

FAQ - SB1159

What is a Presumption?

A presumption is a legal term used to decide what evidence must be produced to support or deny a claim for workers' compensation benefits. In this case, if a worker meets the work and testing requirements of SB 1159 and there is an "outbreak" at the specific place of employment, the worker is presumed to have a workers' compensation claim.

The provisions of SB 1159 do not apply to employers with fewer than 5 employees.

What is an Outbreak?

For employers with between 5 and 100 employees, an "outbreak" occurs when there are at least 4 cases of COVID-19 at the specific place of work. These cases do not have to be workers' compensation claims to be included in the outbreak.

For employers with more than 100 employees, there is an "outbreak" when there are at COVID-19 cases equal to or greater than 4 percent of the workforce at that specific site.

What do I have to report to my insurance company?

In the next 30 business days, you will need to report all COVID-19 cases in your workplace from July 6 to September 17, 2020.

The information you need to provide for this report is:

- a. The number of employees who have tested positive. Do **not** provide any personally identifiable information regarding the employees who tested positive for COVID-19 unless those individual employees assert their infection is work related or have filed a claim form pursuant to Section 5401.
- b. The date that the employee tests positive, which is the date the specimen was collected for testing.
- c. The specific address or addresses of the employee's specific place(s) of employment during the 14-day period preceding the date of the employee's positive test.
- d. The employer must report the highest number of employees who reported to work at each of the employee's specific places of employment on any given workday between July 6, 2020, and September 17, 2020.

On an ongoing basis after September 17, 2020, you will also need to report within three business days:

- a. When an employee has tested positive for COVID-19. For purposes of this reporting, do **not** provide any personally identifiable information regarding the employee who tested positive for COVID-19 unless that employee asserts the infection is work related or has filed a claim form pursuant to Section 5401.

- b. The date that the employee tests positive, which is the date the specimen was collected for testing.
- c. The specific address or addresses of the employee's specific place(s) of employment during the 14-day period preceding the date of the employee's positive test.
- d. 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 the employee worked at each specific place of employment.

Why do I have to report COVID-19 claims if my employee isn't making a workers' comp claim?

The reason you are reporting all COVID-19 cases is to determine whether there is an "outbreak" at specific place(s) of employment, as required by SB 1159. For COVID-19 cases where the employee has not filed a workers' comp claim, do not send the employee's personal information. The information you provide is used only to determine "outbreaks" according to law, and for no other purpose.

Will these claims affect my experience rating?

No. Per the experience rating plan amendments effective July 1, 2020, COVID-19 claims are not used in the calculation of your experience rating modifier.