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Governor Newsom Creates Rebuttable Presumption That All Essential Workers Who Contract COVID-19 Did So In The Course And Scope Of Their Work And Are Therefore Covered By Workers' Comp

Governor Newsom issued an Executive Order today, May 6, which creates a rebuttable presumption that all essential workers who contract COVID-19 did so in the course and scope of work, and therefore, are entitled to workers' comp benefits. The Order makes the presumption retroactive to claims beginning on March 19, 2020, and remains in place for the next 60 days.

State Compensation Insurance Fund had stated weeks ago that it would provide coverage for any of the employees of its insured employers who contracted COVID-19, but this Order makes the presumption applicable to all comp carriers in the State. There is a big question of whether this presumption is constitutional, but we will have to see who, if anybody, takes on the challenge of litigation.

One thing that Governor Newsom did make clear in his press conference, is that to qualify, there must be a positive COVID-19 test. As of right now, however, the Order is not even published on the State's website.

What This Means for Employers:

There will likely be huge financial impacts arising from this presumption coming in the future, as carriers have to try to recoup losses. Unfortunately, that often means rising rates to employers. We will have to see how this plays out. We remain open and available to answer your questions. We will continue to keep you up to date as additional information becomes available. Contact Barsamian & Moody for any questions on the managing coronavirus issues in the workplace.

The goal of this article is to provide employers with current labor and employment law information. The contents should neither be interpreted as, nor construed as legal advice or opinion. The reader should consult with Barsamian & Moody at (559) 248-2360 for individual responses to questions or concerns regarding any given situation.

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