information	If denying an infectious disease claim, use Form 104 and list Section 1(7A) as a defense and add "not inherent in the workplace" along with any other defenses.	

## Michigan

Statutory Citation 418.401(2)(B)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	In Michigan, an ordinary disease of life to which the public is generally exposed outside of the employment is not compensable. The employee would have the burden to prove that COVID-19 was contracted in the workplace and not outside of employment.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	<p><a href="#">Executive Order 20-128</a> was issued on June 18, 2020 to clarify the scope of Executive Order 20-125 and reflect the state of emergency and disaster declared in <a href="#">Executive Order 20-127</a>. On June 17, 2020 <a href="#">Executive Order 20-125</a> was issued to replace and suspend the emergency rules filed March 30, 2020 by the Michigan Workers’ Disability Compensation Agency. This order provides, subject to rebuttal by specific facts to the contrary, that a first-response employee who is confirmed as COVID-19 positive on or after March 18, 2020, either by physician or by test, is presumed to have suffered a “personal injury” arising out of and in the course of employment compensable under the Workers’ Disability Compensation Act.</p> <p>This Order defines COVID-19 response employee as an employee whose job responsibilities require them to have regular or prolonged contact with COVID-19 in the course of their employment and include the following:</p> <ul style="list-style-type: none"> <li>• A person who is required to work in: <ul style="list-style-type: none"> <li>○ An ambulance operation including advanced mobile emergency care services.</li> <li>○ A county medical care facility.</li> <li>○ An emergency response service.</li> <li>○ A hospice, hospital, home for the aged, nursing home.</li> </ul> </li> <li>• A person working in a home health agency or a visiting nurse association as defined by Michigan law who is required to provide in-person medical care to patients.</li> <li>• A person working as a physician, physician assistant, licensed practice nurse, registered professional nurse, medical first responder, nurse, emergency medical technician, emergency medical technician specialist, paramedic, or respiratory therapist who is required to provide in-person care to patients.</li> <li>• A law enforcement officer as defined by Michigan law.</li> <li>• A motor carrier officer within the Michigan Dept. of State Police.</li> <li>• A firefighter as defined by Michigan law.</li> <li>• A member of an emergency rescue team to the extent that the member is required to work and interact with the general public. <ul style="list-style-type: none"> <li>○ A volunteer civil defense worker to the extent that the worker is required to report to work.</li> <li>○ An on-call member of a life support agency to the extent the member is required to report to work.</li> <li>○ A state or local government employee that is required to work within the secured perimeter of a penal institution including but not limited to correctional facilities, jails, and detention centers.</li> </ul> </li> </ul> <p>After Michigan Supreme Court invalidated some of the governor’s COVID-related orders, LOE Director issued emergency rule on Oct. 16, 2020 that reinstated a rebuttable presumption for first response employees diagnosed with COVID-19 from March 18, 2020 through March 20, 2021. COVID-19 claims occurring <b>after March 20, 2021</b>, are likely <u>not</u> compensable.</p>
Additional information		If any portion of Executive Order 20-128 is adjudicated invalid, the suspension of the <a href="#">Michigan Workers’ Disability Compensation Agency Emergency Rules filed March 30, 2020</a> is invalid.

## Minnesota

Statutory Citation Stat. 176.011, subd. 15	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>In Minnesota ordinary diseases of life to which the general public is equally exposed outside of employment are not compensable, except where the disease follows as an incident of an occupational disease, or where the exposure peculiar to the occupation makes the disease an occupational disease hazard. A disease arises out of the employment only if there is a direct causal connection between the conditions under which the work is performed and if the occupational disease follows as a natural incident of the work as a result of the exposure occasioned by the nature of the employment. An employer is not liable for compensation for any occupational disease which cannot be traced to the employment as a direct and proximate cause and is not recognized as a hazard characteristic of and peculiar to the trade, occupation, process, or employment or which results from a hazard to which the worker would have been equally exposed outside of the employment.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>On April 7, 2020, the governor signed <a href="#">House Bill 4537</a>, which creates a rebuttable presumption that for certain specified employees who contract COVID-19 have an occupational disease arising out of and in the course of employment. The specified employees to whom the presumption applies include peace officers; firefighters; paramedics; nurses or health care workers, correctional officers, or security counselors employed by the state or a political subdivision at a corrections, detention, or secure treatment facility; emergency medical technician (EMT) a health care provider, nurse or assistive employee employed in a health care, home care or longer term care setting with direct COVID-19 patient care or ancillary work in COVID-19 patient units; and workers required to provide child care to first responders and health care workers under Executive Orders 20-02 and 20-19.</p> <p>The above employee's contraction of COVID-19 must be confirmed by a positive laboratory test or, if a laboratory test was not available for the employee, as diagnosed and documented by the employee's treating medical provider based on the employee's symptoms.</p> <p>The presumption is only rebuttable if the employer or insurer shows the employment was not a direct cause of the disease. This bill is effective for employees who contract COVID-19 on or after April 8, 2020 and was scheduled to sunset on May 1, 2021. <a href="#">House File 2253</a> extended the sunset of the above presumption from May 1, 2021 to December 31, 2021.</p> <p>Effective February 3, 2022, <a href="#">House File 1203</a> revives and reenacts the rebuttable presumption that the employees specified above who contract COVID-19 have an occupational disease arising out of and in the course of employment. <b>This reinstatement expired January 13, 2023.</b></p> <p>Employees with dates of injury that occur prior to April 8, 2020, or from January 1, 2022, through February 2, 2022, are not entitled to the presumption but are not precluded from claiming an occupational disease as provided in other paragraphs of Section 176.011, subdivision 15, or claiming a personal injury under Section 176.011, subdivision 16. Click <a href="#">here</a> to view the Minnesota Dept. of Labor and Industry FAQ on workers' compensation coverage for employees who contract COVID-19.</p>

Additional information

Any substantial factors that will be used to rebut the above presumption and which are known to the employer or insurer at the time of the denial must be communicated to the employee.

For additional information related to the handling of COVID-19 claims, view the [August 2020 COVID-19 special edition of the COMPACT newsletter](#).

## Mississippi

Statutory Citation MS Code 71-3-7	Are benefits available?	Details
Is COVID-19 generally compensable?	No	In Mississippi, an occupational disease is deemed to arise out of and in the course of employment when there is evidence that there is a direct causal connection between the work performed and the occupational disease. The burden is on the claimant to prove the connection between the occupational disease and the job. In <i>Union Producing Company v. Dependents of Simpson</i> (1964) the Mississippi Supreme Court stated that "This Court has never held that the mere presence of an employee at work is sufficient in itself to constitute causal connection." The burden is on the claimant to prove the connection between the occupational disease and the job.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Unlikely	Although there is no precedent for an infectious disease being found to cause a workers' compensation claim, an employee working in a hospital or nursing home where the worker is confined and in active contact with infected people may have the evidence available to prove medical causation.
Any other considerations?	The burden is on the claimant to prove the connection between the occupational disease and the job.	

