



## Testimony of Chesapeake Employers’ Insurance Company and Injured Workers’ Insurance Fund in Opposition to House Bill 335

House Bill 335 proposes to add an occupational disease presumption under Labor and Employment, § 9-503 for “first responders”; including, but not limited to: firefighters (paid and volunteer), emergency medical services providers, rescue squad members, 9-1-1 specialists, law enforcement officers, and correctional officers for post-traumatic stress disorder (hereinafter, “PTSD”) diagnosed by a licensed psychologist or psychiatrist for treatment limited to a two-year period following the diagnosis.

Of note, Chesapeake Employers’ Insurance and the Injured Workers’ Insurance Fund have claims for PTSD filed and accepted with benefits paid. This is not limited to “first responders” and is from case law: *Means v. Baltimore County*, 344 Md. 661 (1997), which deals with a paramedic that suffered from PTSD as a result of responding to a severe accident. The Appellate Court of Maryland found that “the Claimant’s PTSD could be reasonably characterized as due to the general character of her employment as a paramedic.” In summary, the Court found that PTSD may be compensable as an occupational disease under the Workers’ Compensation Act in Maryland, and Chesapeake Employers’ Insurance and the Injured Workers’ Insurance Fund have responded accordingly. Additionally, due to the liberal application of *Belcher v. T. Rowe Price*, 329 Md. 709 (1992), Chesapeake Employers’ Insurance and the Injured Workers’ Insurance Fund also have PTSD claims for specific situations filed as an accidental injury.

The chart below includes all claims in the last five years that either have PTSD in the accident/occupational disease description or have a paid medical bill with a PTSD diagnosis for Chesapeake Employer’s Insurance and the Injured Workers’ Insurance Fund.

<b>Accident Year</b>	<b>Chesapeake</b>	<b>State</b>	<b>Total</b>
2018	29	54	103
2019	32	44	83
2020	27	29	73
2021	15	27	53
2022	10	14	27
<b>Grand Total</b>	<b>113</b>	<b>168</b>	<b>281</b>

Some PTSD claims arise from a physical accidental injury, but of those that are stand-alone PTSD claims, the average paid amount for those claims is \$29,045.07. Of note, these claims do not include a two-year limitation of treatment, and Chesapeake Employer's Insurance and the Injured Workers' Insurance Fund is unsure if this bill is meant to exclude these "first responders" to indemnity benefits. Approximately 173 of the total claims above fit into the "first responders" as defined in Senate Bill 406. (The bill does not define "9-1-1 Specialist", and therefore, we are unaware if the State's approximately 150 employees that are 9-1-1 Operators/Specialists would be included or excluded in this statute. Of note, last year's SB 374 (2022) defined "9-1-1 Specialist" as the meaning stated in Public Safety § 1-301, which did not include State employees. The current bill has no such definition.)

Currently, under Labor and Employment, § 9-503, various police officers are covered by a presumption for heart disease and hypertension; various firefighters are covered by a presumption for heart disease, hypertension, lung disease, and certain types of cancers (leukemia, prostate, rectal, throat, multiple myeloma, non-Hodgkin's lymphoma, brain, testicular, bladder, kidney, renal, or breast), and various paid employees of the Department Natural Resources have a presumption for Lyme disease. In the last ten years (2013 – 2022), Chesapeake Employers' Insurance and the Injured Workers' Insurance Fund have incurred a total of \$31,926,184.45 over 619 claims (an average cost of \$51,577.03 per claim).

The purpose and concept around the current presumptions focus on a general skepticism as to the compensability of the above-mentioned diseases and cancers as related to employment as they could also come from a pre-existing and/or family condition without the ability to know if the condition is employment related or otherwise. Therefore, presumptions allow for compensability, even when a question arises of the disease source. This concept simply is not the case with PTSD, as an injured worker is able to pinpoint a situation or several situations which caused the medical concern and later diagnosis. A presumption is not needed given that PTSD is already a compensable condition as described above.

Given that presumptions already bring a significant cost to both the State and local governments, and PTSD is already being a compensable condition via case law, Chesapeake Employers' Insurance Company and the Injured Workers' Insurance Fund respectfully oppose House Bill 335.

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