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West Virginia Offices of the Insurance Commissioner

# Post-Traumatic Stress Disorder Annual Report

Allan L. McVey
Insurance Commissioner

STATE OF WEST VIRGINIA
Offices *of the* Insurance Commissioner

**Allan L. McVey**
**Insurance Commissioner**

January 3, 2024

**VIA EMAIL**

The Honorable Vince Deeds
Chair, Joint Committee on Volunteer Fire Departments and Emergency Medical Services
Room 200W, Building 1
State Capitol Complex
Charleston, WV 25305
***(vince.deeds@wvsenate.gov)***

The Honorable Joe Statler
Chair, Joint Committee on Volunteer Fire Departments and Emergency Medical Services
Room 442M, Building 1
State Capitol Complex
Charleston, WV 25305
***(joe.statler@wvhouse.gov)***

Dear Senator Deeds and Delegate Statler:

Enclosed please find the 2024 Post-Traumatic Stress Disorder (PTSD) Annual Report as mandated by W. Va. Code §23-4-1F. The information used in the preparation of this report was compiled from the National Council on Compensation Insurance (NCCI) filings, insurer filings, self-insured employers, and the West Virginia Offices of the Insurance Commissioner (WVOIC).

The overall goal of this report is to provide the reader with an overview of the current policies and procedures related to post-traumatic stress disorder claims for first responders. Please contact Juanita Wimmer at (304) 414-8491 or Juanita.D.Wimmer@wv.gov with any questions or concerns.

Sincerely,

Allan L. McVey
CPCU, ARM, AAI, AAM, AIS
Insurance Commissioner

Enclosure

cc: Phillip Childs, Senate Counsel, Joint Committee on Volunteer Fire Departments and Emergency Medical Services
Joe Altizer, House Counsel, Joint Committee on Volunteer Fire Departments and Emergency Medical Services

# *House Bill 3107*

Introduced in the 2021 West Virginia Legislative regular session, House Bill 3107 recognized that post-traumatic stress disorder (PTSD) may be considered as a compensable occupational disease workers' compensation claim if suffered by a first responder and meeting the criteria outlined in W. Va. Code §23-4-1 (f). The house bill was enacted effective April 10, 2021 and later signed into law by Governor Justice. There is a provision within the enacted bill that states the amendments made to recognize PTSD as a compensable injury for first responders shall expire on July 1, 2026 unless extended by the Legislature.

Prior to the enactment of HB3107, a first responder claiming mental injuries with no physical cause of injury was precluded from receiving workers' compensation benefits in West Virginia. However, the Legislature found that PTSD is a unique medical condition that may manifest itself as a psychiatric condition and poses a serious occupational hazard for first responders. First responders are required to expose themselves to traumatic events during the course of their employment and thus are at a recognized higher risk of developing PTSD. The Legislature determined that due to the severe nature and debilitative effects of PTSD on first responders, it is the moral obligation of the State to permit workers' compensation coverage to this class of individuals for a work-related disease when the following criteria are met:

- The Employer has elected to provide coverage for PTSD as an occupational disease. This is considered an optional coverage and employers may choose to pay additional premium for this coverage.
- PTSD diagnosis must be made by a licensed psychiatrist due to exposure to an event that occurred in the course of and resulting from a first responders paid or volunteer covered duties. Applies only to claims occurring after the first day of the policy term for which PTSD coverage has been secured.
- While the diagnosis must be made by a licensed psychiatrist, mental health treatment consistent for a post-traumatic stress disorder diagnosis may be offered by a licensed mental health provider other than the diagnosing psychiatrist.
- PTSD diagnosis shall not include consideration of layoff, termination, disciplinary actions, or similar personnel actions.

- Benefits to first responders are contingent upon the employer electing to purchase the coverage as part of the workers' compensation policy issued by a carrier.

