

Teleworking from the Home Office: Workers' Compensation Risk Considerations for Local Government Employers

At CIRSA, we often get the question of whether local government employees who work from home (“WFH”) are entitled to workers’ compensation benefits for injuries occurring while they’re working from home. In general, WFH injuries can be compensable just like injuries occurring on a traditional job site or in the office. The most important factor in the determination isn’t where an employee gets injured, it’s how it happened.

The Colorado Workers’ Compensation Act (the “Act”) applies the same statutory test to WFH injuries as it applies to injuries occurring in a traditional workplace: An injury to an employee is compensable “[w]here, at the time of the injury, the employee is performing [a] service arising out of and in the course of the employee’s employment” (and where the injury was not self-inflicted).ⁱ Generally, the employee carries the burden of proof to demonstrate that their injury is work-related and therefore compensable under the Act.

An injury “arises out of and in the course of” employment when it is “sufficiently interrelated to the conditions and circumstances under which the employee usually performs his or her job functions such that the activity may be characterized as an incident of employment.”ⁱⁱ In other words, to be compensable, the injury must result from the performance of an activity having a connection to job-related functions authorized by the employer. Conversely, injuries occurring during the performance of (personal) activities without a demonstrable connection to job-related functions are not compensable under the Act.ⁱⁱⁱ

That said, applying the statutory test to a WFH injury is not as straightforward as it may seem. Indeed, according to the Colorado Supreme Court, an injury may be compensable if it arises from risks that are “reasonably incidental” to the employment, even if the injured employee wasn’t performing a specific work duty at the precise moment the injury occurred, and even if the activity does not confer a special benefit to the employer.^{iv}

Local government employers should also take note of the potential applicability of the “personal comfort doctrine” to WFH injuries.^v Pursuant to the personal comfort doctrine, an employee’s injury is considered incidental to employment, and thus compensable, if the injury occurred while the employee was engaging in an activity necessary for an employee’s personal comfort or welfare and part of normal working conditions (e.g., a routine, reasonably expected interruption from work, such as using the bathroom or getting coffee from the kitchen).^{vi} Conversely, an injury is not compensable under the doctrine when it arises from an activity amounting to a “substantial deviation” from work duties (e.g., swimming in a backyard pool during work hours), or due to reckless or intentionally dangerous conduct or conduct prohibited by the employer.^{vii}

Moreover, the distinction between work-related activities and personal activities is often more complicated in workers’ compensation claims for WFH injuries than it is in claims for injuries occurring on a job site or in the office. Indeed, employees working from home do so without direct employer supervision providing ample opportunity for an employee to blend work activities with personal activities, and employers have less control over the safety of at-home work environments. Furthermore, the most common WFH injuries suffered at home—e.g., injuries from slips and falls, repetitive motion and strain, and poor ergonomics—are difficult to distinguish from injuries without a connection to job-related function, particularly those injuries that occur over time (e.g., carpal tunnel syndrome). Given this, and that there may not be any witnesses to an at-home injury, it’s no wonder questions and disagreements frequently arise about the connection between at-home injuries and job-related functions.^{viii}

That said, employers can lessen risks related to WFH injuries by adopting sound WFH policies or requiring employees to enter into written agreements governing the WFH arrangement (taking care not to unintentionally create a “contract for employment,” of course). Either approach can be effective, so long as the chosen method establishes clear and defined work parameters for WFH employees.

Whether workers’ compensation is owed to a WFH employee, particularly in cases where there’s a disagreement about the injury’s connection to job-related functions, may depend on factors such as the location within the home where the injury took place (e.g., office or kitchen), whether the employer authorized the employee to work in such location, whether the employee was performing functions authorized by the employer, and whether the injury occurred during work hours. Therefore, at a minimum, WFH policies should detail the work duties employees are authorized to perform from home, establish specific work hours (including regular break times and lunches), require employees to designate a distinct area within their home as their home workspace (that’s not the whole house and that’s free of hazards and meets the employer’s safety requirements), and require WFH employees to immediately report work-related injuries to appropriate supervisors so that claims may be promptly investigated.

Further to ensure workplace safety, employers should consider asking WFH employees to designate and describe their at-home workspaces and any potential hazards within them. Employers might further consider using a standard checklist to confirm employee representations about the safety of the home workspace and potential hazards. Some WFH policies expressly reserve the employer’s right to inspect the designated workspace area, in-person or virtually (alternatively or in addition to using a checklist). Moreover, WFH policies often reserve the employer’s right to terminate WFH privileges if the employer’s standards are not being met,^x with some authorizing additional discipline escalating up to and including termination. In any case, employers should commit to providing ongoing home workspace safety guidance for WFH employees.