## Missouri

Statutory Citation Statute 287.067(7) and 287.020(3)(2)(B)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	Missouri statute provides that any employee who is exposed to and contracts any contagious or communicable disease arising out of and in the course of his or her employment is eligible for benefits as an occupational disease. To be compensable, the employee must prove that work was the prevailing factor in causing both the medical condition and disability resulting from the claimed occupational disease. "The prevailing factor" is defined to be the primary factor, in relation to any other factor. Additionally, to arise out of an in the course of employment, the illness cannot come from a hazard or risk unrelated to the employment to which workers would have been equally exposed outside of an unrelated to the employment in normal non-employment life.

<p>Is COVID-19 compensable with high risk workplace exposure exceptions?</p>	<p>Possibly</p>	<p>The Missouri Division of Workers' Compensation adopted an emergency rule, <a href="#">8, MO ADC 50-5.005</a>, creating a retroactive rebuttable presumption that first responders, defined as law enforcement officers, firefighters or emergency medical technicians (EMTs), who have contracted or been quarantined for COVID-19 have an occupational disease arising out of and in the course of their employment. This presumption is rebuttable if a subsequent medical determination establishes by clear and convincing evidence that the first responder did not actually have COVID-19 or the exposure resulting in contraction or quarantine was not related to their employment. The emergency rule filed April 8, 2020 becomes effective April 22, 2020 and retroactively applies to all first responder meeting the requirements until February 1, 2021.</p> <p>A new <a href="#">emergency rule</a> effective Feb. 1, 2021 continued protections related to the COVID-19 public health emergency. This rule directs that an affirmation from the employer of a first responder that job duties were such as to create an exposure to COVID-19 not typically required of general public may be relied upon as competent and substantial evidence that occupational exposure was the prevailing factor in causing disability or death due to COVID-19. <b>This emergency rule expired July 30, 2021.</b></p> <p>Although, this presumption does not apply to health care workers involved in the care and treatment of COVID-19 patients, the disease may still be compensable. When the employee works in situations where their exposure is greater than that of the general public, the courts look to the conditions of the employee's workplace to determine if it is a direct cause of the employee contracting the disease.</p>
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## Montana

<b>Statutory Citation</b> Code 39-71-116(23)(A) and 39-71-119	<b>Are benefits available?</b>	<b>Details</b>
<p>Is COVID-19 generally compensable?</p>	<p>Unlikely</p>	<p>While it will depend upon the circumstances of the case, generally there would generally be no coverage because the injured worker must prove causation on a more probably than not basis (i.e. was the disease contracted in the course of employment or apart from their employment.)</p>
<p>Is COVID-19 compensable with high risk workplace exposure exceptions?</p>	<p>Possibly</p>	<p>A nurse at an ICU unit at a hospital filled with COVID-19 patients, they would have better odds of proving causation being contracted in the course and scope of employment.</p>
<p>Any other considerations?</p>	<p>According to the Montana Dept. of Labor &amp; Industry, under current law workers' compensation benefits are payable for health care workers or first responders ill with COVID-19. Please click <a href="#">here</a> for more information.</p>	
<p>Additional information</p>	<p>Only a Montana certified claims examiner can determine claim liability.</p>	

## Nebraska

Statutory Citation Rev. Stat. 48-151(3)	Are benefits available?	Details
Is COVID-19 generally compensable?	No	Nebraska statute defines occupational disease as "only a disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process or employment and excludes all ordinary diseases of life to which the general public is exposed." Further, in <i>Risor v. Nebraska Boiler</i> (2009) the Nebraska Supreme Court held that "The requirement of the statute is that the cause and conditions of the disease be characteristic of and peculiar to the employment and that the disease is other than an ordinary disease of life. The statute does not require that the disease be one which originates exclusively from the employment. The statute means that the conditions of the employment must result in a hazard which distinguishes it in character from employment generally."
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Employees who can prove that they contracted the disease through exposure in the workplace and the workplace exposed them to a higher concentration of the disease than other employments have a greater likelihood that benefits would be awarded under workers' compensation.
Any other considerations?	It should be noted that the Nebraska Supreme Court has noted one purpose of the act is to provide relief to injured workers to prevent them and their dependents from becoming a public charge.	

## Nevada

Statutory Citation Revised Statute 616A.265	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	If the employee is able to establish by the preponderance of the evidence that exposure occurred in the course and scope of employment.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Yes	The exposure of an employee to a contagious disease while providing medical services, including emergency medical care, in the course and scope of his or her employment is deemed to be an injury by accident sustained by the employee arising out of and in the course of his or her employment.

## New Hampshire

<b>Statutory Citation</b> Revised Statute 281-A:2(XIII)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	No	<p>New Hampshire statute includes "occupational disease" defined as an "injury arising out of and in the course of the employee's employment and due to causes and conditions characteristic of and peculiar to the particular trade, occupation or employment." Generally, COVID-19 will be considered a "neutral risk" and in New Hampshire injuries that result from a "neutral risk" are not compensable. Neutral risks are risks that are the same for the general public. See <a href="#">Appeal of Margeson</a>, 162 N.H. 273 (2011)</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>On April 24, 2020, Governor Chris Sununu issued <a href="#">Emergency Order 36</a> that effective immediately created a prima facie or rebuttable presumption that a first responder's COVID-19 exposure and infection is occupationally related. For purposes of this Order, "first responder" includes call, volunteer, or regular firefighters; certified law enforcement officers; certified county corrections officers; emergency communication dispatchers; and rescue or ambulance workers including ambulance service, emergency medical personnel, first responder service, and volunteer personnel. To be eligible for the provisions of this Order, a first responder must have tested positive for COVID-19 and the case must have been reported to the New Hampshire Department of Health and Human Services. <b>This Order remained in effect for the duration of the state of emergency declared in Executive Order 2020-04, which expired June 21, 2021 by Executive Order 2021-10.</b></p> <p>On June 17, 2020 <a href="#">Emergency Order 53</a> was issued to amend Emergency Order 36. This order adds any member of the New Hampshire National Guard ordered into active state service. All other provisions of Emergency Order 36 remain in full force and effect.</p> <p>On March 23, 2023, Gov. Sununu <a href="#">extended the public health emergency</a> through May 11, 2023.</p> <p>Otherwise, an employee is required to prove that his/her risk of contracting COVID-19 was greater than the general public's risk. Healthcare workers are likely the only employees that may be able to establish this, but each claim must be evaluated on a case-by-case basis.</p>