House bill 3107 further defined the following terms to clarify the provisions in the bill:

- "First responder" means a law enforcement officer, firefighter, emergency medical technician, paramedic, and emergency dispatcher.
- "Post-traumatic stress disorder" means a disorder that meets the diagnostic criteria for post-traumatic stress disorder specified by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, fifth edition, or a later edition as adopted by rule of the insurance commissioner.
- "Licensed mental health provider" means a psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, or licensed social worker who is qualified to treat post-traumatic stress disorder.
- "Employer" means any entity that controls, consistent with the provisions of West Virginia law relating to an employment relationship, the paid or volunteer employment of a first responder eligible for benefits under this section.

## *Rate Summary*

Implementation of availability of coverage was discussed in previous annual reports and will no longer be recapped in this current and future annual PTSD reports.

The National Council on Compensation Insurance, Inc. (NCCI) files the PTSD rates for the assigned risk market servicing carriers. Voluntary market carriers must have WVOIC approved rates and rules to offer optional PTSD coverage.

The coverage may only be offered to policies with specific classifications as noted in the NCCI rules governing PTSD coverage. The assigned risk rates effective on November 1, 2023 for the specific classifications and codes are displayed in the table below.

| Class/ Code | Class/Code Description | Traumatic/ PTSD Rate |
|---|---|---|
| 7420 | Aviation—Aerial Firefighting—Flying Crew | $3.21 |
| 0193N | Non-Ratable Portion of Rate for Classification Code 7420 | $0.23 |
| 7425 | Aviation—Helicopters—Flying Crew | $0.69 |
| 0194N | Non-Ratable Portion of Rate for Classification Code 7425 | $0.04 |
| 7705 | Ambulance Service Companies and EMS Providers & Drivers | $2.72 |
| 0195N | Non-Ratable Portion of Rate for Classification Code 7705 | $0.18 |
| 7710 | Firefighters & Drivers | $1.57 |
| 0196N | Non-Ratable Portion of Rate for Classification Code 7710 | $0.11 |
| 7711 | Firefighters & Drivers—Volunteer | $6.03 |
| 0197N | Non-Ratable Portion of Rate for Classification Code 7711 | $0.42 |
| 7720 | Police Officers & Drivers | $1.10 |
| 0198N | Non-Ratable Portion of Rate for Classification Code 7720 | $0.07 |
| 7748 | First Responder Emergency Dispatcher | $0.08 |
| 0199N | Non-Ratable Portion of Rate for Classification Code 7748 | $0.01 |

Additional coverage notes:

- Non-ratable codes and rates applies only if the employer has elected to provide coverage for post-traumatic stress disorder (PTSD) as an occupational disease in accordance with West Virginia Code §23-4-1f.
- If PTSD coverage is added to the policy, the minimum premium for the ratable portion of the policy premium will be increased by $500, subject to the class maximum minimum premium of $1,250.
- The charge for PTSD coverage must be applied to the entirety of the eligible first responder payroll.
- Paid claims that are reported for optional occupational disease coverage available to first responders for post-traumatic stress disorders are excluded from experience rating calculations and retrospective rating.

## *Coverage Information*

The WVOIC requested and received the 2023 PTSD data extract from NCCI to determine if the utilization of this coverage ensured rate adequacy, claims administration, appropriate treatment, and that the coverage was appropriate for the exposure. Previous years extracts resulted in 0 policies purchasing this coverage. However, the 2023 data extract revealed several policies that were endorsed with the PTSD optional coverage. Data analyses and summaries are provided below.

**Assigned Risk Data:**

- Sixty-three (63) policies had PTSD coverage on a policy effective in calendar year 2023; 56 were volunteer fire departments or towns with volunteer fire departments, 6 were Ambulance / Emergency Service Providers or rescue services, 1 was a private flagging service. See Exhibit 1 for a complete list of policies.

- There are 15 policies reported to NCCI with the PTSD endorsement for effective dates in 2024. These are renewal offers so the policyholder may or may not accept the coverage. These 15 policies are not included in the data analyses.

