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## EMAIL TO STAFF REGARDING COVID AND WORKER'S COMPENSATION

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At last weeks' meetings held with school and residential staff in which our COVID safety policies were reviewed in anticipation of in-person summer school starting this week, a question was raised as to whether or not our Worker's Compensation (WC) carrier would cover medical costs related to positive COVID-19 claims. After researching the topic and talking to our WC broker, we know the below to be true:

Whether or not worker's compensation (WC) covers medical costs related to COVID-19 is not black and white and is a fact based determination that needs to be made on a case by case basis. This is mostly based on the fact that a person/employee could contract Covid-19 while getting groceries at the local market just as well as at the Green Chimneys campus.

That being said, if an employee tests positive for COVID and suspects they were infected at work and wants to file a WC claim, HR Benefits Associate Barbara Crapa must be notified by email at [bcrapa@greenchimneys.org](mailto:bcrapa@greenchimneys.org). We can file a WC claim if the employee so desires but please know that once that is done, our WC insurance carrier, New York State Insurance Fund, will conduct an investigation. They would then make a determination and if they find that the employee contracted Covid-19 at Green Chimneys, they would pay medical and lost time benefits as they do for other work related injuries/illnesses.

It should be noted, though, that the New York State WC Board is monitoring these cases closely and is the final arbiter for work related injuries and illnesses; including and especially those related to COVID-19 claims. These decisions are not made by Green Chimneys and a decision made by our WC carrier can be overturned by the WC board.

The question was also asked if staff would use their sick time if they test positive for COVID and can't work and the answer is yes; our time off policies have not changed and should be followed for COVID like they would be for any other illness. If an employee finds themselves sick with COVID and without their own accrued time to use, he/she can apply for sick bank time by submitted the request for sick bank time form (see page 45 of the employee handbook for details).

If you feel you need more information about the WC question, please also read below that was shared by our liability insurance broker and in a recent webinar:

Depending on circumstances, the WC carriers and Board have been making decisions based on the type of work performed. For example, it was reported that a client hospital's carrier accepted the claim of a front line medical employee when their investigation revealed that employee had been exposed to a patient that later turned out to be positive for COVID-19. Conversely they had a human service agency client where the carrier determined the claim to not be work related because the investigation revealed that the exposure could not be definitively connected to a work site.

Below are also some guidelines offered by a prominent New York City Workers Compensation Defense Attorney:

- The employee must have visible symptoms of illness and test positive to COVID-19.
- Lost time from work due to mandatory quarantine due to exposure is not covered by WC.

- The insurance carrier will consider several questions when investigating a claim. Was COVID-19 endemic in the workplace? Was the employee in close contact with a previously diagnosed individual? Was there a plausible means of contraction? Is the incubation period consistent with the exposure?
- If a claim is accepted, it will be subject to Section 21a of the NY Worker Compensation Law which allows the payment of temporary benefits when an employer is unsure of the extent of its liability for a claim for compensation by an injured employee for one year, without prejudice and without admitting liability. There is one year to controvert the claim if subsequent information is received.
- If a COVID-19 infected employee has a pre-existing condition which worsens the infection, it is still compensable.

We hope that this answers the questions raised in last weeks' meetings. Hopefully we all follow our safety guidelines when on campus and remain healthy but, if this affects you at any point, please let HR know.

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Human Resources