



Municipal Excess Liability Joint Insurance Fund

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To: Risk Managers

From: David Grubb

Date: March 16, 2020

Re: Workers' Compensation benefits for emergency responders during the Public Health Emergency.

Question 1: How does the NJ Workers' Compensation Law cover emergency responders during the Public Health Emergency?

Answer: Workers' Compensation is "statutory" coverage, which means that the workers' compensation policy covers the employer's obligations to compensate employees for occupational injuries and illnesses. This coverage also pertains to partly paid and volunteer public safety personnel.

New Jersey Law provides that:

"If in the course of a public safety worker's employment, the worker is exposed to any pathogen or biological toxins ... related to ... epidemics, including airborne exposure, then all care or treatment of the public safety worker, including testing, diagnosis, surveillance or other services and all time during which the public safety worker is unable to work while receiving the care or treatment, shall be compensable ... If it is ascertained that the public safety worker has contracted a serious communicable disease or related illness there shall be a presumption that any injury, disability, chronic or corollary illness or death ... is compensable ... but this presumption may be rebutted by the preponderance of the evidence that the exposure is not linked to the occurrence of the disease."

Question 2: Who is considered as a Public Safety Worker?

Answer: Under this law:

"A Public safety worker includes, but is not limited to, a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force,

company or district, including the State Police, a Community Emergency Response Team approved by the New Jersey Office of Emergency Management, or a correctional facility, or a basic or advanced medical technician of a first aid or rescue squad, or any other nurse, basic or advanced medical technician responding to a catastrophic incident and directly involved and in contact with the public during such an incident, either as a volunteer, member of a Community Emergency Response Team or employed or directed by a health care facility.”

Question 3: When is a paid, partly paid or volunteer public safety worker considered as in the course of employment?

Answer:

- While on duty, or
- While off duty if responding to an emergency situation in the responder’s service area, even if not specifically told to do so, or
- While off duty and outside the responder’s service area if authorized by a superior officer or the responder comes across the emergency situation and does not have time to secure permission.

It is important that all potential claims be reported so that they can be documented. While this coverage is comprehensive, each situation is fact sensitive and will be evaluated by the Workers’ Compensation courts on the merits.

Please contact your JIF’s Fund office or Fund Attorney with any further questions.