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COVID-19 and Its Impact on Ohio Workers' Compensation

Like all aspects of employment law, COVID-19 is creating workers' compensation questions for Ohio Employers. Can an employee establish a compensable claim based on COVID-19? Are my BWC premiums due per the usual monthly installments? Will Industrial Commission hearings go forward as normal?

Occupational Disease Claims

The employment issues that Ohio Employers are addressing during the Coronavirus pandemic include whether they may face potential workers' compensation claims based on a diagnosis of COVID-19. While possible, establishing a claim may not be easy. To do so, a claimant must meet a three-factor test:

- The disease was contracted in the course of their employment;
- The disease is peculiar to the claimant's employment by its causes and the characteristics of its manifestation, or the conditions of the employment result in a hazard, which distinguishes the employment in character from employment generally; and
- The employment creates a risk of contracting the disease in a greater degree — and in a different manner — than in the public generally.

For the first element, the claimant will have to prove he/she was exposed to the virus and received a medical diagnosis of COVID-19 by a doctor who causally related the diagnosis to his/her employment. Assuming this causal relationship can be established, the three-part test then requires the employment itself to have placed the claimant at a risk in a greater degree of contracting COVID-19 in comparison to the public generally. While claimants who are health care professionals and first responders may be able to establish these elements, other claimants may have a more difficult time under the established standard of proof.

At this time, Employers should examine each claim on a case-by-case basis. While the law related to occupational diseases has not yet been expanded in light of the COVID-19 pandemic, we will continue to update with any changes proposed by the Ohio General Assembly as they relate to workers' compensation claims and COVID-19.

Ohio Bureau of Workers' Compensation Premium Delay

The Ohio Bureau of Workers' Compensation ("BWC") has announced insurance premium installment payments due for March, April, and May for the current policy year may be deferred until June 1, 2020. This delay is for both public and private employers. Also, the BWC will not lapse/cancel coverage or assess penalties for amounts not paid because of the coronavirus pandemic.

Industrial Commission of Ohio's Updated Hearing Process

Due to the coronavirus pandemic, the Industrial Commission of Ohio ("IC") has temporarily changed its hearing process. The IC now is conducting hearings by telephone for the following issues: permanent total disability, temporary total disability or the termination of temporary total disability, wage loss, allowance and additional allowance. Other issues scheduled for hearing have been continued in the short term. The IC will evaluate the effectiveness and volume of hearings going forward until normal operations can resume. Updates will be published on the IC's website at www.ic.ohio.gov.

For the most recent updates regarding Ohio BWC's response to COVID-19, see ["States Adapt Workers's Compensation Systems Under COVID-19."](#)

To provide guidance and support to clients as this global public-health crisis unfolds, Frost Brown Todd has created a [Coronavirus Response Team](#). Our attorneys are on hand to answer your questions and provide guidance on

*how to proactively prepare for and manage any coronavirus-related threats
to your business operations and workforce.*

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