

Department of Legislative Services
Maryland General Assembly
2003 Session

FISCAL AND POLICY NOTE

Senate Bill 723

(Senator Exum, *et al.*)

Finance

Workers' Compensation - Bloodborne Pathogens - Emergency Responders

This bill establishes infectious diseases transmitted to emergency services personnel, in the course of their employment as “emergency responders,” as compensable injury for workers’ compensation claims. It defines specified pathogens and provides for testing and claims processes for determining the validity of a claim. The bill creates separate procedures for filing claims by employees exposed: (1) between January 1, 1983 and July 1, 2003; and (2) for employees exposed after July 1, 2003. Claims are not paid when filed; they must be activated at the onset of symptoms.

The bill is effective July 1, 2003.

Fiscal Summary

State Effect: The Injured Workers’ Insurance Fund (IWIF) is the State’s workers’ compensation insurer. Potential significant increase in IWIF charges due to premium growth.

Injured Workers’ Insurance Fund: Potential significant premium revenue growth and expenditures for claims activated.

Local Effect: Potential significant increases in workers’ compensation premiums.

Small Business Effect: Potential significant increases in workers’ compensation premiums for small business emergency response services providers.

Analysis

Bill Summary: The provisions of this bill provide for two new categories of claims within workers' compensation. The first category is for infectious diseases contracted after the bill's July 1, 2003 effective date. The second category is for infectious diseases contracted from January 1, 1983 to the effective date of this bill.

The pathogens covered in this bill are the Hepatitis B Virus, the Hepatitis C Virus, and the Human Immunodeficiency Virus (HIV). Emergency responders include: (1) a paid firefighter; (2) a paid fire fighting instructor; (3) an individual on duty for a volunteer fire or rescue company as defined by the Labor and Employment Article; (4) an emergency medical services provider that is employed by a county, a municipality, or the State; (5) a paid police officer employed by an airport authority, a county, the Maryland-National Capital Park and Planning Commission, a municipality, or the State; and (6) a correctional officer as defined by the Correctional Services Article.

This bill specifies procedures for the reporting of exposure to pathogens in the course of employment. The emergency responder is not immediately eligible for benefits when a claim has been filed. The responder must wait until symptoms manifest and then activate the claim. This bill provides for the activation procedures and specifies required medical evidence that must be presented.

Current Law: Occupational disease is defined as a disease contracted by a covered employee: (1) as the result of and in the course of employment; and (2) that causes the covered employee to become temporarily or permanently, partially, or totally incapacitated.

Background: As of 2001, the Department of Health and Mental Hygiene indicates that there is one existing HIV/AIDS case in Maryland arising out of occupational exposure.

In February 2003, the Special Committee on Infectious Diseases issued its *Report to the General Assembly* on the inclusion of infectious diseases as compensable work-related injuries. The committee's report was the basis for this bill. In its report, the committee details the difficulty in ascribing infectious disease under the current workers' compensation system because it is neither: (1) an occupational disease, such as black lung for coal miners; nor (2) clearly an accidental injury under current law. The diseases included in the definition of infectious disease in this bill may not manifest themselves in a covered worker until well after the current two-year claim period for accidental injury.

In July 2000, the Secretary of Health and Mental Hygiene appointed a Contagious Disease Committee to address issues regarding occupational exposure to contagious (or

infectious) diseases among State public safety employees including police, correctional officers, firefighters, and emergency medical technicians. In January 2001, the committee issued its final report, in which the committee found that regulatory standards currently exist (Bloodborne Pathogen Standard, 29 C.F.R. 1910.1030; the Labor and Employment Article, Title 5; and COMAR 09.12.31) that prescribe safeguards to protect public safety workers from exposure to blood and other potentially contagious body fluids, and to reduce their risk to this exposure.

The National Council on Compensation Insurance indicates that unit statistical data and detailed claim information (DCI) data exists for employee classes covered in this bill. The unit statistical data is not broken down by the nature of the injury. While DCI data does have this breakdown, it represents only a sampling of claims and there is insufficient data in the law enforcement and firefighter class codes to analyze.

Fiscal Effect: Reliable estimates of premium rate increases for State and local governments and small businesses are not available. The magnitude of increased claims costs also cannot be reliably estimated. Successful claims will result in significant increased premiums due to the intensive and expensive treatment options available. Annual payments of tens of thousands of dollars could be required for medical care, lost wages, surviving spouse, and other benefits for each successful claim.

The Maryland Institute for Emergency Medical Services System (MIEMMS) indicates as of October 1, 2002 there are approximately 2,248 paramedics, 638 cardiac respiratory technicians, 15,781 emergency medical technician – basics, and 11,651 certified first responders in the State. MIEMMS advises that the majority of the first responder category are police personnel, with some firefighters also certifying in the first responder. These certifications are renewable, but renewal is not mandatory. The Department of Public Safety and Correctional Services (DPSCS) advises that there are currently 6,023 filled correctional officer positions (Correctional Officer I through Sergeants).

For illustrative purposes, if one-half of 1% of those 36,341 personnel filed successful claims, 182 infectious disease claims would result. If annual medical costs were \$20,000, \$3.64 million in claims would be paid for medical costs annually. This figure does not include compensation for lost wages, surviving spouse benefits, and other associated costs of potential claims. Premium rates would increase by a greater amount to offset actuarial risk incurred by the insurer.

Additional Information

Prior Introductions: In 2002, HB 890, a similar bill that sought to include all infectious diseases in the definition of occupational disease, was withdrawn. That bill's cross file, SB 584, was not reported from the Finance Committee. In 2001, HB 1006, a similar bill, received an unfavorable report in the Economic Matters Committee. That bill's cross file, SB 677, received an unfavorable report in the Finance Committee. SB 419, an identical bill to HB 1006 of 2001, was introduced in the 2000 session. It was amended and passed in the Senate but was not reported from the House Economic Matters Committee.

Cross File: HB 1106 (Delegate McHale, *et al.*) – Economic Matters.

Information Source(s): Uninsured Employers' Fund, Workers' Compensation Commission, Injured Workers' Insurance Fund, Subsequent Injury Fund, Department of Budget and Management, Department of Legislative Services

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