

# COUNTY OF VENTURA

## COUNTY EXECUTIVE OFFICE

### HUMAN RESOURCES DIVISION

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DATE: September 24, 2020

TO: All Agency/Department Directors

FROM: Chuck Pode, Senior Deputy Executive Officer/Risk Manager

SUBJECT: New Workers' Compensation COVID-19 Reporting Requirements

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On September 17, 2020, California Governor Newsom signed into law two bills, AB 685 and SB 1159, relating to COVID-19 in the workplace. Each has important reporting requirement obligations. AB 685 takes effect in January 2021 and will be the subject of a future memo. However, SB 1159 was urgency legislation, took effect upon signing, and its reporting obligations are now in effect.

**SB 1159** provides two new workers' compensation presumptions for employees who test positive for COVID-19 on or after July 6, 2020. The new law requires certain ongoing reporting and investigation obligations of the employer. The reporting will require capturing information regarding any employee whom the employer learns tests positive for COVID-19, even if the employee does not believe the virus results from a work exposure. The statute does not compel the employee to disclose private health information and therefore such information should not be solicited from the employee. But, if the agency knows or reasonably should know that an employee has tested positive for COVID-19, including if the agency learns of the positive test either from the employee or other reliable sources, such as Public Health contact tracing, the report to Risk Management is required.

#### **COVID-19 Rebuttable Workers' Compensation Presumptions:**

A workers' compensation presumption means that a condition is assumed to have been caused by a workplace exposure unless the employer proves otherwise. The new law provides two separate presumptions for employees who have tested positive for COVID-19 on or after July 6, 2020:

- A rebuttable presumption for employees who provide direct patient care at a healthcare facility, healthcare custodial staff who have been in contact with COVID-19 patients, active safety members (fire and law enforcement), and in-home supportive service providers when they provide the services outside of their own homes (Lab. Code, § 3212.87).

- A rebuttable presumption for all other employees required to report to work and whose “specific place(s) of employment” have experienced an “outbreak” within 14 days of the positive test (Lab. Code, § 3212.88). “Outbreak” is defined in this statute as COVID-19 positive tests for:
  - Four (4) or more employees where the workplace has fewer than 100 employees
  - Four percent (4%) of workers where the workplace has 100 or more employees.

In determining the “specific place of employment,” some discretion may be needed for large complexes such as the Government Center to determine the area of potential exposure. Risk Management can assist in making that determination. It is recognized that some employees may have multiple places of employment, such as maintenance workers who service multiple county facilities. Thus, it will be necessary to capture information regarding such traveling employees coming into the workplace.

The new law requires the County to report the data to the workers’ compensation claims administrator for each employee who tests positive for COVID-19. The data will be used to determine if a workplace has experienced an outbreak. The timelines for reporting the data are short and failure to timely report has substantial penalties. The reporting deadlines are:

- **9/18/20 forward** - The County has **three (3) work days** to submit information regarding any employee who tests positive for COVID-19.
  - Attached is a reporting form designed to compile the initial information needed to report COVID-19 positive results. Send report forms to [Risk.Management@ventura.org](mailto:Risk.Management@ventura.org).
  - It is recommended that departments immediately initiate daily sign-in or roster protocols for each worksite for anyone entering the work site to assist in completing this reporting. Maintain the records until advised the records can be destroyed.
- **10/16/20** - The County must report information regarding employees whom the employer knows **previously tested positive for COVID-19 from July 6 – September 17**. Do not attempt to solicit private health information from employees; report the requested information concerning employees you know previously tested positive for COVID-19.

All Agency/Department Directors

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- Feel free to forward a spreadsheet or any other type of log should that be more convenient than using the attached form for the retrospective reporting.
- **Send to [Risk.Management@ventura.org](mailto:Risk.Management@ventura.org) as soon as possible, and no later than October 15.**

There will likely be many questions about the application of these new statutes. Thus, this will be the primary topic of discussion at the next Disability Absence Management meeting hosted by Risk Management's Disability Management Division and CEO Benefits, scheduled for **October 1 at 10:00 a.m.** An invitation will be sent to agency HR personnel and can be forwarded to additional agency members upon request.

Should you have any questions, please contact me at (805) 662-6784 or Catherine Laveau at (805) 662-6540 or either of us via email.

cc: Agency/Department HR Representatives  
Mike Powers, County Executive Officer  
Mike Pettit, Assistant, County Executive Officer  
Shawn Atin, Assistant County Executive Officer/Human Resources Director

Attachment: COVID-19 Positive Test Notification

### COVID-19 Positive Test Notification

Email report to: [Risk.Management@ventura.org](mailto:Risk.Management@ventura.org)

Questions: (805) 654-3197 – voice mail messages will be returned as soon as possible

Date: \_\_\_\_\_

Agency: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Employee Number: \_\_\_\_\_

Employee Email Address: \_\_\_\_\_

Employee Phone Number: \_\_\_\_\_

Supervisor Name, Email Address, and Phone Number:

\_\_\_\_\_

Has employee expressed interest in filing a workers' compensation claim? YES / NO

Date supervisor learned of the COVID-19 positive test: \_\_\_\_\_

Date of COVID-19 test: \_\_\_\_\_

Date employee last worked before COVID-19 test taken: \_\_\_\_\_

Did employee work at a County facility at any time within 14 days of the COVID-19 test?

YES / NO – if NO, skip the next two questions

Specific work location(s), including name and address, where employee worked for the 14 days before the COVID-19 test.

\_\_\_\_\_

\_\_\_\_\_

Maximum number of employees working at that/each location within 45 days of the testing.

\_\_\_\_\_

Report Prepared by: \_\_\_\_\_ Phone: \_\_\_\_\_

**COVID-19 Positive Test Notification**

Email report to: [Risk.Management@ventura.org](mailto:Risk.Management@ventura.org)

Questions: (805) 654-3197 – voice mail messages will be returned as soon as possible

Date: \_\_\_\_\_

Agency: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Employee Number: \_\_\_\_\_

Employee Email Address: \_\_\_\_\_

Employee Phone Number: \_\_\_\_\_

Supervisor Name, Email Address, and Phone Number:

\_\_\_\_\_

Has employee expressed interest in filing a workers' compensation claim? YES / NO

Date supervisor learned of the COVID-19 positive test: \_\_\_\_\_

Date of COVID-19 test: \_\_\_\_\_

Date employee last worked before COVID-19 test taken: \_\_\_\_\_

Did employee work at a County facility at any time within 14 days of the COVID-19 test?

YES / NO – if NO, skip the next two questions

Specific work location(s), including name and address, where employee worked for the 14 days before the COVID-19 test.

\_\_\_\_\_  
\_\_\_\_\_

Maximum number of employees working at that/each location within 45 days of the testing.

\_\_\_\_\_

Report Prepared by: \_\_\_\_\_

Phone: \_\_\_\_\_