Additional Resources:

- Read this [CIRSA Hazard Alert](#) from CIRSA’s Risk Control Department addressing “Teleworking Safety” for more information about hazards related to WFH arrangements and potential methods for addressing such hazards and managing the safety of WFH employees.
- Read [CIRSA’s Office Ergonomics Workstation Guide](#) for information about how to properly set up and adjust a computer workstation to promote comfort, reduce strain, and prevent injury.
- Click [here](#) to download a sample remote workspace checklist, prepared by the Indiana State Personnel Department, designed to assess the overall safety of a home office or other remote workspace, which may serve as a helpful starting point for organizations seeking to develop their own remote workspace safety checklists.

If you have questions about this article, or if you’d like to receive an editable copy of CIRSA’s Office Ergonomics Checklist, contact CIRSA’s Deputy Executive Director/General Counsel, Sam Light at saml@cirsa.org, or CIRSA’s Associate General Counsel, Nick Cotton-Baez at nickc@cirsa.org.

Note: This article is intended for general information purposes only and is not intended or to be construed as legal advice on any specific issue. Readers should consult with their entity’s own counsel for legal advice on specific issues.

- i. C.R.S. § 8-41-301(b).
- ii. *City of Northglenn v. Industrial Claim Appeals Office*, 908 P.2d 139, 140 (Colo. App. 1995), citing *City of Boulder v. Streeb*, 706 P.2d 786 (Colo. 1985).
- iii. While not binding on Colorado courts or administrative decisionmakers, a case from Florida illustrates how one court has addressed the issue of whether an at-home injury arises out of and in the course of employment. In *Sedgwick CMS v. Valcourt-Williams* (Fla. 1st DCA 2019), the Florida appeals court ruled that an authorized remote worker who tripped over her dog while getting coffee was not entitled to workers' compensation. The court reasoned that, although the incident occurred during work hours, the hazard created by the dog was not a work-related risk, and was, instead, a personal risk existing regardless of employment. See also, e.g., *Johnson v. ABM Industries, Inc.* (2025 Cal. Wrk. Comp.) (addressing compensability of a work-from-home injury), and *Verizon Pennsylvania, Inc. v. Workers' Compensation Appeal Board (Alston)* (Pa. Commw. Ct. 2006) (finding a compensable injury where a remote employee fell while returning to her home office to address a work-related call after briefly stepping away for a personal comfort break).
- iv. *City of Boulder v. Streeb*, 706 P.2d 786, 791 (Colo. 1985) (en banc).
- v. While Colorado courts have long recognized the personal comfort doctrine in traditional workplace settings, see *Ocean Accident & Guaranty Corp. v. Pallaro*, 180 P. 95 (Colo. 1919), the doctrine has not been applied in a reported court or administrative decision involving an injury suffered by a Colorado employee while working from home. That said, the personal comfort doctrine resulted from judicial interpretations of the "arising out of and in the course of employment" framework that governs compensability under the Act, and thus Colorado courts and administrative tribunals may find the doctrine applicable to WFH injuries.
- vi. While not binding on Colorado courts or administrative decisionmakers, a case from Minnesota illustrates how the doctrine might apply to an injury suffered by a WFH employee in Colorado. In *Munson v. Wilmar/Interline Brands, et al.*, 2008 WL 5477285 (Minn. Work. Comp. Ct. App. Dec. 16, 2008), the Minnesota Workers' Compensation Court of Appeals applied the personal comfort doctrine to an employee sales representative who was required to maintain and often work from a home office from which the employee made calls to customers and prepared sales reports. The employee slipped and fell down the stairs while taking a short trip from the home office to the kitchen for coffee and injured his neck. The court held the injury was compensable under the doctrine as a routine, reasonably expected interruption from work.
- vii. *In re Rodriguez*, 2008 WL 1970881 (Colo. Ind. Cl. App. Off.), quoting *Ocean Accident & Guaranty Corp. v. Pallaro*, 180 P. 95 (Colo. 1919) ("In Colorado, the employee is considered to remain in the course and scope of their employment while attending to a personal comfort unless the injury results from a 'manifestly reckless or unreasonable hazard, amounting to intentional and willful misconduct, or by disregarding, or disobeying, some warning of danger at the place of the injury or prohibition relating to the thing being done either addressed to the workman or promulgated as a general rule of conduct while on the premises.'").
- viii. For similar reasons, even more questions may arise in claims for mental or psychological injuries, such as depression, anxiety, and PTSD. However, a full discussion of how these types of injuries are treated under the Act (and other potentially applicable laws) is beyond the scope of this article.
- ix. Note, however, that allowing an employee to work from home may fall under the Americans with Disabilities Act's reasonable accommodation requirement of modifying workplace policies, and thus local government employers should consider ADA requirements before taking steps to revoke work-from-home privileges from employees who may be protected under the ADA.

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