## New Jersey

Statutory Citation Statute Ann. 34:15-31 and 15-31-5	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>In New Jersey, an occupational disease claim must arise out of and during the course of employment. Additionally, in an occupational disease claim, the employee must prove that the illness was produced by causes which are characteristic of or peculiar to the trade, occupation, or place of employment and the must show that the work contributed in a material degree to the illness. The employee has the burden of proving legal causation as well as medical causation unless the employee meets the definition of an essential employee retroactive to March 9, 2020.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>On September 14, 2020 Gov. Phil Murphy signed <a href="#">Senate Bill 2380</a> into law. This bill creates a rebuttable presumption for “essential employees” that the contraction of COVID-19 during the on-going public health emergency is work related and fully compensable under workers’ compensation. This legislation became effective immediately and applies retroactively to March 9, 2020 for any COVID-19 claims by an “essential employee.”</p> <p>The bill defines “essential employees” as:</p> <ul style="list-style-type: none"> <li>• Public safety workers or first responders, including fire, police or other emergency responders.</li> <li>• Employees involved in providing medical and other health care services, emergency transportation, social services, and other services, including services provided in health care facilities, residential facilities or homes.</li> <li>• Employees who perform functions which involve physical proximity to members of the public and are essential to the public’s health, safety and welfare, including transportation services and the production, preparation, storage, sale and distribution of essential goods such as food, beverages, medicine, fuel and supplies for conducting essential business and work at home.</li> <li>• Any essential employee as defined by <a href="#">New Jersey Executive Order 103 of 2020</a>, as extended by subsequent Executive Orders.</li> </ul> <p>It should be noted that an employee of the State who is offered the option of working at home but has refused that option shall not be regarded as an essential employee.</p> <p>The presumption was rebuttable by a preponderance of the evidence showing that the worker was not exposed to the disease while working in the place of employment other than the individual’s own residence.</p> <p>The presumption was no longer effective as of July 3, 2021, due to Governor Murphy announcing an end to the public health emergency in the state of New Jersey June 4, 2021, and the burden of proof rests with the employee who contracted COVID-19. On January 11, 2022, Governor Murphy issued <a href="#">Executive Order 280</a> and <a href="#">Executive Order 281</a> reinstating a new public health emergency in response to the Omicron Variant of COVID-19 . These orders were extended until on March 4, 2022, Governor Murphy signed <a href="#">Executive Order No. 292</a> that ended the COVID-19 Public Health Emergency as of March 7, 2022. <b>Because the presumption law is tied to the declaration of a public health emergency, the presumption law expired March 7, 2022.</b></p>

Any other considerations?	For non-essential employees that contract COVID-19 prior to March 9, 2020 , in analogous cases such as <i>Bird v. Somerset Hills Country Club</i> and <i>Raimoni v Morris County Park Police and Commission</i> , the employee was required to prove exposure was more probably than not during the course of employment.
Additional information	Due to the 2019 law change that granted "first responders" a presumption of compensability, the mere "potential exposure" may trigger a presumption if exposure at work can be demonstrated.

## New Mexico

Statutory Citation Statute 52-1-19; 52-3-33	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>To be found compensable under the Workers' Compensation Act COVID-19 would have to arise out of and in the course of employment. There have been workers' compensation cases in New Mexico where the positional risk doctrine is the test applied to determine if an injury arises during the course of employment. The positional risk doctrine holds that an injury is compensable if it would not have occurred but for the fact that the employment placed the employee in the position where he/she was injured. Thus, if the injury occurred at work, it is generally accepted as work-related, regardless of the risk to the general public.</p> <p>The New Mexico Occupational Disease Law defines a compensable occupational disease as "any disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment as such." In <i>Herrera v. Fluor Utah, Inc.</i> the court interpreted this provision to mean that to be compensable the disease must be a natural incident of a particular occupation and the conditions causing the disease were encountered in that employment to a degree beyond that prevailing in employment generally.</p> <p>However, the employee is still required to prove how, when and where they were infected.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Governor Michelle Grisham issued <a href="#">Executive Order 2020-25</a> that directs all state executive agencies to employ a presumption that certain agency employees and eligible volunteers who contract COVID-19 suffered a compensable occupational disease under the New Mexico Occupational Disease Disabling Law. As used in the Order, "eligible volunteer" means any volunteer or contractor temporarily assisting the state during the COVID-19 public health emergency. This presumption is applied if COVID-19 is contracted within two weeks of providing direct assistance or care to COVID-19 patients, or within two weeks of working in any capacity inside a facility that provides direct assistance, care, or housing to COVID-19 patients. According to the Order, examples of employees to be afforded this presumption include but is not limited to emergency medical technicians and other first responders, volunteer and paid medical personnel, Administrative and custodial staff at COVID-19 specific care centers and law enforcement officers. This Order became effective on April 23, 2020 and remained in effect until <b>rescinded by the Governor effective March 31, 2023</b> by <a href="#">Executive Order 2023-0036</a>.</p> <p>Local governments and/or insurers are only encouraged to adopt the workers' compensation presumption that is required of state employers and insurers.</p>
Any other considerations?	If an employee is medically removed from work due their workplace exposure to COVID-19, there is a possibility that the employee is eligible to indemnity subject to the waiting period even if the disease does not develop.	

## New York

<b>Statutory Citation</b> Workers' Compensation Law § §2(7) and 2(15)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	<p>In New York a claim for COVID-19 may be established as an occupational disease or accidental injury. An occupational disease is one resulting from the nature of employment and contracted therefrom. Thus, an employee must establish a recognizable direct link between the illness and the nature of his or her employment, or occupation. An accidental injury is one arising out of and in the course of employment and such disease or infection as may naturally and unavoidably result. An employee need not identify one traumatic occasion. It is anticipated that most claims for COVID-19 will be presented as accidental exposure cases.</p> <p>Whether the claim is an occupational disease or an accidental injury, it is the employee's burden to establish a causal relationship between the employment and the disability with competent medical evidence. Because COVID-19 is common in the community, the claim may not be compensable if the employee is unable to prove contact with an infected person in the course of employment with an incubation period matches that exposure.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Employments requiring workers to work in close proximity to persons diagnosed with the disease due to the nature of the work are more likely to be able to prove a plausible means of contraction at work and compensability if the incubation period is consistent with onset of the disease. Although New York has not created a presumption related to COVID-19, in June 2020 the New York Workers' Compensation Board (NYWCB) issued <a href="#">guidance</a> clarifying that employees who contract COVID-19 while working in an environment where exposure risks are significantly higher are more likely to have compensable COVID-19 claims. According to NYWCB employees working closely with the public in locations where COVID-19 exposure is documented include health care workers, first responders, transportation workers, correction officers, food service workers, and workers who frequently interact with the public, such as retail workers. This guidance emphasizes that the claims must demonstrate that they worked in an environment where "exposure to COVID-19 was prevalent" in order to be eligible for benefits, and provide a medical report from an authorized workers' compensation medical provider stating that the claimant's work cause their illness. Documentation that may support the claim for benefits may include: (i) a positive COVID-19 test; (ii) a medical report from an authorized workers' compensation medical provider showing a diagnosis via polymerase chain reaction, or PCR test; or (iii) an examination record from a treating physician. The Board's guidance is consistent with previous rulings by New York courts. For example in <i>Lachowicz v. Albany Medical Center Hospital (1968)</i>, the New York Appellate Division held that a maintenance worker in a tuberculosis ward was entitled to workers' compensation benefits after contracting the disease despite there being no evidence of direct contact with a patient diagnosed with tuberculosis. In <i>Paider v. Park East Movers (1967)</i>, the New York Court of Appeals found that a moving company driver who contracted tuberculosis from an infected co-worker did not have a compensation occupational disease.</p>
Any other considerations?	Mere exposure would not trigger an award of benefits. If an employer requires isolation or quarantine, this in and of itself would not give rise to a claim. Similarly, diagnostic testing would not be covered in the absence of an actual affliction, except for first responders. Click <a href="#">here</a> to review select COVID-19 Related Decisions.	

