

Department of Legislative Services  
Maryland General Assembly  
2023 Session

FISCAL AND POLICY NOTE  
Third Reader - Revised

Senate Bill 839  
Finance

(Senator Kramer)

Economic Matters

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Labor and Employment - Workers' Compensation - Hernia

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This bill establishes that a hernia caused as a result of repetitive trauma may be considered an occupational disease that is compensable under workers' compensation law.

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Fiscal Summary

**State Effect:** The bill is not anticipated to materially affect State operations or finances, as discussed below.

**Chesapeake Employers' Insurance Company (Chesapeake) Effect:** The bill is not anticipated to materially affect Chesapeake operations or finances, as discussed below.

**Local Effect:** The bill is not anticipated to materially affect local government operations or finances, as discussed below.

**Small Business Effect:** Minimal.

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Analysis

**Current Law:** If an employee covered under workers' compensation insurance has suffered an accidental personal injury, compensable hernia, or occupational disease, the employee is entitled to compensation benefits paid by the employer, its insurer, the Subsequent Injury Fund, or the Uninsured Employers' Fund, as appropriate. Workers' compensation benefits include wage replacement, medical treatment, and vocational rehabilitation expenses. Wage replacement benefits are calculated based on the covered employee's average weekly wage; medical benefits are generally fully or partially covered, depending on how the treatment is related to the personal injury, hernia, or occupational disease.

In order for a hernia to be compensable, the accidental personal injury or strain that caused the hernia must be reported to the employer within 45 days after its occurrence. However, if a covered employee fails to file a claim for compensation within this time period, the claim may still be filed within two years after the date the injury occurred, unless the employer or its insurer has been prejudiced by the failure.

Hernias caused as a result of repetitive trauma are not generally compensable under workers' compensation law, as held in the case of [\*Greer v. Montgomery County\* 246 Md. App. 245 \(Md. Ct. Spec. App. 2020\)](#).

**State/Chesapeake/Local/Small Business Effect:** Chesapeake advises that hernias caused as a result of repetitive trauma are a relatively rare issue for workers' compensation, with one of the only notable cases being the aforementioned case of [\*Greer v. Montgomery County\*](#). Moreover, if an injured employee files for workers' compensation benefits due to this type of hernia, other provisions that govern workers' compensation, including that the injured employee prove or demonstrate that the hernia was work related, apply.

For these reasons, the bill is not anticipated to materially affect State, Chesapeake, local, or small business expenditures for workers' compensation.

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### **Additional Information**

**Prior Introductions:** Similar legislation has not been introduced within the last three years.

**Designated Cross File:** HB 902 (Delegates Pruski and Rogers) - Economic Matters.

**Information Source(s):** Chesapeake Employers' Insurance Company; Subsequent Injury Fund; Uninsured Employers' Fund; Workers' Compensation Commission; Department of Legislative Services

**Fiscal Note History:** First Reader - February 19, 2023  
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