



Testimony of
Debbie Berkowitz
Worker Safety and Health Program Director
National Employment Law Project

Labor and Public Employees Committees
Insurance and Real Estate Committee
Connecticut General Assembly

Joint Informational Hearing-Workers' Compensation Presumption for COVID-19
June 17, 2020

Good Morning Senator Kushner, Representative Porter, Senator Lesser, Representative Scanlon and members of the Labor and Public Employees and Insurance and Real Estate Committees. My name is Debbie Berkowitz and I am the Worker Safety and Health Program Director at the National Employment Law Project, a non-profit organization with over 50 years of experience advocating for the employment and labor rights of low wage workers. Prior to joining NELP almost five years ago, I served as the Senior Policy Advisor and Chief of Staff at the Federal Occupational Safety and Health Administration from 2009-2016. Thank you for your time and attention to this important matter. I am here to join the Connecticut AFL CIO in asking that you take immediate action in the July special session to provide our front line workers with a workers' compensation presumption for COVID-19.

We have known that COVID -19 has been spreading in the workplace among essential workers since the [end of February](#), with the first reported infection among nursing home workers in Seattle. Now three months later, the [Center for Medicare and Medicaid Services reported](#) at the end of May that at least 34, 442 nursing home workers are infected and 449 have died. We also know from the [Centers for Disease Control and Prevention \(CDC\)](#) that at least 77,000 nurses and doctors and other health care professionals are infected as of June 15 (this is an underreport reflecting only 20% of the reports coming in to CDC) . There are now over [25,000 cases](#) among meat and poultry workers, at least [1,957](#) among food processing workers, [over 2,000 now](#) among farmworkers, [thousands of cases among bus drivers and transit workers](#), and there are hot spots in [prisons](#) and other [essential industries](#).

Though all workers either on the job now, or returning to work in the near future, are at risk of illness, [Black and Latinx workers](#) and other workers of color, including immigrants, are more

likely to be in frontline job and these communities have disproportionate rates of serious illness and death related to COVID-19.

Further, a newly released study by the [Kaiser Family Foundation](#) found that one in four adult workers is vulnerable to severe illness from COVID-19. As you have heard from the workers testifying today, the toll of workplace disease on an individual worker and their family is enormous. Medical bills and lost time from work-related illnesses can be an enormous burden on workers and their families. Losing a family member to a work related death can have enormous emotional and financial consequences. [As a result, injured or ill workers](#) are often at great risk of falling into poverty.

Workers' compensation provides a crucial source of health care coverage and income support for sick workers. But it is often difficult for workers to obtain workers' compensation for [occupational disease](#). [Note](#) that in 1969, the Federal Black Lung Compensation Act was passed after robust lobbying by the United Mine Workers Union because it was so difficult for miners with black lung disease to get compensation at the state level.

Further, workers' compensation generally does not cover routine community spread illnesses like a cold or the flu. Some states have recognized in the past that certain workers develop certain chronic illnesses, i.e. lung conditions and cancer, and have made exceptions. [The National Council on Compensation Insurance](#) reports (prior to COVID-19) that at least 19 states, for example, had policies that make it easier for firefighters and emergency responders to get benefits for certain lung conditions.

Since the beginning of the COVID-19 pandemic, [many states have recognized](#) the infection risk workers face and have extended workers' compensation benefits. Most of the states did this by adding a presumption, such as what was previously done for selected diseases and certain worker groups. The presumption, in most cases it is a rebuttable presumption, means that the employer or insurance company must prove that a sick worker didn't get the disease through work.

Many states are already acting to clarify or expand workers' compensation eligibility for COVID-19 illness through orders issued by Governors under their emergency powers, while other states are doing so through legislation.

To date fourteen states have expanded workers compensation coverage for workers, either through Executive Orders or legislation, and nine more are considering them. Most of the states create a rebuttable presumption for a class of essential workers that the disease, COVID-19, was contracted at work. The Governor of Washington State, [Gov. Jay Inslee](#), through an Executive Order in early March, was the first [to bolster coverage](#) for health care workers and first responders who are on the front lines of the COVID-19 outbreak.

Kentucky's Governor recently adopted a similar workers' compensation coverage presumption through an Executive Order issue pursuant to the governor's emergency powers: https://governor.ky.gov/attachments/20200409_Executive-Order_2020-277_Workers-Compensation.pdf

Alaska, MN, WI, and Utah passed legislation to expand workers' compensation coverage to certain workers. [Alaska](#) passed workers' compensation legislation to ensure that COVID-19 illness among health care workers and first responders is presumed to be work-related. [MN](#) also passed legislation creating a rebuttable presumption for health care workers (including home care and long term care workers), first responders and workers providing child care to children of first responders. [Utah](#) and [Wisconsin](#) passed legislation establishing a rebuttable presumption for first responders who make a workers compensation claim.

Through an EO, the [governor of Arkansas](#) suspended certain provision of its workers' compensation codes to make it easier for first responders and front line health care workers to access workers compensation benefits.

On May 6th, [Ca Governor Newsom](#) signed an [executive order](#) that creates a time-limited rebuttable presumption for accessing workers' compensation benefits applicable to Californians who must work outside of their homes during the stay at home order. This Executive Order covered a wider group of workers' at risk. And the California House and Senate both have pending bills addressing the presumption issues for certain workers.

Further, in early April, the [Workers' Compensation Insurance Rating Bureau](#) of California voted for a special regulatory filing that would exclude COVID-19 claims from experience rating and exclude payments to employees who continue to be paid while not working.

In addition to the above states I mentioned, the following state Governors have passed Executive Orders that expand workers compensation to health care workers, first responders and some limited additional workers: [FLA](#), [ND](#), [NM](#), [MO](#), [NH](#), [MI](#)

Connecticut must join the above states and make sure our essential workers -- and you have heard from many-- can access worker's compensation benefits for COVID-19. These workers have been risking their health and live to take care of sick patients, make sure workers get to their jobs, make sure we have food, and make sure we have all our essential services so we can stay at home. We must be there for them if they get sick.