Requirements for recording and reporting of occupational injuries and illnesses are unique in California, with the state having more stringent obligations than federal Occupational Safety and Health Administration (“OSHA”) around both reporting of “serious injuries” and what constitutes a work-related injury or illness. To complicate the matter further for California employers, the State of California Department of Industrial Relations’ Division of Occupational Safety and Health (“Cal OSHA”) recently issued guidance on recording and reporting of coronavirus (“COVID-19”) cases, which differs from guidance issued by federal OSHA.

Much like federal OSHA’s guidance on COVID-19 recording and reporting, Cal OSHA’s guidance contends that employers need to assess COVID-19 cases for work-relatedness and record them on the company’s log (i.e., 300, 300A and 301 or equivalent forms) when the COVID-19 case satisfies recording criteria by leading to death, lost time, medical treatment beyond first aid, or loss of consciousness. Under Cal OSHA’s guidance, employers may also need to report the COVID-19 case when
work-related and results in the employee’s death or hospitalization. But, unlike federal OSHA requirements, Cal OSHA’s guidance makes clear that employers may also need to record a COVID-19 case, and potentially report, if it causes a “significant injury or illness” as diagnosed by a licensed medical or healthcare professional. In addition, any work-related COVID-19 case that results in a fatality or hospitalization needs to be reported, regardless of how long has passed from the possible exposure event due to differences in Cal OSHA’s requirements for reporting.

Some other significant differences in Cal OSHA’s guidance around recording and reporting of COVID-19 cases include the following:

- **Confirmed COVID-19 Case:** Cal OSHA like federal OSHA considers a positive COVID-19 test to provide confirmation of COVID-19 infection. Yet unlike federal OSHA, Cal OSHA’s guidance conveys that there may be circumstances where an employer must record or report a COVID-19 case without a test result confirming the presence of COVID-19. Cal OSHA also takes the position that in some cases recording and reporting obligations will apply to a suspected COVID-19 case and some employee illnesses which have yet to be diagnosed as COVID-19.

- **Sickness at Work:** Because of Cal OSHA’s more stringent requirements for reporting of a “serious injury or illness,” Cal OSHA’s guidance contends that employers need to report a case when an employee becomes sick at work if it constitutes a “serious injury or illness” without regard for whether it is work-related. Under this guidance, California employers may have an obligation to report a COVID-19 case to the agency, even if it is ultimately determined not to be work-related.

- **Workers Compensation Considerations:** In direct response to California Governor Newsom’s order on workers compensation eligibility for essential workers that contract COVID-19, Cal OSHA’s guidance advises employers that the work-related determination for recording and reporting obligations under Cal OSHA regulations remains separate from the determination for workers compensation eligibility.

While in the end, both federal OSHA and Cal OSHA agree that COVID-19 cases will be recordable and reportable in some cases employers in California need to be diligent in assessing instances of COVID-19 to ensure they comply with California’s more stringent recording and reporting obligations.

Jackson Lewis P.C. © 2020

**Source URL:** [https://www.natlawreview.com/article/california-employers-face-different-recording-and-reporting-requirements-covid-19](https://www.natlawreview.com/article/california-employers-face-different-recording-and-reporting-requirements-covid-19)