

# WSIB COVID-19 Claims & Coverage

## When should a worker submit a claim with WSIB if they think they have contracted COVID-19?

### Reporting

In cases of building trade workers who suspect that they have contracted COVID-19 out of and in the course of employment, a claim for benefits may be made, which is discussed in more detail below.

As for an employer's reporting obligations, **a form 7 must be filed within three days** of learning about a worker's workplace-caused illness if he or she needs treatment from a health professional, is absent from work or earns less than regular pay as a result of a COVID-19 exposure.

Even if workers do not require treatment from a health professional, their illnesses still must be reported if they are doing modified work at no loss in pay, namely, any change in their regular job while recovering from an illness for more than seven days.

### COVID-19

For cases of possible exposure, but where there is not yet a diagnosis or symptoms of COVID-19, the WSIB is asking that claims not be filed, instead suggesting an exposure incident form be filed through the WSIB's Program for Exposure Incident Reporting (PEIR) or Construction Exposure Incident Reporting (CEIR) program. These are voluntary reporting programs. The WSIB has indicated that upon such voluntary disclosure, an incident number will be assigned and if the worker subsequently falls ill, the WSIB will process his or her claim more quickly. This [link](#) will take you to the necessary forms and provide the number to which completed forms may be faxed.

### Claims for benefits

The WSIB has published an [adjudicative approach document](#) discussing how it will treat claims related to COVID-19. In short, it will be possible for a worker to receive benefits for COVID-19. **The key to having one's COVID-19 benefits claim granted will be demonstrating that the COVID-19 arose out of and in the course of the worker's employment.**

According to the [adjudicative approach document](#) there are two primary factors a decision maker will consider in determining the outcome of a worker's COVID-19 claim: **firstly, whether the nature of the worker's employment a risk of contracting the disease to which the public at large is not normally exposed and, secondly, whether the WSIB is satisfied that the worker's COVID-19 condition has been confirmed.**

#### First, the nature of the worker's employment

According to the adjudicative document, in determining whether the nature of the worker's employment created an elevated risk of contracting COVID-19, the following questions should be explored:

- Has a contact source to COVID-19 within the workplace been identified?
- Does the nature and location of employment activities place the worker at risk for exposure to infected persons or infectious substances?
- Was there an opportunity for transmission of COVID-19 in the workplace via a compatible route of transmission for the infectious substance?

## **Second, confirmation of COVID-19**

The adjudicative document also discloses that the decision maker will consider whether the worker's COVID-19 condition has been confirmed. The document indicates that the following questions should be considered in this analysis:

- Is the incubation period, the time from the date of exposure and the onset of illness, clinically compatible with COVID-19 that has been established to exist in the workplace?
- Has a medical diagnosis been confirmed? If not, are the worker's symptoms clinically compatible with the symptoms produced by COVID-19? Is this supported by an assessment from a registered health professional?

The document therefore appears to indicate that a medical diagnosis of COVID-19 will not be strictly necessary in order to grant benefits for COVID-19, although a worker should at least have his or her symptoms assessed by a medical professional in order to put forward a convincing case.

# FAQ: WSIB COVID-19 Claims & Coverage

## When should a worker file a claim for COVID-19 at work?

- If a worker thinks they contracted COVID-19 while at work (they have a diagnosis or symptoms of COVID-19), they should tell the employer about the illness and any medical treatment they received right away, and [file a claim](#) to determine if they are eligible for WSIB coverage.
- When completing [Form 6](#), the worker/union representative needs to simply indicate in **Section C “Accident/Illness Dates and Details” (page 2)** that the worker contracted COVID-19 from workplace exposure. Language to include is provided below:

*Working as a construction worker for [insert company] at [insert location], I came into close proximity/contact in the course of employment to an employee who tested positive for Covid. Please see the attached positive COVID-19 test.*

- If they believe that they were exposed to COVID-19 while at work, but are not ill at this time (do not have a diagnosis or symptoms of COVID-19), they should not file a claim. Instead, they can [report an exposure incident](#). Reporting the exposure is voluntary, but if the worker becomes ill in the future the WSIB will be able to process the claim faster.

## Can the employer tell a worker not to report a COVID-19 diagnosis or symptoms to the WSIB?

It is against the law for the employer to discourage a worker from reporting a workplace injury or illness to the WSIB, or to influence a worker to withdraw or abandon a claim.

If a worker suspects anyone (person, business, representatives, supplier or health care practitioner) is not acting honestly regarding a potential or ongoing WSIB case, there are multiple ways to contact the WSIB. For more information visit [wsib.ca/report fraud](https://www.wsib.ca/report-fraud).

