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Department:
Employment and Labour
REPUBLIC OF SOUTH AFRICA



Compensation for Workplace-acquired COVID-19 Disease

20 August 2020





Fast facts on COVID-19 Disease

- Classification: A novel (new) Coronaviridae family subgenus Sarbecovirus (share characteristics with SARS virus, hence named SARS-Cov-2)
- Incubation period: 5 – 6 days (Range: 0 – 14 days)
- Longest viral shedding period (transmissibility): 37 days
- Median age at diagnosis: 59 years
- 81% of patients are asymptomatic, have mild disease and recover with no events
- 14% develop severe disease including pneumonia
- Up to 5% become critically ill with shock and multi-organ failure
- Case fatality rate at 2% (Range: 0.2% in under 50s and 14.8% in over 80s)
- Older age and pre-existing conditions increases mortality (Diabetes; Cancer; HIV; Chronic lung diseases; Heart diseases etc.)
- No treatment, no vaccine currently – under development.



MAIN ROUTES OF TRANSMISSION FOR HBAs

Mode of Transmission	Definition	Route of Entry
Contact	Transmission is by direct contact with infected or contaminated body surface or fluid; and indirect contact with an object previously contaminated with organisms from an infected person or animal	Skin Mucosa
Droplet Transmission	Droplets are generated during coughing, sneezing, talking and procedures such as suctioning	Respiratory Mucosa Digestive
Airborne Transmission	Transmitted through small particles that remain suspended in air for long periods of time	Respiratory
Common Vehicle Transmission	Transmission is by items such as food, water, devices and equipment.	Digestive Mucosa
Vector-Borne Transmission	Diseases are transmitted through carriers like mosquitos, flies, fleas etc.	Skin



Transmission

- Transmitted from person to person during contact with infected individual or contaminated surfaces
- Contact is defined as any of the following:
 - Providing direct care without proper personal protective equipment (PPE) for COVID-19 patients.
 - Staying in the same close environment of a COVID-19 patient (including workplace, classroom, household, gatherings).
 - Travelling together in close proximity (1 m) with a COVID-19 patient in any kind of conveyance within a 14-day period after the onset of symptoms in the case under consideration.



Clinical Presentation

- **Initial Stages:** Dry cough; sore throat; runny nose; sneezing; mild to moderate fever (37,3 – 38,5 C); malaise
- **Later stages:** Shortness of breath; myalgia; productive cough; headaches
- **Advanced stages:** Severe cough with haemoptysis; high fever $\geq 39C$; difficulty in breathing; pneumonia; respiratory failure.

Clinical Diagnosis

- Sputum, nasopharyngeal or oropharyngeal swab specimens collected from all patients at admission tested by real time polymerase chain (RT-PCR) reaction for SARS-Cov-2 RNA ; or
- Any diagnostic test approved by the DOH for this purpose



● Populations at Risk

- **Elderly:** > 50 years, especially > 70yrs
- **Infants and children:** Immature immune system
- **Pregnant and post-partum:** Physiological changes during pregnancy
- **Immunocompromised:** HIV/ Cancer/ Diabetes
- **Cardiovascular Diseases:** Hypertension/ Heart Diseases
- **Chronic Lung Diseases:** COPD/ Chronic Asthma
- **Pneumoconiosis:** Asbestosis/ Silicosis/ Coal Workers Pneumoconiosis



Prevention Modalities

- **Education on hygiene:** Keep at least 1m distance between suspected individuals. Cover nose and mouth during coughing or sneezing with tissue or flexed elbow and perform hand hygiene after contact with respiratory secretions.
- **Droplet precautions:** Use a medical mask if working within 1m of the patient. Apply spatial separation. When providing care in close contact with a patient with respiratory symptoms (e.g. coughing or sneezing), use eye protection
- **Contact precautions:** Avoid contact with contaminated surfaces. Disinfect surfaces, wear gloves, don't touch nose, eyes etc. Apply hand hygiene
- **Airborne precautions:** Use high level protection masks e.g N95, improve room ventilation, use negative pressure ventilation where possible
- **Quarantine:** apply quarantine measures to suspected cases with history of positive contact and conduct contact tracing



