

House Bill 1199: Workers' Compensation Occupational Disease Presumptions - COVID-19

Economic Matters Committee

March 2, 2021

Position: Oppose

The Arc Maryland is one of Maryland's largest grassroots advocacy organizations, advocating for the rights and quality of lives of individuals with intellectual and or developmental disabilities and their families. We present reluctant opposition to this legislation as we understand that the sponsor's honorable intention is to protect workers who, by virtue of their occupation, may have been exposed the coronavirus, leading to contraction of COVID-19. However, this legislation is over-reaching in its inclusion of related institutions under Health General Title 19 (3) which includes settings such as individual home supports and services, and small congregate settings under the Developmental Disabilities Administration.

In small congregate group homes, Direct Support Professionals may work alone or with a small number of co-worker caregivers to provide care to people with intellectual and developmental disabilities. If a co-worker were to test positive for the virus, and then another caregiver were to test positive within a certain timeframe, it may be reasonable to conclude the co-worker contracted the virus through occupational exposure, and it may be appropriate for that employee to be covered under worker's compensation benefits. However, there are many other circumstances where it would not be reasonable to arrive at the conclusion that an employee is presumed to have contracted COVID as the result of occupational exposure.

In some of the most recent cases, a caregiver, who has contracted coronavirus, has brought the virus into the congregate setting, and exposed people with IDD to the virus. Besides their caregiving staff, many of the individuals in the congregate settings have been without visitors during the pandemic and isolating, for health reasons.

We must consider that the virus has a high rate of contagion and there are people who have likely contracted the illness from visits with family and friends, patronage at restaurants or bars, and even at the grocery store. These same employees may have also worked in a small congregate setting (group home), with or without other staff within the same 14-day period of these other visits and experiences.

It would be impossible for anyone to determine the source of illness under this VERY common scenario, much less make a causal link to their occupation.

Furthermore, it would be difficult if not impossible for an employer to dispute a claim of Worker's Compensation once a worker is presumed occupationally exposed through this legislation. Employers would be in the position of investigating employees' lives, and asking questions about what an employee does or does not do, on his or her own time, with whom they are associating; all unhelpful and intrusive activities that may border on harassment.

Hypotheticals aside, Medicaid providers are reliant on state funding, and increases in Worker's Compensation claims would certainly impact insurance rates. Without increases in funding from the state to cover these costs, this bill would create more unfunded mandates that jeopardize the stability of our community systems of disability supports that are already strained under the effects of the pandemic. This bill does not currently include any provision for increases to Medicaid provider rates to account for anticipated Workers Compensation Insurance premium increases.

For all of these reasons The Arc Maryland opposes this legislation.

Should you have any questions please contact:

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