

Does Workers' Comp Cover the Flu?



Workers' comp covers employees who suffer work-related illnesses, including illnesses designated as "occupational diseases" under the workers' comp law. Influenza is *not* one of the "occupational diseases" that are automatically covered. Here's what we do know about workers' comp coverage of flu, based on guidance issued on H1N1 swine flu.

Guidance on Swine Flu Claims

Several workers' comp boards have posted guidance on coverage of swine flu claims. The apparent consensus: swine flu *isn't* be covered by workers' comp even if employees contract the illness at work.

The thinking is that the flu is a "community" disease to which employees are exposed at not only work, but home and while shopping, traveling by mass transit and engaging in other activities in public. Accordingly, pinpointing work as the source of H1N1 infection is extremely difficult.

In general, employees who contract H1N1 would get workers' comp benefits *only* if they could show that the nature of their employment sufficiently exposed them to sources of infection and that such exposure was what made them sick, e.g., a hospital nurse who catches H1N1 from patients. By contrast, a store clerk who catches flu from a customer probably would not qualify for benefits.

Province-Specific Guidance

Of course, workers' comp coverage of flu would have to be determined case by case. Coverage might also vary by province. So it's useful to look at what various workers' comp boards in different parts of Canada have said about swine flu claims:

Alberta: Released an employer fact sheet and a worker fact sheet on H1N1 claims.

Manitoba: Says that claims for workers who have contracted a pandemic disease will be adjudicated in the same way as claims for other infectious diseases thought to be contracted in the workplace. This policy on occupational disease provides details on how the WCB adjudicates these types of claims.

Ontario: Released an H1N1 Q&A that addresses workers' comp coverage of swine flu claims.

Yukon: Released an H1N1 Q&A that addresses workers' comp coverage of swine flu claims.