

## California COVID-19 Presumptions Expiring

### WHAT DOES THAT MEAN FOR YOU?



It has been over three and a half years since Governor Newsom enacted Executive Order N-62-20, which granted certain presumptions to workers who contracted the COVID-19 virus. Since that time, Senate Bill 1159 and Assembly Bill 1751 were passed, which created Labor Code sections 3212.86, 3212.87, and 3212.88. These Labor Code sections provided active presumptions for those workers who contracted COVID-19 in the workplace and these, in turn, shortened the time frames within which administrators must determine compensability of COVID-19 claims. They also mandated regular reporting of all California employees who tested positive for COVID-19.

Well, some good news is on the horizon because the Labor Code sections referenced above are set to expire on January 1, 2024. So, what does that mean for employers and claims administrators? We will go through a couple of the key changes below to help you better understand how the workers' compensation landscape will be impacted come the first of the year.

#### EMPLOYER MANDATED REPORTING

Effective 1/1/2024, employers will no longer be required to report to their claim's administrator "all instances" where employees test positive for the COVID-19 virus. That mandate was enacted pursuant to Labor Code section 3212.88. Its main purpose was to track specific employer locations where COVID-19 "outbreaks" may have taken place, and it came with significant civil penalties (up to \$10,000) to those

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employers who failed to timely report the required information. That requirement will no longer exist after January 1, 2024.

However, while employers are no longer required to report test data, you are still required to report any new claims where your employees believe they contracted COVID-19 at work. All claims for work-related injuries and illnesses that warrant treatment beyond first aid must still be reported.


### ADMINISTRATOR TIME FRAMES TO INVESTIGATE COVID WC CLAIMS

When the statutes placing new presumptions on COVID-19 claims were enacted, they shortened the compensability time frames that administrators must investigate COVID-19 claims. The time frames decreased from the original 90 days down to 45 days on outbreak presumption claims, and they further reduced the time frames on “first responder” claims down to only 30 days. However, effective January 1, 2024, the time allowed to investigate COVID-19 claims will now revert to the pre-statute time frame of 90 days.

These changes will certainly help alleviate the current burden on claims examiners to timely investigate COVID-19 claims within the existing shortened time frames.

Although the workers’ compensation COVID statutes are soon to expire, it is undetermined whether the Governor or the California legislature will enact future COVID regulations down the road, and employers must still adhere to the reporting requirements of any other state agencies. However, until that time, employers and claims administrators alike can relish the fact that the additional administrative burdens enacted in 2020 due to the COVID pandemic will soon run their course and become a thing of the past.

### CONTACT US



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