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Treatment Modalities

- No proven treatment or vaccine to date
- Treatment is supportive and symptomatic
- Severe cases need admission to hospital
- Critical cases need admission to ICU/ High Care with or without mechanical ventilation



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Directive on Workplace-acquired COVID-19 Disease

- Notice first published on the 23rd March 2020 – Compensation of Occupationally-acquired Covid-19 Disease (Notice CF/03/2020)
- Replaced by a Directive on the 23rd July 2020 (GN# 43540) - Compensation of Workplace-acquired Covid-19 Disease:
 - Deals with Workplace-acquired Novel Corona Virus Disease resulting from work-related exposures; exposure to suspected or confirmed Covid-19 cases in the workplace; or while travelling on official trip to countries or areas of high risk on work assignment or while performing any duty in pursuance of the employer's business.
 - Developed to give guidance and clarify the position of the Fund on compensation of this disease when acquired in the workplace





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Diagnosis and Work-relatedness of Covid-19 Disease

- Assessment of the inherent risk posed by various categories of work and occupations; or
- Exposure to a known source of Covid-19 in the workplace; or
- An approved official trip and travel history to countries and/or areas of high risk for Covid-19 on work assignment; and
- A reliable diagnosis of Covid-19 as per the WHO guidelines; and
- A chronological sequence between workplace exposure and the development of symptoms
 - Current diagnostic test: RT-PCR SARS-Cov-2 RNA; or
 - Any diagnostic test approved by the DOH – SARS-Cov-2 Antibody/Antigen test?



Legal Aspects of Compensation – Case Adjudication

- **Acquired out of employment** – The employee must have been involved in tasks for which he or she was contractually employed to perform when the disease was contracted
- **Acquired in the course of employment** – The disease must have been contracted during the periods when the employee was expected to be performing his or her duties or any other duties in the pursuance of the employer's business
- The person contracting the disease is deemed an employee in terms of COID Act.



Legal Aspects of Compensation – Section 65 & 66

• Section 65

- The employee is entitled to compensation if he or she contracts a disease listed in Schedule 3 of the COIDA Act
- If the disease is not listed but it can be proven that it was acquired in the workplace, liability must be accepted
- If a pre-existing condition makes it difficult to treat the occupational disease, treatment for the pre-existing condition must also be approved
- When determining permanent disablement (PD) benefits, the impact of the pre-existing condition must be taken into account
- Claim must be submitted within 12 months after the diagnosis of the disease by a medical practitioner, otherwise benefits will prescribe
- **Section 66:** An employee who contracts any disease while performing work listed in Schedule 3 is entitled to benefits under COIDA.



Occupations at Risk

- Employees who travel frequently on work assignment
- Transport and tourism staff (pilots; cabin crew; professional drivers; tour guides)
- Front-desk employees who deal with customers (walk-in service desks; retail shops; restaurants – high burden of proof!)
- All categories of healthcare workers including mortuary staff
- Academic staff (teachers; lecturers)
- Employees exposed to infected colleagues



Medical Aspects of Compensation – Burden of Proof

- **Causality** –The agent causing the disease in terms of HBAs must be a known cause of the disease and that the disease suffered must have a causal link to the exposure within the working environment [Covid-19 ✓]
- **Chronology** - The series of events leading to the disease must have a chronological sequence that justifies the link to the cause [Covid-19 ✓]
- **Medical Probability** - The link between the cause and effect must satisfy the requirements for medical probability, which stipulates that the likelihood that an association between a cause and an effect be greater than 95% for the relationship to be considered probable [Covid-19 ✓]

