

*This is for informational and educational use only. Nothing in this discussion should be considered legal advice. Please consult with the appropriate attorney or advisor before addressing any situation raised in this discussion.*

Please find any FAQs discussed in our webinar here: <https://www.onegroup.com/covid19-updates/>

## **Information from Thursday, March 19 Webinar:**

### **Risk Management**

To effectively protect yourself and manage your organization through this situation, you must be well informed. The information flow on main media sources is currently like a firehose. It is important to sift through the multiple perspectives and opinions as well as the actual data.

Here are some very good sources:

- Centers for Disease Control (CDC) <https://www.cdc.gov/>
  - Probably the best source of basic information
  - The virus and its symptoms
  - Infection prevention methods and procedures
  - What you can do personally to avoid infection
  - What your business can do
  - Statistics on number of cases, spread and fatalities for the nation and states.
- World Health Organization (WHO) <https://www.who.int/>
  - Much information similar to the CDC site, but with a more global perspective.
- National Institutes of Health (NIH) <https://www.nih.gov/>
  - More technical information about the virus and other issues such as pathologies, therapeutic issues and cellular issues.
- Governor of NY State [www.governor.ny.gov/coronavirus](http://www.governor.ny.gov/coronavirus)
  - Information provided by Governor Cuomo's daily update news conference.
  - Latest executive orders that were released.
  - Link to his latest video conference.
- Occupational Safety & Health Administration (OSHA) <https://www.osha.gov/>
  - Information on safety and health standards as they relate to the coronavirus issue.
  - Information on recordkeeping of Covid-19 cases in the workplace.
  - OSHA Guidance Document
    - A great reference on what an employer can do to manage this issue.
      - How to classify an exposure
      - How to respond to an exposure
      - PPE requirements

Please note that you should be cautiously aware of potential cyber-attacks related to searching the web for sites. Go to noted sites that you are relatively confident are secure.

**More resources:**

OSHA has published a variety of guidance documents that we have found helpful. Check them out here: <https://www.dol.gov/coronavirus>

## Business Insurance Claims and Coverage

**Business Interruption Coverage:**

Business interruption coverage would require a direct physical loss or damage to the insured property. Most of the business losses we have been discussing this week will likely be the result of a general decline in economic activity; not an actual physical damage or loss to the property. Some carriers also reference separate sub-limits within their coverage forms for event cancellation, civil authority, and contingent business interruption for disruption within the supply chain, however coverage would need to be triggered by a "covered cause of loss."

We received notice from The Council of Insurance Agents & Brokers late yesterday that there is a proposal from House Financial Services Committee Chairwoman Maxine Waters that outlines the creation of a federal program modeled directly after the Terrorism Risk Insurance Act, which would mandate the *prospective* offer of pandemic Business Interruption coverage with federal backing. We will continue to update you as news emerges.

**Workers' Compensation:**

For an injury or occupational disease to be covered by a workers' compensation policy, the loss to the employee must have arisen from the course of employment, which may be difficult to determine in the event of a virus outbreak. Infectious diseases (like Covid-19 and the common cold) are not typically found to be work-related. Medical evidence that the injury or illness was work-related must be presented to establish compensability.

However, those who have travelled on business into infected areas, or those stationed permanently or semi-permanently in high-risk areas would be the most likely to make convincing cases for workers' compensation. Healthcare providers who contract the disease may be eligible as well, as the increased risk of contracting an infectious disease may establish medical evidence for workers' compensation.

Please note: the New York State Workers' Compensation Board has closed many of its offices due to the Covid-19 virus. The board is providing employers and injured workers with virtual hearings to ensure there are no delays in moving hearings along.

**Additional Information:**

Please keep your OneGroup team informed of any shifts or changes in exposure as we move through this crisis together. We want to make sure that the programs we have in place for you

are modified if and when necessary. We encourage you to communicate with us frequently. We are standing by to assist in any way possible. We are here for you. (3/19 webinar topic)

## Human Resources

### **Federal Legislation: Families First Coronavirus Response Act**

The Families First Coronavirus Response Act was passed on March 18, 2020 and has two main components: Emergency Paid Leave Under FMLA and Emergency Paid Sick Leave.

*Emergency Paid Leave Under FMLA* applies to employers with fewer than 500 employees.