## Once a worker files a claim for COVID-19, how long will it take to get a decision?

The WSIB has established a dedicated team of adjudicators and nurse consultants to gather any information required and review each claim so that workers can access the benefits and services they may be entitled to.

Because the WSIB looks at each claim on a case-by-case basis, the time to a decision will be different in each claim. The WSIB has indicated that they are contacting workers within two to five days of a COVID-19-related claim being filed to gather required exposure, employment, medical and other relevant information to help make decisions.

## How will the WSIB determine if a COVID-19 claim will be allowed?

Multiple potential sources of COVID-19 may now exist in the community, at home and outside of work, creating challenges in establishing work-relatedness when adjudicating claims.

1. For a COVID-19 claim to be allowed, evidence must show that the person's risk of contracting the disease through their employment is greater than the risk to which the public at large is exposed and that work **significantly contributed** to the person's illness.
2. To determine the work-relatedness of COVID-19 claims, the WSIB will look at details such as the person's employment activities, their symptoms and whether they have a diagnosis of COVID-19.
3. While the nature of some people's work may put them at greater risk of contracting the virus, for example those treating someone with COVID-19, this is a constantly evolving situation and any claims received by the WSIB will need to be adjudicated on a case-by-case basis, taking into consideration the facts and circumstances.

**Please note:** The WSIB does not provide coverage for people who are symptom-free without a COVID-19 diagnosis, even when quarantined or sent home on a precautionary basis. However, should someone who is symptom-free develop symptoms or illness while on quarantine, they may be eligible for WSIB coverage.

Read more about [how we make decisions about COVID-19 claims](#) (PDF).

## Does the WSIB cover people for a quarantine period?

No, the WSIB does not provide coverage for people who are symptom-free and do not have a COVID-19 diagnosis, even when quarantined, self-isolating or sent home on a precautionary basis.

## What happens if a worker has a reaction to a COVID-19 vaccine? Can they apply for WSIB?

If a worker received a vaccine as a **compulsory part of his/her employment** and experienced an **adverse reaction**, they may be eligible for benefits.

Expected reactions to a COVID-19 vaccine, per public health guidance, may include fever, chills, pain at the injection site, fatigue and headaches which should resolve on their own in a few days. These do **not** generally constitute an **adverse reaction** for the purposes of entitlement to WSIB benefits. An adverse reaction is a serious, unexpected reaction to a vaccine.

When determining whether a reaction to a COVID-19 vaccination is work-related, the WSIB considers:

1. Whether the **vaccination was a compulsory part of the workers employment**
  - A vaccination will generally be a compulsory part of employment if the employer has a rule or policy that requires workers to be vaccinated or if the employer uses some element of coercion for vaccination (e.g. threat of termination of employment, job changes or penalties).

2. Whether the reaction is adverse, e.g. serious and unexpected, such as the [types of events that should be reported to a local public health unit](#)
- If the reaction requires medical treatment beyond first aid and/or requires absence from work for more than a few days, this indicates that the reaction – in its severity or duration – has likely gone beyond the expected reaction from vaccination.

If a worker received a COVID-19 vaccine as a **compulsory part of employment** and experienced an **adverse reaction**, they should report this to the employer and file a claim so the WSIB can determine if they are eligible for benefits.

## ➤ **An Employers Reporting Obligations: COVID-19 Cases**

### **If a worker was tested for COVID-19 is this considered health care for the purposes of WSIB?**

Yes. If a worker has had a COVID-19 test, the WSIB considers that they have received health care.

- If the worker tests positive for COVID-19 and tells the employer that they believe they contracted COVID-19 in the workplace, the employer is required to report the illness to the WSIB, even if the employer feels that the worker did not contract it at work.
- If the worker tests negative for COVID-19, the employer is not required to report the illness to the WSIB.

### **A worker tests positive for COVID-19 but the employer doubts that it is work related; do they have to report it to WSIB?**

Yes. If a worker has tested positive for COVID-19 and tells the employer that they believe they contracted COVID-19 in the workplace, the employer is required to [report the illness](#) to the WSIB, even if they feel the worker did not contract it at work.

The employer has an obligation to report a worker's COVID-19 (they have a diagnosis/positive test or symptoms of COVID-19) when they have reason to believe there was a potential workplace exposure. For example:

- other workers in the workplace have tested positive for COVID-19; or
- there was a known or suspected contact source for COVID-19 from whom the worker could have contracted it

Additionally, the employer is required to report the illness if the WSIB has informed them that a claim has been set up based on a [Worker's Report of Injury/Disease \(Form 6\)](#)

or a

## [Health professional's report – Form 8](#)

Read more about [how the WSIB makes decisions about COVID-19 claims](#) (PDF),

### **Does the employer have to report a claim when the worker was exposed to COVID-19 while at work, but they are not ill?**

If someone does not have a diagnosis or symptoms of COVID-19, the employer is not required to report the illness/file a Form 7 and they should not file a claim. Instead, the worker should report an exposure incident through the WSIB's Program for [Exposure Incident Reporting](#) (PEIR) or [Construction Exposure Incident Reporting](#) (CEIR) program (specifically for the construction sector).

