



DIVISION OF WORKERS' COMPENSATION

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On April 7, 2020, the Department of Labor and Industrial Relations with its Division of Workers' Compensation filed an emergency rule under the workers' compensation statute to provide a presumption that first responders contracting COVID-19 were infected in the course of their employment. The Labor and Industrial Relations Commission voted unanimously to approve the emergency rule.

On April 8, 2020, upon receipt of the signed approval of the Commission, the Department of Labor Director, Division of Workers' Compensation Director and Department General Counsel signed a letter conveying the emergency rule to the Secretary of State and the Joint Commission on Administrative Rules.

After ten business days from date of receipt by the Secretary of State and barring any substantive revisions, the emergency rule will be effective on April 22, 2020.

The emergency rule allows for retroactive application of the presumption for instances which occurred prior to its effective date.

8 CSR 50-5.005 Presumption of Occupational Disease for First Responders

Title 8—DEPARTMENT OF

LABOR AND INDUSTRIAL RELATIONS

Division 50—Division of Workers' Compensation

Chapter 5—Determination of Disability

EMERGENCY RULE

8 CSR 50-5.005 Presumption of Occupational Disease for First Responders

PURPOSE: This emergency rule implements changes to the Missouri Workers' Compensation Law effected by the Governor's Executive Order 20-02 and Executive Order 20-04 and pursuant to the Governor's emergency powers under Chapter 44, RSMo.

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EMERGENCY STATEMENT: This emergency rule incorporates and implements changes to the Missouri Workers' Compensation Law effected by the Governor's Executive Order 20-02 and Executive Order 20-04 pursuant to the Governor's emergency powers under Chapter 44, RSMo. Section 44.100, RSMo, provides that during a state of emergency, the Governor is authorized to "perform and exercise such other functions, powers and duties as may be necessary to promote and secure the safety and protection of the civilian population." Emergency enactment of this rule is necessary to preserve the compelling governmental interest of protecting the health and welfare of First Responders during a time of declared state and national emergency relating to the COVID19 pandemic.

This emergency rule creates a presumption that First Responders infected by or quarantined due to COVID-19 are deemed to have contracted a contagious or communicable occupational disease arising out of and in the course of the performance of their employment.

Emergency enactment of the rule will also assist the Missouri State Department of Health and Senior Services in performing their critical duties of providing for the health and welfare of Missouri citizens.

The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the Missouri and United States Constitutions. The Missouri Division of Workers' Compensation believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed April 8, 2020, becomes effective April 22, 2020, and expires February 1, 2021.

A First Responder, defined as a law enforcement officer, firefighter or an emergency medical technician (EMT), as such occupations are defined in Section 287.243, who has contracted or is quarantined for COVID-19, is presumed to have an occupational disease arising out of and in the course of their employment. Such presumption shall include situations where the First Responder is quarantined at the direction of the employer due to suspected COVID-19 exposure, or the display of any COVID-19 symptoms, or receives a presumptive positive COVID-19 test, or receives a COVID-19 diagnosis from a physician, or receives a laboratory-confirmed COVID-19 diagnosis.

The presumption set forth in section (1) shall retroactively apply to all First Responders who otherwise meet the requirements set forth in this emergency rule.

A First Responder is not entitled to the presumption in section (1) if a subsequent medical determination establishes by clear and convincing evidence that the First Responder did not actually have COVID-19, or contracted or was quarantined for COVID-19 resulting from exposure that was not related to the First Responder's employment.

The provisions of this emergency rule shall cease to be in effect at the expiration of the state of emergency declared in Executive Order 20-02 or any successor executive order

extending the state of emergency, whichever occurs later, or upon the expiration of this emergency rule as set forth in Chapter 536.

AUTHORITY: section 287.650, RSMo 2016. Emergency rule filed April 8, 2020, effective April 22, 2020, expires Feb. 1, 2021.

PUBLIC COST: Due to the state of emergency caused by the COVID-19 pandemic and the impossibility of predicting the viral infection rates, the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this emergency rule is unknown.

PRIVATE COST: The overwhelming majority, if not all, of the First Responders covered by this emergency rule are employees of state or local governments. Due to the state of emergency caused by the COVID-19 pandemic and the impossibility of predicting the viral infection rates, the potential long-term health effects and the fatality rates of First Responders, the fiscal impact of this emergency rule is unknown.