## North Carolina

Statutory Citation Gen. Stat. § 97-52 and § 97-53	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>The North Carolina Supreme Court in <a href="#">Rutledge v. Tultex Corp.</a> (1983) held that for a disease to be occupational, the employee has the burden of proving an occupational disease is compensable. The employee must show:</p> <ul style="list-style-type: none"> <li>• The disease is characteristic of and peculiar to a particular trade, occupation, or employment;</li> <li>• The disease is not an ordinary disease of life to which the general public is equally exposed outside of the employment; and</li> <li>• A causal relationship exists between the disease and the employment.</li> </ul> <p>The first two elements of the Rutledge test are satisfied if, as a matter of fact, the employment exposed the worker to a greater risk of contracting the disease than the public generally. The third element is satisfied if the employment significantly contributed to, or was a significant causal factor in, the disease's development.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Claims by health care workers and first responders may be more likely to be able to meet the above burden of proof.</p>

## North Dakota

Statutory Citation Century Code 65-01-02(11)	Are benefits available?	Details
Is COVID-19 generally compensable?	No	<p>Ordinary diseases of life to which the general public outside of employment is exposed or preventive treatment for communicable diseases are specifically excluded from workers' compensation coverage in North Dakota. COVID-19 fits into this exclusion. Even though it may be contended an employee contracted COVID-19 while working, the employee is not eligible for workers' compensation benefits for this type of illness. North Dakota is a monopolistic state and WSI administers all claims. Click <a href="#">here</a> to view a COVID-19 FAQ published by WSI for employers that address employee eligibility for benefits.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>On March 25, 2020, Gov. Doug Burgum issued <a href="#">Executive Order 2020-12</a> to extend workers' compensation coverage for COVID-19 to front-line health care providers and first responders including firefighters, peace officers, correctional officers, court officers, law enforcement officers, and emergency medical technicians. This order is effective March 13, 2020 through the duration of the declared state of emergency. According to the executive order, medical and wage benefits are provided up to 14 days if the specified employees are quarantined. No benefits will be paid after the quarantine period has ended unless the employee tests positive for COVID-19. If the virus is contracted on the job, the employee becomes eligible for full workers' compensation benefits just like any other compensable work injury claim. On April 16, 2020 <a href="#">Executive Order 2020-12-1</a> was amended to extend coverage to funeral service personnel. On July 28, 2020, eligibility was also extended to providers of direct treatment, care, programs or services to individuals with intellectual or developmental disabilities by <a href="#">Executive Order 2020-12.2</a>. <a href="#">Executive Order 2021-09</a> rescinds COVID-19 State of Emergency effective Feb. 22, 2021, which terminates the presumptions.</p>

		<p>For exposures after Feb. 22, 2021, the statutes as written controls adjudication of COVID-19 claims.</p> <p>Click <a href="#">here</a> to view Coronavirus (COVID-19) Frequently Asked Questions for Employees. Coronavirus (COVI-19) Frequently Asked Questions for Employers is <a href="#">here</a>.</p>
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## Ohio

Statutory Citation Revised Code 4123.01(F)	Are benefits available?	Details
Is COVID-19 generally compensable?	Likely	<p>COVID-19 is considered a non-scheduled occupational disease. With respect to "non-scheduled" occupational diseases, the injured worker must prove:</p> <ul style="list-style-type: none"> <li>• The disease is contracted in the course of employment;</li> <li>• The disease is peculiar to the claimant's employment by its causes and the characteristics of its manifestation, or the conditions of claimant's employment result in a hazard which distinguishes the employment in character from employment generally; and</li> <li>• The employment creates a risk of contracting the disease in a greater degree and in a different manner than in the public generally."</li> </ul>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Employees such as healthcare employees and first responders still have the burden of proving that COVID-19 was contracted in the course of employment, or is disease is peculiar to employment or conditions of employment result in hazard or employment places at greater risk, but are more likely to meet the burden of proof to other workers.</p>

## Oklahoma

Statutory Citation Statutes Title 85A, Section 65(D)(1)-(3)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>In Oklahoma, claims for COVID-19 would fall under the occupational disease category. Under this statute no compensation is payable for any ordinary disease of life to which the general public is exposed or for any contagious or infectious disease unless contracted in the course of employment. A causal connection between the occupation or employment and the occupational disease must be established by a preponderance of the evidence.</p>

Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Health care workers, firemen and police may be covered for COVID if they are able to prove that the disease is due to the nature of an employment in which the hazards of the disease actually exist and is actually incurred in the course of employment.
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## Oregon

