

Liability Information for Professional Practices re: COVID-19

Protection of employees is a fundamental responsibility of employers at any time, however, our current pandemic environment related to COVID-19 poses additional challenges.

Employers and employees need to EDUCATE themselves about steps to take to mitigate risks associated with COVID-19.

The following may help you to support your practice and your employees:

EDUCATE

- Proper use of personal protective equipment (PPE) is your first line of defence regarding COVID-19.
- Follow all directives regarding PPE.
- Ensure that all staff are properly educated on the importance of personal protective equipment (PPE) and how to properly don and doff PPE, as well as the appropriate way to dispose of used PPE.
- As an employer, demonstrating your due diligence in protecting your employees is the best way to protect your practice in relation to any cases of COVID-19 that may arise in your office.
- Follow readily available Public Health, MOH guidelines for primary care returning to in person-to-person care.

CONSIDER THE RAMIFICATIONS OF COVID-19 AS A WORKPLACE INJURY

WSIB COVERAGE

- WSIB is an option for employers who are not currently enrolled in the program.
- Protects the practice from civil litigation by employees who are injured or contract an occupational illness at work.

- Premiums for coverage are determined by the WSIB – Premiums are based on the gross payroll of the employer – for professional practices, the rate is 1.36% of gross payroll, or \$1.36/\$100 of payroll each month.

e.g. A large practice with a monthly payroll of \$220,000 would pay approximately \$3,000/month in premiums.

- **WSIB claims involving COVID-19 will be adjudicated on a case-by-case basis.**
- In some circumstances, the WSIB will consider the nature of the worker's employment and whether it may have created a risk of contracting COVID-19 greater than the risk to which the public-at-large is exposed. For example, in the case of a healthcare worker the evidence must demonstrate that the worker's risk of contracting the disease through their employment is greater than the risk to which the public-at-large is exposed, and that their employment significantly contributed to the illness in order for a COVID-19 claim to be allowed.
- Workers who are symptom-free and do not have a positive COVID-19 diagnosis, even when quarantined, self-isolating or sent home on a precautionary basis will not receive WSIB income support.

3RD PARTY INSURANCE OPTION

- Private pay insurance coverage via a private insurance company for disability coverage, i.e. short-term disability, long-term disability (e.g. Manulife, Canada Life, Sunlife, etc.)
- Slight risk re: civil litigation via 3rd party STD/LTD insurance; does provide some buffer between the employer and employee in the court system, particularly related to legal costs.

SELF-INSURED OPTION

- Cover employee's salary while off work due to COVID-19 or other workplace related illness.
- Does not limit possibility of civil litigation for impact of illness/injury for long-term health implications, loss of future income, mental pain and anguish, disability, etc.

Q & A

- Does WSIB protect against COVID?
 - Claims will be adjudicated by the WSIB on a case-by-case basis – any claims will be reviewed and consider the facts and circumstances of each individual claim.
- One of my staff resides in Mississauga, commutes by Bus, Train to Hamilton, working from home right now, if she returns to work and get COVID on the way to work. Is my practice liable?
 - All employees are responsible for their own transportation to and from work, injuries/illness resulting from commute to or from the office are not the responsibility of the employer. However, once the employee reaches the employer's premises, the employer then becomes liable for the health & safety of any staff. (e.g. parking lot, etc.)
- What is the cost for NPs?
 - All premiums are based on the gross payroll of the practice, there is no specific premium based on the employee's position/discipline, nor is it possible to purchase WSIB for only one employee group.
- Who in the office is currently covered by WSIB?
(Applies to Hamilton Family Health Team members only)
 - All HFHT employees, including IHPs who are paid via the HFHT are covered by the WSIB premiums paid by the HFHT.

- RNs, RPNs, etc. funded by the HFHT but employed by the practices are **not** covered by the WSIB premiums paid by the HFHT.

FAQs ABOUT WSIB CLAIMS AND COVID-19 – BOOKMARK THIS PAGE

- <https://www.wsib.ca/en/faqs-about-claims-and-covid-19>

- Please contact marjorie.smith@hamiltonfht.ca with any questions or if you require additional information.

****** If you require specific advice (for example legal, financial or risk management) please seek a professional who is licensed in that area. ******