

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 844
Finance

(Senator Klausmeier)

Workers' Compensation - Occupational Disease Presumptions - Hypertension

This bill expands a workers' compensation occupational disease presumption for specified public safety employees (generally firefighters) who have hypertension by specifying that an employee has demonstrated disablement from the hypertension (which is generally required to receive compensation benefits) if the employee (1) receives three blood pressure readings that indicate hypertension, as defined in the fourth edition of the American Medical Association Guides and (2) has been prescribed medication to treat hypertension.

Fiscal Summary

State Effect: State expenditures (all funds) may increase minimally beginning in FY 2025 due to the bill's expansion of the State's occupational disease presumption for hypertension, as discussed below. Revenues are not affected.

Chesapeake Employers' Insurance Company (Chesapeake) Effect: Chesapeake expenditures may increase minimally beginning in FY 2025 to the extent that the bill results in additional workers' compensation benefits payments on behalf of the State and local governments, as discussed below. Revenues increase to the extent that premiums are raised due to claims experience under the expanded occupational disease presumptions.

Local Effect: Local government expenditures may increase minimally beginning in FY 2025 due to the bill's expansion of occupational disease presumptions, as discussed below. Revenues are not affected.

Small Business Effect: None.

Analysis

Bill Summary: The bill’s occupational disease presumption applies only to (1) volunteer and career firefighters; (2) firefighting instructors; (3) rescue squad members; (4) advanced life support unit members; and (5) fire marshals employed by an airport authority, a county, a fire control district, a municipality, or the State. Existing presumption eligibility provisions that require affected volunteers to meet a suitable standard of physical examination before becoming a volunteer continue to apply.

Current Law: Workers’ compensation law establishes a presumption of compensable occupational disease for certain public safety employees who are exposed to unusual hazards in the course of their employment. It is assumed that these injuries or diseases are due to the employees’ work and, therefore, require no additional evidence in the filing of a claim for workers’ compensation. As shown below, generally, presumptions are based on particular occupations and their associated health risks.

<u>Type of Personnel/Occupation</u>	<u>Type of Disease</u>
Volunteer and career firefighters, firefighting instructors, rescue squad members, and advanced life support unit members; fire marshals employed by an airport authority, a county, a fire control district, a municipality, or the State	Heart disease, hypertension, or lung disease that results in partial or total disability or death Leukemia or prostate, rectal, throat, multiple myeloma, non-Hodgkin’s lymphoma, brain, bladder, kidney or renal cell, testicular, or breast cancer under specified conditions
Police officers; deputy sheriffs, correctional officers, and detention officers of specified counties	Heart disease or hypertension that results in partial or total disability or death
Department of Natural Resources paid law enforcement employees, park police officers of the Maryland-National Capital Park and Planning Commission, forest rangers, park rangers, and wildlife rangers	Lyme disease under specified conditions

A covered employee who receives a presumption is entitled to workers’ compensation benefits in addition to any benefits that the individual is entitled to receive under the retirement system in which the individual participated at the time of the claim. However, the weekly total of workers’ compensation and retirement benefits may not exceed the

weekly salary that was paid to the individual; any necessary adjustment is made against the workers' compensation benefits.

Although statute is silent on the issue, occupational disease presumptions have long been considered rebuttable presumptions. Two court decisions address the use of "is presumed" in reference to occupational diseases in current law, specifying that the term "without contrary qualification, should be read to be a presumption, although rebuttable, of fact." (See *Board of County Commissioners v. Colgan*, 274 Md. 193, 334 A.2d 89 (1975); and *Montgomery County Fire Board v. Fisher*, 53 Md. App. 435, 454 A.2d 394, aff'd, 298 Md. 245, 468 A.2d 625 (1983).) However, the Court of Special Appeals (now the Appellate Court of Maryland) has stated that, "after the last injurious exposure to a hazard and the conclusion of employment the nexus between an occupational disease and an occupation becomes increasingly remote." (See *Montgomery County, Maryland v. Pirrone*, 109 Md. App. 201, 674 A.2d 98 (1996).)

State/Chesapeake/Local Expenditures: Any increase in expenditures depends on how many affected employees qualify for the occupational disease presumption in any given year and whether any of those employees would have received workers' compensation for hypertension absent the bill. The Department of Legislative Services advises that a covered employee may still receive workers' compensation for hypertension under current law; the presumptions established under the bill ensure no additional evidence is required to qualify for benefits.

According to Chesapeake, it experienced 190 filed claims that included hypertension from 2019 through 2023. During this period, Chesapeake advises that very few hypertension claims were denied due to a lack of traditional disablement. When traditional disablement did occur for hypertension, it most often meant a very limited disablement period for a covered employee to begin a new blood pressure medicine. Moreover, when denials for lack of disablement did occur, most claims were simply refiled and accepted when this traditional disablement subsequently occurred to start a new medication. As such, Chesapeake does not foresee a significant increase in claims filed under the hypertension presumption as modified by the bill.

Thus, State, Chesapeake, and local expenditures may increase to the extent that any additional claims are filed due to the bill; however, any such increase, if realized, is anticipated to be minimal.

Additional Comments: The [U.S. Centers for Disease Control and Prevention](#) estimates that nearly half (48.1%) of all Americans have hypertension and only 22.1% of those adults with hypertension have it under control.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 919 and SB 538 of 2023.

Designated Cross File: HB 1145 (Delegate Rogers, *et al.*) - Economic Matters.

Information Source(s): Chesapeake Employers' Insurance Company; Subsequent Injury Fund; Uninsured Employers' Fund; Department of State Police; Maryland Department of Transportation; Maryland Association of Counties; Maryland Municipal League; Kent and Worcester counties; City of Laurel; Town of La Plata; U.S. Centers for Disease Control and Prevention; Department of Legislative Services

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rh/ljm

Analysis by: Richard L. Duncan

Direct Inquiries to:
(410) 946-5510
(301) 970-5510