

**Operational  
Policy**

Section

In the Course of and Arising Out of

Subject

**Communicable illnesses**

## Policy

A worker is entitled to benefits for a communicable illness arising out of and in the course of the worker's employment.

## Purpose

The purpose of this policy is to provide entitlement guidelines for claims for communicable illnesses.

## Guidelines

For the purposes of this policy, a "**communicable illness**" means an illness due to a specific infectious agent (e.g., viruses, bacteria) that arises through transmission of that agent from person to person or from animal to person; either directly or indirectly.

## Entitlement criteria

In deciding whether a worker has initial entitlement to benefits for a communicable illness, a decision-maker determines whether:

- the worker contracted a communicable illness
- the worker contracted the communicable illness while in the course of employment, and
- the communicable illness arose out of the worker's employment, in that the employment made a significant contribution to contracting the communicable illness.

## Immunization status

Entitlement to benefits will not be denied solely because the worker is not immunized against the particular communicable illness for which there is a claim for benefits.

## Determining whether the worker contracted a communicable illness

In addition to other relevant evidence gathered during the adjudication of a claim, one or both of the following will generally be necessary to establish the worker has or had at the relevant time a specific communicable illness:

- laboratory confirmation of current infection (e.g., positive laboratory or diagnostic test result), or
- a diagnosis by a treating health professional qualified to provide such a diagnosis based on a clinical assessment of the worker during the period of illness.

## Exception to laboratory or clinical evidence of current infection

A claim for a communicable illness may be adjudicated in the absence of laboratory or clinical evidence from the relevant time indicating the existence of a current infection in the worker if the worker has or had a legitimate reason for not seeking health care or laboratory testing during the period of illness.

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Legitimate reasons include, but are not limited to:

- the period of illness is short-lived (i.e., 24 - 48 hours)
- the worker cannot access or does not qualify for diagnostic testing, and
- laboratory confirmation is not available for the communicable illness.

In the absence of laboratory or clinical evidence of current infection, a decision-maker will determine whether the worker has or had at the relevant time a specific communicable illness based on the available evidence including, but not limited to:

- a laboratory test to detect a previous infection (e.g., antibody test)
- the worker's presentation (i.e., signs and symptoms) and whether it is compatible with the signs and symptoms of the communicable illness established to exist in the workplace
- the diagnostic criteria for the communicable illness, and
- the advice or opinion of a medical consultant.

### **Determining whether the communicable illness was contracted in the course of employment**

A communicable illness will generally have been contracted in the course of employment when the decision-maker is satisfied, based on all of the relevant evidence, that the worker was exposed to and contracted the communicable illness while at the workplace or during working hours, or while performing a work-related duty or an activity reasonably incidental to employment. For more information on the application of the criteria of place, time, and activity, see 15-02-02, Accident in the Course of Employment.

Infectious agents that are capable of causing communicable illnesses in humans are widespread in the environment and multiple sources of infection may exist inside and outside of the workplace. In determining whether a worker contracted a communicable illness while in the course of employment, as opposed to outside of that employment, the decision-maker must gather and weigh the evidence related to potential work-related and non-work-related exposures to the communicable illness.

Factors to consider when gathering and weighing the evidence related to potential work-related and non-work-related exposures to the communicable illness include, but are not limited to:

- the route of transmission of the communicable illness (e.g., contact, droplet, airborne, oral)
- the opportunities that existed for exposure to and transmission of the communicable illness both inside and outside of the worker's employment, including contact with persons known to have or suspected of having the communicable illness (e.g., coworkers, patients, friends, family members)
- the frequency, duration, and types of potential exposures to the communicable illness (e.g., protected vs. unprotected, direct vs. indirect), and

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- the compatibility of the incubation period for the communicable illness with the interval between the onset of the worker's symptoms or a positive diagnostic test result and the opportunities for transmission found to exist.

(The key characteristics of a sample of communicable illnesses that occur in Ontario can be found in the Appendix.)

The inability to identify a specific work-related contact source for the worker's communicable illness does not mean the worker did not contract the communicable illness from exposure occurring in the course of employment. In the absence of a specific work-related contact source, the decision-maker must determine the issue of whether the communicable illness was contracted by the worker while in the course of employment after weighing all of the available relevant evidence.

### **Determining whether the communicable illness arose out of employment**

A worker's employment will have made a significant contribution to contracting a communicable illness when the decision-maker is satisfied that:

- the employment placed the worker at an increased risk (i.e., increased likelihood) of contracting the communicable illness as compared to the risk experienced by the general public during ordinary or routine activities of daily living, and
- the communicable illness was contracted by the worker from exposure that occurred in the course of their employment as a result of the identifiable increase in risk.

The worker's employment will generally not have made a significant contribution to contracting the communicable illness when these conditions are not met.

In determining whether the worker's employment made a significant contribution to the contraction of the communicable illness, the decision-maker considers both the risk factors that are associated with the worker's occupation or job as well as the individual circumstances that led to the worker contracting the communicable illness.

### **Employment risk factors**

A worker's employment will generally place the worker at an increased risk of contracting a communicable illness as compared to the risk of contracting the communicable illness through ordinary or routine activities of daily living when:

- the rate of the communicable illness is significantly higher in the worker's place of work than in the general population (e.g., widespread outbreak in the workplace, treatment or care of populations with a significantly higher rate of the illness, or travel to a region with a significantly higher rate of the illness), and/or

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- the worker's employment activities create opportunities for exposure to and transmission of the communicable in excess of the opportunities associated with ordinary or routine activities of daily living.

