Human Resources Legislative Update

WSIB Publishes New Communicable Illnesses Policy

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Following public consultations, the Ontario Workplace Safety and Insurance Board (WSIB) has published a new operational policy on communicable illnesses (Policy), which will become effective **December 1, 2023**.

The Policy defines a communicable illness as “an illness resulting from infectious agents such as viruses, bacteria, and fungi.” In order to be entitled to benefits for a communicable illness, a worker must have contracted a communicable illness “out of and in the course of employment, in that the employment made a significant contribution to contracting the communicable illness.”

The Policy sets out criteria for determining whether a worker contracted a communicable disease. To establish that a worker contracted a communicable disease either a positive test result or a diagnosis from a health professional will generally be necessary.

The Policy also provides guidance for determining whether employment “significantly contributed” to the worker contracting the illness. Generally, entitlement would be based on evidence of an established work-related source or an increased risk due to employment. Additionally, the Policy outlines relevant factors a decision-maker should consider in determining work-relatedness. These include the mode of transmission of the illness in question, the duration, frequency and intensity of potential exposures, as well as control measures implemented in the workplace such as the use of personal protective equipment.

Other elements of the policy of interest to employers include that:

- workers will not be denied benefits for the sole reason that they are not immunized against the communicable illness for which they are claiming benefits
- workers who are required to self-isolate on a precautionary basis who do not have a communicable disease are not entitled to benefits under the Policy

The policy will apply to all claims for a communicable illness with an accident date on or after **December 1, 2023**.