

COVID-19 Workers' Compensation Presumption Coverage: Indiana

Several states have passed executive orders or laws that either create a presumption of workers' compensation coverage for certain employees who contract COVID-19 or otherwise make it easier for an employee to file a workers' compensation claim for COVID-19. These laws and executive orders vary in the scope of workers covered, that is, which industries and/or occupations fall within the laws and executive orders. WCRI has conducted a series of studies using publicly available employment data to estimate the number of workers covered in each state. These studies give a sense of the size of employment potentially covered by the laws and orders. They do not estimate the number of workers who contract COVID-19 at work, nor do they measure the number of COVID-19 workers' compensation claims.

The estimates of the number of workers covered by the presumption rules are calculated in two steps:

- First, determine estimates of employment covered by the presumption using the definition created by the jurisdiction.
- Second, assign an exposure risk factor to the industry or occupation to more accurately calculate the exposure base of workers.

This paper provides estimates of employment in Indiana covered by the state workers' compensation program that may be subject to the Indiana Worker's Compensation Board [website notice issued on April 2, 2020](#). It is important to note that the Indiana Worker's Compensation (WC) Board notice does not create a presumption of compensability for workers who contract COVID-19. The Board explains that, under Indiana laws, the state cannot tell employers they must automatically cover employees who contract COVID-19. Further, the Board notice states "Whether an individual contracts the virus in the course and scope of their employment is a determination that must initially be made by the employer." In the notice, the Board observes that it is well accepted that first responders (as defined in P.L. 113-2020) and health care providers (as defined at IC 16-18-2-163), as well as others directly involved in providing services to those exhibiting symptoms of COVID-19 are more susceptible to contracting the disease as a direct result of their work duties. The Board notice urges employers to consider making a prospective decision as to whether any vulnerable segment of their workforce will be presumptively covered under the provisions of the Worker's Compensation Act should they:

- a.) Be quarantined at the direction of the employer due to a confirmed or suspected COVID-19 exposure,
- b.) Receive a COVID-19 diagnosis from a physician without a test,
- c.) Receive a presumptive positive COVID-19 test, or
- d.) Receive a laboratory-confirmed COVID-19 diagnosis.

Employment estimates of workers covered by the Board notice were largely derived from the U.S. Bureau of Labor Statistics (BLS) Occupational Employment Statistics program for May 2019 (the latest available information from BLS for employment by occupation), with some statistics from the BLS Quarterly Census of Employment and Wages for 2019.

Employment of roughly 413,500 persons covered by the state workers’ compensation system might be covered by the Board notice, as shown in Table A, Column 1. This is about 13 percent of Indiana’s total covered employment of about 3.1 million.¹ The notice specifies first responders and health care providers, as well as others directly involved in providing services to those exhibiting COVID-19 symptoms. We estimated the number of covered workers using occupations and settings where these workers are most likely to be exposed to COVID-19 patients. The total number of workers using this method is 246,259, which we use for the employment scope addressed in this Worker’s Compensation Board Notice. We recognize that only some fraction of all of these workers are directly involved in providing services to COVID-19 patients.

The estimated total number of the workers covered by the Board notice is 246,259 as shown in Table A, Column 2. This is about 8 percent of Indiana’s total employment of 3.1 million in May 2019. Tables B–F include information on the underlying categories of employees defined above.

Using the classification for worker exposure risk developed by the Occupational Safety and Health Administration (OSHA), we added an exposure rating to Tables B–F, Column 4.² We assigned an exposure risk classification as follows: very high = 1, high = 0.8, medium = 0.5, lower = 0.2. Finally, we applied that exposure risk to the number of employees, resulting in a smaller number of workers covered by the Board notice, shown in Tables B–F, Column 5. Column 3 of Table A reports the adjusted coverage. Our risk-adjusted measure of employment covered by the Board notice is 118,119 or 3.8 percent of Indiana’s total employment covered by workers’ compensation of 3.1 million in May 2019.

Table A			
	1	2	3
Occupations	Employment	Estimated Employment Covered by WC Board Notice	Covered by WC Board Notice + Exposure Risk Applied
Total	413,520	246,259	118,119
First responders	39,850	39,850	20,126
Health care providers	373,670	206,409	97,993

The following are details for the occupational groups.

First Responders

Total first responder employment in Indiana is 39,850, as shown in Table A, Column 1. First responders are defined in P.L. 113-2020 and include law enforcement, firefighters, corrections officers, public safety telecommunicators, and providers of emergency medical services.