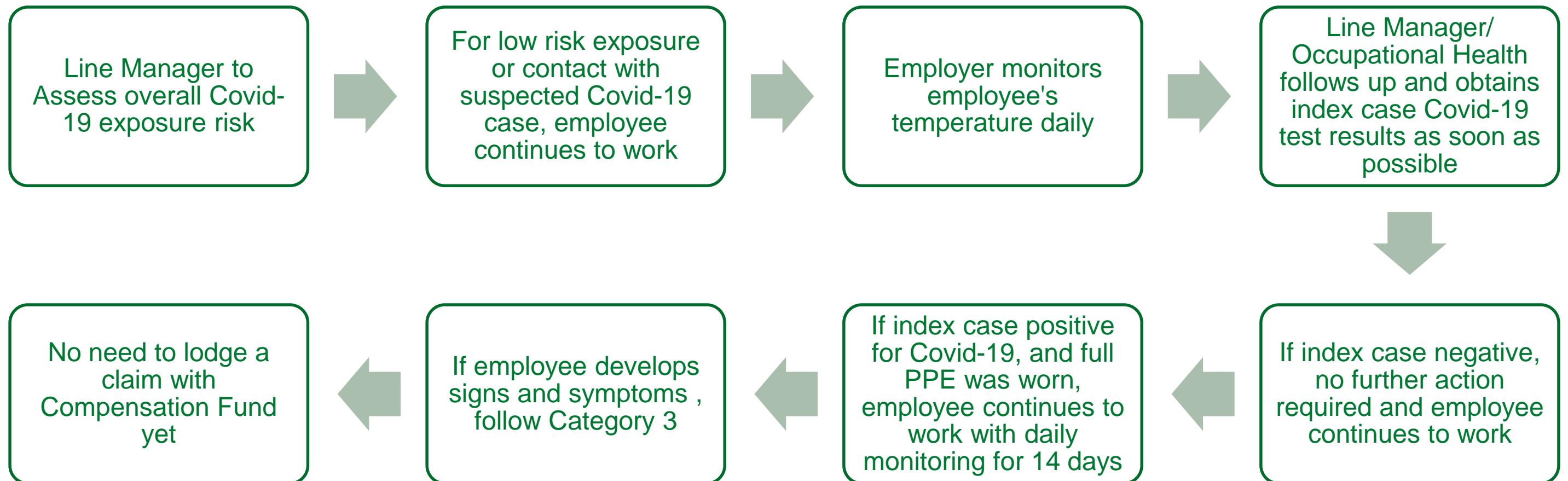


Category 1

Low Risk

Suspected Covid-19 Exposure

Asymptomatic



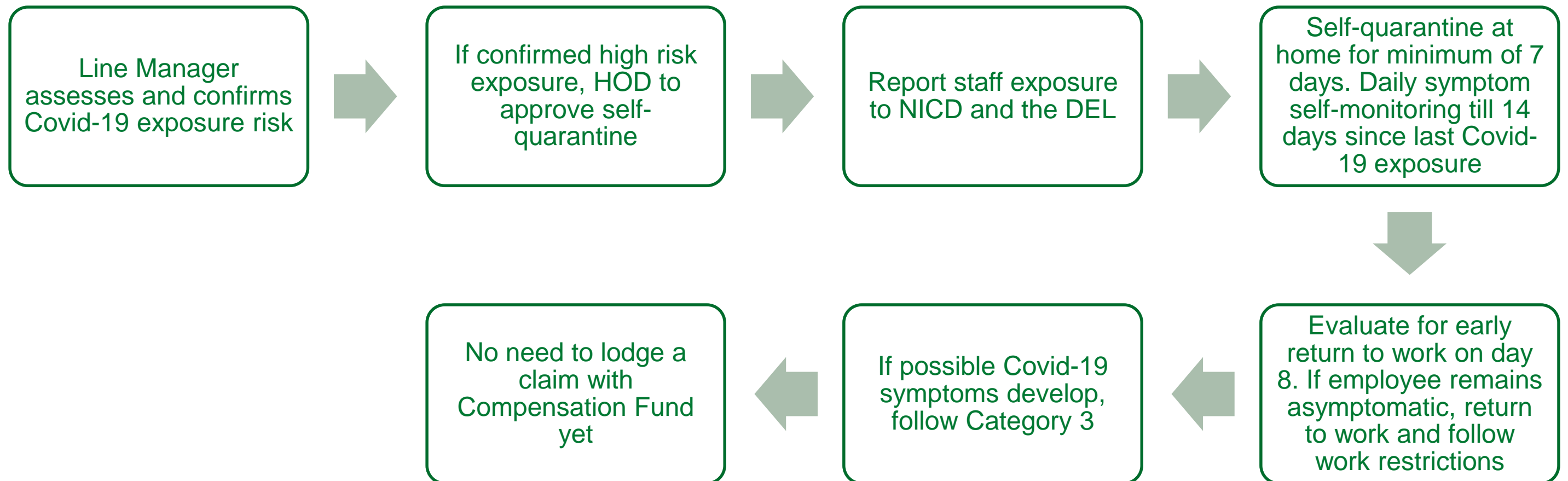


Category 2

High Risk

