

COVID-19 Illinois Workers' Compensation Amendment

Labor & Employment Law Update

By Matthew Horn on May 26, 2020

After the Workers' Compensation Commission withdrew its proposed Emergency Rule declaring that any employee in an "essential industry" contracting COVID-19 will be rebuttably presumed to have contracted COVID-19 at work, the legislature and business groups met and worked through a proposed amendment to the Workers' Compensation Act addressing the issue.

Under the proposed amendment, which appears set to pass, first responders, frontline workers, and most "essential employees" will be rebuttably presumed to have contracted COVID-19 at work, if they have a confirmed case of COVID-19, and the presumption is not rebutted by any of the following: 1) the employee was not in the workplace for 14 days prior to the contracting COVID-19; or 2) the employer complied with all local and CDC guidance to protect its employees from COVID-19; or 3) the employee was exposed to COVID-19 by another source, such as a spouse. Notably, even if an employee is successful in making such a claim: 1) the employer's MOD rate will not be impacted; and 2) the employer is entitled to a credit against any TTD benefits for sick leave or other benefits paid to the employee.

Moving forward, employers should comply with all local and CDC guidance, and prepare a questionnaire to be filled out by employees with confirmed COVID-19 cases, inquiring as to the employee's COVID-19 exposure—much like an accident report. Employers can use those questionnaires when evaluating a workers compensation claim.