

PARAMETERS AND GUIDELINES

Chapter 1568, Statutes of 1982 Firefighter's Cancer Presumption

I. SUMMARY OF MANDATE

Chapter 1568, Statutes of 1982, added Section 3272.1 to the Labor Code. This section states that cancer that has developed or manifested itself in firefighters will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a firefighter following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

II BOARD OF CONTROL DECISION

On February 23, 1984, the Board of Control determined that fire departments will incur "costs mandated by the state" as a result of Chapter 7568, Statutes of 1982.

III. ELIGIBLE CLAIMANTS

Any fire department of a city, a county, a city and county, a local fire protection district, or other public or municipal corporation or political subdivision of the state which employs firefighters.

IV. OPERATIVE DATE OF MANDATE

The operative date of Chapter 1568, Statutes of 1982 is January 1, 1983 through January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

V. PERIOD OF CLAIM

Claims may be filed for costs paid for workers' compensation claims where the date of injury is from January 1, 1983 to January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

The claims must be submitted to the State Controller in accordance with existing statutory deadlines, except that a claimant shall be entitled to file a claim for all costs associated with a particular case upon

completion of the case or at such earlier or later time as costs have accrued and been paid on an interim or post-award/compromise and release basis.

VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements as follows:

A. A claim under Chapter 1568, Statutes of 1982 is reimbursable if:

- A. The worker is a firefighter within the meaning of Labor Code Section 3212.1; and
- B. The worker has cancer which has caused the disability; and
- C. The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code Section 3212.1; and
- D. The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and
- E. The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence.

VII. CLAIMING FORMULA

If a case is reimbursable under Section VI, fifty percent (50%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

VIII. REIMBURSABLE COSTS

A. Insured Local Agencies and Fire Districts

Insured local entities may be reimbursed for any increases for workers' compensation premium costs directly and specifically attributable to Labor Code Section 3212.1.

B. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(1) Administrative Costs

(a) Staff Costs

1. Salaries and employee benefits;
2. Costs of supplies;
3. Legal counsel costs;
4. Clerical support;
5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;
6. Amounts paid to adjusting agencies.

(b) Overhead Costs

Counties, cities and special districts may claim an indirect cost through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (used in conjunction with FMC 74-4) as a percentage of direct salaries and wages. Indirect costs may include costs of space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect cost incurred as the result of the mandate originating in the performing unit and the costs of central government services distributed through the central services cost allocation plan and not otherwise treated as direct costs). Computation of the indirect cost rate must accompany the claim showing how that vote was derived.

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

- (a) All medical expenses.
- (b) Necessary and reasonable travel and related expenses.
- (c) All compensation benefits, including but not limited to:
 1. Permanent disability benefits;
 2. Life pension benefits;
 3. Death benefits;
 4. Temporary disability benefits or full salary in lieu of temporary disability benefits as required by Labor Code Section 4850, or other local charter provision or ordinance in existence on January 1, 1983.

Provided, however, that salary in lieu of temporary disability benefits were payable under local charter provision or ordinance in existence on January 1, 1983. Provided, however, that salary in lieu of temporary disability benefits payable under local charter provision or ordinance shall be reimbursable only to the extent that those benefits do not exceed the benefits required by Labor Code Section 4850.

IX. OFFSETTING, SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant..

In addition, reimbursement for this mandate received from any source, e.g., federal, state, etc., shall be identified and deducted from this claim.

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

XI. REQUIRED CERTIFICATION

The following certification must accompany the claim:

IDOHEREBYCERTIFY:

THAT Section 1090 to 1096, inclusive, of the Government Code and other applicable provisions of the Jaw have been complied with; and

THAT I am the person authorized by the local agency to file claims with the State of California.

Signature of Authorized Representative

Date

Title

Telephone Number

PARAMETERS AND GUIDELINES
Chapter 1568, Statutes of 1982
Workers' Compensation--Firefighters

I. SUMMARY OF MANDATE

Chapter 1568, Statutes of 1982, added Section 3212.1 to the Labor Code. This section states that cancer that has developed or manifested itself in firefighters will be presumed to have arisen out of and in the course of employment, unless the presumption is controverted by other evidence. The presumption is extended to a firefighter following termination of service for a period of three calendar months for each year of requisite service, but not to exceed sixty (60) months in any circumstance, commencing with the last date actually worked in the specified capacity.

II. BOARD OF CONTROL DECISION

On February 23, 1984, the Board of Control determined that fire departments will incur "costs mandated by the state" as a result of Chapter 1568, Statutes of 1982.

III. ELIGIBLE CLAIMANTS

Any fire department of a city, a county, a city and county, a local fire protection district, or other public or municipal corporation or political subdivision of the state which employs firefighters.

IV. OPERATIVE DATE OF MANDATE

The operative date of Chapter 1568, Statutes of 1982 is January 1, 1983 through January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

V. PERIOD OF CLAIM

Claims may be filed for costs paid for workers' compensation claims where the date of injury is from January 1, 1983 to January 1, 1989, unless a statute which is chaptered before January 1, 1989 deletes or extends the repealer date for Labor Code Section 3212.1.