Statutory Citation Revised Statute 656.005(7)(a) and 656.802	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>In Oregon, the first step in evaluating a COVID-19 claim is to determine whether the claim is to be properly considered an injury or occupational disease. Although it seems that COVID-19 would be considered an occupational disease claim, in <i>Dynea USA, Inc. v. Fairbanks</i> the Oregon Court of Appeals determined a MRSA infection was not per se an occupational disease. The court explained that this determination is based on if the developed gradually or as the result of a discrete event, which will require a medical opinion.</p> <p>To establish a compensable workers' compensation injury claim, the worker must show his or her claim arose out of and in the course of employment requiring medical services or resulting in disability or death. An occupational disease claim must arise out of and in the course of employment and must be caused by exposure to which an employee is not generally exposed except during his or her regular employment.</p> <p>If an injury, the employee is only required to show that an event on the job constituted a material cause to the disability and need for treatment. If an occupational disease, the employee must demonstrate that employment exposures are the major contributing cause (i.e., greater than 50%) of the actual condition(s) causing the need for treatment. Each claim must be evaluated on a case by case basis.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	If the employment conditions were to place the worker at increased risk for exposure, then the condition may be compensable for employees such as healthcare workers or first responders.
Any other considerations?		<p>The Oregon Workers' Compensation Division (WCD) adopted a new rule, OAR 436-060-0141, to promote the appropriate and consistent processing of workers' compensation claims for COVID-19 exposure. Audits will be conducted of insurers that have reported 5 or more COVID-19 claims. The temporary became effective Oct. 1, 2020 and was permanently adopted February 1, 2021</p> <p>Among the changes included in this rule: 1) Emphasis that a "reasonable investigation" must be conducted before denying any claim and 2) Describes that a "reasonable investigation" for COVID-19 exposure on or after Oct. 1, 2020 must include:</p> <ul style="list-style-type: none"> <li>Investigating whether or not the nature of the workers' employment resulted in a likely exposure to COVID-19,</li> <li>Determining if the worker did not work for a period of quarantine or isolation at the direction of a medical service provider, state or local health provider or the employer,</li> <li>Obtaining a medical or other expert opinion if, before a compensability denial is issued, the insurer is aware of a worker's positive COVID-19 test result or a presumptive diagnosis and the source of exposure is unclear.</li> <li>Determining whether medical services were required as a result of potential workplace exposure to COVID-19, even if the worker ultimately did not test positive for COVID-19.</li> </ul>

## Pennsylvania

<b>Statutory Citation</b> 77 P.S. §§ 413 411 and 27.1(n)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	<p>In Pennsylvania, there are two filing options available to employees for COVID-19 claims. The first is an "injury" that is "arising in the course of his employment and related thereto and such disease or infection as naturally results from the injury..." This claim requires that the employee provide medical evidence that they were exposed to COVID-19 in the workplace.</p> <p>The second category is an "occupational disease" with an exposure that "the incidence of which is substantially greater in that industry or occupation than in the general population." The law includes a list of occupational diseases that are presumed to be work related. Diseases not specifically listed may be entitled to this "rebuttable presumption" under a catch-all provision which covers all other diseases to which the claimant is exposed by reason of his employment, and which are causally related to the industry or occupation, and the incidence of which is substantially greater in that industry or occupation than in the general population. To be entitled to the "rebuttable presumption," for non-enumerated diseases via the catch-all provision, an employee must establish all three of these elements.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Healthcare workers and first responders will likely be able to meet the standard of proof required for injury or occupational disease claims.
Additional information	The Pennsylvania Bureau of Workers' Compensation has provided guidance to employees regarding their filing options for COVID-19 claims. Click <a href="#">here</a> to review.	

## Rhode Island

Statutory Citation General Law §28-34-1	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>An illness is compensable if facts and circumstances of a particular case establish a causal connection between the injury and the nature of employment. However, Rhode Island follows the "actual-risk" doctrine, which means that an employee must show that the injury arose out of an actual risk of employment. In claims of infectious disease, the employee must prove that the contraction of the disease is an actual risk of the employment.</p> <p>The Rhode Island Supreme Court in <i>Dawson v. A &amp; H Mfg. Co.</i> (1983) held that in order to establish a predicate for application of the actual-risk theory, the employee would be required to sustain the burden of showing that this risks even though common to the public, was in fact a risk of his employment. This doctrine could potentially apply to healthcare workers, but for nearly all other employments COVID-19 should be considered non-compensable.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Healthcare workers and first responders are likely to be able to prove contraction of COVID-19 arose out of an actual risk of employment, but most other employments will be considered non-compensable.

## South Carolina

Statutory Citation Code Ann. 42-11-10	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>In South Carolina, no disease is deemed occupational disease when:</p> <ul style="list-style-type: none"> <li>• It does not result directly and naturally from exposure in this State to the hazards peculiar to the particular employment;</li> <li>• It is a contagious disease resulting from exposure to fellow employees or from a hazard to which the worker would have been equally exposed outside of his employment;</li> <li>• It is one of the ordinary diseases of life to which the general public is equally exposed, unless such disease follows as a complication and a natural incident of an occupational disease; or unless there is a constant exposure peculiar to the occupation itself which makes such disease a hazard inherent in such occupation.</li> </ul>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Possibly	Healthcare workers and first responders may be able to meet their burden to prove that COVID-19 results from a hazard that is recognized as peculiar to a particular trade, process, occupation or employment.

## South Dakota

Statutory Citation SDCL 62-8-1-(6)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	South Dakota defines occupational disease as "a disease peculiar to the occupation in which the employee was engaged and due to causes in excess of the ordinary hazards of employment and includes any disease due or attributable to exposure to or contact with any radioactive material by an employee in the course of employment." For an employee who is infected with COVID-19 to be covered by workers' compensation, the worker must establish COVID-19 is an "occupational disease" and their occupation requires exposure to COVID-19. See <i>Sauer v. Tiffany Laundry &amp; Dry Cleaners</i> (2001). However, House Bill 1046 signed into law Feb. 2021 and covers claims dating from Jan. 1, 2020, through Dec. 31, 2022, makes it unlikely employees could get approved for workers' compensation benefits if COVID-19 is contracted on the job by stating that the legislation may not be interpreted to "deem COVID-19 an occupational disease. COVID-19 is not an occupational disease under state law."
Is COVID-19 compensable with high risk workplace exposure exceptions?	Unlikely	House Bill 1046 signed into law Feb. 2021 and covers claims dating Jan. 1, 2020, through Dec. 31, 2022, makes it unlikely employees could get approved for workers' compensation benefits if COVID-19 is contracted on the job by stating that the legislation may not be interpreted to "deem COVID-19 an occupational disease. COVID-19 is not an occupational disease under state law."
Additional information	Upon enactment of House Bill 1046, the guidance provided by the South Dakota Dept. of Labor and Regulation <a href="#">here</a> was removed.	