- As previously noted, there are non-ratable codes used to determine the PTSD rates and premiums. Considering the 63 policies in the assigned risk with the PTSD endorsement, the non-ratable codes have $1,329 premium reported and all other classifications on the policies had $186,032 premium. When considering only the premium in the classifications eligible for PTSD coverage, the premium is $184,467. Therefore, when the non-eligible classification premium is removed, there is a total of $185,796 premium for the PTSD classifications and codes. See Exhibit 2 for the payroll by eligible classification and non-ratable code.

- Due to NCCI reporting requirements, there is not yet credible claim or loss data reported by carriers and therefore, no loss ratios or rate adequacy observations can be analyzed at this time.

**Voluntary Market Data:**

- Six (6) policies had PTSD coverage on a policy effective in calendar year 2023; five (5) policies had 7720 – Police Officers & Drivers as the eligible classification and one (1) policy had 7705 – Ambulance Service and EMS as the eligible classification. See Exhibit 3 for a complete list of policies.

- There were eight (8) policies endorsed with PTSD coverage reported with policy effective dates in 2022; no policies have yet been reported with policy effective dates in 2024.

- As previously noted, there are non-ratable codes used to determine the PTSD rates and premiums. Considering the 6 policies in the voluntary market with the PTSD endorsement, the non-ratable codes have $0 premium reported and all other classifications on the policies had $130,140 premium. When considering only the premium in the classifications eligible for PTSD coverage, the premium is $124,272. Therefore, when the non-eligible classification premium is removed, there is a total of $124,272 premium for the PTSD classifications and codes. See Exhibit 4 for the payroll by eligible classification and non-ratable code.

- Due to NCCI reporting requirements, there is not yet credible claim or loss data reported by carriers and therefore, no loss ratios or rate adequacy observations can be analyzed at this time.

- Voluntary market carriers must have rate and rule filings approved by the WVOIC to offer the optional PTSD coverage. The NCCI filed rates apply only to assigned risk servicing carriers. To date, only one (1) of the voluntary market carriers had the appropriate filing in place to endorse the policy with PTSD coverage. The WVOIC is working with the other two (2) carriers to ensure they file and receive approval of all relevant components in order to offer PTSD coverage to policyholders.

There are self-insured employers that have stated that PTSD claims are currently, and have historically been, compensable in the past but most do not differentiate between PTSD claims and/or traumatic or other disease claims so a data extract may prove to be a hardship if requested.

## *Summary*

The WVOIC has prepared the West Virginia workers' compensation market to offer and provide PTSD coverage if elected by a policyholder with qualifying classifications meeting the definition of first responders.

As expected, volunteer first responders such as firefighters and emergency medical services are electing to purchase the coverage. As most of these policies are written in the assigned risk market, the assigned risk losses and rate adequacy will be monitored closely by both the WVOIC and NCCI. The voluntary market currently has 34 carriers with approved filings in place to write the coverage, but many have expressed concern about the coverage pricing and unknown total costs of psychiatric treatment of PTSD claims. This is supported by the data where only three (3) voluntary market carriers are endorsing policies.

Future reports will include loss experience and premium to loss ratios as data becomes available. At this time, the WVOIC continues to monitor the processes and utilization for this optional coverage.

