



## CA WORK COMP EXECUTIVE ORDER EXPIRES

It is well documented that back in May California Governor Gavin Newsom issued an Executive Order which established a rebuttable presumption of industrial causation (within certain parameters) for any employee diagnosed with COVID-19. The order was retroactive from March 17 and was set to expire July 5. That date has come and passed and yes, the Executive Order is no longer active. However, the CA State Legislature is currently working on the possibility of extending this presumption through formal legislation.

A pending state bill, SB 1159 among others, could potentially extend the order and even apply retroactively to cover claims filed after the Executive Order's expiration date of July 5. What does this mean for employers? And how should they now proceed with potential COVID-19 work comp claims?

Heffernan's Risk Management Division team is recommending to continue to operate as if the Executive Order were still in place. This means that employers should continue to report any positive COVID-19 claims to their workers' compensation carrier. It is important to get the potential claims to the carrier quickly. Under the Executive Order, carriers had only 30 days to perform their investigation and to issue a timely denial. Without the Order, the window has increased back to 90 days. The pending legislation could lower that window back down to 30 days, so it is important to get the info to the carrier timely. In addition, most states have made concessions for COVID claims by not counting them against an employer's ex-mod.

In some circumstances, employees who have tested positive for COVID-19 have told employers that they contracted the virus outside of work. In these circumstances, we advise employers to offer the DWC-1 claim form to the employee. If the employee insists that they contracted the virus outside of work or, for whatever reason, does not wish to file a workers' compensation claim, it is best practice for the employer to obtain a written and signed statement outlining such.

Furthermore, our team has been in contact with a variety of CA carriers to determine how they will be addressing these situations in light of the Order's expiration. There has been nearly unanimous consensus that they prefer their insureds to continue to operate in this manner pending the new legislation. We also recommend this action in states outside of CA. The majority of states have pending legislation as well. A good resource for this information is linked below:

[https://www.ncci.com/Articles/Pages/II\\_LegislativeActivity.aspx](https://www.ncci.com/Articles/Pages/II_LegislativeActivity.aspx).

As always, if you have any questions, the Risk Management Division is here to help. Please reach out to your closest team member for assistance.

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