## Tennessee

Statutory Citation Code Annotated section 50-6-102(14)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	In Tennessee an occupational disease must arise primarily out of in and in the course of employment and must cause either disable or death. To arise primarily out of and in the course and scope of employment, it must be shown by a preponderance of the evidence that the employment contributed more than fifty percent (50%) in causing the condition considering all causes.  In <i>Michael Wieland v. Fedex Express Co.</i> (2015), an analogous case, the court found that a pilot who contracted swine flu when travelling for work in China failed to establish by expert medical evidence that his illness arose primarily out of and occurred in the course and scope of employment and the employer was not obligated to provide medical benefits or temporary disability benefits.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	Employees at high risk for exposure will have to meet the same burden of proof as all other workers. However, <a href="#">Senate Bill 995/House Bill 553</a> , signed into law and effective April 13, 2021, added to those infectious diseases for which an emergency rescue worker is presumed to have a disability suffered in the line of duty "a virus or other communicable disease for which:

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|  |  | <ul style="list-style-type: none"><li>• A pandemic has been declared by the World Health Organization (WHO) or the Centers for Disease Control and Prevention (CDC); and</li><li>• The governor of the state has declared a state of emergency.</li></ul> |
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## Texas

<b>Statutory Citation</b> Tex. Lab. Code § 401.011(34)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Unlikely	<p>In Texas the definition of occupational disease excludes "an ordinary disease of life to which the general public is exposed outside of employment, unless that disease is an incident to a compensable injury or occupational disease."</p> <p>The employee has the burden of prove that an exposure to the virus actually occurred at work and that her or his work created a greater risk of exposure to the virus as compared to the general public. Given the nature of this condition, expert medical opinion based on a reasonable medical probability will be required evidence will be required to establish a causal relationship.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Generally, occupations that place the employee at greater risk of contracting the disease such as healthcare workers treating infected patients are more likely able to prove compensability.</p>
Any other considerations?	<p>Emergency responders and other persons identified in DWC Rule 122.3, (all law enforcement officers, fire fighters, emergency medical service employees, paramedics, correctional officers, employees of a juvenile probation department, and any other emergency response employee or volunteer) have additional requirements to meet to establish a compensable COVID-19 claim as follows:</p> <ul style="list-style-type: none"> <li>• Had a test performed within 10 days of an exposure to COVID-19 that indicated the absence of COVID-19; and</li> <li>• Provide the employer with a sworn affidavit of the date and circumstances of the exposure to COVID-19 and a copy of the results of the test required by Texas Dept. of Health.</li> </ul> <p>On April 10, 2020, Commissioner's <a href="#">Bulletin # B0019-20</a> advises that Governor Abbott suspended Health and Safety Code Section 81.050(j) and 28 Texas Administrative Code Section 122.3(c) regarding the 10-day testing requirements. This bulletin is in effect for the duration of the governor's COVID-19 declaration, or until further notice from the Texas Division of Workers' Compensation. It should be noted that this suspension does not impact the employee's eligibility for workers' compensation.</p> <p>Effective June 14, 2021 <a href="#">Senate Bill 22</a> created a rebuttable presumption that death or total or partial disability to custodial officers, detention officers, firefighters, peace officers, or emergency medical technicians who suffer from Severe Acute Respiratory Syndrome (SARSCoV2) or Coronavirus Disease (COVID-19) is contracted during the course and scope of employment if contracted between <b>March 13, 2020 and June 14, 2021</b> and specified criteria is met. If claimant previously filed a COVID-19 claim that was denied, a written request for reconsideration was required by <b>June 14, 2022</b>. If claim was not previously filed, certain first responders or their beneficiaries allowed to timely file an initial claim for benefits by <b>December 14, 2021</b>.</p> <p>For Texas non-subscribers to workers' compensation, COVID-19 is likely not covered under work injury benefit plans as diseases the general population is exposed to are often excluded.</p>	

## U.S. Office of Workers' Compensation (OWCP)

Statutory Citation 33 U.S.C. § 902(2)	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>Longshore law provides that "Any disease arising out of exposure to harmful conditions of the employment, when those conditions are present in a peculiar or increased degree by comparison with employment generally." There is a three-step test for determining whether an employee has a compensable occupational disease:</p> <ul style="list-style-type: none"> <li>• The employee must suffer from a "serious derangement of health" or "disordered state of an organism or organ."</li> <li>• The specific working conditions of the employment must be the cause of the disease.</li> <li>• The hazardous conditions must be "peculiar to" one's employment as opposed to other employment or general living. In other words, there must be something extraordinary about the work exposures that directly relates to the condition allegedly disabling the affected worker.</li> </ul> <p>In general, a Longshore or Defense Base Act claimant will not be successful alleging a claim for infection or illness unless there has been a specific incident of exposure; general exposure to co-employees or the public will not meet the standard for compensability.</p> <p><a href="#">Section 4016 of the American Rescue Plan of 2021</a> provides that a federal employee or postal worker diagnosed with COVID-19 is deemed to have an injury that is proximately caused by employment, if required to carry out duties that required contact with patients, members of the public or co-workers, or included a risk of exposure to COVID-19 prior to the diagnosis. <b>This provision applies for period from Jan. 27, 2020 to Jan. 27, 2023.</b></p> <p>Previously the Division of Federal Employees' Compensation (DFEC) provided guidance for federal employees outlining Federal Employees' Compensation Act coverage as it relates to the novel coronavirus.</p>

Statutory Citation Code Ann. 34A-2-102(k) and 34A-3-103	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>Currently in Utah, a compensable occupational disease means any disease or illness that arises out of and in the course of employment and is medically caused or aggravated by that employment. Thus, in order to determine whether an employee is entitled to medical and disability benefits for COVID-19, the employee has the burden to prove that his or her work for the employer medically caused the contraction of the disease.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>Employees such as first responders and healthcare employees treating persons infected with COVID-19 may be more likely to be able to establish that contraction of COVID-19. On April 22, 2020 Governor Gary Herbert signed <a href="#">House Bill 3007</a> into law. On June 18, 2020 <a href="#">House Bill 5006</a> was enacted to amend the workers' compensation presumption law during the fifth special session. This legislation amends the Workers' Compensation Act to establish a rebuttable presumption that a first responder who contracts COVID-19 contracted this disease by exposure during the course of performing the duties of a first responder until <b>June 1, 2021</b>.</p> <p>As used in this bill, a "first responder" means:</p> <ul style="list-style-type: none"> <li>• A first responder as defined by Utah law</li> <li>• An individual employed by:             <ol style="list-style-type: none"> <li>A. A health care facility as defined in Section 26-21-2.</li> <li>B. An office of a physician, chiropractor, or dentist.</li> <li>C. A nursing home.</li> <li>D. A retirement facility.</li> <li>E. A home health care provider.</li> <li>F. A pharmacy.</li> <li>G. A facility that performs laboratory or medical testing on human specimens; or</li> <li>H. An entity similar to those listed above.</li> </ol> </li> <li>• An individual employed by, working with, or working at the direct of a local health department; or</li> <li>• A volunteer as defined in Section 67-20-2 providing services to a local health department in accordance with Title 67, Chapter 20, Volunteer Government Workers Act.</li> </ul> <p>To be eligible for the presumption, a first responder must be diagnosed with COVID-19 while employed or serving as a first responder or within two weeks after the date on which the first responder's employment or service terminates. A first responder who makes this claim must provide a copy of written documentation of a COVID-19 diagnosis documentation of a physician's diagnosis to their employer or the insurer.</p> <p>The legislation provides the date of exposure for purposes of establishing a workers' compensation claim.</p> <p>A first responder who refuses examination for COVID-19 or fails to be diagnosed with COVID-19 is not entitled to the presumption.</p> <p>The presumption may be rebutted by a preponderance of the evidence.</p>