- Provides up to 12 weeks of (unpaid and paid) leave when employees are unable to work because their child's school or child care service is closed due to a public health emergency.
- Employees must be employed with the employer for at least 30 days to be eligible.
- Benefits are two-thirds of pay up to \$200 per day.
- The first 10 days are unpaid (unless the employee substitutes other available time off).

*Emergency Paid Sick Leave:* An employer shall provide to each employee paid sick time to the extent that the employee is unable to work (or telework) due to a need for leave because:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- The employee is caring for an individual who is subject to an order as described above.
- The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
- The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

This covers 80 hours for full-time employees, and a number of hours equal to the number of hours that such employee works, on average, over a 2-week period, for part-time employees.

### **New York State Legislation**

To address the immediate needs of employees affected by COVID-19 who are subject to mandatory or precautionary orders of quarantine or isolation, the Governor's legislation will provide the following:

Protections for employees of private and public employers who are subject to a mandatory or precautionary order of quarantine related to COVID-19:

- For employees working for small employers (1-10 employees), employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive unpaid sick days and the ability immediately to qualify for paid family leave and temporary disability benefits, plus full job protection.
- For employees working for medium sized employers (11-99 employees) and small employers (1-10 employees) with a net income of \$1 million a year, employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive five paid sick days and the ability immediately thereafter to qualify for paid family leave and temporary disability benefits, plus full job protection.
- For employees working for large employers (100 or more employees) and public employees, employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 will receive paid sick days for the entirety of the quarantine (up to 14 days), plus full job protection.

All employees subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19 are given full job protection during time of absence. Employees will qualify for paid family leave to care for a minor dependent child who is subject to a mandatory or precautionary order of quarantine or isolation due to COVID-19. (3/19 webinar topic)

## Employee Benefits

Many of the questions that we have been receiving on the health insurance side have been related to coverage, and different variations of whether or not Coronavirus is covered by the plan. Office visits and related testing would be covered services, and New York, other states, and now the federal government have taken it further and mandated the removal of the usual cost share or copays related to those visits.

A quick update on how this is being handled from the health insurance side:

In New York, the State Department of Financial Services is requiring that insurers waive the cost share associated with testing for the coronavirus. The regulations prohibit health insurers from imposing cost-sharing on an in-network provider office visit, urgent care visit, or emergency room visit when the purpose of the visit is to be tested for coronavirus.

Similar measures have been suggested in New Jersey and Pennsylvania.

While individual states have attempted to remove cost as a barrier to care, the IRS has also issued guidance allowing the waiver of out-of-pocket coronavirus-related costs prior to deductibles being satisfied for those enrolled in high deductible health plans without jeopardizing their HSA eligibility.

Although the previously mentioned mandates are at the state level and self-insured employers did not have to comply, many carriers are automatically adding similar coverages to all plans in anticipation of a federal mandate.

Last night the Families First Coronavirus Act (H.R. 6201) was signed into law by President Trump.

Part of the Act, as it relates to health insurance, federally mandates private health insurers to provide free testing, including the cost of an emergency room or clinic visit to get tested. This ensures that all employers, whether self-insured or fully-insured will offer testing at no cost.

I do want to be clear. All of the mandates and updates I have previously mentioned are removing the cost barriers on testing. If someone tests positive for coronavirus and requires treatment, the treatment will be covered, but subject to normal cost sharing.

In addition to the mandates, some carriers are adding other enhancements to their plans. One of the more popular items is telemedicine. Some carriers are waiving the cost of telemedicine, on all visits, during the state of emergency. Though this may be a great perk for many, we are still seeking clarification for those on HDHPs and if it will impact their HSA eligibility.

Telemedicine can be a great first step towards care, and keep you out of the providers offices during this time of social distancing, however the normal wait time of less than 10 minutes have been replaced with waits of 1-2 hours, as one vendor said they are now getting 100k calls per day, up from the normal 15k.

As you continue to hear, this is a very fluid situation and we are getting updates hourly. This is new to everyone. The carriers and providers are working through complexities tying codes to COVID-19. There may be claims issues down the road, and claims may need to be resubmitted for processing. We will be here to help. We as consultants are trying to provide accurate answers to questions that are outside the norm. We will continue to release information as it becomes available, in the meantime please don't hesitate to reach out to us for help.