

Member Issues: Firefighter Presumptive Disease as of 9/1/2020



In the Beginning ...

Economic Affairs Interim Committee member Nate McConnell asked the committee to review implementation of [SB160](#) (2019), which provided professional firefighters with a presumption that certain diseases, like various forms of cancer, are based on exposure to carcinogenic chemicals, among other toxic waste, and entitle them to workers' compensation without having to prove a relationship between a specific fire and the job.

In the Interim ...

The committee heard from insurers for public entities (Montana State Fund and the Montana Municipal Interlocal Authority or MMIA) regarding presumptive disease coverage at a [Feb. 12, 2020](#), EAIC meeting and at a [July 1, 2020](#), meeting. The July meeting also included a [volunteer firefighter](#) commenting on presumptive disease concerns. The short takeaways are:

- costs are going up in Montana for professional firefighter coverage under MMIA;
- few volunteer firefighter services will be able to afford higher costs and, in fact, will receive a discount from Montana State Fund for not getting presumptive disease coverage.

Questions asked at those meetings included the following:

- Did the rates take presumptive disease for firefighters into account?
- Was there a vote to accept presumptive disease for volunteer firefighters. Both insurers did allow volunteer firefighters to participate, for a price.
- Why was more specific data not requested from municipalities, similar to the demographic data that MMIA sought from volunteer firefighters. MMIA surveyed municipalities that include volunteer firefighters in their units but used nationwide cancer and heart data bases and incident rates for professional firefighters from the NIOSH (National Institute for Occupational Safety and Health) database.
- What were the actuarial details on which rates were based? MMIA had asked its [actuaries](#) to determine costs when SB 160 was being heard. State Fund had two reviews, one general and one that took into account [gradual implementation](#) for various diseases. The EAIC [website](#) lists both insurers' actuarial information.
- Did the insurers or actuaries offset the claims experience data with the positive impacts expected from health checks and no tobacco use? It is not clear that the insurers or actuaries took the positive potential impacts into account; benefits are difficult to prove.
- Also asked was whether calculations took into account how many fires or types of fires to which the firefighters routinely respond. This, too, is hard to pinpoint.
- Montana State Fund did not include the presumptive disease factors initially because rates in effect in early 2020 were set prior to the effective date of SB 160.

Economic Affairs Committee's Focus on Firefighter Presumptive Disease

Montana State Fund

Montana State Fund [rates](#) that went into effect for the July 2020-June 2021 year take the presumptive disease law into account and recognize phased-in coverage for various diseases.

- For professional firefighters - there is no additional differential for FY2020 rates.
- For volunteer firefighters - there is a 65.8% surcharge this year for presumptive disease coverage added to the \$6.27 rate per firefighter per \$100 payroll a month.

For example, if the middle tier (Tier 3) current premium cost per volunteer is \$15.68 per quarter for general workers' compensation coverage (based on an assumed payroll of \$250 a quarter), the increase for presumptive disease coverage would add \$10.31 a quarter for a total quarterly payment of \$25.99. The additional annual amount would be \$41.24 per volunteer firefighter. Volunteer firefighters not electing presumptive disease coverage would receive a 20% discount.

Montana Municipal Interlocal Authority

The actuary for the Montana Municipal Interlocal Authority estimated, based on cancer and heart/lung disease reports, that claim frequency and severity would amount to an additional \$1.972 million cost because of SB 160. Actuaries recommended that to provide coverage for potential additional risk at an 85% confidence level MMIA needed \$3 million additional income. The MMIA board chose a more moderate increase to recognize a delayed start date for calculating years of experience and potential exposure.

The result sought \$1.8 million for presumptive disease claims. This boosted the premium rate from \$3.89 per \$100 payroll July 2018-June 2019 to \$6.49 per \$100 payroll for July 2019-June 2020. Premiums for July 2020 through June 2021 are \$6.25 per \$100 of payroll.

Three of six cities accepted coverage for volunteer firefighters and are being assessed an additional \$129 per volunteer firefighter each year, which was calculated based on demographic information provided.

The MMIA study presumed 1 or 2 presumptive disease claims. Prior to SB 160 taking effect, MMIA had 5 cancer claims that occurred or were filed by firefighters under the previous law. The projected cost of those claims if they had been under SB 160 would be around \$1.5 million.

In the End ...

The committee requested staff to contact the equivalents for both organizations in Idaho. Montana's SB 160 was based on Idaho's presumptive disease statute, last amended in 2016, with presumptive disease coverage going into effect there in 2017. With nearly three years of experience, insurer representatives have been somewhat surprised at the low number of claims but not surprised that claims coming in are surpassing premium incurred costs and reserves in some cases. Below are some examples.

A call to Intermountain Claims, which is a claims management company handling some of the Idaho self-insured municipalities, indicated the following incidents with an overall average increase of 40% over normal loss runs, according to Jasen Carrier with Intermountain Claims:

- In Boise, where workers' compensation claims average \$1 million to \$1.5 million a year, there was a firefighter claim for non-Hodgkins lymphoma (which arose before the presumptive disease claim took effect in 2017). That claim is assessed at a life-of-claim cost of \$1.3 million.
- A February 2018 claim for Stage 4 lung cancer has been reserved at \$1.8 million for life-of-claim payouts.
- A 2019 case discovered bladder cancer early; the cost so far has been about \$153,000 and may be close to remission.
- Two Pocatello cases of presumptive disease have \$62,000 and \$52,000 total incurred costs, in a community that typically has \$350,000 in total claims a year.

Mike Haxby with the State Insurance Fund, which covers those Idaho municipalities and firefighter services that do not self-insure, noted two claims currently costing \$630,000 but drawing on only \$27,000 in premiums. One case is for colon cancer and is projected to increase from the current \$21,000 in costs to \$268,000. Mr. Haxby pointed out that, while firefighters might be costing a town's health insurance if workers' compensation did not cover medical costs, they would not be getting the same indemnity wage replacement without workers' compensation.

Mr. Carrier and Mr. Haxby both said that to their knowledge no firefighter workers' compensation claims had succeeded in Idaho before the presumptive disease portion of the statute went into effect. Prior to the presumptive disease statute, when a firefighter would have to show a connection between the disease and the firefighting exposures, proving a specific relationship was more difficult than using scientific studies that draw relationships by extrapolating data from many cases across the country.

Mr. Carrier noted that as experience accumulates under the Idaho presumptive disease law, he expects to see more cases to be filed for what are particularly costly cancer cases, cases that typically can be treated for many years but at a high cost.

Finally: Cause, Effect, and Timing

One question raised during the EAIC meetings centered on why workers' compensation rates in Idaho went down when the presumptive disease coverage went into effect. The rate drop is not a result of the additional coverage, according to Mike Haxby at the Idaho State Insurance Fund, which covers those municipalities and firefighter services that do not self-insure. More likely is that Idaho's rates were going down overall. The tables show a series of lower Montana loss cost filings by the National Council for Compensation Insurance (NCCI) and a different measure, lower voluntary rate filings, for Idaho. Also, NCCI did not project much of a change in Idaho's overall rates with enactment of presumptive disease coverage. Mr. Haxby pointed out that few private employers would have been impacted by firefighter rate changes and not many cases were expected.

National Council on Compensation Insurance Loss Costs: Montana					
FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
3.6%	4.8%	7.8%	10.7%	17.2%	8.1%

NCCI Voluntary Rate Filing for Idaho (Approved)				
1/1/2016	1/1/2017	1/1/2018	1/1/2019	1/1/2020
4.8%	5.8%	3.4%	4.2%	6.2%