¹ The total employment estimate comes from the BLS Quarterly Census of Employment and Wages, May 2019. It includes employment covered by state unemployment insurance.

² The OSHA risk pyramid can be found at <https://www.osha.gov/Publications/OSHA3993.pdf>.

Law Enforcement

Total law enforcement employment in state and local government and higher education institutions in Indiana is 14,970 as shown in Column 1 of Table B, distributed across industries and detailed occupations. All of these workers are covered by the Board notice, so the estimated employment covered by the notice in Column 3 is identical to Column 1. We categorized the exposure risk for these occupations, based on the OSHA risk pyramid, as either medium or lower. Our risk-adjusted measure of employment in law enforcement covered by the Board notice is 6,870 (Table B, Column 5).

Table B					
	1	2	3	4	5
Occupational Title	Employment	Estimated Coverage	Estimated Employment Covered by WC Board Notice	Exposure Risk (very high, high, medium, lower)	Estimated Number of Workers Based on Exposure Risk
All law enforcement officers	14,970		14,970		6,870
State government					
Police and sheriff's patrol officers	1,210	100%	1,210	Medium	605
First-line supervisors of police and detectives	140	100%	140	Lower	28
Detectives and criminal investigators	180	100%	180	Medium	90
Fish and game wardens	140	100%	140	Lower	28
Local government					
County, city, or town police officers	10,690	100%	10,690	Medium	5,345
First-line supervisors of police and detectives	1,160	100%	1,160	Lower	232
Detectives and criminal investigators	420	100%	420	Medium	210
Bailiffs	520	100%	520	Lower	104
Colleges, universities, and professional schools					
Police and sheriff's patrol officers	420	100%	420	Medium	210
First-line supervisors of police and detectives	90	100%	90	Lower	18

Firefighters

Firefighter employment in Indiana is 8,530, as shown in Column 1 of Table C. All of these workers are covered by the Board notice, so the estimated employment covered by the notice in Column 3 is identical to Column 1. We categorized the exposure risk for these occupations, based on the OSHA risk pyramid, as either medium or lower, with firefighters falling into the medium category and first-line supervisors and fire inspectors and investigators falling into the lower category. Our risk-adjusted measure of employment for firefighters covered by the Board notice is 3,917 (Table C, Column 5).

	1	2	3	4	5
Occupational Title	Employment	Estimated Coverage	Estimated Employment Covered by WC Board Notice	Exposure Risk (very high, high, medium, lower)	Estimated Number of Workers Based on Exposure Risk
All firefighters, including volunteers	8,530		8,530		3,917
Firefighters, including volunteers	7,370	100%	7,370	Medium	3,685
First-line supervisors of firefighting and prevention workers	1,010	100%	1,010	Lower	202
Fire inspectors and investigators	150	100%	150	Lower	30

Corrections Officers

Employment in Indiana of corrections officers is 9,670 as shown in Column 1 of Table D. These workers are employed in both state and local government facilities. All of these workers are covered by the Board notice, so the estimated employment covered by the notice in Column 3 is identical to Column 1. We categorized the exposure risk for these occupations, based on the OSHA risk pyramid, as either medium or lower, placing corrections officers and jailers in the medium category and other occupations in the lower category. Our risk-adjusted measure of employment for corrections officers covered by the Board notice is 3,995 (Table D, Column 5).

	1	2	3	4	5
Occupational Title	Employment	Estimated Coverage	Estimated Employment Covered by WC Board Notice	Exposure Risk (very high, high, medium, lower)	Estimated Number of Workers Based on Exposure Risk
All corrections officers	9,670		9,670		3,995
State government					
Corrections officers and jailers	3,430	100%	3,430	Medium	1,715
First-line supervisors of corrections officers	820	100%	820	Lower	164
Probation officers and correctional treatment specialists	160	100%	160	Lower	32
Local government					
Corrections officers and jailers	3,440	100%	3,440	Medium	1,720
First-line supervisors of corrections officers	240	100%	240	Lower	48
Probation officers and correctional treatment specialists	1,580	100%	1,580	Lower	316

Emergency Medical Services Workers

Employment in Indiana of emergency medical services workers is 6,680, as shown in Column 1 of Table E. Included are emergency medical technicians (EMTs), paramedics, and ambulance drivers and attendants. They work in ambulatory health care facilities, hospitals, and other local government facilities such as fire stations. All of these workers are covered by the Board notice, so the estimated employment covered by the notice in Column 3 is identical to Column 1. We categorized the exposure risk for these occupations, based on the OSHA risk pyramid, as high. Our risk-adjusted measure of emergency medical services worker employment covered by the Board notice is 5,344 (Table E, Column 5).

