

COVID-19 WORKERS COMP DOCUMENTATION GUIDANCE FOR NUHW MEMBERS

If you are considering, or may in the future consider, filing a workers compensation claim, or if you may be appealing to your employer for more robust paid leave while sick or on home isolation, it is important to maintain an extensive paper trail documenting the circumstances of your workplace exposure and any resulting medical evaluation and treatment. On May 6, 2020, Governor Newsom issued an executive order stating that essential workers, including healthcare workers, who contract COVID-19 and file a workers compensation claim, shall be presumed to have contracted the virus at work, which increases the likelihood of a successful workers compensation claim. Employers may rebut this claim, but the executive order shifts the burden of proof from the employee to the employer. At this time, the presumption is effective for claims of exposure from March 19, 2020 until July 6, 2020.

NOTE: When obtaining your medical records, go through the proper channels. Do not use the employer's medical records system to access your own records or the records of co-workers. Adhere to all HIPAA regulations.

Documenting communication with your employer

- Ask management to put all communications to you about your exposure and infection in writing.
- Keep copies of all communications with management about your workplace exposure and any subsequent illness, including:
 - Any written notification of exposure sent from your employer
 - Post-exposure instructions
 - Communications regarding home isolation, return to work, access to leave or paid time off, etc.
- Ask for testing from your employer in writing and retain copies of their response (especially if they refuse).

Medical documentation

- To qualify for presumptive eligibility for workers compensation, you must have worked within the last 14 days, and either 1) test positive for COVID-19, or 2) receive a diagnosis from a physician (a doctor, and not a nurse practitioner or other provider), which is then confirmed with a positive test within 30 days of the diagnosis. This diagnosis would likely be done via tele-health.
- Contact your doctor and request that you be evaluated and diagnosed for COVID-19. Request copies of any notes after each visit, whether in-person or via tele-health. Also keep copies of any email or electronic communication with your doctor.
- Notify the doctor that you are a healthcare worker and you think you were exposed to COVID-19 on the job. Ask that they include this information in their notes.
- Request testing in writing.
 - If your provider refuses testing because you do not meet current CDC criteria or because of a shortage of tests, request that they document your request for testing and their reasoning for refusal in their note. Contact your NUHW organizer to discuss other options for testing.
- Obtain copies of any laboratory test results.
- If you are sent to an employee health department or a workers comp physician chosen by the employer, you should also request and be given copies of all notes.

Questions? Please contact your NUHW organizer.

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HEALTHCARE WORKERS**