

LCQ14: Employees' compensation for contracting COVID-19 at work

Following is a question by the Hon Wong Kwok-kin and a written reply by the Secretary for Labour and Welfare, Dr Law Chi-kwong, in the Legislative Council today (May 12):

Question:

It is learnt that an employee had died after contracting Coronavirus Disease 2019 (COVID-19) at work, but his employer refused to admit the compensation liability and did not make a report to the Labour Department (LD) in accordance with the Employees' Compensation Ordinance (Cap 282). In respect of employees' compensation for contracting COVID 19 at work, will the Government inform this Council:

(1) Of the number of compensation claims under Cap 282 received by LD since January 2020 from employees for having contracted COVID-19 at work; among such claims, the respective numbers of those which (i) were fatal cases, (ii) were reported by employers on their own initiative and (iii) were reported by the employees or their family members; and

(2) Among the claims mentioned in (1), of the number of those in which the employers have admitted compensation liabilities and made compensation, as well as the details of such compensation, including (i) the average amount of compensation for fatal cases, and (ii) the maximum, minimum and average numbers of days of work injury sick leave granted to the employees in other claims?

Reply:

President,

My reply to the Member's question is as follows:

(1) For employees who have contracted diseases (including COVID-19) but the infections have not arisen out of and in the course of employment, and the employees have been granted sick leaves supported by appropriate medical certificates (Note), the employers should pay the employees sickness allowance in accordance with the Employment Ordinance and the relevant employment contract terms. These cases are not required to be reported to the Labour Department (LD) in accordance with the Employees' Compensation Ordinance.

During January 2020 to April 28, 2021, the LD received a total of 541 employees' compensation cases with employees suspected to have contracted COVID-19 arising out of and in the course of employment and, among them, two fatal cases were involved. Of these 541 cases, employers reported 528 cases to the LD on their own initiative and the LD followed up on the remaining 13 cases upon notification by the employees.

At the time of reporting to the LD, the majority of the above cases were unable to confirm whether the employees had contracted COVID-19 while at work or the infections were linked to other sources. Hence, the employers needed time to conduct investigation on their own or seek the LD's assistance to provide views on the likelihood of the cases being work injuries after obtaining medical reports and other relevant information.

Note: An appropriate medical certificate refers to that issued by a registered medical practitioner, a registered Chinese medicine practitioner or a registered dentist. It should specify the number of days on which, and the nature of the sickness or injury on account of which, the employee is unfit for work.

(2) Among the 541 cases in part (1), the employees in 115 cases withdrew their claims/did not pursue their claims further owing to various reasons or the employers were confirmed to have no liability of compensation under the Employees' Compensation Ordinance. Most of the employees who withdrew their claims/did not pursue their claims further have informed the LD that they had fully recovered after taking sick leaves and thus needed not pursue their claims.

Besides, there were 79 cases which were confirmed to be work injury cases and the employers concerned were required to take up the employees' compensation liability. Of these 79 cases, 63 cases were pending the completion of sick leave clearance process and/or the assessment of loss of earning capacity permanently caused by the injuries after the employees' medical conditions became stable; employees in five cases withdrew their claims/did not pursue their claims further owing to various reasons (these five cases are included in the 115 cases mentioned in the paragraph above); and 11 cases (no fatal case was involved) were settled after the employers had made payments in accordance with the Certificate of Compensation Assessment issued by the Commissioner for Labour. For the 11 settled cases, the period of absence from duty as a result of the injuries ranged from zero to 40 days, with an average period of 23 days.

The LD is actively following up/processing the remaining 352 cases (including the two fatal cases).