Confirmed Covid-19 Exposure

Worker Asymptomatic

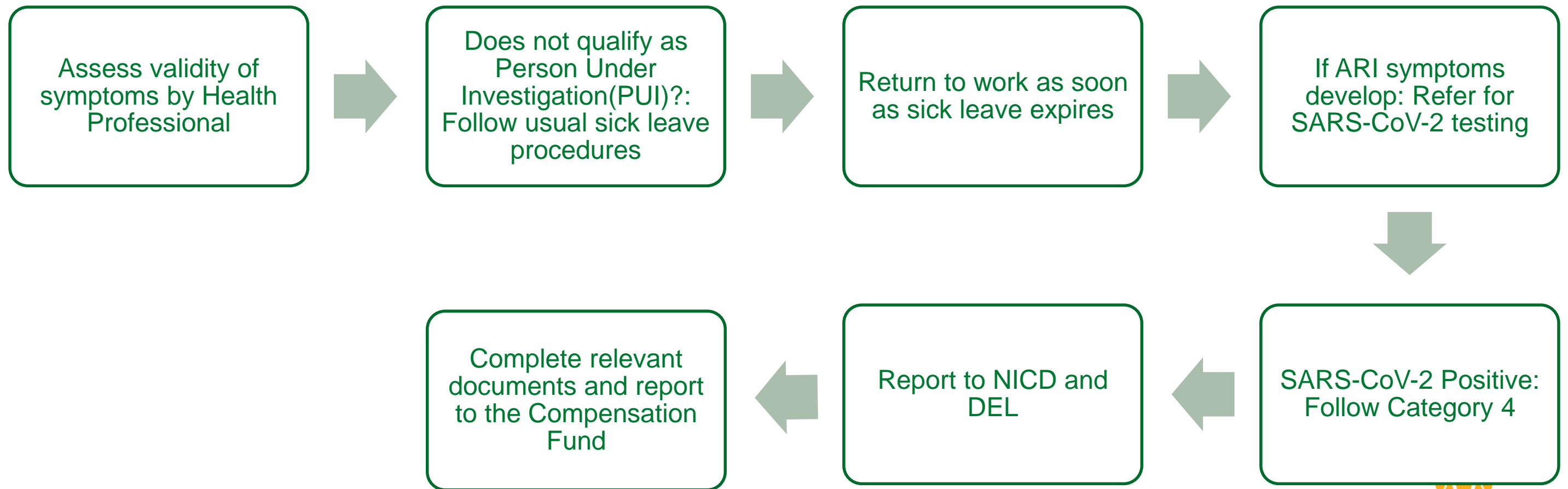




Category 3

High Risk

Worker with symptoms compatible with Acute Respiratory Infection (ARI)

