



**KENTUCKY LABOR CABINET**  
**Department of Workers' Claims**

Mayo-Underwood Building  
500 Mero Street, 3<sup>rd</sup> Floor  
Frankfort, KY 40601  
Telephone: (502) 564-5550

**Andy Beshear**  
Governor

**Jacqueline Coleman**  
Lieutenant Governor

**Larry L. Roberts**  
Secretary

**Vickie L. Wise**  
Deputy Secretary

**Robert Walker**  
Interim Commissioner

To: Kentucky Workers' Compensation Stakeholders  
From: Robert Walker, Interim Commissioner   
Date: June 14, 2021  
Re: Update on effect of continued state of emergency

Governor Beshear rescinded certain executive orders related to the coronavirus (COVID-19) pandemic on June 11, 2021. The easing of restrictions related to the virus has prompted various questions from stakeholders.

Although certain restrictions have been lifted, the state of emergency that the governor declared on March 6, 2020, remains in effect. (Executive Order 2020-215). So too does the subsequent State of Emergency Relating to Workers' Compensation that the governor declared on April 9, 2020. (Executive Order 2020-277). Because of the continuing state of emergency, it remains the policy of the Department of Workers' Claim that:

- An employee removed from work by a physician due to occupational exposure to COVID-19 shall be entitled to temporary total disability payments pursuant to KRS 342.730(1)(a) during the period of removal even if the employer ultimately denies liability for the claim as outlined by Executive Order 2020-277.
- Executive Order 2020-227's suspension of the limitations contained within KRS 342.040(1) remains in effect with respect to temporary total disability payments.

- The presumption of work relatedness with respect to COVID-19 for those classes of employees as set forth by Executive Order 2020-277 remains in effect.
- Any and all other requirements of Executive Order 2020-277 remain in effect unless specifically rescinded.
- Application of 803 KAR 25:010 §17(2) remains suspended to the extent that court reporters may take depositions while not physically present with the deponent provided that the attorney for the deponent certifies on the record the identity of the deponent. For depositions of individuals other than the parties, the attorney taking the deposition shall certify on the record the identity of the deponent. (See March 17, 2020 announcement)
- Medical treatment and services, including physical therapy, may be offered and performed via telehealth, as defined in KRS 304.17A-005(47), or telephysical therapy, as defined in 201 KAR 22:001(25), when clinically appropriate in the judgement of a health care provider for treatment of workplace injuries and occupational disease. (See March 23, 2020 announcement.)
- The notarization requirement for a claimant's signature of a Form 109, Attorney Fee Election, remains suspended. To the extent a filing party wishes to still obtain a notarized signature, the filing party should use the provisions for remote acknowledgement in SB 150 (2020) §1(11). The regulations already permit electronic signatures; digital signatures are "electronic signatures" for purposes of 803 KAR 25:010. (See April 10, 2020 announcement.)

Stakeholders are further advised that Hearings will continue through the virtual Zoom platform. With restrictions on use of state office buildings being lifted, hearing sites have been reopened for use in cases where parties agree to an in-person hearing or

an administrative law judge sustains a party's motion for cause to hold it in-person. Without such agreement or order, hearings will occur via Zoom. Benefit Review Conferences will continue to be scheduled telephonically on scheduling orders issued by the DWC; administrative law judges have the discretion to reschedule those to occur via Zoom.

Questions may be directed to Interim Commissioner Robert Walker at 502.782.4535; Chief ALJ Douglas W. Gott at 270.746.7178; to the assigned ALJ, whose contact email information is listed on the DWC website; or to a DWC specialist at 502.564.5550.