Workers’ Compensation Coverage for Remote Employees’ Injuries: What Happens When Every Day Is Bring Your Child (and Pets, and Neighbors) to Work Day?

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Workers’ compensation laws have been in effect in the United States for over a century providing benefits to employees injured on the job. For many years, “on the job” meant injuries that occurred at an office, factory, store, or other site used exclusively for work-related purposes and over which the employer had a significant degree of control. After COVID-19, with many workplaces adopting a hybrid office/remote model, workers’ compensation claims by remote employees has become an issue of concern for most employers.

Generally, injuries that *arise out of* and occur *in the course of* employment are covered by workers’ compensation benefits. Telecommuters are covered by the workers’ compensation system, but different factors associated with working from home – as well as the complex web of state-specific workers’ compensation laws – complicate the determination as to whether or not an injury is sufficiently work-related to qualify for coverage.

For example, one employee who fell down a flight of stairs walking from her kitchen to her home office applied for workers’ compensation benefits to cover her injuries. The employer argued that she was getting a drink, not working, so the injuries shouldn’t be covered. The Pennsylvania court cited that state’s “personal comfort doctrine” in determining that the employee’s brief departure from work during her regular hours did not take her injury outside the realm of workers’ compensation coverage. The court decided that the activity she was performing when she was injured was sufficiently job-related to qualify for coverage.

Similarly, a New York court allowed a claim to proceed where the employee was injured while carrying boxed, unassembled furniture for his home office into his house on a lunch break. The furniture was neither provided nor required by his employer, and he was not eligible to be reimbursed for the cost of the new furniture under his employer’s business

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expense policy. Nevertheless, the court determined that the Worker's Compensation Board had been too quick to conclude that the activity leading to the employee's injuries was purely personal.

In contrast, a Florida employee (a workers' compensation claims adjuster, of all things) brought a claim after she tripped over her dog while reaching for a coffee cup in her kitchen during a break from work. The court determined that she was involved in a personal pursuit, so the injury was not sufficiently work-related to entitle the employee to benefits. As the dissent in that case pointed out, the decision seemed to conflict with years of Florida precedent finding that trip-and-fall accidents occurring on short breaks were covered by workers' compensation benefits. While the court later tried to distinguish those other cases on the grounds that it was unclear what caused the employees to trip, the location of the accident likely played a role in each case's outcome.

Another attempt to stretch the bounds of worker's compensation coverage occurred in a case where, tragically, an employee suffered severe injuries from an assault that occurred while she was in her kitchen making lunch. The assault was committed by a neighbor whom the employee had admitted to her home. The court agreed with the employee that her injuries occurred during the course of her employment, meeting one half

of the legal standard for coverage. After a detailed legal analysis, however, it rejected her argument that she would not have been at home if not for her job and determined that she did not qualify for benefits because her injuries did not arise out of her employment.

Somewhat confused? You're not alone. So what's an employer to do?

The first important step is to review your existing workers' compensation coverage. What does it say, if anything, about remote workers? Remember that each state has its own workers' compensation system and governing law. You need to ensure that your company has sufficient coverage to address potential risks in all locations where it has employees working remotely, whether full time or on a hybrid schedule. Workers' compensation provides monetary benefits to injured employees, but it also protects employers from costly lawsuits by establishing an exclusive remedy for employees to recover medical costs, lost wages, and other expenses incurred as a result of an on-the-job injury. So while it's sometimes in a company's best interest to dispute a workers' compensation claim, letting your insurance policy do what it's designed to do can also make sense.

You should also review your company's policy on reporting work-related injuries and make sure it is easily accessible to remote workers. Confirm that the policy includes specific instructions on how, when, and to whom employees are required to report injuries that occur at work.

Also, protect your company from claims by having a robust remote work policy that sets standards for employees to maintain a safe work environment. In particular, require an ergonomic review of home worksites to protect against cumulative injuries such as carpal tunnel and neck and back pain.

And maybe consider a policy against pets in the kitchen.

If you have questions about workers' compensation coverage for remote employees (or on whether COVID-related illnesses are covered by workers' compensation, which is a topic that could easily fill another article), don't hesitate to contact your local Dorsey attorney for guidance.