

Workers' Compensation and the Remote Employee: Are Injuries Covered? It Depends on the Facts

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The COVID-19 virus has forced many employees to work at home during the work week for the first time ever. This work from home set up invites an important question: **Does an employer's workers' compensation insurance company cover their employees' injuries that happen at home?**

The Employer's Place of Business

Injuries to an employee working remotely are governed by the same principles as an injury that occurs at the employer's place of business. New Jersey follows the premises rule which means that if an employee's accident occurs on company premises or in an area controlled by the employer, the accident is considered to be work related. The injury must arise as a result of the employment or occur during the course of the employment. When an employee works remotely, the premises is his or her residence. If an injury occurs at home, the question is whether the employee was in the course of his or her employment when they were hurt.

The Course of Employment

For example, attorney Joe Smith is preparing a legal brief in opposition to a motion when he accidentally falls off his chair, and sustains an injury, while reaching for an exhibit for the brief. This accident would be covered by workers' compensation because Joe was in the course of his employment when the injury occurred.

The Personal Comfort Doctrine and Minor Deviations

There can also be injuries that are not in the course of the employee's employment but are compensable. Under the same example, assume that Joe decided to take a break from work to go downstairs to get a bottled water from his refrigerator, and in doing so, accidentally falls down his stairs. At the time of this injury Joe was not in the course of his employment. However, this accident would be compensable because of the Personal Comfort Doctrine. Under this doctrine if an employee takes a break for basic human needs (bathroom break, food break, beverage break) the action is considered a minor deviation from work duties and is still considered a compensable injury.

The Major Deviation

If, however, Joe took a break from his work to take his garbage can to the curb and in doing so, slipped on ice in the street, this would be deemed to be a personal errand and not a personal comfort. This set of facts would be found to be a major deviation and would **not** be covered by the employer's workers' compensation insurance company.

Determining Coverage for Workers' Compensation Insurance

Once an injury at home occurs, the insurance company will investigate the accident. The accident must have occurred during the course of employment. Some employers may have a policy in place for remote employees with specific requirements, for example, the employer may mandate employees to log in and off a computer to prove they have started or ended a work session. The employee must be prepared to explain or provide evidence of what caused their injury. The employer has very limited or no control over the employee's home premises. Most likely there are no witnesses to a home injury.

[Workers' compensation laws](#) are interpreted liberally by New Jersey appellate courts as the laws are designed to have a broad effect. An employee working remotely has the same rights to workers' compensation benefits as an employee injured on company premises. It comes down to the facts.

Consultations for any work injury are free. Please call our office at 973-586-4921 to arrange for a time to speak. It remains our commitment to be with you *Every Step of the Way*.

