

PA Work Injuries While Working Remotely

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Workers' Compensation Alert

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Due to the ongoing coronavirus (COVID-19) pandemic, employees have been encouraged to work remotely from their homes. This raises the question of whether an injury that happens at home needs to be compensated with PA workers' compensation benefits. The Pennsylvania Workers' Compensation Act includes injuries that are sustained outside of the employer premises, as long as the employee "is actually engaged in the furtherance of the business or affairs of the employer" Section 301 (c) of the Act, 77 P.S. §411(1).

Probably the most famous case of a work injury sustained at home is the PA Supreme Court's decision in *City of Harrisburg v. WCAB (Gebhart)*, 616 A.2d 1369 (Pa. 1992). An off-duty police detective was removing his revolver from its holster after he arrived home and he accidentally shot his leg. He was awarded benefits because securing his weapon was an important part of his job and there was no place at the job site to store it.

The first time the Pennsylvania courts addressed a work injury while using a home-based office, there were benefits awarded. In *Verizon Pennsylvania, Inc. v. WCAB (Alston)*, 900 A.2d 440 (Pa. Cmwlth. 2006), the employee was drinking a glass of juice in her kitchen when she received a work-related phone call from her supervisor. While still on the phone, she descended the stairs to her basement home-office, and fell, injuring her neck.

There was a different outcome in another home office case, *Werner v. WCAB (Greenleaf Serv. Corp.)*, 28 A.3d 245 (Pa. Cmwlth. 2011). The unresponsive employee was discovered sitting at his desk in his basement home office. Medical evidence determined he had a fatal brain injury within 2 ½ hours before he was found. His eyeglasses and traces of blood were located near the front entry of the house and his blood and cell phone was located in the bathroom, one floor above the office. The basement office area was not solely used for business purposes. The decedent may have hit his head outside while retrieving business mail or while smoking a cigarette. Overall, the circumstances failed to establish a work-related injury that would result in an award of fatal claim benefits.

BEST PRACTICES

We believe that to enhance the goal of compensating employees only for legitimate work-related injuries, it is helpful to provide a clear and detailed job description, with specific equipment, work hours, break times, designated work area(s) and virtual monitoring of activity, if possible. To manage the risk of work injuries from occurring in the workplace, it also is helpful to provide a friendly check list of safety reminders such as power surge outlets, smoke detectors, fire extinguishers, non-slip surfaces, ergonomic desk design, adequate lighting and control of unruly extension cords.

In normal times, working remotely could be considered a privilege for the employee. These days, it is the employer's environment and the public's health that benefit most. If work injuries occur while working remotely, there will certainly be a more liberal interpretation by the courts of whether the employee is injured while "engaged in the furtherance of the business or affairs of the employer."

If you have any questions about remote work policies, please contact Sandy Niemotka (215.864.6338; niemotkas@whiteandwilliams.com), Karalynne Parzych (610.782.4914; parzychk@whiteandwilliams.com) or another member of the Workers' Compensation or Labor and Employment groups.

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As we continue to monitor the novel coronavirus (COVID-19), White and Williams lawyers are working collaboratively to stay current on developments and counsel clients through the various legal and business issues that may arise across a variety of sectors. Read all of the updates here.

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