

Illinois Workers' Compensation Commission Enacts Emergency Rule Relating to Front Line Employees

By Lee Levin

Effective April 16, 2020, the Illinois Workers' Compensation Commission (Commission) adopted an Emergency Rule addressing First Responders and Front-Line Workers (Rule). The Rule applies to the period of time beginning March 9, 2020, the date of the Illinois Governor's COVID-19 Disaster Proclamation, and relates to the ability of First Responders and Front-Line Workers to receive workers' compensation benefits if they become infected with COVID-19. More specifically, the Rule provides:

- (1) In any proceeding before the Commission where the claimant is a COVID-19 First Responder or Front-Line Worker, and the claimant's injury or period of incapacity resulted from exposure to the COVID-19 virus during a COVID-19-related state of emergency, the exposure will be presumed to have arisen out of the claimant's employment, and therefore, will be presumed to be causally connected to the hazards or exposures of the claimant's employment. These presumptions, however, are rebuttable by the employer.
- (2) For purposes of the Rule, the term "COVID-19 First Responder or Front-Line Worker" means "*any individuals employed as police, fire personnel, emergency medical technicians, or paramedics and all individuals employed and considered as first responders, health care providers engaged in patient care, correction officers, and the crucial personnel identified under the following: 'Stores that sell groceries and medicine'; 'Food, beverage, and cannabis production and agriculture'; 'Organizations that provide charitable and social services'; 'Gas stations and businesses needed for transportation'; 'Financial institutions'; 'Hardware and supplies stores'; 'Critical trades'; 'Mail, post, shipping, logistics, delivery, and pick-up services'; 'Educational institutions'; 'Laundry services'; 'Restaurants for consumption off-premises'; 'Supplies to work from home'; 'Supplies for Essential Businesses and Operations'; 'Transportation'; 'Home-based care and services'; 'Residential facilities and shelters'; 'Professional services'; 'Day care centers for employees exempted by [Executive Order 2020-10]'; 'Manufacture, distribution, and supply chain for critical products and industries'; 'Critical labor union functions'; 'Hotels and motels'; and 'Funeral services.'*"

While the stated intent of this Rule is to ensure workers' compensation benefits for a COVID-19 First Responder or Front-Line Worker who is exposed to COVID-19 as a result of employment, the Rule itself does not make such a blanket guarantee. Instead, while it is presumed that a COVID-19 First Responder or Front-Line Worker contracted the virus through work, filing a workers' compensation claim shifts the burden to the employer to prove that the employee did not contract the virus related to employment. While it arguably may be difficult for an employer to prove that a COVID-19 First Responder or Front-Line Worker contracted COVID-19 unrelated to his or her employment, the Rule at least opens the door for circumstances where such employees may not be eligible for benefits.

If eligibility for workers' compensation benefits becomes a concern for your practice or business, you are strongly encouraged to contact your Worker's Compensation insurance carrier as soon as possible. The attorneys at Roetzel & Andress will provide further updates on the Rule, as available.

April 23, 2020

Ericka Adler, Manager

312.582.1602 | eadler@ralaw.com

Michael Brohman

312.582.1682 | mbrohman@ralaw.com

Avery Delott

312.582.1636 | adelott@ralaw.com

David Hochman

312.582.1686 | dhochman@ralaw.com

Christina Kuta

312.582.1680 | ckuta@ralaw.com

Lee Levin

312.580.1248 | llevin@ralaw.com

Judith Sherwin

312.580.1268 | jsherwin@ralaw.com

John Waters

312.582.1685 | jwaters@ralaw.com

This alert is informational only and should not be construed as legal advice. ©2020 Roetzel & Andress LPA. All rights reserved. For more information, please contact Roetzel's Marketing Department at 330.762.7725