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Appendix A. MAPAC Committee Members

Ana Álvarez, Ignacio Blanco, Garbiñe Ezcurra, Magí Farré, Cristina Gaona, José Ángel Jiménez, Rosa Morillas, Angélica Pocino, Laia Pratcorona, Ana Belén Rajo, Josep Roca, Carlos Rodrigo, Pere Tudela, Agustín Urrutia.

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[1] The members of the MAPAC Committee are listed in the Appendix A.

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Healthcare professionals diagnosed by COVID-19 at work: The right for it to be classified as an occupational disease☆

Profesionales sanitarios diagnosticados de COVID-19 en el trabajo: un derecho a la calificación como enfermedad profesional

Dear Director,

Around the world, Spain is the country with the most health professionals (HP) affected by COVID-19.[1] SARS-CoV-2 infection has affected many HPs who are exposed to undeniable risk in the performance of their jobs.[2]

Up until 29 May 2020, a total of 250,273 cases of COVID-19 had been communicated to the National Epidemiological Surveillance Network, of which 40,961 (16.36%) were HPs, these being predominantly women (76.5%).[3]

This situation, as is to be expected, has had significant repercussions in the occupational health setting.[4,5] It seems clear that the contingency presented in HPs as a consequence of illness caused by SARS-CoV-2 should be classified as an occupational disease (OD).[4] Nevertheless, according to Royal Decree-Law 13/2020, of 7 April, by which certain emergency measures for agricultural work are adopted,[6] in some cases this situation was described as an industrial accident (IA), alluding to the fact that when it can be proven that the disease was caught exclusively while working, there exists the possibility to classify it as an IA.

Subsequently, in Royal Decree-Law 19/2020, of 26 May, additional measures were adopted in terms of agricultural, scientific, economic, labour, Social Security and tax matters to alleviate the effects of COVID-19.[7] It was specified that IA classification would apply to all infections that occurred until the month following the end of the state of alarm, accredited by the pertinent IA report that must be issued within the same period of reference.

☆ Please cite this article: Martí Amengual G, Sanz Gallen P, Martin-Fumadó C, Arimany-Manso J. Profesionales sanitarios diagnosticados de COVID-19 en el trabajo: un derecho a la calificación como enfermedad profesional. Rev Clin Esp. 2022;222:120–122.

For many collectives (including union representatives), classification as an OD or IA may go unnoticed with the understanding that the differences are small: both are labour contingencies.[8,9] However, this distinction is key and classification as an OD is far more beneficial to the worker.

Firstly, OD classification entails a requirement to carry out inspections, both previous and periodically, to prevent disease-related risks. This is not the case with the IA designation.[10]

Secondly, when a worker is unable to perform her or his professional activity, OD classification gives the worker the right to be assigned to another job, within the same company, with the same salary. This is not the case for IA classification, where workers can even be required to accept permanent disability status, a condition that amounts to 55% of their contributions.

Thirdly, OD classification includes the right to receive, where applicable, compensation for death or permanent disability of an indefinite nature, even after death. On the other hand, in the case of an IA, the temporary period for said benefit is the 5 years following the accident or equivalent incident.

Lastly, in light of a suspected OD, there exists the option to classify it as an OD observation period (with the same coverage) for a period of 6 months, which can be extended 6 more months while the case is being resolved. This option does not exist in the case of IAs either.

In addition, there are multiple reasons why SARS-CoV-2 infection in HPs should be classified as ODs (for employed workers and the self-employed, provided they pay contributions for this reason):

a) This is an Appendix 1 pathology, according to the provisions of Royal Decree 1299/2006, of 10 November, which approved the table of ODs caused by biological agents[11], which literally states that ''infectious diseases caused by the work of persons who are employed in the prevention, medical treatment, and activities in which a risk of infection has been proven (excluding those microorganisms included in group 1 of RD 664/1997, of 12 May, regulating the protection of workers against risks associated with exposure to biological agents while working''.[12] This circumstance is fulfilled by SARS-CoV-2 infections in HPs considering that the coronavirus family is listed in group 2, and Directive 2020/739 of the European Union, of 3 June 2020[13], includes SARS-CoV-2 in group 3.
b) When issuing a medical certificate for sick leave, it is an obligation for family doctors in the National Health System, in compliance with the provisions of Art. 5 of Royal Decree 1299/2006, of 10 November, which approved the table of ODs,[11] to establish that ''when National Health System doctors, while acting professionally, learn of the existence of a disease included in Appendix 1, they are to report this for applicable purposes through the competent body of each autonomous community and the cities with a Statute of Autonomy, to the managing entity, for the purposes of classification envisaged to be classified as an OD''.
c) Lastly, Royal Decree 1299/2006, on the protection of workers against the risks associated with exposure to biological agents[11] also specifies that this classification corresponds to the jobs defined in the OD table, although this list is neither exhaustive nor closed, but rather may be extended to cover other jobs.

In light of all of this, we understand that all HPs infected by SARS-CoV-2 while at work have the right, without a doubt, to classification as an OD and to benefit from the advantages of this contingency.

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