



NEW REPORTING REQUIREMENTS

CALIFORNIA: NEW REPORTING REQUIREMENTS FOR EMPLOYEE COVID-19 CASES

Effective September 17, 2020 – Employers are required to report and track positive COVID-19 tests for their employees. The new law requires all positive tests be reported to the employers' workers compensation carrier or claims administrator. Failure to report the data accurately and timely can result in penalties up to \$10,000 against the employer. This is an extension of a prior enacted law (SB1159) which provides a presumption of "work-relatedness" to an employee's contraction of COVID-19 in certain circumstances.

Key Requirements of the SB1159 reporting extension:

- All positive tests must be reported by fax or email within **3 business days**
- Employers are required to report both current and retroactive data
- The following Basic Tracking data is required for both work-related and non-work related cases:
 - a. That an employee tested positive for COVID-19.
 - b. The date the employee had a specimen collected for testing that was found to be positive.
 - c. The specific address or addresses of each place the employee worked during the 14 days preceding the positive test.
 - d. The highest number of employees who reported to work at each specific place of employment in the 45-day period preceding the last day that the employee who tested positive worked at the same location.

Retroactive data: The deadline to submit the foregoing information for all positive COVID-19 tests results that occurred during the period of July 6, 2020 to September 17, 2020, is October 28, 2020. And again, this information must be reported by fax or email.

If the exposure is claimed to be employment-related, additional personal information must be gathered and a workers' compensation claim submitted through any of the normal claim-reporting methods.

As part of this new law, carriers are taking on the responsibility of investigating and reporting any incidences of an outbreak. The law defines an outbreak as exceeding a certain threshold of positive tests within 14 days prior to or after the date of loss on the claim. For employer locations under 100 employees the threshold is 4 positive tests. For locations with over 100 employees the threshold is 4% of the population. If an outbreak occurred the new presumption rule will apply to the claim.

Please contact your Workers' Compensation carrier or claims administrator for detailed information and instructions.

****The law firm of Mullen & Filippi created a detailed flowchart, downloadable [here](#), regarding the application of the new presumption. Please consult your legal counsel in determining your organization's compliance with these requirements.**