Employment-related activities that may create opportunities for exposure to and transmission of a communicable illness in excess of the norm include, but are not limited to:

- activities that require a worker to have direct and prolonged close contact with one or more person(s) known to have or suspected of having the communicable illness in the context of delivering health care, personal care, emergency aid, custody, or transport to these persons
- activities that require the worker to have direct contact with infectious substances, such as the body fluids of persons known to have or suspected of having the communicable illness, and
- staying in employer-provided accommodations with one or more person(s) known to have or suspected of having the communicable illness, such as accommodations in remote mining camps or accommodations provided to temporary foreign agricultural workers.

**Community-acquired communicable illnesses**

Communicable illnesses, such as influenza, the common cold, and COVID-19 are highly transmissible and can be prevalent in the general population. In-person interactions that can easily spread these communicable illnesses are a part of everyday life and occur both inside and outside of employment (e.g., in the home, community, and public settings). Outside of a public health emergency, in-person interactions at work with colleagues, customers, clients, or others, generally do not place the worker at a greater risk of contracting one of these communicable illnesses than the risk experienced by the general public. Therefore, a worker who contracts one of these communicable illnesses in the course of employment is generally not entitled to benefits unless the worker's employment increased their risk of contracting the communicable illness in some additional way. For example, the worker contracts the communicable illness while performing a job duty that subjected them to an exposure risk in excess of the norm, such as delivering health care to a person known to have the communicable illness.

**Public health emergency**

During a government-declared public health emergency related to a communicable illness, a worker's employment-related risk of contracting that communicable illness may be increased when:

- the public health emergency results in the implementation of public health measures to control or prevent the spread of the communicable illness in the general public (e.g., stay-at-home orders), and
- the worker is employed as an essential worker at a workplace that remains open during the public health emergency and has in-person interactions as part of their job duties.

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**Communicable illnesses****Loss of earnings (LOE) benefits and period of communicability**

When a claim for a communicable illness has been allowed, a worker may be entitled to LOE benefits for the period of communicability, even if the worker is asymptomatic or only has mild symptoms, if the communicability of the worker prevents or limits their ability to return to work, see 18-03-02, Payment and Reviewing LOE Benefits (Prior to Final Review).

In this section, "**period of communicability**" means the time during which an infectious agent may be transferred directly or indirectly from an infected person to another person. During this period, a worker with a communicable illness poses a risk of transmitting it to others in the workplace.

**Prevention of communicable illnesses**

A worker who is exposed to a communicable illness in the workplace, but free of illness (i.e., symptom-free and no laboratory confirmation or clinical diagnosis), may be legally required to self-isolate or may be sent home by the employer. Workers who are free of illness do not have entitlement to benefits under the *Workplace Safety and Insurance Act, 1997* for the period of time in which they are required to remain out of the workplace on a precautionary basis. However, if a worker subsequently develops symptoms or tests positive for a communicable illness, they may be entitled to benefits.

**Application date**

This policy applies to all claims for a communicable illness with an accident date on or after [TBD]

**Document history**

This is a new document.

**Policy review schedule**

This policy will be reviewed within two years of the application date.

**References****Legislative authority**

*Workplace Safety and Insurance Act, 1997*, as amended  
Sections 2, 13, 43, 159

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**APPENDIX**

The defining features of a sample of communicable illnesses that occur in Ontario are provided in the table below.

The key characteristics described for each communicable illness include:

1. Signs and symptoms – the main clinical features;
2. Mode of Transmission – the mechanisms by which the infectious agent is spread to humans;
3. Incubation Period – the time interval between initial contact with the infectious organism and the first appearance of symptoms associated with the infection; and
4. Period of Communicability – the time during which an infectious agent may be transferred directly or indirectly from an infected person to another person; or from an infected animal to humans.

**Table 1. Determining entitlement - General characteristics illustrated with examples of common communicable illnesses**

<b>Communicable Illness</b>	<b>Signs and Symptoms</b>	<b>Mode of Transmission</b>	<b>Incubation Period (Range)</b>	<b>Period of Communicability</b>
Norovirus infection	nausea, vomiting, fever, watery diarrhea, abdominal pain	fecal-oral, direct person-person and indirect or airborne transmission	1-2 days	highest during acute stage and up to 72 hours after symptoms resolve
Scabies	intense itching, papules, vesicles or tiny linear burrows and lesions	prolonged direct contact with infested skin	2-6 weeks	until mites and eggs are destroyed
Influenza	fever, cough, headache, muscle aches and pain	primarily transmitted by droplets and spread through coughing or sneezing; may also be transmitted through direct or indirect contact with infected respiratory secretions	1-4 days	1 day before the first symptoms until 5 days after first symptoms

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COVID-19	fever and/or chills, cough, shortness of breath, decrease or loss of taste or smell, runny nose/nasal congestion, headache, extreme fatigue, sore throat, muscle aches or joint pain, gastrointestinal symptoms (i.e. vomiting or diarrhea)	inhalation of infectious respiratory particles of varying sizes - aerosols (smaller particles) and droplets (larger particles)	1-14 days	two days before symptom onset and can last until ten days following symptom onset
Hepatitis B	asymptomatic, fatigue, loss of appetite, joint pain, abdominal pain, nausea, vomiting, fever, and dark urine, jaundice	direct or indirect transmission via inanimate objects, blood and blood products, body fluids	45-180 days	weeks before onset of first symptoms and remain infective through acute clinical course
Lyme disease	fever, headache, muscle and joint pain, fatigue and an expanding red rash, neurological and cardiac abnormalities	tick-borne; bite of an infected blacklegged tick	3-30 days after tick exposure	no evidence of person-to-person transmission