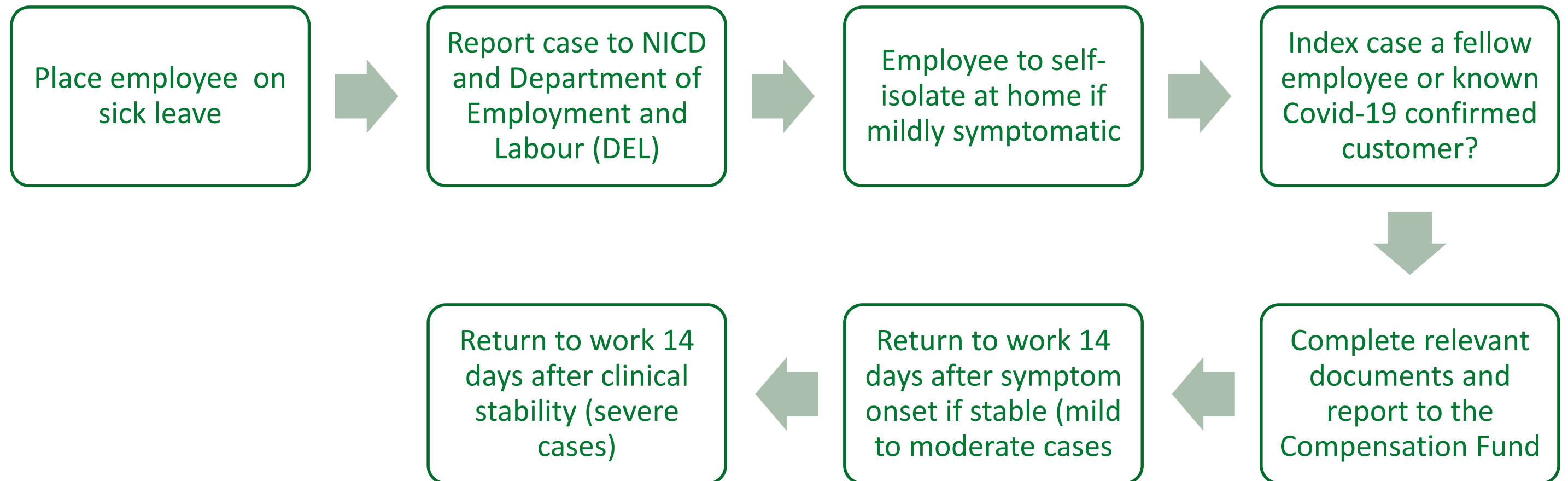




Category 4

High Risk

Worker with a positive Covid-19 test





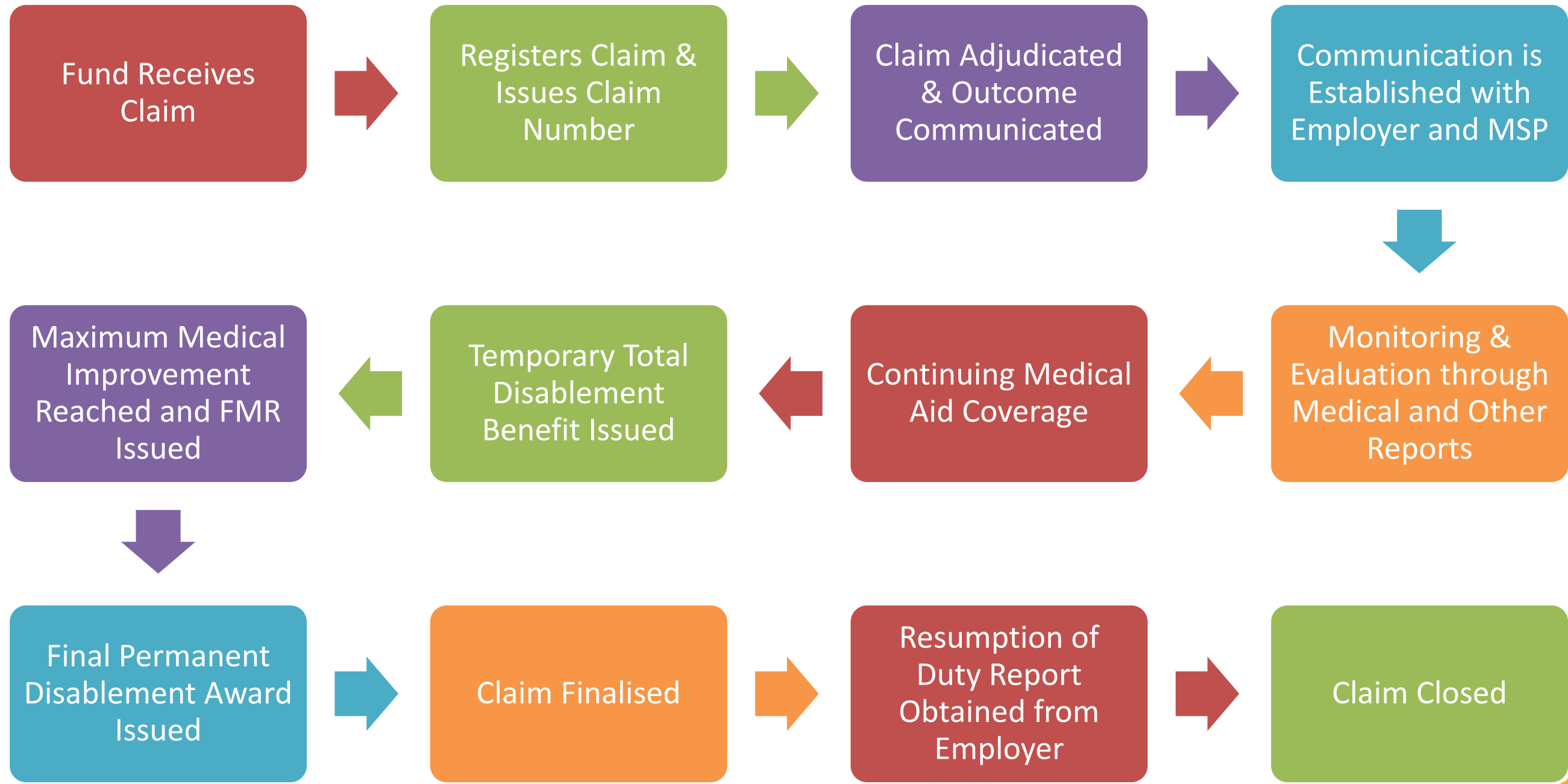
Immediate Documents Required for Claim Registration

Employee's Condition at Testing	Employers Report (WCL 1) + ID + Proof of Earnings	Notice of Occ Disease & Claim for Comp (WCL 14)	Exposure History (WCL 110)	Exposure and Medical Questionnaire	Confirmatory Laboratory Results (RT-PCR SARS-Cov-2 RNA)	First Medical Report (WCL 22)	Progress/ Final Medical Report (WCL 26)
Asymptomatic	Yes	Yes	Yes	Yes	Yes	No if routine screening. Yes if clinically consulted	Final Medical Report (after 14 days)
Initially Asymptomatic, then later have symptoms	Yes	Yes	Yes	Yes	Yes	No, to be submitted when symptomatic	Progress Report monthly, then Final at 3 months
Symptomatic from Onset	Yes	Yes	Yes	Yes	Yes	Yes	Progress Report monthly, then Final at 3 months
Fatal Case	Yes	Yes	Yes	Yes	Yes, with post-mortem results where available	Yes, where available	Final Medical Report



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Compensation Benefits for Covid-19 Disease

- Benefits covered under COID shall be paid on a retrospective basis where cases have been confirmed and accepted as workplace-acquired
- Medical aid shall cover the cost of approved diagnostic tests and clinically-appropriate interventions as advised by the DOH/WHO/ILO
- The costs for pre-diagnostic measures like quarantine in an approved non-hospital facility shall be reimbursed in accordance with applicable tariffs in the gazette where appropriate quarantine guidelines were followed with the advice of a registered medical practitioner when claim is accepted
- The determination of sick leave for work-related disease shall be in accordance with the provisions of section 24 of the Basic Conditions of Employment Act (BCEA)





