

Covid-19 and Workers' Compensation

UPDATE

As if Workers' Compensation wasn't complex enough already, the COVID-19 crisis has created a whole new level of complexity.

Below are some frequently asked questions we have received on the impact of COVID-19 on Workers' Compensation in New York:

My business has temporarily laid-off/furloughed employees, although we are still paying them. How will this impact my Workers' Compensation premium?

The New York Compensation Insurance Rating Board (NYCIRB) filed new rules on May 1st that allow for the reclassification of monies you pay your employees not to work.

This rule does NOT exclude the payroll for these employees. Instead, they have created a new classification, 8873, Telecommuter Reassigned Employees. This code will carry the same rate as 8810, Clerical.

Important notes:

- 1) To re-classify employees into 8873, you must keep separate, accurate, and verifiable records to provide the insurance company auditor when your policy expires..
- 2) This rule applies retroactively to March 13th and will expire 30 days after the conclusion of New York's stay-at-home order.

- 3) This includes paid sick leave or paid FMLA approved by congressional action in response to the crisis.

My employees are now working from home. Can their Workers' Compensation Class Code assignment change?

The answer to this question will depend on the specific circumstances of each situation. If the employee was reassigned to perform clerical work duties at home, they should be re-classified into code 8873. If they were performing clerical duties from home prior to the stay-at-home order, they should remain in code 8871 (Clerical Telecommuter).

In order for other employees to qualify for a change in classification, their job must change.

For example: You operate a manufacturing facility and have an employee who programs CNC machines for your manufacturing process. Their job consisted of not only writing programs but inspecting parts to ensure the program is working correctly.



As a result of the crisis, this employee is now working from home writing programs. This employee could have their payroll re-classified into 8873 because they are currently doing a purely clerical job, with no exposure to the manufacturing shop.

Some classifications include clerical employees in their definition. In these cases, re-classifying employees who are now working from home would not be allowed.

It's critical you discuss your situation with a Certified WorkComp Advisor to find the correct answer for your business.

My employee has been diagnosed and their illness has been accepted as a workers' compensation claim. Will this impact my Experience Modification Factor?

No. The NYCIRB's filing in May included rules which will exclude COVID-19 claims on or after December 1, 2019 from the experience mod. There is no expiration for this rule. It's critical you discuss your specific situation with a Certified WorkComp Advisor to find the correct answer for your business.



INSTITUTE OF
WORKCOMP
PROFESSIONALS

PO Box 5437
Asheville, NC 28813
WorkCompProfessionals.com

