

## COVID-19 and Healthcare – FAQ for IAM Members

1. If my employer can't provide PPE do I need to go to work (two scenarios for confirmed cases is an easier answer, the tougher question is non confirmed cases)
2. If I choose to enact my right to refuse due to this problem, who pays me?
3. Can I be disciplined if I say I don't want to go to work because of fear of contracting the Covid 19 virus, Two scenarios again, those confirmed and those non confirmed
4. Can my employer tell me I am not allowed to attend work because I travelled outside the country?
5. If I suspect a client may have been in contact with someone infected, what do I do, maintaining patient confidentiality?
6. If I contract Covid 19 is this lost time covered by WSIB, EI or is it not covered at all
7. Due to the school closures, I may need to take time off work to take care of my children, can I be disciplined and is there any way to be compensated since this is due to the government shutting down the schools

1. In instances where a member is assigned to work with a client who is confirmed to have contracted COVID-19, you have the grounds to invoke your right to refuse unsafe work. We are asking employers to conduct risk assessments, and advise workers of risks involved with their work.

In non-confirmed cases, we are urging employers to develop policies based on the precautionary principle and ensure all workers have adequate protection. Not only do employer policies protect workers and residents, they are part of social policies that can help protect the greater public. Should you show up to work, we are recommending that you request PPE. Even if a case is not confirmed, the employer should provide disposable gloves and hand sanitizer.

Once a possible case is confirmed, and it happens to be a client you visited, you should follow public health guidelines and be in self-isolation for 14 days. We are asking the employer to not penalize individuals who are following government-issued guidelines. If you develop symptoms, contact your family doctor and follow further instructions.

Given the evolving nature of circumstances, we are asking employers to abide by the precautionary principle, and even in suspected cases, provide PPE up to and including N-95 masks. Employers are legally obligated to provide workers with the appropriate PPE and protect against workplace dangers and hazards.

Guidelines issued by Health Canada apply to the general public and not those who work on the frontlines where the nature of their work exposes them to the virus. The IAMAW is advocating for a different standard and advocating for the use of PPE in all circumstances, up to and including the use of N-95 masks.

2. The *Ontario Health and Safety Act* 43 (3) sets out the process that must be followed if you believe that your work circumstances are dangerous. BE AWARE that the right to refuse dangerous work can be limited for healthcare workers. If you are unsure, talk to your union rep before taking action.

However, based on jurisprudence in healthcare, a member who has to refuse work because adequate protection was not made available would therefore avoid the exemption under the Act and have the benefit of the right to refuse.

Generally, the process for a right to refuse process is as follows;

Step 1: Report the refusal to your supervisor or employer. Advise the health and safety representative and your union rep. The supervisor must then investigate the situation in your presence and the presence of the health and safety rep. If the situation can be resolved, you must return to work.

Step 2: If the situation is still unsafe, the Ministry of Labour must get involved to do an investigation and determine if the situation can be resolved, or if the worker had a legitimate right to refuse and abstain from working.

For a detailed step by step, please consult this chart.

<https://www.whsc.on.ca/Files/Resources/Posters/Worker-right-to-refuse-poster.aspx>

3. You have a right to know of risks involved with your work, and the IAMAW has urged employers in healthcare to do a risk assessment and notify workers. If a client is confirmed to have COVID-19, you have grounds to refuse to go to work. If you suspect a client has COVID-19, report it to your supervisor immediately, the health and safety rep, and do not stay if you are not equipped with PPE to protect yourself.

The employer is legally obligated to provide PPE even in situations where there is a risk of exposure to COVID-19.

4. No, your employer can't make that determination, unless, you have symptoms of COVID-19, in which case you must follow Health Canada guidelines and stay home. An employer may issue guidelines from Health Canada asking workers who meet requirements for self-isolation to stay home. If you are asked to abstain from work, you should not be subject to loss of pay.
5. Contact your supervisor immediately, your health and safety rep, and your union rep.
6. Consult your collective agreement for provisions on sick days to cover lost time. If you are eligible you can also apply for EI.

Employment Insurance (EI) sickness benefits provide up to 15 weeks of income replacement and is available to eligible claimants who are unable to work because of illness, injury or quarantine, to allow them time to restore their health and return to work. Canadians quarantined can apply for EI sickness benefits.

Presently, the one-week waiting period for EI sickness benefits has been waived for claimants who have been quarantined.

7. We are working with employers and the government to ensure that workers are not penalized for lost days due to government mandated guidelines. One of the solutions is to move vacations, or allow for additional days for those with limitations to provision of childcare. Workers are also entitled to family responsibility leave.

