

SUBJECT LINE: Reminder: COVID-19 First Responder Disease Presumption Law

Senate Bill 22 by Senator Drew Springer, which has been signed by the governor and is effective June 14, 2021 (and retroactively applies to a COVID-19 diagnosis on or after the date of the governor's declaration on March 13, 2020), provides a disease "presumption" for first responders diagnosed with COVID-19. Senator Springer has asked that we share the following information with you, and that you ensure that any first responder employed by your city receive it as well.

What is a disease presumption? In 2005, during a nationwide trend, the Texas Legislature enacted Subchapter B of Chapter 607 of the Texas Government Code. The law provides that certain diseases contracted by first responders are presumed to have been contracted while on duty for workers' compensation purposes.

The new COVID-19 presumption, which expires September 1, 2023, applies to peace officers, firefighters, emergency medical service employees, and detention and custodial officers only if various conditions are met. It applies only when the first responder:

- is employed during a gubernatorially-declared disaster and contracts the disease during that time.
- Is employed on a full-time basis and diagnosed with COVID-19 using a test authorized or approved by the U.S. Food and Drug Administration.
- Had been on duty within 15 days before being diagnosed.
- if deceased, had been diagnosed using a U.S. Food and Drug Administration-approved test or by another means, including by a physician.
- if deceased, had been on duty within 15 days before the diagnosis, began to show symptoms, or was hospitalized for such symptoms.

The bill has some retroactive effect. The Risk Pool began accepting claims in March of 2020. This means that most Risk Pool-covered first responders have already been processed. Cities that are self-insured or covered by others should pay careful attention to the retroactivity.

For example, a first responder who filed a claim between March 13, 2020, and June 14, 2021, and whose claim was denied, is entitled to request reprocessing of the claim under the new presumption. A request to reprocess a claim must be filed no later than June 14, 2022 (one year after the effective date of the bill).

If a first responder contracted COVID-19 between March 13, 2020, and June 14, 2021, and never filed a claim, he or she is entitled to file a claim no later than December 14, 2021. The Texas Workers' Compensation Division has provided a [first responder FAQ](#) related to the COVID-19 presumption.

The above is a short summary of the new COVID-19 presumption. Each individual case must be reviewed in accordance with the facts surrounding it and other minutiae in the law. Risk Pool city officials should contact their [Member Services Manager](#) with questions. Other city officials should consult with local legal counsel and the TML [Legal Services Department](#).