

## Workers' Compensation

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- 1) Within days of Ohio declaring a state of emergency on March 9, 2020, **POLING** advised its clients that as a rule, COVID-19 claims filed under the Workers' Compensation system should be rejected. We stand by that recommendation for employees in the general community as well as for first-responders. As a rule, Ohio workers' compensation benefits are not intended to provide coverage for illnesses such as the flu, common cold, or other airborne diseases that are not unique to employment. For our complete analysis explaining why COVID-19 claims should be rejected, click [here](#).
- 2) There are several bills pending in the Ohio Legislature that aim to expand workers' compensation coverage.
  - House Bill 571 would apply to first-responders, would make COVID-19 a scheduled occupational disease, and create a rebuttable presumption that peace officers, firefighters, or emergency medical workers who contracted COVID-19 did so as a result of their employment.
  - House Bill 573 would apply more broadly to any employee who was required to work outside of their home after imposition of the state of emergency, and create a rebuttable presumption that any covered employee who contracted COVID-19 did so as result of their employment.

- House Bill 605 would apply to food service workers/food processing workers, who were required to work outside of their home after imposition of the state of emergency, and create a rebuttable presumption that any worker in the food industry who contracted COVID-19 did so as a result of their employment.

The attorneys at Poling will continue to monitor the progress of these pieces of legislation and any other that impacts workers' compensation claims.

## Employment

Ohio employers find themselves faced with new challenges related to employees needing to take time off from work for a reason related to COVID-19. Employers should familiarize themselves with the Families First Coronavirus Response Act ("FFCRA") which may provide employees with a right to take paid leave. The FFCRA provides federally-mandated paid sick leave for specified reasons related to COVID-19 and expands the Family Medical Leave Act ("FMLA") to include paid leave for COVID-19 related childcare needs. The Emergency Paid Sick Leave Act provisions of the FFCRA, provide paid sick leave to eligible employees if they are:

1. Subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. Advised by a health care provider to self-quarantine related to COVID-19;
3. Experiencing COVID-19 symptoms and seeking a medical diagnosis;
4. Caring for someone who is under a quarantine or isolation order, or who was advised by a health care provider to self-quarantine;

5. Caring for a child whose school is closed and/or childcare is unavailable due to COVID-19;
6. Experiencing any other “substantially similar” situation to these other reasons identified by the government.

For additional information, visit the U.S. Department of Labor’s website [here](#) or contact your Poling attorney.

## Unemployment

One question that employers now must consider is what to do when its previously laid off employees are recalled, but they refuse to return to work in order to continue receiving unemployment compensation.

Generally, under unemployment compensation rules, when a worker refuses an offer of work without good reason, they may become ineligible for benefits. When the offer of work is refused to keep receiving unemployment compensation, the individual could be found to have committed fraud upon the state unemployment insurance system.

As a prerequisite to receiving unemployment compensation, each week when an employee files for benefits, they are asked if they refused an offer of work - including a recall when the business resumes operations. If the employee answers “Yes” the State will investigate to determine whether the refusal was or was not done with good cause. Employers can also take a proactive step if they believe an employee refused a recall for purposes of keeping their benefits. In this situation, employers can submit an “eligibility notice” to the Ohio Department of Job and Family Services (“ODJFS”). The eligibility notice provides additional information to ODJFS to determine whether an employee remains eligible for continued benefits. To submit an eligibility notice, click [here](#).