Compensation Benefits for Covid-19 Disease

- **Medical Aid** – This covers reasonable costs for treatment and rehabilitation as provided for by various medical service providers and health establishments
- **Temporary Partial Disablement (TPD)** – This is an equitable portion paid to the employee as determined in Schedule 4 of the Act, where the employee is reasonably accommodated in a similar or different task while recovering [Reasonable Accommodation].
- **Temporary Total Disablement (TTD)** - This is payment made directly to the employee while he or she remains off-sick. It covers reasonable cost of lost wages up to 75% of the employee's salary, payable from the 4th day of injury or disease and for such period as the employee may remain unfit to work but not exceeding 24 months.
- **Permanent Disablement (PD)** – This is payable as lump sum or pension to employees whose diseases have reached permanency and no further improvement or deterioration is envisaged after maximum medical improvement status is reached.
- **Death Benefits** – For fatal injuries or diseases causing death, the deceased employee's dependents will be compensated to an amount not exceeding 100% permanent disablement referred to in section 49(1). Funeral costs are also paid at a once-off amount of R18 251..



Compensation Benefits Under COLD

Benefits payable under the Act may be in the form of periodic payments, a lump sum or pension depending on the nature and degree of disablement sustained. Schedule 4 of the Act gives different forms of payments:

Section	Nature & Degree of Disablement	Nature of Benefits	Manner of calculating Benefits
47(1)(a)	Temporary Total Disablement	Periodic Payments	75% of employee's monthly earnings at time of injury or disease
49(1)	Permanent Disablement of 30%	Lump Sum	15 times the employee's monthly earnings at the time of injury or disease
	Permanent Disablement up to 30%	Lump Sum	As above but proportional to percentage of PD up to 30%
49(1)	Permanent Disablement of 100%	Monthly Pension	75% of employee's monthly earnings at time of injury or disease



Compensation Benefits Under COID

Section	Nature & Degree of Disablement	Nature of Benefits	Manner of calculating Benefits
49(1)	Permanent Disablement less than 100% but more than 30%	Monthly Pension	75% of employee's monthly earnings at time of injury or disease multiplied by proportional percentage of PD
54(1)(a)	Fatal	Lump Sum	Twice the 75% of employee's monthly earnings at time of injury or disease
54(1)(b)	Fatal	Monthly Pension	75% of employee's monthly earnings at time of injury or disease multiplied by 40% payable to spouse
54(1)(c)	Fatal	Monthly Pension	75% of employee's monthly earnings at time of injury or disease multiplied by 20% payable to each child



Compensation Benefits Under COLD

Section	Nature & Degree of Disablement	Nature of Benefits	Manner of calculating Benefits
54(1)(a)	Fatal	Funeral Costs	A once-off lump sum of R18, 251.
28	Constant Attendance Allowance	Monthly Allowance	10% of beneficiary's pension with a minimum of R1 881.



Forms and Documents for Compensation Claims

Employer's Report of an Occupational Disease (W.CL.1)

- Notice of an Occupational Disease and Claim for Compensation (W.CL.14)
- Exposure and Medical Questionnaire
- First Medical Report in respect of an Occupational Disease (W.CL.22) indicating U07.1 as the ICD-10 code for Covid-19
- Exposure History (W.CL. 110) and/or any other appropriate employment history which may include any information that may be helpful to the Compensation Commissioner.
- A medical report on the employee's symptoms that details the history, establishes a diagnosis of COVID-19 and laboratory results and chest radiographs where appropriate or any other information relevant to the claim.
- For each consultation, a Progress Medical Report (W.CL. 26).[Not exceeding monthly]
- Final Medical Report in respect of an Occupational Disease (W.CL.26) when the employee's condition has reached Maximum Medical Improvement (MMI).[No later than 3 months after diagnosis]
- An affidavit by the employee if employer cannot be traced or will not timeously supply a W.CL.1, where applicable



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Thank You very much!

Muchas Gracias!

Muito Obrigado(a)!

Dr Lucas Mosidi – Director: Medical Services

Compensation Fund