Table E					
	1	2	3	4	5
Occupational Title	Employment	Estimated Coverage	Estimated Employment Covered by WC Board Notice	Exposure Risk (very high, high, medium, lower)	Estimated Number of Workers Based on Exposure Risk
All EMTs and paramedics	6,680		6,680		5,344
Ambulatory health care services					
EMTs and paramedics	2,490	100%	2,490	High	1,992
Ambulance drivers and attendants	170	100%	170	High	136
Hospitals					
EMTs and paramedics	2,430	100%	2,430	High	1,944
Ambulance drivers and attendants	40	100%	40	High	32
Local government, excluding schools and hospitals					
EMTs and paramedics	1,500	100%	1,500	High	1,200
Ambulance drivers and attendants	50	100%	50	High	40

Indiana first responders also include public safety telecommunicators and workers who perform emergency management services under the control of or under a request of the state or local government, including a volunteer health practitioner. Estimates for these workers are not readily available. However, the employment in this category is likely to be small.

Health Care Providers

Employment of health care providers in Indiana is 373,670 in May 2019. Health care providers are defined in Indiana Code 16-18-2-163 and include facilities such as hospitals, rehabilitation facilities, health care facilities, community health centers, ambulatory outpatient surgery centers, laboratories, home health agencies, and health care organizations whose members, shareholders, or partners are health care providers. Occupations specified in the statute include physicians, physician assistants, nurses, dentists, physical therapists, respiratory care practitioners, and home health aides. We interpret the health care provider group as workers employed in ambulatory health care facilities (for example, doctor's offices);

hospitals; nursing and residential care facilities; home health care; and residential intellectual and developmental disability, mental health, and substance abuse facilities. The Board notice covers all health care providers, but within the category, there are wide varieties of occupations with different COVID-19 exposure risks. We identify those occupations in various health care settings that are more likely to have a higher risk of exposure, particularly those that may be providing direct care to patients.

Governor Holcomb issued the state shutdown order effective March 24, 2020. Essential health care remained open, although it is unclear to what extent non-emergent and non-urgent in-person medical, surgical, dental, and any other health care practices or procedures continued to operate. On April 27, 2020, elective medical procedures were again permitted. Therefore, most Indiana health care facilities were likely open as of May 2020, but not necessarily operating at full capacity.

We estimate that 206,409 health care providers are more likely to be covered by the Board notice. This estimate is an upper bound on the actual number.

Regarding the OSHA risk categorization, the workers providing direct care to COVID-19 patients are at a high to very high risk. However, those not involved in treating COVID-19 patients, but who are providing health care in an emergency situation, deliveries of babies, or taking care of elderly residents in nursing and residential facilities are likely at medium to lower risk. We have applied a risk factor of 0.5 for all of these occupations to reflect the diversity of risk exposure. The risk-adjusted employment for all health care providers is 97,993, or about 26 percent of all health care providers.

The ambulatory health care services industry includes the offices of doctors, dentists, chiropractors, and physical therapists. There were about 143,830 workers employed in the industry in May 2019 (Table F, Column 1). It is possible that some of these offices closed during the early part of the pandemic and were seeing patients only by televisit or in person on an emergency basis. In addition, health care facilities commonly implemented new and rigorous safety and hygiene protocols to ensure protection for both their workers and patients. Thus, the exposure risk at these facilities was generally low. One part of this industry that likely remained open and would encounter COVID-19 patients is urgent care centers and other freestanding emergency medical centers. We did not estimate the number of workers in these centers separately. Given the likely reduced use of ambulatory health care facilities and the nature of care provided, we estimate that 25 percent of workers in this industry (35,958) may be covered by the Board notice (Table F, Column 3). Within ambulatory health care services, two occupational groups (health care practitioners and technical occupations and health care support occupations) comprise about 69 percent of employment and are at higher risk for exposure to COVID-19 patients.

Within hospitals, we include the following occupations in our estimated employment of health care practitioners and technical occupations and health care support occupations covered by the Board notice: physicians and surgeons, physician assistants, nurses, respiratory technologists, anesthesiologists, phlebotomists, aides, assistants, and orderlies. These direct care workers comprise 78 percent of hospital employees.

Within nursing and residential care facilities, we include the following occupations in our estimated employment of health care practitioners and technical occupations and health care support occupations covered by the Board notice: nurses, aides, assistants, and orderlies. These occupations represent 65 percent of all workers in these facilities. Consistent with the services provided by residential care facilities, there is a higher proportion of employment in certain occupations in which direct contact with residents

is more likely than in the other health care industries, namely, food preparation and serving and personal care and services. We have included these occupations in our employment estimates.