## Vermont

Statutory Citation Title 21 Sec. 601(23), 601(11)(H)(i) and Sec. 618	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>On July 13, 2020 Vermont Governor Phil Scott signed into law <a href="#">Senate Bill 342</a> that in part provides a rebuttable presumption for specified “front-line workers” or “non-front-line workers” who receive a positive laboratory test for COVID-19 or a diagnosis of COVID-19 from a licensed healthcare provider that the disease was contracted in the course and scope of employment. Application dates and rebuttal of the presumption differ between “front-line” and “non-front-line” workers in this bill.</p> <p>A worker not meeting the definition of a “front-line worker” is considered a “non-front line worker.” The disability or death of a “non-front line worker” resulting from COVID-19 is compensable if a positive lab test for COVID-19 from a licensed healthcare provider was obtained retroactively from <b>April 1, 2020</b> to January 15, 2021 <u>and</u> not more than 14 days prior to the date on which the employee tested or examined, either</p> <ol style="list-style-type: none"> <li>1) Had documented occupational exposure in the course of employment to an individual with COVID-19; <u>or</u></li> <li>2) Performed services at a residence or facility with one or more residents or employees who had COVID-19 within 14 days after the services were performed.</li> </ol> <p>To rebut the presumption for a “non-front line” worker, the employer/carrier must show by a preponderance of the evidence that:</p> <ul style="list-style-type: none"> <li>• the disease was caused by non-employment-connected risk factors or non-employment-connected exposure; <u>or</u></li> <li>• at the time the employee was potentially exposed to COVID-19, the employee’s place of employment was in compliance with: <ul style="list-style-type: none"> <li>○ between April 1, 2020 and April 20, 2020, the relevant COVID-19 related guidance for businesses and workplaces issued by the U.S. Centers for Disease Control and the Vermont Dept. of Health and any similar guidance issued by local or municipal authorities; and</li> <li>○ between April 20, 2020 and January 15, 2021, the Restart Vermont Worksafe Guidance issued by the Agency of Commerce and Community Development, and any similar guidance issued by local or municipal authorities.</li> </ul> </li> </ul> <p>If a claim involves a diagnosis of COVID-19 prior to April 1, 2020 for a “non-front-line” worker the presumption in this bill does not apply. In Vermont, an occupational disease is defined as a disease that results from causes and conditions characteristic of and peculiar to a particular trade, occupation, process, or employment, and to which an employee is not ordinarily subjected or exposed outside or away from the employment and arises out of and in the course of the employment.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>“Front-line worker,” as used in Senate Bill 342, is an individual with an elevated risk of exposure to COVID-19 employed in 1.) specified occupations (i.e. firefighters, law enforcement, emergency medical personnel, workers in health care facilities, etc.) <u>or</u> “2.) a worker performing services that the Commissioner determines place the worker at a similarly elevated risk of being exposed to or contracting COVID-19 as the listed occupations. An elevated risk of exposure to COVID-19 is defined as performance of a job that requires the worker to have regular physical contact with known sources of COVID-19 or regular physical contact with patients, inmates in a correctional facility,</p>

		<p>residents or a residential care or long-term care facility.</p> <p>The rebuttable presumption for a “front-line worker” applies to COVID-19 claims diagnosed retroactively from <b>March 1, 2020</b> to January 15, 2021.</p> <p>To rebut the presumption for a “front-line worker,” the employer/carrier must show by the preponderance of the evidence that the disease was caused by non-employment-connected risk factors or non-employment connected exposure. The presumption does not apply to COVID-19 claims for “front-line workers” prior to March 1, 2020.</p> <p><a href="#">Senate Bill 9</a> extended the COVID-19 presumption created by Senate Bill 342. This bill became effective retroactive to Jan. 15, 2021 and was prospectively repealed 30th day following end of state of emergency declared by Executive Order 01-20 in response to COVID-19. <b>On June 15, 2021, the State of Emergency expired.</b></p>
Any other considerations?		<p>Firefighters and members of a rescue or an ambulance squad, disability or death resulting from lung disease or an infectious disease either one of which is caused by aerosolized airborne infectious agents or blood-borne pathogens and acquired after a documented occupational exposure in the line of duty to a person with an illness is presumed to be compensable, unless it is shown by a preponderance of the evidence that the disease was caused by nonservice-connected risk factors or nonservice-connected exposure.</p>

## Virginia

Statutory Citation Code § 65.2-400 and 65.2-401	Are benefits available?	Details
Is COVID-19 generally compensable?	Unlikely	<p>In Virginia "occupational disease" is defined as diseases that arise out of and in the course of employment, but does not include "ordinary diseases of life" to which the general public is exposed outside of the employment unless an employee is able to prove by clear and convincing evidence that the disease did not result from causes outside of employment.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Yes	<p><a href="#">House Bill 2207</a> establishes a presumption that COVID-19 causing the death or disability of firefighters, emergency medical services personnel, law-enforcement officers, correctional officers, and regional jail officers is an occupational disease compensable under workers’ compensation, unless the presumption is overcome by a preponderance of competent evidence to the contrary. This presumption is retroactively applicable to any death or disability occurring on or after July 1, 2020 and prior to <b>Dec. 31, 2021</b>.</p> <p><a href="#">House Bill 1985</a> establishes a presumption that COVID-19 causing the death or disability of health care providers who are directly involved in diagnosing or treating persons known or suspected to have COVID-19, is an occupational disease compensable under workers’ compensation. The presumption applies for any death or disability caused by infection from the COVID-19 virus occurring on or after March 12, 2020, and prior to Dec. 31, 2021, when specified criteria is met. <b><a href="#">House Bill 932</a> extended from Dec. 31, 2021, to Dec. 31, 2022, the date by which COVID-19 causing the death or disability of a health care provider is presumed to be an occupational disease compensable under the Virginia Workers’ Compensation Act.</b></p>

