

## **FREQUENTLY ASKED QUESTIONS:**

**Q: What is FMIT's Expanded Pandemic Crisis Coverage for First Responders & Certain Healthcare Workers?**

A: FMIT is accepting COVID-19 disease as an occupational disease for first responders and certain healthcare workers', notwithstanding the customary application of Fla. Stat. §§112.1815 and 440.151, based upon:

1. The pandemic status of COVID-19;
2. The social distancing, isolation or quarantining measures required of the general public for the health and safety of all;
3. the unique exposure to COVID-19 that can be expected to impact first responders and certain health care workers when they undertake their public service duties at this time
4. A positive test result for COVID-19 through a FDA approved COVID-19 test; and
5. No reasonable evidence establishing that COVID-19 was not contracted in the line of duty.

**Q: Who is covered by FMIT's Expanded Pandemic Crisis Coverage for First Responders & Certain Healthcare Workers During the COVID-19 Pandemic Crisis?**

A: First Responders are Law Enforcement Officers as defined in Fla. Stat. 943.10, Fire Fighters as defined in Fla. Stat. 633.102, Emergency Medical Technician or Paramedic as defined in Fla. Stat. 401.23, that are employed or volunteer for governmental entity.

Correctional Officers as defined in Fla. Stat. 943.10 and Certain licensed/certified Healthcare Workers whose primary duties require direct care of patients or directly administering FDA approved COVID-19 testing (hereafter referred to as simply "Healthcare Worker").

**Q: What does the coverage provide?**

A: Once established, the coverage authorizes workers' compensation benefits for the COVID-19 disease, as if the first responder/healthcare worker had met the statutory "occupational disease" threshold in Fla. Stat. 112.1815 or Fla. Stat. 440.151 for COVID-19. All established claims will begin under the 120-day rule as provided in Fla. Stat. 440.20(4). The first responder/ healthcare worker employee is eligible for medical and compensation benefits in accordance with Fla. Stat. §§440.13, 440.15 and 440.16. Coverage will, in all other respects not specified, be applied in accordance with generally applicable requirements of the Chapter 440, Florida Statutes.

**Q: When should a COVID-19 claim be reported?**

A: COVID-19 claims should be reported when the First Responder/ Healthcare Workers test positive for COVID-19.

**Q: What information should be provided for a COVID-19 claim?**

A: Complete First Report of Injury and submit  
Date of self-quarantine/inability to work because of COVID-19 exposure or symptoms  
Date of positive COVID-19 test  
Date of exposure to positive COVID-19, if known.

**Q: Is there coverage for a COVID-19 exposure with symptoms but no positive test?**

A: No, there is no coverage for exposures only, exposures and symptoms only, symptoms only. Workers' compensation only applies to injuries or disease that arises out of employment. There is no coverage for an exposure, and/or symptoms only. If an employee is quarantined due to an exposure, and/or symptoms and there is no positive test, workers' compensation does not apply.

**Q: What should occur if an employee other than a First Responder or Healthcare Worker contracts COVID-19 and believes it is work related?**

A: Other types of employees can still make a claim for an occupational disease or injury, even though they are not entitled to the coverage for COVID-19 specifically authorized in this instance by FMIT for first responder, correctional and health care workers. If an employee contracts COVID-19 and reports it as a work-related exposure, the governmental entity should file the First Report of Injury and submit it to the FMIT or their Servicing Agent. The FMIT or the Servicing Agent will evaluate the claim and determine whether it is compensable under state law.

**Q: When does this coverage apply?**

A: Coverage applies retroactively from March 9, 2020, when Florida became subject to a statewide state of emergency pursuant to Executive Order 20-52 by Governor Desantis.

**Q: When does this coverage end?**

A: Coverage will end when determined reasonably appropriate by FMIT and COVID-19's current pandemic outbreak status has been lifted according to authorized sources.

**Q: How is compensability determined for COVID-19 claims?**

A: Compensability for all workers' compensation claims is decided on a case by case basis.

The workers' compensation system is a no-fault system, meaning that an employee claiming a work-related injury does not need to prove negligence on the part of the employer. Instead, the employee must prove that the injury occurred at or from work and that the work is the major contributing cause of the injury. The coronavirus is not considered an "injury" but is instead analyzed under state law to determine if it is an "occupational disease."

**Q: What is an occupational disease under workers' compensation?**

A: Florida Workers' Compensation law, Fla. Stat. s. 440.151 defines occupational disease as:

A disease which is due to causes and conditions which are characteristic of and peculiar to a particular trade, occupation, process, or employment, and to **exclude all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public.** "Occupational disease" means only a disease for which there are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.

To be compensable the law requires:

1. A condition that is peculiar to the occupation causes the disease.
2. The occupation presents a particular hazard of the disease.
3. The employee contracts the disease during employment in the occupation and suffers a disability.
4. The incidence of ordinary diseases of life is substantially higher in the occupation than in the public.
5. The nature of the employment is the major contributing cause of the disease.
6. There are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.

**Q: Is compensability of an occupational disease for first responders different than other occupations?**

A: Yes. Occupational disease for a first responder is governed by Florida Statutes §112.1815 That statutory provision states that “occupational disease” means:

1. A disease that arises out of employment as a first responder and is due to causes and conditions that are characteristic of and peculiar to a particular trade, occupation, process, or employment.
2. This excludes all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than for the general public.
3. Both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace to support causation shall be proven by a preponderance of the evidence.

**NOTE:** FMIT recognizes the importance of Florida’s first responders at all times, but acknowledges the special risks they face as the COVID-19 pandemic continues. As a result, FMIT has taken the significant step of authorizing coverage to first responders/certain health care workers who contract the COVID-19/coronavirus in the line of duty during the COVID-19 pandemic crisis.

**Q: What are the standards for determining compensability in a tele-commuting situation?**

A: Compensability is determined on a case by case basis. The same standards apply as in all claims. Workers’ compensation only applies to injuries that arise out of and in the course and scope of employment and for which work is the major contributing cause. The employee must prove that the injury occurred at or from work activities being performed and that the work is the major contributing cause of the injury. Specific factual differences arising from one work-from-home scenario to another can produce different compensability outcomes. Therefore, the Employing Government/Municipality is urged to quickly report these injury claims to FMIT/FLC or other servicing agent.