

# COVID-19 Workers' Comp and Unemployment Updates

In light of the global Coronavirus (COVID-19) pandemic, we continue to be committed to helping our chamber partners and clients stay up-to-date on new information and regulations in Ohio workers' compensation and unemployment. As we are all charting unknown territories navigating this crisis, we are here to help any way we can.

## Workers' Compensation

### EAP Letters Arriving Soon

The BWC will be mailing letters to be received by May 1st to all Ohio state fund private employers. Your letter will contain a certificate of coverage for the 7/1/2020 - 6/30/2021 period as well as your Estimated Annual Premium (EAP) information.

What should you do with this information?

First and most importantly, take the time to look at the payroll the BWC used to calculate your EAP. It should equal 80% of the payroll you reported for the 7/1/2018 - 6/30/2019 policy year unless you were more recently audited. Then compare that amount to what you anticipate in payroll from 7/1/2020 - 6/30/2021. The BWC will be reducing the estimated payroll exposure for 2020 by 20% as the new baseline for payroll estimates. This proactive measure is taken to reduce installment schedules for premium due in the 2020 policy year for all employers. If the amount is significantly different than what you anticipate, you are encouraged to contact the BWC at 1-800-644-6292 or your local BWC office and have them adjust the estimated payroll. Failure to update your payroll will not result in any penalties; however, you may have a hefty amount to pay by 8/15/2021 (or credit) when you "true up" your bill.

The second thing we recommend you do with this information is to note how many installments (1, 2, 4, 6, or 12) the BWC is set to bill you and the due dates for those installments. You can alter the frequency of the installments you will be billed by contacting the BWC as mentioned above. If you choose the annual installment option, the BWC will give you a 2% rebate. Keep in mind that the first installment will be due 6/21/2020 no matter how many installments you choose (although the annual installment can be paid by 6/30/2020 to achieve the 2% rebate mentioned above).

Finally, be sure to post your certificate. Note that it states that coverage is dependent upon timely payment by the employer to maintain active status throughout the certificate period.

You can click [here](#) to visit the BWC Prospective Billing section on their website to find articles, videos, etc. about prospective billing.

### **BWC payroll reporting “true-up” adjustments**

The BWC-Employer Services Division will be implementing two changes to the payroll reporting requirements as a result of the COVID-19 pandemic and state of emergency. These changes may impact how employers will report payroll for the upcoming policy year 2019 true-up period. Below are the details regarding the Families First Coronavirus Response Act and reportable wages associated with teleworking staff.

First, Emergency sick leave and expanded FMLA paid to employees under the Families First Coronavirus Response Act will not be reportable to BWC for premium purposes. While regular paid sick leave (including third party sick pay) is reportable to BWC, emergency sick leave and expanded FMLA paid under this act is not reportable. Effective 4/1/20 through 12/31/20, wages paid by companies under the Families First Coronavirus Response Act for sick leave related to COVID-19 and leave time to care for a child whose school or childcare provider is closed or unavailable for COVID-19 related reasons are not reportable to BWC. Employers must follow the eligibility and documentation guidelines established by the Federal Government to exclude these wages from their reportable payroll and premium calculation at true-up. Wages reported to BWC for premium calculation purposes is subject to verification by a premium audit.

Second, Employers are permitted to report operational staff currently teleworking to class code 8871-Clerical Telecommuter during a declared state of emergency. This will ease the economic impact of the COVID-19 state of emergency on the Ohio Business Community.

- The employer must contact BWC to request classification code 8871-Clerical Telecommuter Employees to be added to their policy. This will allow the employer to report wages to class code 8871 during the True-up period.
- The Employer is responsible for recording, tracking and documenting the wages associated with the operational employees now teleworking for premium audit purposes.
- If the operational staff continues to perform the same duties from home while teleworking, the employer will continue to report those wages to the appropriate operational classification code, not to class code 8871.
  - For example: the employer manufactures surgical masks. The employees have been sent home with the equipment and materials to continue to sew these masks to meet customer demands. These employees are not 8871 Clerical teleworking employees. The classification assigned to these employees remain 2501-Cloth, canvas and related products manufacturing. The exposures for the employees do not change.
- This temporary revision to the class code assignment rule only applies during the time of Governor DeWine’s “Stay at home” order, which was initiated on March 15, 2020.
- The employer is to cease reporting operational employees’ wages to class code 8871 once the state of emergency has ended or if the operational employee(s) return to performing their previous job duties.

To request the addition of class code 8871- Clerical Telecommuter Employees to your policy, contact 1-800-644-6292 or send an email to [RTSclass@ohiobwc.com](mailto:RTSclass@ohiobwc.com). Please include your policy number in your email request.

### **BWC to give \$1.6 billion dividend to Ohio State Fund employers**

With a move made to ease the financial impact of COVID-19, the BWC Board of Directors approved Gov. Mike DeWine's request to send up to \$1.6 billion to Ohio employers. This dividend equals 100% of the premiums employers paid in policy year 2018. The BWC will apply the dividend to an employer's outstanding balances first, including the recent installment deferrals. Any amounts exceeding outstanding balances will be sent to the employer. Checks were mailed earlier this week.