## Washington

<b>Statutory Citation</b> Revised Code 51.08.140	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Unlikely	In Washington, "occupational disease" is defined as such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title. In most cases, exposure and/or contraction of COVID-19 is not considered to be an allowable, work-related condition. However, treatment of COVID-19 may be allowed under workers' compensation when work-related activity has resulted in probable exposure to the virus and certain criteria are met. In these cases, the worker's occupation must have a greater likelihood of contracting the disease because of the job (i.e. first responders or health care workers). There must also be a documented or probable work-related exposure, and an employee/employer relationship.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	First responders or healthcare care workers who contract the disease may be able to provide documented or probable work-related exposure to COVID-19.  On May 11, 2021, the following two presumption bills were signed and became effective:  Effective May 11, 2021: <a href="#">Senate Bill 5190</a> adds for "health care worker" a rebuttable presumption during a public health emergency that any infectious or contagious diseases that are the subject of a public health emergency are occupational diseases arising out of employment.  <a href="#">Senate Bill 5115</a> adds for "frontline employees" a rebuttable presumption during a public health emergency that any infectious or contagious diseases transmitted by respiratory droplets or aerosol or contact with contaminated surfaces and subject of a public emergency are compensable occupational diseases.  Gov. Inslee declared a public health emergency from Feb. 29, 2020, through Oct. 31, 2022. However, the presumptive workers' compensation coverage for contraction of or quarantine due to COVID-19 did not end until both the state and federal health emergencies were lifted. The federal public health emergency expired <b>May 11, 2023</b> , and so do the presumptions.
Any other considerations?		A policy statement issued on March 6, 2020 by the Washington Dept. of Labor and Industry, clarified that workers' compensation benefits must be provided benefits for health care workers and first responders who are quarantined by a physician or public health officer during the time they're quarantined after being exposed to COVID-19 on the job. The policy also applies to others who may have accepted claims for exposure to COVID-19; for example, those who are not considered health care workers but are working in facilities with documented exposures or others whose claims may be approved.
Additional information		Click <a href="#">here</a> to view Questions About Workers' Compensation Coverage and COVID-19 provided by the Washington State Department of Labor and Industries.

## West Virginia

Statutory Citation Code 23-4-1(f)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	<p>In West Virginia, no ordinary disease of life to which the general public is exposed outside of the employment is compensable. Each claim must be evaluated individually because the Code provides that a disease is considered to have been incurred in the course of or to have resulted from employment only if upon consideration of all the circumstances:</p> <ul style="list-style-type: none"> <li>• That there is a direct causal connection between the conditions under which work is performed and the occupational disease.</li> <li>• That it can be seen to have followed as a natural incident of the work as a result of the exposure occasioned by the nature of the employment.</li> <li>• That it can be fairly traced to the employment as the proximate cause.</li> <li>• That it does not come from a hazard to which workers would have been equally exposed outside of the employment.</li> <li>• That it is incidental to the character of the business and not independent of the relation of employer and employee; and</li> <li>• That it appears to have had its origin in a risk connected with the employment and to have flowed from that source as a natural consequence, though it need not have been foreseen or expected before its contraction.</li> </ul> <p>There must also be a documented or probable work-related exposure, and an employee/employer relationship.</p> <p>On January 19, 2021, the West Virginia Office of the Insurance Commissioner (OIC) issued <a href="#">Bulletin No. 21.01</a> reminding employers, insurers, self-insured employers and healthcare providers of their responsibilities regarding workers' compensation claims for COVID-19.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>An employee such as a healthcare worker or first responder may be able to meet the criteria outlined above. The key issue is causation and whether the employee can prove a causal connection between the employment and the exposure.</p>
Any other considerations?		<p>On September 4, 2020, the West Virginia Office of the Insurance Commissioner (OIC) issued <a href="#">Bulletin No. 20-16</a> regarding initial compensability determinations on ambiguous claims. Acknowledging that insurers and self-insured employers have sole authority to make initial compensability determinations in workers' compensation claims, the commissioner indicates that if there is any ambiguity or lack of clarity on an application for workers' compensation benefits or a narrative statement from a claimant or dependent of a deceased employee as to whether there is an intention to file a claim, the carrier or self-insured employer is required to undertake a reasonable and appropriate investigation. This includes an interview of the claimant, claimant's counsel or the dependent of the deceased employee to eliminate the ambiguity before making the initial compensability decision.</p>

## Wisconsin

Statutory Citation Statute §102.01(c)	Are benefits available?	Details
Is COVID-19 generally compensable?	Possibly	Infectious diseases are recognized as occupational workers' compensation claims in Wisconsin as long as the standard is met establishing the work exposure was either the sole cause of the condition or at least a material contributory causative factor in the condition's onset or progression.
Is COVID-19 compensable with high risk workplace exposure exceptions?	Likely	<p>If an employee is, as a consequence of the nature of their employment exposed to a greater risk of contagion (e.g. a nurse, doctor, or other health care worker in a workplace in which they are caring for virus-infected patients) than would otherwise be the case, they need not prove a particular exposure for the claim to be compensable.</p> <p>Additionally, Wisconsin enacted <a href="#">Assembly Bill 1038</a>, which was signed into law April 15, 2020 and is effective April 17, 2020. Section 33 of this bill provides that where an injury to a first responder is found to be caused by COVID-19 during the public health emergency declared by the governor by Executive Order on March 12, 2020 through 30 days after the termination of the order (<b>June 10, 2020</b>), the injury is presumed to be caused by the individual's employment. The injury claimed must be accompanied by a specific diagnosis by a physician or by a positive COVID-19 test.</p> <p>This bill defines "first responders" as an employee of or volunteer for an employer that provides firefighting, law enforcement, medical or other emergency services and who has regular, direct contact with, or is regularly in close proximity to, patients or other members of the public requiring emergency services within the scope of the individual's work for the employer.</p>
Any other considerations?		For employees who are self-quarantining as a precaution, there is no injury or disease causing lost time. An employee must sustain an injury, or physical or mental harm caused by an accident or disease, to be entitled to workers' compensation benefits under Wisconsin law.

## Wyoming

<b>Statutory Citation</b> Statute Ann. § 27-14-102(a)(xi)(A)	<b>Are benefits available?</b>	<b>Details</b>
Is COVID-19 generally compensable?	Possibly	<p>In Wyoming the definition of injury does not include any illness or communicable disease, unless the risk of contracting the illness or disease is increased by the nature of employment. However, on May 20, 2020 Wyoming Governor Mark Gordon signed <a href="#">Senate File 1002</a> law which in part provides that for the period beginning January 1, 2020 through December 30, 2020, if any employee in an employment sector for which coverage is provided by the Workers' Compensation Act is infected with the COVID-19 coronavirus, it will be presumed that the risk of contracting the illness or disease was increased by the nature of employment.</p> <p>Senate File 19, signed into law April 6, 2021, extended the presumption set out above in SF 1002 to <b>March 31, 2022</b>, unless otherwise extended by the legislature.</p>
Is COVID-19 compensable with high risk workplace exposure exceptions?	Yes	The risk of contracting an illness or communicable disease for these workers is increased by the nature of their employment. With the enactment of Senate File 1002 COVID-19 is likely compensable for workplaces with high risk exposure.
Any other considerations?	Wyoming is monopolistic and claims are administered by the Wyoming Dept. of Workforce Services.	