

Firefighter and Emergency Medical Technician Cancer Presumption

Government Code §607.055 - For new claims filed on or after June 10, 2019

Due to the nature of employment, firefighters and emergency medical technicians (EMTs) could be exposed to conditions that may cause cancer. For this reason, certain cancers are presumed to have developed from their job if they:

- regularly responded on the scene to calls involving fires or firefighting, or
- regularly responded to an event involving the documented release of radiation or a known or suspected carcinogen, while the person was employed as a firefighter or emergency medical technician.

CANCER PRESUMPTION.

Assuming requirements* are met, firefighters and EMTs diagnosed with the following 11 cancers are presumed to have developed during the course and scope of their employment.

Cancers related to the body:

- Brain
- Skin
- Stomach
- Rectum
- Prostate
- Colon
- Testis

The four additional cancers:

- Non-Hodgkin's lymphoma
- Multiple myeloma
- Malignant melanoma
- Renal cell carcinoma

Any cancers not included on the approved list may still be pursued, but do not fall under the presumption. The injured employee is not required to expressly claim a presumption if they have one of these cancers. The insurance carrier is required to investigate the applicability of the statutory presumption.

CARRIER INVESTIGATION.

There is normally a 15-day deadline for carriers to pay or dispute. Now, if a carrier shows that they are trying to complete their investigation on compensability, they are not held to that 15-day deadline, if certain conditions are met:

- The insurance carrier sends the injured employee a letter (PLN-14) explaining the steps they are taking to investigate the claim and what information is still needed;
- Injured employees should give the carrier accurate, complete and timely information; and
- By law the carrier must decide about the claim by the 60th day after receiving written notice of the injury.

If they don't have all information, the carrier will make their decision on whether or not to pay benefits without that information.

CARRIER REBUTTAL.

The injured employee is required to send proof of regularly responding to calls fighting fires or events where exposed to radiation or known/suspected carcinogens. The carrier must rebut the presumption if they don't believe the cancer is compensable.

The carrier must show by a preponderance of the evidence that a risk factor, accident, hazard, or other cause not associated with the individual's service as a firefighter or emergency medical technician was a **substantial factor** in causing the individual's disease or illness, without which the disease or illness would not have occurred.

FIRST RESPONDER LIAISON.

If you need help with a workers' compensation dispute, the Office of Injured Employee Counsel (OIEC) has a first responder liaison, a designated employee acting as the liaison for first responders. The liaison is highly trained as an ombudsman, as well as, in the rights of first responders within the workers' compensation system. As a first responder, you can contact the liaison directly for help with your workers' compensation claim at (512) 804-4173 or firstresponderhelp@oiec.texas.gov.

*See Government Code §§607.052(a) and 607.055(1)(A) and (B).



Links to the Government Code and more information about help from OIEC can be found at <http://www.oiec.texas.gov/employee/firstresponder.html>.

Publication Revised 02/2020