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**Remote Employees and Workers Compensation**

Recently we have seen an increase in inquiries regarding having employees work from home as an employee benefit, cost savings measure, and - more recently - a preventative measure against the spread of the coronavirus.

The workers compensation laws affect remote employees the same as a worker at an office or a jobsite. The main test for whether or not an injury would be considered a workers compensation injury is the question: “does the injury arise out of and in the course of employment.” This question has two distinct parts:

1. Did the accident arise out of employment? Was the employee doing activity that was benefiting the employer?
2. Did the accident occur in the course of employment? Was the claimant “on-the-clock” when the injury occurred?

If the answer to both parts is “yes” then the employee most likely eligible for a workers compensation claim.

The biggest challenge with controlling risk related to remote employees is controlling their work environment as much as possible. At a jobsite the employer has a lot of control over the work environment; however, this is often not the case at an employee’s home. General household risks are assumed by the employer with a remote employee.

Needless to say, many “grey areas” occur with remote workers in relation to whether or not an injury would be considered work related. In many cases, if a questionable case is brought in front of a Workers Compensation Law Judge in New York, the judge will most likely rule in favor of the injured worker. The best way to protect your interests is eliminate as much “grey area” with their work situation as possible.

Here are our recommendations to reduce your workers compensation liability as much as reasonably possible with remote employees:

* **Set fixed hours for work.** This would establish the time when the employee is working and help define whether or not work activity was occurring at the time of an accident. You could consider having employees check-in and check-out via email for the work day, breaks, and lunch; this would clearly outline when an employee is working.
* **Have the employee establish a dedicated work area.** This will make it easier to determine if they were doing work activity at the time of the accident. As soon as they leave that area then they are no longer “at work.”
* **Set clear guidelines on what is and isn’t “work-related.”** If the employee is paid over their lunch period, make it clear what they do on their lunch break is their prerogative; e.g. if they leave to get lunch at a restaurant then it would not be covered under workers compensation.
* **If possible, phone calls should be allowed outside of the designated work area.** A phone call would be considered work activity. If an accident occurs when the employee is “on-call” then it would be work-related.
* **If an employee will be working from home long term, consider inspecting their workplace to identify any risks that may lead to injury.**

Contact Paul Garritan at (516)762-4222 pgarritan@hamondgroup.com if you have any questions or you would like help developing policies and procedures for remote employees.