The Board notice also covers workers employed in home health care and in residential intellectual and developmental disability, mental health, and substance abuse facilities. As in the other health care provider categories, health care practitioners and technical occupations and health care support occupations comprise the largest share of workers—86 percent of workers employed in home health care and 64 percent of workers employed in residential facilities.

Table F					
	1	2	3	4	5
	Employment	Estimated Coverage	Estimated Employment Covered by WC Board Notice	Exposure Risk (very high, high, medium, lower)	Estimated Number of Workers Based on Exposure Risk
Total health care providers	373,670		206,409		97,993
Ambulatory health care services	143,830		35,958		15,314
Health care practitioners and technical occupations	62,260	25%	15,565	Medium	7,783
Health care support occupations	37,460	25%	9,365	Medium	4,683
Office and administrative support occupations	28,700	25%	7,175	Lower	1,435
Community and social service occupations	8,560	25%	2,140	Medium	1,070
Management, business, and financial operations	6,850	25%	1,713	Lower	343
Hospitals	127,670		85,108		40,830
Health care practitioners and technical occupations	83,030	75%	62,273	Medium	31,137
Health care support occupations	17,090	80%	13,672	Medium	6,836
Office and administrative support occupations	15,480	25%	3,870	Lower	774
Community and social service occupations	4,550	75%	3,413	Medium	1,707
Management, business, and financial operations	7,520	25%	1,880	Lower	376
					<i>continued</i>

Table F (continued)					
	1	2	3	4	5
Nursing and residential care facilities	71,840		59,606		29,239
Health care practitioners and technical occupations	15,820	86%	13,606	Medium	6,803
Health care support occupations	30,600	98%	29,988	Medium	14,994
Office and administrative support occupations	3,910	25%	978	Lower	196
Community and social service occupations	3,230	75%	2,423	Medium	1,212
Food preparation and serving related occupations	9,880	75%	7,410	Medium	3,705
Personal care and service occupations	4,770	90%	4,293	Medium	2,147
Management, business, and financial operations	3,630	25%	908	Lower	182
Home health care	21,320		18,295		8,970
Health care practitioners and technical occupations	5,670	85%	4,820	Medium	2,410
Health care support occupations	12,720	98%	12,466	Medium	6,233
Office and administrative support occupations	1,450	25%	363	Lower	73
Community and social service occupations	550	75%	413	Medium	207
Management, business, and financial operations	930	25%	233	Lower	47
Residential intellectual and developmental disability, mental health, and substance abuse facilities	9,010		7,442		3,640
Health care practitioners and technical occupations	450	75%	338	Medium	169
Health care support occupations	5,340	95%	5,073	Medium	2,537
Personal care and service occupations	800	95%	760	Medium	380
Office and administrative support occupations	400	25%	100	Lower	20
Community and social service occupations	1,330	75%	998	Medium	499
Management, business, and financial operations	690	25%	173	Lower	35

Data

We largely derived employment estimates from the BLS Occupational Employment Statistics (OES) program for May 2019 (the latest available information from BLS for employment by occupation). The OES provides estimates of employment by state, industry of the employer, and the occupations within each industry. These data are the most appropriate for a study of the scope of presumption laws and orders, as these laws and orders may identify in-scope workers according to where they work (i.e., industry), according to the jobs performed (occupation), or both. In some cases, we supplement these data with other sources, including the BLS Quarterly Census of Employment and Wages for 2019, which we used to estimate employment in urgent care facilities. We used other non-BLS sources to estimate employment for particular groups of workers not reported on separately by BLS (e.g., workers in the National Guard). Nearly all employment estimates are for May 2019, that is, before the COVID-19 pandemic and shutdown. Employment after May 2019 and just prior to the pandemic in any industry or occupation may have increased or decreased slightly compared with May 2019. The shutdown, of course, resulted in temporary drops in employment in certain industries and occupations. While we reference these drops for the workers covered by the pandemic, we do not have direct estimates of the drops. Therefore, the employment estimates from 2019 serve as an upper bound on employment covered by the presumptions.

We are estimating employment within the scope of the presumptions. We do not attempt to measure the number of workers who contract COVID-19 at work, nor do we estimate the number of COVID-19 workers' compensation claims. In many states, workers may be able to file a COVID-19 workers' compensation claim even when they are not covered by the presumption.