




SB1159 Information for Policyholders

Claim Reporting Options

 [First Report of Injury](#)

 (800) 661-6029

 newclaim@bhhc.com

 (800) 661-6984

What is a “Frontline Worker”?

“Frontline worker” is defined as Firefighters, Peace Officers, employees who provide direct patient care and who work at a health facility, custodial employees in contact with COVID-19 patients and who work at a health facility, EMT’s, employees who provide direct patient care for a home health agency and providers of in-home supportive services, when provided outside their own home or residence.

There are new changes to California Workers Compensation laws related to COVID-19 claims. These changes were passed by the California Legislature on 8/31/2020 and signed into law by Governor Newsom on 9/17/2020. **They apply retroactively from 7/6/2020–1/1/2024.**

This guide provides details of the new laws, which are broken into three Labor Code sections.

Regardless of whether your employee falls into one of the categories outlined below if they allege a COVID-19 positive diagnosis is work-related you must provide them with a [DWC-1 Claim Form](#) and report the claims to BHHC within 24 hours of knowledge.

Presumption for Frontline and Healthcare Workers – Labor Code 3212.87

This part of the new law pertains to Frontline and Healthcare workers. COVID-19 is presumed to be work-related for Frontline and healthcare workers if an employee worked at their place of employment at the employer’s direction on or after 7/6/2020 AND the employee tested positive for COVID-19 within 14 days after working at the employer’s location AND is one of the defined Frontline or Healthcare workers defined to the left.

There is a 30-day timeframe to determine if COVID meets the above standard.

If an employee tests positive and is one of the defined Frontline or Healthcare workers defined to the left, employer must provide the employee with a [DWC-1 Claim Form](#) and report the claim to BHHC within 24 hours of knowledge **if the employee completes the DWC-1 Claim Form or communicates that it is work related.**



What is a Specific Location or Place of Employment?

A specific location or place of employment is a building, store, facility, or agricultural field where an employee performs work at the employer's direction. An employee's home is not considered a specific place of employment unless the employee provides home health care services to a client at the employee's home. An employee may have more than one specific place of employment if they worked in multiple locations within the 14-day period before their positive test.

Paid sick leave benefits specifically available in response to COVID-19 (FFCRA) must be exhausted before any temporary disability benefits are due. [Click here](#) for more information on paid sick leave benefit

There is a post-termination provision that allows employees covered by this law to receive benefits of this presumption for up to 14 days following termination starting with the last day they worked at their place of employment.

Outbreaks – For all Employees other than Frontline and Healthcare Workers - Labor Code 3212.88

This section of the law applies to any employee other than Frontline workers and Healthcare workers who test positive during an "outbreak" at their place of employment if the employer has five or more employees.

COVID-19 is presumed work-related if an employee worked at their place of employment at the employer's direction on or after 7/6/2020 and the following two elements are met:

- The employee tested positive for COVID-19 within 14 days after working at the employer's location AND
- The positive test occurred during an "outbreak" at the employer's specific location.

An "outbreak" is defined as a COVID-19 occurrence at a specific employment location within a **14-day period** AND meets one of the following:

- If an employer has 100 employees or less at a specific location and **four or more employees test positive** for COVID-19; OR
- If an employer has more than 100 employees at a specific location and **4% of the employees test positive** for COVID-19; OR
- The local public health department, State Dept. of Public Health or OSHA or school superintendent orders the specific place of employment to close due to the risk of COVID-19 infection.

There is a 45-day timeframe to determine if COVID meets the above standard.

Employer Reporting Requirements for "Outbreaks" - Labor Code 3212.88

When an employer knows or reasonably should know that an employee has tested positive for COVID-19, they must email the attached [COVID Tracking Tool](#) to CovidReporting@bhhc.com within three business days. The report must include all of the following:



Fines for Falsifying COVID-19 Claims

Fines up to \$10,000.00 may be imposed by the Labor Commissioner if it is found that an employer has intentionally submitted false or misleading information or fails to submit information regarding COVID-19 cases, regardless of whether they are work-related or not.

- The fact that an employee has tested positive, regardless if work-related or not.
 - Employers should not include any personal information regarding the employee who tested positive for COVID-19 unless the employee asserts it is work-related or files a claim form.
- The date the specimen was collected for the employee's COVID-19 test.
- The specific address or location of the employee's place(s) of employment during the 14-day period preceding the date the test specimen was collected.
- The highest number of employees who reported to work at the specific location(s) in the 45-day period before the last day the COVID-19 positive employee worked there.

BHHC will use this information to help determine if an "outbreak" has occurred (4/4% criteria). If it has, we will provide the employer with a list of employees' IDs who have tested positive for COVID-19. It is the employer's responsibility to provide a [DWC-1 Claim Form](#) to each of these employees so that they can submit a claim, if they choose.

Governor's original Executive Order is now Labor Code 3212.86

This section codified Governor Newsom's Executive Order which stated COVID-19 is presumed to be work-related if an employee worked at their place of employment at the employer's direction between 3/10/2020 and 7/5/2020 AND the employee tested positive for COVID-19 within 14 days after working at the employer's location OR the employee was diagnosed with COVID-19 within 14 days and the diagnosis is confirmed through testing with 30 days of receiving a diagnosis.

If an employee tests positive and is one of the defined Frontline or Healthcare workers defined above, employer must provide the employee with a [DWC-1 Claim Form](#) and report the claim to BHHC within 24 hours of knowledge.

There is a 30-day timeframe to determine if COVID meets the above standard.

Paid sick leave benefits specifically available in response to COVID-19 (FFCRA) must be exhausted before any temporary disability benefits are due. [Click here](#) for more information on paid sick leave benefits.

Please visit our COVID-19 website, bhccovid19.com for more information including COVID Guidance for Employers, COVID Claim FAQ's, WCIRB info, and more.