

The Remote (Worker) is Broken! Workers' Compensation and Stay-at-Home Employees

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In a post-pandemic world, work-from-home and hybrid work arrangements have become the norm in many industries. While employers and employees have become adept at hosting Zoom and Teams meetings, this significant uptick in remote work begs the question: What if an employee gets injured while at home? Is this covered by workers' compensation? If so, when? The answer, as it so often is, is it depends.

Workers' Comp Primer

As we all know, workers' compensation laws protect both workers and employers, giving both predictable benefits without protracted litigation. Workers' compensation benefits generally cover injuries that arise out of or occur in the course of employment. Historically this meant injuries that actually happened on a job site or in the office. In today's remote work world, however, many employees work from home full time or at least part time and their "on the job" injuries may actually occur in their home.

Every state has its own laws on what qualifies as a work-related injury, and the analysis can be very fact specific. For example, what about an employee who slips and falls while getting some coffee on a work break? In [*Sedgwick CMS v. Valcourt-Williams*](#), a Florida court found that the injuries of an employee who tripped over her dog while reaching for a coffee cup in her kitchen while she worked from home did not arise out of her employment and therefore were not compensable under Florida's workers' compensation law. The court found that, even though the employee had a work-from-home arrangement and tripped during work hours, she may have tripped over her dog whether or not she was home working and therefore the risk existed regardless of her work for her employer. In contrast, in [*Verizon Pennsylvania, Inc. v. W.C.A.B. \(Alston\)*](#), a Pennsylvania court found that a remote employee who fell down her home stairs after getting a glass of juice was covered by workers' compensation because she was covered by the "personal comfort doctrine," which allowed her to take inconsequential breaks from work during work hours and still be covered by workers' compensation. Whether or not an injury is sufficiently work related to be covered by workers' compensation can be quite fact specific, and courts may disagree on similar fact patterns.

Takeaways for Employers

Remember that workers' compensation law is state-specific and that if you have employees in a lot of states, you may have different results for similar scenarios. Also, you need to know where your remote workers are — don't just assume that they are working from the home they had when you shut down for COVID-19.

With those *caveats* in mind:

- Revisit your workers' compensation policy and revise it as needed. Do employees know how to report an injury? Do supervisors know what to do if any employee reports an injury? You do not want a supervisor telling an employee something is or is not covered because it happened at home.
- Review and revise your remote work policy. Does it outline how an employee should ensure a safe work environment at home? Does it permit you to inspect an employee's home workspace (if you want to do that)? Have you talked to your workers' comp carrier about best practices for remote workers?
- Review your workers' compensation coverage. Does it cover remote work? Does it cover employees who are now in another state? Does it require you to do anything special with remote workers?

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