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April 27th, 2020

LEGAL ALERT**UPDATE: Illinois Workers' Compensation
Commission Emergency Rule Change on Hold Due to
Lawsuit by Trade Associations**

On April 13, 2020, the Illinois Workers' Compensation announced an emergency amendment to the administrative rules related to the causation and compensability of COVID-19 related illnesses suffered by first responders and front-line workers. That rule stated that if the petitioner's injury or period of incapacity resulted from exposure to the COVID-19 virus during a COVID-19 related state of emergency, the exposure will be rebuttably presumed to have arisen out of and in the course of the petitioner's employment and, further, will be rebuttably presumed to be causally connected to the hazards or exposures of the petitioner's employment. For a summary of the emergency rule, see our prior E-Note here: <https://bit.ly/2xgxRiY>

In response to the emergency rule change, the Illinois Manufacturer's Association and the Illinois Retail Merchants Association filed suit in Sangamon County, seeking a temporary restraining order preventing the implementation of the emergency amendment. The Plaintiffs argued that the Commission exceeded its statutory authority under the Illinois Administrative Procedure Act when it approved the emergency amendment, and that it violated the Workers' Compensation Act and Workers' Occupational Disease Act. The Plaintiffs further explained that, although the Administrative Procedure Act gives the Commission the power to set procedures for cases before the Commission, it does not give the Commission power to enact rules that change the law itself. Under the Illinois Constitution, changes to statutes must be passed by the General Assembly and signed into law by the governor.

On April 23, 2020, the court heard arguments from the parties on the issue, and entered a temporary restraining order enjoining enforcement of the emergency rule change. The court has directed the State to answer the Plaintiffs' complaint and has set a further hearing for May 4, 2020 to address the underlying issues in the complaint. At this juncture, employers are to address COVID-19 related workers' compensation claims as if the rule change had not occurred, until further ruling by the court.

For any questions or comments you might have regarding this newsletter, please feel free to contact:

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The lawsuit is *Illinois Manufacturers' Association et al. v. The Illinois Workers' Compensation Commission, et al., 20 CH 98*. A copy of the temporary restraining order entered in the matter can be found here: <https://bit.ly/2yPiCh8>

We continue to follow the implementation of this emergency rule change, and are ready to address any COVID-19 related workers' compensation and disability pension claims as they arise. Do not hesitate to contact our office for guidance on these emerging issues.