### **Legislation introduced to add COVID-19 for workers' compensation**

Currently, communicable diseases like COVID-19 are not workers' compensation claims because people are exposed in a variety of ways, and few jobs have a hazard or risk of getting the diseases in a greater degree or a different manner than the general public. However legislation has been introduced to add COVID-19 to the list of scheduled diseases as well as making it a rebuttable presumption.

The proposed legislation states that COVID-19 contracted by an employee required by their employer to work outside of their home during the emergency declared by Executive Order 2020-01D issued on March 9, 2020, constitutes a presumption that the virus was contracted due to their employment. This applies only to claims arising during the period that the emergency order began through the fourteen-day period after the emergency ends.

### **Workers' Compensation for employees working from home**

The Ohio Department of Health is encouraging employers to allow as many employees as possible to work from home. Keep in mind that an employee injury is compensable under workers' compensation if it arises out of and in the course of employment, regardless of the location the injury occurs. The employee must show that he or she was acting in the interest of the employer at the time the injury occurred.

Employers are responsible for providing the same safe work environment for employees working from home as for employees who work on company property. Employers should implement practices such as the following to limit workers' comp liability for home-based employees:

- Create a telecommuting policy that outlines your company's expectations for their employees who will be working from home.
- Set fixed work hours including rest and meal breaks. Doing so can help establish if an injury was in the course of employment.
- Establish guidelines for a home office such as designated work areas, workstation setup safety, and the importance of ergonomics.
- When appropriate and possible, check their work environment to ensure that the employee is complying to the company's requirements.

### Safety Council Rebate Program Update

The BWC announced an update to the 2019 Safety Council Rebate Program for what they will consider as fulfillment of attendance requirements. The rebate will be given to Safety Council Rebate Program participants who attended at least four safety council meetings as of Feb. 29, 2020.

Employers who are deemed to have met the new requirements will receive:

- 2% for employers enrolled in BWC's Group-Retrospective-Rating Program and eligible for the participation rebate.
- 2% for employers enrolled in BWC's Group-Experience-Rating Program and eligible for the performance bonus - there will be no claims data measurement calculation.
- 4% for employers not enrolled in a BWC Group-Rating Program.

A timeline for processing the rebates has not been determined.

## Unemployment Insurance: Employer Information

Below are some frequently asked questions about unemployment insurance during the coronavirus pandemic. Please feel free to call our Unemployment Department and speak to Ken Finley with any additional questions.

**Q:** Will workers qualify for unemployment benefits if the coronavirus (COVID-19) causes an employer to lay off employees or shut down operations due to the loss of production caused by the coronavirus?

**A:** An executive order issued by Governor DeWine expands flexibility for Ohioans to receive unemployment benefits during Ohio's emergency declaration period. Unemployment benefits will be available for eligible individuals who are requested by a medical professional, local health authority, or employer to be isolated or quarantined as a consequence of COVID-19, even if they are not actually diagnosed with COVID-19. In addition, the waiting period for eligible Ohioans to receive unemployment benefits will be waived.

**Q:** If an employee receives unemployment benefits as a result of a coronavirus-related business shutdown, will the employer's unemployment taxes increase?

**A:** For contributory employers, charges during Ohio's emergency declaration period will be mutualized. Reimbursing employers will follow existing charging requirements under Ohio Revised Code Chapter 4141.

**Q:** If an employee receives unemployment benefits as a result of a coronavirus-related business shutdown, can the benefits be charged to the mutual account?

**A:** Updated: Yes, an executive order issued by Governor DeWine allows unemployment benefit charges to be mutualized for contributory employers.

**Q:** Do I need to file my first quarter 2020 Wage Report? Do I need to pay my contributions?

**A:** The filing deadline has not being extended. However, an executive order issued by Governor DeWine waives penalties for late reporting and payments during Ohio's emergency declaration period. We encourage all employers to file their first-quarter 2020 reports as soon as possible.

**Q:** Will my delinquent filings impact my employees?

**A:** Yes. Unemployment claims may be delayed or denied if we do not have accurate reports of workers' wages and weeks worked. Errors in employee Social Security numbers, weeks worked, and wages earned will delay – and sometimes prevent – the payment of unemployment benefits.

**Q:** Do I need to pay what I owe to file missing reports?

**A:** No. Wage reports may be entered without payment. However, late reports cannot be filed on the Ohio Business Gateway. All delinquent reports must be filed at [eric.ohio.gov](https://eric.ohio.gov). If you do not have ERIC log-in credentials, you can create them easily through the website. Please have your FEIN and unemployment account numbers available.

We will continue to monitor any new information, regulations, and proposals and will keep you informed accordingly. As always, don't hesitate to email Ken at [kfinley@variskservices.com](mailto:kfinley@variskservices.com) or Jim at [jweisz@variskservices.com](mailto:jweisz@variskservices.com) with any questions.

V+A Risk Services specializes in the expert administration of Self-Insured and State Fund workers' comp and unemployment programs. Participating in the Chamber's workers' compensation group pooling program may substantially reduce your workers' compensation premiums. To request a quote click [here](#).