

WCIRB Bulletin

Bulletin No. 2020-22

September 30, 2020

1221 Broadway, Suite 900 • Oakland, CA 94612 • 415.777.0777 • Fax 415.778.7007 • www.wcirb.com • wcirb@wcirb.com

COVID-19 Reporting Requirement Endorsement – California (WC 04 06 04)

The California Insurance Commissioner has approved California Standard Form WC 04 06 04, COVID-19 Reporting Requirement Endorsement – California. This Standard Form can be used to provide notice of the claims reporting requirements in [Senate Bill No. 1159, Workers' compensation: COVID-19: critical workers](#) (SB 1159), a bill which concerns a disputable presumption for employees who have been diagnosed or test positive for COVID-19. The bill took effect on September 17, 2020 as an urgency statute and will remain in effect until January 1, 2023.

As a high-level summary, SB 1159 generally codifies Governor Newsom's [Executive Order N-62-20](#) with respect to the disputable presumption of industrial injury for employees who test positive for or are diagnosed with COVID-19 within 14 days after having worked for their employer between March 19, 2020 and July 5, 2020. Applicable to the timeframe on and after July 6, 2020, the bill has specific provisions relative to a disputable presumption for (1) first responders and (2) employees who contract COVID-19 as the result of an "outbreak" at their place of employment.¹

In order to help determine if an outbreak has occurred and thus whether the presumption applies, the bill mandates specific employer reporting requirements. Generally, employers that are aware of an employee testing positive for COVID-19 on or after July 6, 2020 and prior to September 17, 2020, must report via email or facsimile the following information to their claims administrator within 30 business days of September 17, 2020:

1. That an employee has tested positive for COVID-19. (Employee personally identifiable information must not be included unless the employee asserts that the infection is work related or has filed a claim pursuant to Labor Code Section 5401);
2. The date that the employee tested positive;
3. The address(es) of the employee's specific place(s) of employment during the 14-day period preceding the positive test; and
4. The highest number of employees who reported to work at each of the employee's specific place(s) of employment on any given workday between July 6, 2020 and September 17, 2020.

Employers that know, or reasonably should know, that an employee tested positive for COVID-19 between September 17, 2020 and January 1, 2023 must similarly report this information to their claims administrator, but within 3 business days. Also, instead of the timeframe provided in item 4 above, they must report the highest number of employees who reported to work at the employee's specific place(s) of employment in the 45-day period preceding the last day that the employee worked at each location.

¹ For employers that have 100 or fewer employees, an outbreak is where 4 or more employees test positive within a 14-day time period after working at an employer's worksite. For employers with greater than 100 employees, an outbreak means 4% or more of the employees test positive within a 14-day time period after working at a worksite.

The Standard Form provides a description of the COVID-19 information that employers are required to report to their claims administrator, along with the method and timeframe in which to do so, the effective and repeal dates of the law, and includes a space for insurers to insert their COVID-19 reporting contact information for policyholders' reference.

As with any Standard Form, an insurer may file WC 04 06 04 with the WCIRB electronically through SERFF and may use it after receiving notification indicating that the form has been reviewed as to form and substance and is ready to use. When filing a Standard Form with the WCIRB through SERFF, each insurer must submit a copy of the Standard Form and a cover letter requesting authorization to use the form. Affiliated insurers must each make a separate filing.

THIS FORM IS ADVISORY ONLY AND INSURERS ARE THEREFORE NOT OBLIGATED OR REQUIRED TO USE IT. Insurers that choose not to use this Standard Form may, but are not obligated to, prepare their own form.

Insurers choosing to prepare their own non-standard endorsement form must submit it to the WCIRB through SERFF, along with a detailed cover letter and Document Submission Form, for review and transmission to the Insurance Commissioner. Insurers may use any non-limiting and restricting form if the Commissioner approves it in writing or does not take any action on the form within 30 days after the date the WCIRB submits it to the Commissioner.

A copy of WC 04 06 04 is available in the Knowledge Center section of WCIRB Connect®.