



Are remote injuries compensable under Ohio workers' compensation laws?

November 12, 2021

When the COVID-19 pandemic began, many organizations quickly transitioned to a work from home environment in an effort to keep their employees safe. Nobody knew how long we would be functioning in this new “normal,” but some businesses have grown to like it and are considering keeping a remote work environment moving forward. So, what happens if one of your employees sustains an injury while working remotely?

What qualifies as a remote injury?

While this may be a new way of operating for some employers, remote working is not a new concept when it comes to workers' compensation laws. The determination for whether a remote injury is work-related is similar to that of a non-remote injury (i.e., did the injury occur in the course of and arising out of employment?) What does this mean? To break it down:

- “Arising out of” relates to what the employee was doing at the time of the injury.
- “In the course of” relates to when and where the injury occurred.

A remote injury can occur suddenly (slip and fall) or develop over time (carpal tunnel syndrome). In either case, the remote injury must have occurred from an activity related to the employee's job (“arising out of”) and during work hours (“in the course of”).

When investigating remote injuries, another question employers should ask themselves is, “did the injury occur when the employee was doing a task to benefit the employer?” If there was no benefit to the employer when the injury occurred, the remote injury is less likely to be compensable.

Example:

An employee received a box containing mail, files and supplies from the employer's copy center during their regular working hours. While opening the box with an employer-provided box cutter, the employee cut their hand. Because the activity was related to the employee's job, and it occurred during work hours, it is likely to be a compensable remote injury.

However, the above scenario could easily be considered noncompensable by changing just one fact:

An employee received a box containing a gift from their sister. They cut their hand with an employer-provided boxcutter while opening the box during their regular working hours. Under this scenario, the injury is not likely to be compensable because the package and its contents were from the employee's sister, and not of benefit to the employer. It does not matter that the employee was within working hours or using an employer-provided box cutter.

Tips for a safe remote work environment

Determining whether a remote injury is work-related is oftentimes more difficult for employers since there are usually no witnesses; an on-site investigation cannot be performed; and the actions of remote employees cannot be monitored directly. The best way to prevent an injury is to ensure that home offices are safe work environments to begin with. Tips for implementing safe remote work practices include:

- Create a remote working policy and review it with remote employees to ensure expectations are understood by all parties.
- Set fixed work hours and break sessions, to better define the "in the course of" requirement.
- Clearly define each employee's scope of work.
- Establish standards for home offices, such as requiring a dedicated work area.
- Check in with remote employees often, or consider tracking equipment.

While these measures may not have been possible when the pandemic began, the above tips, and others, should be contemplated for employers considering utilizing remote work situations post-pandemic.

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