



SCHOOLCOMP PROGRAM MANAGER

Workers' Compensation Newsletter

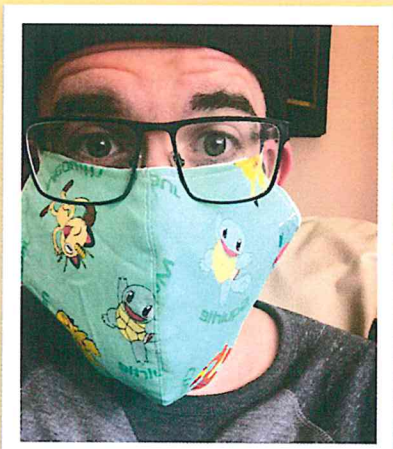
July 2020

REFOCUSING ON SAFETY

As school districts scramble to address the health risks of Covid-19 in their workplaces, they cannot afford to lose sight of other safety risks that could result in costly injuries.

Restarting operations after a shutdown puts a lot of pressure on employees. If the process is rushed or poorly planned, the chances of workplace injuries increase. This is particularly true when employees are stressed or distracted.

Now is a good time to pause and assess your safety risks. Most importantly, refocus your attention on your people. Many have been absent from the workplace for some time. Therefore, retraining or recalibration of risk awareness may be necessary.



TEXAS WORKERS' COMPENSATION & COVID-19

As the number of COVID-19 cases rise across the state, many Texas school districts face tough questions about the health and welfare of their employees. The primary question posed to us is whether workers' compensation will cover an employee who tests positive for the virus. The short answer under current Texas workers' compensation law is "it's complicated."

Generally, workers' compensation does not cover routine community-spread conditions like a cold or the flu because more often than not they cannot be directly tied to the workplace. Texas is among the majority of states that follow this legal model and no amendments to the law have been proposed.

Exposure to COVID-19 Does Not Constitute An Injury

Exposure to someone who may have COVID-19 is not an "injury" under the Texas Workers' Compensation Act. An "injury," or in this case, an "occupational disease" occurs when an employee is able to prove he or she contracted COVID-19 by testing positive for the disease AND that exposure to the disease occurred while he or she was at work. Proof that COVID-19 was specifically contracted at work is extremely difficult given the proliferation of the disease in many Texas communities coupled with the employee's inevitable exposure to public places (i.e. grocery store, pharmacy, etc.).

Texas Workers' Compensation Does Not Pay For COVID-19 Testing

As noted above, exposure to COVID-19 does not equate to an injury. Since claims are based on the actual occurrence of an injury, there is no mechanism for the payment of COVID-19 testing based on the mere possibility of a positive test. Employees who allege an exposure should determine whether their personal insurance provides for such testing and follow the recommendations of their personal doctor. They should also check with their county health department to find out where testing sites are available.

Claims Should Not Be Filed Based On "Exposure Only"

The possible exposure to COVID 19 does not automatically support the filing of a workers' compensation claim. Moreover, the premature submission of a claim could create uncertainty and result in an administrative denial. Therefore, we recommend you contact our claims management team to discuss your questions and concerns before submitting a COVID-19 claim.