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Weber 
Gallagher

Legislative Update Regarding Rebuttable Presumption Related to COVID-19 Workers' Compensation Claims in New Jersey

The Governor of New Jersey previously signed legislation indicating that if an employee meets the qualification as an essential employee, and it was a very broad definition of employees who were covered, then if they contracted the COVID-19 virus, there was a rebuttable presumption that the exposure took place at work. The burden of disproving the exposure then fell on the respondent, and we know how difficult it is to prove a negative. This rebuttable presumption only lasts as long as the declared state of emergency.

Today Governor Murphy signed Executive Order No. 244, which ends the COVID-19 public health emergency. This goes into effect 30 days from today.

What does this mean?

As of July 3, 2021, the state of emergency expires, and the burden of proof for an alleged COVID-19 virus exposure reverts to being on the petitioner to prove that she/he was exposed while at work and contracted the virus from the same. It also means that if a petitioner claims exposure prior to July 3, the rebuttable presumption would still be applicable to the claim.

While the pandemic related to COVID-19 has not ended, with more and more individuals obtaining vaccinations, exposures should continue to diminish with a corresponding diminution of claims.

If you have any questions with regards to the effort of the new legislation on a pending or future claim, please feel free to contact our office with any questions.