

Compensation and Personal Injury

Have you contracted COVID-19 while working? Here's what you need to know.

With many Australian's still working as 'business as usual' in the midst of this global pandemic, it is important for them to understand their rights. These are unprecedented times; however, NSW workers are entitled to claim workers compensation payments following exposure to, and contracting of, the COVID-19 virus.

COVID-19 is considered a disease

The NSW Workers Compensation legislation defines a "disease injury" as:

- (i) a disease that is contracted by a worker in the course of employment but only if the employment was the main contributing factor to contracting the disease;
- (ii) the aggravation, acceleration, exacerbation or deterioration in the course of employment of any disease, but only if the employment was the main contributing factor to the aggravation, acceleration, exacerbation or deterioration of the disease.

Prevention

Workers practising social responsibility and staying at home because of cold-like symptoms will not be covered by workers compensation.

Mandatory self-isolation

A worker who is required to self-isolate due to exposure to the virus whether in the workplace or elsewhere, will have to rely on other leave entitlements such as annual or sick leave rather than workers compensation.

Direct exposure

Workers who contract COVID-19 due to exposure in the workplace are likely to satisfy the definition of "disease injury" and may well be entitled to workers compensation for their absences from work. They will need to prove that the "injury" was contracted in the course of employment or arose out of or in the course of employment which may be difficult.

Duties performed at work must be the "main contributing factor" to the contraction of the disease. For example, health workers who must interact with those who are known to have contracted the virus, or a worker who is required to travel to a high-risk area.

The real challenge comes when trying to prove you acquired the virus from a co-worker. In this scenario, the employer's risk management policy will have to be examined.

Contact RMB Lawyers with your COVID-19 related questions today at rmb@rmblawyers.com.au or 1800 681 211.