The claims must be submitted to the State Controller in accordance with existing statutory deadlines, except that a claimant shall be entitled to file a claim for all costs associated with a particular case upon completion of the case or at such earlier or later time as costs have accrued and been paid on an interim or post-award/compromise and release basis.

VI. FORMULA FOR DETERMINATION OF CASES SUBJECT TO REIMBURSEMENT

Reimbursement requires a demonstration of elements in the following (A), and either (B)(1) or (B)(2):

- A. A claim under Chapter 1568, Statutes of 1982 is reimbursable if:
 - (1) The worker is a firefighter within the meaning of Labor Code Section 3212.1; and
 - (2) The worker has cancer which has caused the disability; and
 - (3) The worker's cancer developed or manifested itself during a period while the worker was in the service of the employer, or within the extended period provided for in Labor Code Section 3212.1; and
 - (4) The worker was exposed, while in the service of the employer, to one or more known carcinogens as defined by the International Agency for Research on Cancer, or the Director of the Department of Industrial Relations; and
 - (5) The one or more carcinogens to which the worker was exposed are reasonably linked to the disabling cancer, as demonstrated by competent medical evidence; and
 - (6) The worker's cancer is presumed to have arisen out of and in the course of employment pursuant to the presumption set forth in Labor Code Section 3212.1.
- B. The claimant can demonstrate that the presumption determined the outcome of the case in one of two methods:
 - (1) Benefits paid pursuant to Findings and Award or Compromise and Release.

Where the benefits were paid pursuant to a Findings and Award or a Compromise and Release,

the claimant can demonstrate that the case was determined by the presumption by producing a Findings and Award issued by a Workers' Compensation Judge or the Workers' Compensation Appeals Board or a Compromise and Release approved by an order of a Workers' Compensation Appeals Judge or the Compensation Appeals Board which includes all of the required facts specified in subsection A(1)-(6), together with a finding that the presumption operated because either:

- (a) No contrary evidence could have been introduced to rebut the elements set out in subsection A(1)-(5) and none could have been introduced to rebut the presumption set forth in subsection A(6); or
- (b) The evidence to rebut the five elements set out above and to rebut the presumption did not in fact overcome the presumption.

(2) Benefits paid pursuant to informal ratings or in cases where no Informal rating occurred.

Where benefits are paid in cases involving an informal rating process where no formal board order is sought or procured, or in cases where there is not an informal rating because it is not required, claimants can demonstrate that the presumption determined the outcome of the case by producing the necessary documentation as a substitute for a Findings and Award or Compromise and Release as specified in subsection B(1) above.

VII. CLAIMING FORMULA

If a case is reimbursable under Section VI, sixty-five percent (65%) of the reimbursable costs as defined in Section VIII shall be paid to claiming agencies.

VIII. REIMBURSABLE COSTS

A. Insured Local Agencies and School Districts

Insured local entities may be reimbursed for any increases for workers' compensation premium costs directly and specifically attributable to Labor Code Section 3212.1.

B. Self-Insured Local Agencies

All actual costs of a claim based upon the presumption set forth in Labor Code Section 3212.1 are reimbursable, including but not limited to the following:

(1) Administrative Costs

(a) Staff Costs

1. Salaries and employee benefits;
2. Costs of supplies;
3. Legal counsel costs;
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5. Normal local rates of reimbursement for necessary and reasonable travel and related expenses for staff;
6. Amounts paid to adjusting agencies.

(b) Overhead Costs

Counties, cities and special districts may claim an indirect cost through an indirect cost rate proposal prepared in accordance with the provision of Federal Regulation OASC-10 (used in conjunction with FMC 74-4) as a percentage of direct salaries and wages. Indirect costs may include costs of space, equipment, utilities, insurance, administration, etc. (i.e., those elements of indirect cost incurred as the result of the mandate originating in the performing unit and the costs of central government services distributed through the central services cost allocation plan and not otherwise treated as direct costs). Computation of the indirect cost rate must accompany the claim showing how that rate was derived.

(2) Benefit Costs

Actual benefit costs under this presumption shall be reimbursable and shall include, but are not limited to:

- (a) All medical expenses.
- (b) Necessary and reasonable travel and related expenses.
- (c) All compensation benefits, including but not limited to:
 - 1. Permanent disability benefits;
 - 2. Life pension benefits;
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IX. OFFSETTING SAVINGS AND OTHER REIMBURSEMENT

Any offsetting savings the claimants experience as a direct result of this statute must be deducted from the costs claimed. Such offsetting savings shall include, but not be limited to, savings in the cost of personnel, service or supplies, or increased revenues obtained by the claimant.

In addition, reimbursement for this mandate received from any source, **e.g.**, federal, state, etc., shall be indentified and deducted from this claim.

X. SUPPORTING DATA

For auditing purposes, all costs claimed must be traceable to source documents or worksheets that show evidence of and the validity of such costs. These documents must be kept on file and made available on the request of the State Controller.

XI. REQUIRED CERTIFICATION

The following certification must accompany the claim:

I DO HEREBY CERTIFY:

THAT Section 1090 to 1096, inclusive, or the Government Code and other applicable provisions of the law have been complied with; and THAT I am the person authorized by the local agency to file claims with the State of California.

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