**If I contract COVID-19 at work, can I be covered by workers' compensation?**

Possibly, but the assessment of whether you are entitled to compensation would be assessed on a case-by-case basis. Workers compensation boards will have to assess whether COVID-19 is an occupational disease: e.g. it was caused by and arose out and in the course of employment.

**Do employers have to buy personal protective equipment for employees?**

Employers have a duty to provide a safe working environment relative to the expected duties of the employee and the risks in the workplace. If employees run the risk of becoming infected at work because of the work they perform, the employer must provide personal protective equipment.

The preventative measures being advised are hand, respiratory, and environmental hygiene and social distancing. These recommendations suggest that these measures are generally reasonable for most workplaces.

However, if you fall into the category of a vulnerable person (over age 65, compromised immune system, or underlying medical condition) the obligations to this employee could be different. Precisely what steps may be reasonable to protect the vulnerable worker are likely to be determined on a case-by-case basis and involve advice from public health and/or medical officials. Employers may not know if a vulnerable employee is in the workplace. As part of workplace communications about COVID-19, employers should prompt workers with individual risk concerns to raise them with the employer.

**What if I have COVID-19 and cannot work?**

Where an employee contracts COVID-19 and is unable to work, an employer must grant any applicable legislative leave to the employee, in addition to meeting any sick leave obligations outlined in employment agreements or collective agreements.

If the employee contracted COVID-19 in the workplace, there may be additional reporting obligations under workers' compensation and occupational health and safety legislation.

**What happens if I need to be quarantined?**

You can use sick days as outlined in your collective agreement, and you may also apply for EI sickness benefits. Please note that the government has recently made changes to the EI sickness benefits program.

The one week waiting period is waived and those claiming sickness benefits are prioritized over others. A medical certificate is not required, but if you can get one, it certainly makes the process smoother.

Service Canada now has a dedicated line for inquiries on changes to EI sickness benefits: 1-833-381-2725

**What is a waiting period and how has it changed?**

- A waiting period is a period of time in which an employee does not receive EI Sickness Benefits.
- Normally, there is a one (1) week waiting period for EI Sickness Benefits, in which an employee would not receive payment. For example, if an employee were under quarantine or self-isolated for two (2) weeks, they would only receive one (1) week of EI Sickness Benefits.

- The Government has now waived the one (1) week waiting period. This means employees will now be able to access benefits for their period of absence, up to a maximum of 15 weeks.

#### **Is a doctor's note required to access EI Sickness Benefits?**

- Normally, a medical certificate (signed by a qualified medical professional) is required to access the benefits.
- As of March 11, 2020, the Government has stated that they are waiving the medical note for individuals required to go into quarantine by law or by a public-health official.
- Should the quarantine period or self-isolation period be extended, a signed medical certificate may still be necessary.

#### **What does EI Sickness Benefits provide?**

- Financial support for eligible workers who:
  - are unable to work for a medical reason (which now includes being subject to quarantine or self-isolation);
  - have experienced a decrease in regular weekly earnings of more than 40% for one week; and
  - have accumulated 600 insured hours of work in the 52 weeks before the start of the claim.

#### **How much can I claim and for how long?**

- EI Sickness Benefits pay 55% of an employee's insurable earnings, up to a maximum of \$573 per week, less applicable taxes.
- Employees can claim these benefits for a maximum of 15 weeks.

#### **Service Canada:**

- The one-week waiting period for [EI sickness benefits](#) will be waived for new claimants who are quarantined so they can be paid for the first week of their claim
- Priority EI application processing for EI sickness claims for clients under quarantine
- People claiming EI sickness benefits due to quarantine will not have to provide a medical certificate
- People who cannot complete their claim for EI sickness benefits due to quarantine may apply later and have their EI claim backdated to cover the period of delay

#### **Can an employer fire an employee if they contract COVID-19?**

No. Employers may not terminate an employee or otherwise discriminate against an employee due to physical disability (which includes certain illnesses) under human rights legislation.

#### **Terminations and lay-offs:**

##### **Can an employer temporarily lay off employees?**

Yes, but there is a risk that any unilateral lay off of employees may be treated as a termination of employment under employment standards legislation or the common law.

A number of provincial governments are proposing amendments to statutory leave guarantees to address the impact of COVID-19.

**What happens if the employer is ordered to close their business by health authorities?**

If the employer is ordered to close by health or other authorities, employers may be able layoff employees without liability under provincial employment standards legislation or the common law. Each situation is handled on a case by case basis.

**If I'm laid off, am I still covered under our benefit plans?**

This will depend on the language of the benefit plan document.