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CHAPTER 84

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An Act concerning essential employees contracting coronavirus disease 2019 and supplementing Title 34 of the Revised Statutes.

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

C.34:15-31.11 Definitions relative to essential employees contracting COVID-19.

1. As used in this act:

"Essential employee" means an employee in the public or private sector who, during a state of emergency:

(1) is a public safety worker or first responder, including any fire, police or other emergency responders;

(2) is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes;

(3) performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, hotel and other residential services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or

(4) is any other employee deemed an essential employee by the public authority declaring the state of emergency.

An employee who is an employee of the State who is offered the option of working at home but has refused that option shall not be regarded as an essential employee. "Health care facility" means any non-federal institution, building or agency, or portion thereof, whether public or private, for profit or nonprofit, that is used, operated or designed to provide health services, medical or dental treatment or nursing, rehabilitative, or preventive care to any person. Health care facility includes, but is not limited to: an ambulatory surgical facility, home health agency, hospice, hospital, infirmary, intermediate care facility, dialysis center, long-term care facility, medical assistance facility, mental health center, paid and volunteer emergency medical services, outpatient facility, public health center, rehabilitation facility, residential treatment facility, skilled nursing facility, and adult day care center. Health care facility also includes, but is not limited to, the following related property when used for or in connection with the foregoing: a laboratory, research facility, pharmacy, laundry facility, health personnel training and lodging facility, patient, guest and health personnel food service facility, and the portion of an office or office building used by persons engaged in health care professions or services.

"Health care worker" means an individual employed by a health care facility.

"Public safety worker" includes a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force, company or district, including the State Police, a Community Emergency Response Team approved by the New Jersey Office of Emergency Management, or a correctional facility, or a basic or advanced medical technician of a first aid or rescue squad, or any other nurse, basic or advanced medical technician.

C.34:15-31.12 Rebuttable presumption that contraction of the disease is work-related and compensable.

2. If, during the public health emergency declared by an executive order of the Governor and any extension of the order, an individual contracts coronavirus disease 2019 during a time period in which the individual is working in a place of employment other than the individual's own residence as a health care worker, public safety worker, or other essential employee, there shall be a rebuttable presumption that the contraction of the disease is work-related and fully compensable for the purposes of benefits provided under R.S.34:15-1 et seq., ordinary and accidental disability retirement, and any other benefits provided by law to individuals suffering injury or illness through the course of their employment. This prima facie presumption may be rebutted by a preponderance of the evidence

showing that the worker was not exposed to the disease while working in the place of employment other than the individual's own residence.

C.34:15-31.13 Payment of compensation not considered factor in certain calculations.

3. Any workers' compensation claims paid according to section 2 of this act shall not be considered in calculating an employer's Experience Modification Factor, pursuant to the New Jersey Workers' Compensation and Employers Liability and Insurance Manual administered by the Compensation Rating and Inspection Bureau established by section 2 of P.L.1995, c.393 (C.34:15-89.1) and section 1 of P.L.2008, c.97 (C.34:15-90.1).

C.34:15-31.14 Construction of act.

4. This act is intended to affirm certain rights of essential employees under the circumstances specified in this act, and shall not be construed as reducing, limiting or curtailing any rights of any worker or employee to benefits provided by law.

5. This act shall take effect immediately and shall be retroactive to March 9, 2020.

Approved September 14, 2020.

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