
Article By
Anne Marie Schloemer
Squire Patton Boggs (US) LLP
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On June 5, 2020, Illinois Governor Pritzker signed into law HB 2455, which creates a rebuttable presumption of workers’ compensation coverage for first responders and front-line workers who are exposed to and contract COVID-19. This recent legislative enactment follows the withdrawal of Illinois Workers’ Compensation Commission’s emergency rule which included similar language.

In enacting this legislation, Illinois becomes the latest state to create a presumption of workers’ compensation coverage specific to COVID-19 and joins Alaska, Arkansas, California, Kentucky, Michigan, Minnesota, Missouri, New Hampshire, North Dakota, Utah, Washington and Wisconsin, all of which have created a presumption of coverage extending to varying sectors of employment.

Unlike some states which have presumptions of coverage limited to healthcare workers and/or law enforcement, the Illinois legislation extends to all employees who are COVID-19 first responders or frontline workers. The term “COVID-19 first responder or front-line worker” means healthcare workers and/or law enforcement, as well as any individuals employed by essential businesses and operations as defined in Executive Order 2020-10 dated March 20, 2020, which includes, among
other things, individuals employed by grocery stores, pharmacies, convenience stores, food banks, media outlets, gas stations, banks, hardware stores, educational institutions, transportation providers, manufacturing facilities and restaurants, as long as individuals employed by essential businesses and operations are required by their employment to encounter members of the general public or to work in employment locations of more than 15 employees. The rebuttable presumption applies to all cases in which a diagnosis of COVID-19 was made on or after March 9, 2020 and on or before December 31, 2020.

The presumption may be rebutted by evidence presented by the employer, including: evidence that the employee was working from home or on leave for a period of 14 or more consecutive days immediately prior to incapacity resulting from COVID-19; evidence showing that the employer was following current public health guidelines for two weeks prior to when the employee claims they contracted COVID-19; or evidence that the employee was exposed to COVID-19 by an alternate source.

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