



## ESSENTIAL EMPLOYEES WHO CONTRACT COVID-19 AT WORK PRESUMED ENTITLED TO WORKERS' COMPENSATION

On September 14, 2020, the State of New Jersey enacted legislation creating a rebuttable presumption for certain categories of workers that if they contract COVID-19, such contraction is work related. [The legislation \(P.L. 2020. c 84\)](#) defines "essential employees" as the following groups of workers:

**"an employee in the public or private sector who, during a state of emergency:**

1. is a public safety worker or first responder, including any fire, police or other emergency responders
2. those involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes
3. those performing functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare including transportation services, hotel and other residential services, financial 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; or
4. is any other employee deemed an essential employee by the public authority declaring the state of emergency."

### **WHAT DOES THIS MEAN FOR THE EMPLOYER:**

As such, these categories of workers are presumed to be entitled to fully compensable workers compensation benefits, and any other work-related benefits, if they contract COVID-19. The employer can rebut the presumption by a "preponderance of the evidence" showing that the exposure to COVID-19 did not occur while working. It is important to note that individuals working from their own residence who contract COVID-19 do not receive the protections of this rebuttable presumption.

MHPNJ may retroactively review and may deny claims for COVID-19 where there was a positive diagnosis and review the cases to determine if the employee qualifies for the protections outlined in the new legislation in order to determine whether to overturn or uphold the denial.

The legislation also specifies that any workers' compensation claims paid pursuant to this new law shall not be considered in calculating an employer's Experience Modification Factor.

Please be aware that this law applies retroactively back to March 9, 2020 and continues so long as the Governor continues to declare a public health emergency. Thus, if an employee contracts or has previously contracted COVID-19 and asserts it is work related, employers should report it to their carrier and defer to their workers' compensation carrier to investigate and determine compensability.

If you or any of your employees fall into the above outlined definition of "essential employee" and you or an employee contracted COVID-19, you should immediately file a claim with your workers' compensation carrier.

### **EXAMPLES OF ESSENTIAL BUSINESSES/WORKERS IS AS FOLLOWS:**

Examples of Essential Workers	
Farmers markets	Office supply stores
Convenience stores	Public transportation
Pet food stores	Computer stores
Farms	Delivery services
Emergency shelters	Airlines
TV and radio stations	Taxis and ride shares
Newspapers	Home care workers
Supermarkets	Restaurants (inside, take-out or delivery)
Banks	Attorneys
Car dealers	Accountants
Home contractors	Defense contractors
Construction workers	Child care centers that take care of the children of
Exterminators	Hotels and motels
Funeral homes	Marijuana dispensaries
Landscapers	Pharmacy employees who are necessary for filling
Post offices	Dry cleaners
Schools that offer long distance learning	Private security guards
Laundromats	UPS/FedEx centers

### WHAT DOES THIS MEAN FOR THE EMPLOYEE:

If you contract COVID-19 the workplace and it is covered under your employers Workers' Compensation Insurance , your minimum entitlements include:

- Covering the cost of all medical bills directly related to the workplace injury
- Payment of temporary disability benefits for any injury that prevents you from working for longer than three days
- In the case of longer-term total or partial impairment, permanent disability benefits may be awarded
- Retraining benefit if your injury will permanently prevent you from returning to your previous position or duties
- Access to further benefits in certain circumstances, including payment to a surviving family member in the event of death

### WHAT TO EXPECT FROM MHPNJ:

- MHPNJ will be reviewing all COVID-19 medical claims retroactively back to March 9, 2020 and if determined that the covered person was an essential employee under the law, the claim may be denied as MHPNJ does not cover work related claims.

- Employees and Employers may receive outreach calls to verify information related to the COVID-19 diagnosis and circumstances.

If you have any questions or concerns about any information contained in this communication, please do not hesitate to contact us at 833-639-2669 (833-MEWANOW.) We are here to assist you and your employees during these difficult times.

[Visit Members Health Plan NJ Website](#)

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**Questions or Concerns E-mail Us  
Today!**

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