



**Testimony of Chesapeake Employers’ Insurance Company
and Injured Workers’ Insurance Fund in Opposition to Senate Bill 431**

Senate Bill 431 proposes to add an occupational disease presumption for “Long COVID” for governmental essential workers that were employed by a governmental entity during the declared state of emergency that performed labor or services at a work site that could not be performed remotely or they were required to be at the work site. The bill is retroactive to March 5, 2020 and applies to any individuals listed above that worked within 14 days of their positive test or diagnosis by a health care practitioner and subsequently diagnosed with Long COVID from March 5, 2020 to before July 15, 2021. Additionally, the bill includes a rebuttable presumption with “substantial evidence”.

The chart below details the COVID claims for Chesapeake Employers’ Insurance Company and the Injured Workers Insurance Fund related to First Reports of Injury (FROIs) and Employee Claim Forms (ECFs) filed with the Workers’ Compensation Commission as of January 2024. A large amount of the State of Maryland and Local Government claims are from governmental essential workers as listed above. It is unknown how many of these claims would be considered “Long COVID”, although we do have several injured workers who have been diagnosed and treated for same.

	State:	Local Government:	Private:
Total First Reports of Injury (FROIs) for COVID Related Claims (1,379)	368	851	160
Total Number of Employee Claim Forms filed with the WCC (234)	148	47	39

Breakdown of Employee Claim Forms Filed			
	State:	Local Government:	Private:
Claims Accepted (150):	92	35	23
Claims Contested/Pending (25):	11	6	8
Claims Settled (44):	35	3	6
Claims Disallowed by WCC (15):	10	3	2

Given the above data, COVID-19 claims have largely been accepted by the State of Maryland and Chesapeake Employers' Insurance (or the Commission following a hearing). With that said, as with other presumptions, we can expect an increase of claims due to this addition to the statute, despite the above data's demonstration of fairly providing benefits to employees that contracted work related COVID-19. Additionally, the retroactivity of the bill will create constitutional questions regarding validity of the bill.

Finally, of note, the bill creates an occupational disease presumption; however, COVID-19 is categorized as an accidental injury. COVID-19 does not fall within the definition of an occupational disease and has been found compensable as an accidental injury by the Commission in most claims.

Given that injured workers already have compensable COVID-19 claims, including Long COVID, often filed as an accidental injury, without constitutional challenges to retroactivity, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund must respectfully oppose Senate Bill 431.

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