## *Exhibit 1 – Assigned Risk Policies with PTSD Coverage*

| Policy Effective Year | Policyholder | Type |
|---|---|---|
| **2023** | ALMA VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | AURORA VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | BAKERTON FIRE DEPARTMENT INC | VFD |
| **2023** | BALLARD VOLUNTEER FIRE & RESCUE INC | VFD |
| **2023** | BANCS VOL FIRE DEPT INC | VFD |
| **2023** | BANKS DISTRICT VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | BARRACKVILLE TOWN OF | VFD |
| **2023** | BELMONT VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | BENWOOD VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | BUFFALO CREEK VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | BUFFALO VOLUNTEER FIRE DEPART INC | VFD |
| **2023** | CAPON BRIDGE VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | CASS VOLUNTEER FIRE & RESCUE CO INC | VFD |
| **2023** | COAL CITY VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | COAL RIVER VOL FIRE DEPT & RESCUE INC | VFD |
| **2023** | CULLODEN VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | CYCLONE FIRE DEPARTMENT INC | VFD |
| **2023** | DALLAS VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | DIAMOND FLAGGING SERVICES LLC | Non-VFD |
| **2023** | DODDRIDGE COUNTY EMERGENCY SQUAD INC | EMS |
| **2023** | EAST RIVER VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | FRANKFORD VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | FRANKLIN COMMUNITY VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | FROST VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | GANDEEVILLE HARMONY VFD INC | VFD |
| **2023** | GARY VOLUNTEER FIRE DEPT | VFD |
| **2023** | HACKER VALLEY VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | HARMAN VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | HARRISVILLE VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | JACKSONBURG VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | JANE LEW VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | JOHNSTOWN VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | LESTER VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | LIMESTONE REGIONAL EMERGENCY SERVICE INC | EMS |
| **2023** | LITTLE LEVELS EMERGENCY AMBULANCE PATROL INC | EMS |

| Policy Effective Year | Policyholder | Type |
|---|---|---|
| **2023** | MATHIAS-BAKER VOLUNTEER FIRE CO | VFD |
| **2023** | MCMECHEN VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | NEW HAVEN & COMMUNITY VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | OAKVALE VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | PADEN CITY VOLUNTEER FIRE CO | VFD |
| **2023** | PAWPAW VOLUNTEER FIRE CO | VFD |
| **2023** | READER VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | RHODELL VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | RICHWOOD VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | RIDGELEY VOLUNTEER FIRE CO | VFD |
| **2023** | ROMNEY RESCUE SQUAD INC | EMS |
| **2023** | ROWLESBURG VOL AMBULANCE SERVICE INC | EMS |
| **2023** | SALEM VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | SHORT GAP VOLUNTEER FIRE CO | VFD |
| **2023** | SOUTHERN CLAY COUNTY VOLUNTEERFIRE DEPARTMENT INC | VFD |
| **2023** | SPELTER VOLUNTEER FIRE DEPT | VFD |
| **2023** | ST JOSEPH VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | STONE CHURCH VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | TEAYS VALLEY VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | THOMAS VOLUNTEER FIRE DEPARTMENT INC | VFD |
| **2023** | TOWN OF MAN VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | TRI-COUNTY VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | UNION AMBULANCE SERVICE INC | EMS |
| **2023** | UPPER WEST FORK VOLUNTEER FIREDEPARTMENT | VFD |
| **2023** | WASHINGTON DISTRICT VOLUNTEER FIRE CO | VFD |
| **2023** | WHITE SULPHUR SPRINGS VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | WILLIAMSBURG VOLUNTEER FIRE DEPARTMENT | VFD |
| **2023** | WINDSOR HEIGHTS VOLUNTEER FIREDEPARTMENT INC | VFD |

## *Exhibit 2 – Assigned Risk Premium by Class for PTSD Policies*

| Class / Code | Premium |
|---|---|
| **0195N** | $441 |
| 0197N | $888 |
| 7705 | $42,430 |
| 7710 | $15,462 |
| 7711 | $114,213 |
| 7720 | $12,362 |
| **Total** | **$185,796** |

## *Exhibit 3 – Voluntary Market Policies with PTSD Coverage*

| Policy Effective Year | Policyholder | Eligible Class |
|---|---|---|
| 2023 | PATRONUS SYSTEMS INC | 7720 |
| 2023 | EKS GROUP LLC | 7720 |
| 2023 | SECURITY AMERICA INC | 7720 |
| 2023 | DIVERSIFIED PROTECTION CORP | 7720 |
| 2023 | KELLINGTON PROTECTION SERVICE LLC | 7720 |
| 2023 | LUSE HOLDINGS INC | 7705 |

## *Exhibit 4 – Voluntary Market Premium by Class for PTSD Policies*

| Class / Code | Premium |
|---|---|
| **0195N** | $0 |
| 0198N | $0 |
| 7705 | $0 |
| 7720 | $124,272 |
| **Total** | **$124,272** |