These are voluntary reporting programs and they will be assigned an incident number. If someone becomes ill after reporting an exposure incident, the WSIB will be able to process their claim faster.

### **If an employer has a vaccination clinic on one of its work sites, does this mean that any reaction to a COVID-19 vaccine experienced by a worker is work related?**

If an employer holds a vaccination clinic on their premises, this **will not** automatically lead to a determination that any reaction to a COVID-19 vaccine experienced by a worker is work-related. When determining whether a reaction to a COVID-19 vaccination is work-related, the WSIB considers:

1. Whether the **vaccination was a compulsory part of employment**

- A vaccination will generally be a compulsory part of employment if the employer has a rule or policy that requires workers to be vaccinated or if the employer uses some element of coercion for vaccination (e.g. the threat of termination of employment, job changes or penalties).

2. Whether the **reaction is adverse, e.g. serious and unexpected**

- This would include the [types of events that should be reported to a local public health unit](#), require medical treatment beyond first aid and have symptoms other than what might be considered normal side effects from a vaccine as defined by public health guidance (e.g. sore arm, feeling tired, fever) and require absence from work for more than a few days.

### **A worker informs the employer they had a reaction to a COVID-19 vaccine and can't go to work; what does the employer do?**

If a worker received a vaccine as a **compulsory part of their employment** - despite the location of the clinic - and the employer learns they experienced an **adverse reaction** that required medical treatment beyond first aid and/or required absence from work for more than a few days, the employer must report the injury or illness to the WSIB.

Normal expected reactions to a COVID-19 vaccine, per public health guidance, may include fever, chills, pain at the injection site, fatigue and headaches which should resolve on their own in a few days. These do not generally constitute an adverse reaction for the purposes of entitlement to WSIB benefits and do not need to be reported if the vaccine was a compulsory part of their employment.

## What is considered an adverse reaction to a COVID-19 vaccine?

An adverse reaction is a serious unexpected reaction to a vaccine. These are the [types of events that should be reported to a local public health unit](#).

For example, if the reaction requires medical treatment beyond first aid and/or requires absence from work for more than a few days. This indicates the reaction – in its severity and/or duration – has gone beyond the common mild expected reactions from immunization (fever, chills, pain at the injection site, fatigue and headaches which should resolve on their own in a few days).

## Three Days of Employer-Paid (WSIB-Reimbursed) COVID Sick Leave

### Eligibility

The Ontario Government has passed [amendments](#) to the Ontario, **Employment Standards Act, 2000** (the “ESA”) which require Ontario employers to provide employees with up to three paid sick days if they miss work due to COVID-19.

Paid infectious disease emergency leave is available for certain reasons related to COVID-19, including:

- going for a COVID-19 test
- staying home awaiting the results of a COVID-19 test
- being sick with COVID-19
- going to get vaccinated
- experiencing a side effect from a COVID-19 vaccination
- having been advised to self-isolate due to COVID-19 by an employer, medical practitioner or other specified authority
- providing care or support to certain relatives for COVID-19 related reasons, such as when they are:
  - sick with COVID-19 or have symptoms of COVID-19
  - self-isolating due to COVID-19 on the advice of a medical practitioner or other specified authority

## How much is payable?

- Paid ESA COVID Leave is capped at \$200 per day (excluding shift and overtime premiums that would normally have been payable on those days).
- If an employer already has a sick leave policy which pays employees at least as much per day as established in the new provisions, the company sick-leave days **are deducted** from the employee’s Paid ESA COVID Leave allotment.
- Eligibility is retroactive to April 19, 2021 and comes to an end on September 25, 2021, unless the end-date is extended.
- Employees who took unpaid leave due to COVID-19 from April 19, 2021 to April 29 (the date the Bill received Royal Assent) may elect in writing by May 13 to have one or more days of that leave treated as Paid ESA COVID Leave.

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## **Employer reimbursement for paid leave**

Eligible employers are entitled to be reimbursed the amount of infectious disease emergency leave pay that they paid to their employees, up to \$200 per employee per day taken. Eligible employers must make their application for reimbursement to the Workplace Safety and Insurance Board within 120 days of the date the employer paid the employee.