



April 17, 2020 as of 1:55pm

An Update from MCAC on COVID-19

Weekly Headlines:

WCIRB Considers 3 Workers Compensation Rule Changes to Help Employers

OSHA Eases COVID-19 Reporting Enforcement

CA Lawyers Assn Offers Free COVID-19 Resources

Well, it finally happened! I have a bit of good news to report since we entered the COVID Twilight Zone. So, let's get to it.

I. 3 Workers Compensation Rule Changes are Under Consideration

The Workers Compensation Insurance Rating Bureau (WCIRB) is recommending [3 rule changes](#) that, if approved by the Insurance Commissioner, should offer employers some relief on their Workers Compensation coverage during the COVID-19 pandemic.

- **Exclude Payments to Employees Who Continue to Be Paid While Not Working**

Payroll for payments made to employees who are continuing to be paid while not working would be excluded. This exclusion would apply while California's stay-at-home order is in place and for up to 30 days thereafter if the employee continues not to work. Payments include, but are not limited to, sick or family leave.

- **Exclude COVID-19 Claims from Experience Rating**

Claims with a diagnosis of COVID-19 and an accident date on or after December 1, 2019 would be excluded from the experience rating calculations of individual employers.

- **Allow Assignment of Classification 8810 for Temporary Change in Duties**

Allows the assignment of Classification 8810, Clerical Office Employees, to the payroll of employees whose job duties, during California's stay-at-home order, meet the definition of a Clerical Office Employee.

The WCIRB Governing Committee is deliberating these recommendations April 17. Details are available [here](#). MCAC will continue to follow this issue and provide updates.



TIPS

Document, document, document to utilize any of these advantages.

State clearly to employees being paid while not working that they are not on-the-clock even though they are being paid. Reinforce the message '*They are not on company time even though they are on the company's dime.*'

Define remote working hours for all remote employees including employees temporarily reassigned.

*Thank you to **Bruce Wick** of CalPASC for being an early voice in support of this action and for being a trusted ally and resource to MCAC on a variety of issues from silica to PAGA and now COVID-19.*

II. OSHA Issues Enforcement Guidance on COVID-19 Reporting

On April 10, 2020, the Occupational Safety and Health Administration (OSHA) issued temporary guidance for recording cases of COVID-19 that provides relief to the construction industry. This updated policy is effective immediately and will remain in effect until further notice.

The issue at hand is determining "work-relatedness" which, normally, triggers 300 Logs reporting.

The updated guidance, however, limits strict work-relatedness determinations to employers of workers in the frontline industries of healthcare, emergency response organizations (e.g., emergency medical, firefighting, and law enforcement services), and correctional institutions and acknowledges that employers in other industries may have difficulty determining whether workers who contracted COVID-19 were exposed at work.

Therefore, **OSHA will not enforce its recordkeeping requirements to require employers other than those stated above to make work-relatedness determinations for COVID-19 cases, except** where: (1) There is objective evidence that a COVID-19 case may be work-related; and (2) The evidence was reasonably available to the employer.

This enforcement policy will help employers focus their response efforts on implementing good hygiene practices in their workplaces, and otherwise mitigating COVID-19's effects, rather than on making difficult work-relatedness decisions in circumstances where there is community transmission.

See [OSHA's COVID-19 Reporting Enforcement Memo](#).

See [MCAA's Explainer](#) "OSHA Sheds Light on COVID-19 Recording Requirements" 4-13-20

III. FREE COVID-19 Videos and More Made Available by the California Lawyers Association

In a time when it would be very beneficial to have an attorney on speed dial, the California Lawyers Association is offering a budget friendly alternative. They have released [free public resources](#) to help navigate issues like paid leave laws, the CARES Act, employee benefits, and other employer concerns.

Videos, webinars, slide presentations, analyses and links to resources are available.

IV. REMINDER! Your State and National Association Resources

- [MCAC Home Page - COVID-19 Resources](#)
- [MCAA COVID-19 Resource List](#)

In closing, MCAC is compiling COVID-19 Q&A from members. We will be sharing the results in future bulletins. In the meantime, if there is something we can help you with, don't hesitate to contact us.

Stay safe and be well!

Sincerely,

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