D.C. Workers' Compensation and COVID-19 Stress-Related Claims

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During the COVID-19 pandemic, there are millions of workers deemed "essential" who continue to work in environments with high risk of exposure to the virus, such as hospitals, grocery stores, restaurants, warehouses, and offices. Along with the worldwide threat of contracting COVID-19, workers face the added pressures of social distancing, wearing masks, washing their hands, and being cautious of with what and whom they come into contact, all while attempting to perform the duties of their jobs. Due to the added stress surrounding these tense times, workers will likely turn to workers' compensation to file psychiatric claims due to anxiety disorder, post-traumatic stress disorder ("PTSD"), depression, and other psychiatric injuries.

In the District of Columbia, there is a presumption of causal relationship afforded to claimants requiring that they only show "some evidence" of a work incident which attributed to the injury.[1] The Courts have found that this statute was designed to effectuate the humanitarian purposes of the D.C. Workers' Compensation Act, noting it reflects a "strong legislative policy favoring awards in arguable cases." [2]

With respect to stress-related claims, the "objective" test requiring consideration of how a reasonable person would perceive an event or work environment is no longer the standard. In 2008, the D.C. Court of Appeals overruled the prior standard, referred to as the "objective" test, which required consideration of how a reasonable person would perceive an event or work environment. The Court in McCamey v. DOES found that there is a presumption of compensability as long as the claimant can show that his physical work-related injury had the potential of resulting in or contributing to the psychological injury.[3] The Court then expanded this ruling to employment-related stress claims ("mental-mental" cases) in Ramey v. DOES.[4]

Per the Court in Ramey, to invoke the presumption of compensability in a mental-mental claim, the claimant must show a psychological injury and actual workplace conditions or events which could have caused or aggravated the psychological injury, supported by competent medical evidence. Generally, medical evidence is not required to invoke the presumption in injuries resulting in physical harm, but the Court felt that the nature of a stress-related claim without physical manifestations of injury required the additional showing.

The standard for rebutting the presumption of causal relationship is to put forth "specific and comprehensive evidence" to the contrary. At this stage, the judge cannot consider whether or not the claimant is credible.[5] Medical evidence contradicting the causal relationship of the claimant's condition, or evidence that the incident did not occur, is sufficient to rebut the presumption. Should the judge find the employer and insurer's evidence is sufficient to rebut the presumption, the burden turns once again to the claimant to prove their claim, and it is only at this stage that the judge is able to make assessments of credibility.

When considering the compensability of a claim involving stress induced by the work place environment and COVID-19, it is important to note that the presumption will only be met if the claimant presents medical evidence of their psychological condition and its relationship to the work environment. While this is not a high burden, any claim without medical evidence supporting the claimant's condition should be considered for denial. If a specific incident

involving potential exposure to COVID-19 is raised, it is important to confirm that the event occurred. In claims where the mere stress involving COVID-19 in the workplace is raised, evidence contradicting this position will be difficult to ascertain. At that point, it is reasonable to seek the opinion of a medical expert.

The claimant's response to the stress induced by COVID-19 and their work environment will be judged on a subjective basis. Each individual claimant's reaction to the work environment may be accepted if supported by medical evidence, regardless of their preexisting mental state. The medical evidence presented by the claimant should be reviewed for outside stressors, i.e. non-work related, such as their home life, finances, or current political climate.

[1] D.C. Code § 32–1521

[2] Ferreira v. DOES, 531 A.2d 651, 655 (D.C.1987) (quoting Wheatley v. Adler, 132 U.S.App. D.C. 177, 183, 407 F.2d 307, 313 (1968) (en banc)).

[3] McCamey v. DOES, 947 A.2d 1191 (D.C. 2008).

[4] Ramey v. DOES, 997 A.2d 694 (D.C. 2010).

[5] Storey v. DOES, 162 A.3d 793 (D.C. 2017).