

## FLORIDA COVID-19 UPDATES

In Florida, claims for COVID-19 exposure should be treated as exposure and/or occupational injuries. Pursuant to FS 440.02(1) and 440.151(1)(a) and (2), these claims have a higher standard of burden of proof and require claimants to prove causation, using a clear and convincing burden of proof.

A claimant must prove that the disease resulted from the nature of the employment in which the employee was engaged under such employer, was actually contracted while so engaged, and the nature of the employment was the major contributing cause of the disease. Major contributing cause must be shown by medical evidence only, as demonstrated by physical examination findings and diagnostic testing. "Nature of the employment" means that in claimant's particular occupation, there is attached a particular hazard of such disease that distinguishes it from the usual run of occupations, or the incidence of such disease is substantially higher in the occupation in which the employee was so engaged than in the usual run of occupations. Both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace to support causation shall be proven by clear and convincing evidence.

Florida will start processing workers' compensation claims from public servants who contract the novel coronavirus on the job. Chief Financial Officer Jimmy Patronis recently ordered the Division of Risk Management to review those claims submitted by "frontline state employees" who are required to interact with potentially infected individuals. The division has received 36 claims for COVID-19 since the virus was first reported in Florida. Law enforcement, firefighters, emergency medical technicians, paramedics, correctional officers, health care workers, child safety investigators and Florida National Guard members will be eligible for compensation. However, agencies can opt out of the compensation program and the state would not have to pay the compensation if it can prove the worker contracted the virus while not performing their duties.

If you have any questions about Florida workers' compensation related Covid-19 issues, please reach out to Alana McKenna, [Alana.McKenna@Ritsema-Lyon.com](mailto:Alana.McKenna@Ritsema-Lyon.com) or 303.675.4402.