



SB 1159: Workers' Compensation Presumption

Employers must report positive tests for COVID-19 to the third-party administrator

On September 17, 2020, Governor Gavin Newsom (D-CA) signed [SB 1159](#), a bill that sets the ground rules for workers' compensation presumptions concerning employees who contract COVID-19 in the workplace. The legislation takes effect immediately and remains in effect through Dec. 31, 2022.¹

The bill establishes two timeframes for claims involving employees with COVID-19. The first period falls within the state's original Executive Order of March 19th through July 5th. Most of the elements contained in Governor Newsom's original order still apply. The second period applies to employees who test positive with COVID-19 from July 6, 2020 through Dec. 31, 2022.¹

Employer Reporting Requirements

Specifically under SB 1159, once an employer knows (or reasonably should have known) that an employee tested positive for COVID-19, the employer must alert the claims administrator within three business days. This includes both work-related and non-work related COVID-19 diagnoses.¹

- *For work-related exposures, please report claims as you would in the normal course of business.*¹
- ***For non-work related exposures, please use the customized prepopulated link [ORCIG Non Work Related COVID reporting](#), to complete the required reporting which will get us the information quickly.***¹
- Gallagher Bassett has developed and implemented processes to capture this information. Please see the attached workflow document.¹

The employer may not provide identifying information about the employee unless that employee asserts the infection is work-related. The bill prohibits employers from providing Personal Identifiable Information (PII). We need a unique way to identify each individual so we recommend using employee IDs or numbers. The employer must then give the claims administrator the date of the test, each location the employee worked for the last 14 business days, the highest number of employees who reported to work during the 45 days before the last day the infected employee worked for each location. This is considered "outbreak" information under the statute.¹

Please note that a "location" is defined as a singular building, store, facility, or field where work is performed. The "location" may be different from the account location pyramid or hierarchy. Therefore, if the pyramid location encompasses more than one building, we need the specific address for the building that was exposed. Please remember, if the employee was present in more than one location, each location must be reported.¹

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The outbreak information puts the statute in motion. The presumption only applies if the positive test occurred during an outbreak at the specific place of employment. The “rebuttable presumption” applies only after an identified outbreak. In such circumstances, the employer may produce its evidence of preventative measures taken to reduce transmission in order to dispute the presumption. ¹

Penalty Potential

The bill lays out penalties for employers (or anyone acting on their behalf) who fail to comply with the information exchanges. Employers who intentionally report false or misleading claims data or fails to submit information when reporting will be subject to a civil penalty of up to ten thousand dollars (\$10,000) to be assessed by the Labor Commissioner. ¹

Please visit the Gallagher Bassett [COVID-19 Resource Center](#) for more information on COVID-19, and for breaking state-by-state regulatory changes, please consult the interactive [COVID-19 Legal Update Map](#). Additionally, a flow chart has been included on the following page to assist with the reporting requirement's.

Gallagher Bassett has a dedicated email address for your questions about SB1159. Send any question you may have to GB_COVID_CA_SB1159@gbtpa.com with a cc to Tamara_Corbin@gbtpa.com and your ORCIG WC Claim Director.

Sources:

¹ <http://news.gallagherbassett.com/bn-california-sb-1159>

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CA COVID SB1159 WORKFLOW

