



Michigan Considers a Statutory PTSD Presumption Among First Responders

Michael A. Cassar

Foster Swift Workers' Compensation Update

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On April 17, 2019, three Michigan State Representatives introduced House Bill No. 4473 to the Michigan House of Representatives Committee on Insurance. With the introduction of this bill, these legislators seek to have Michigan join several other states across the nation that have enacted, or are considering, workers' compensation legislation that creates a rebuttable presumption that a first responder's post-traumatic stress disorder ("PTSD") arose out of and occurred in the course of their employment.

House Bill No. 4473 would apply to employees providing police, fire suppression, rescue, and emergency medical services who are exposed to hazards in the performance of their work duties that lead to the development of PTSD. Specifically, the bill covers members of a police department, fire department, fire authority, and state police, as well as county sheriffs, sheriff deputies, and conservation officers.

In order to effectively rebut the presumption, the employer would be obligated to proffer "scientific evidence" showing that the worker experienced a psychiatric stressor unrelated to work *and* that the stressor was a "significant factor" in the cause or aggravation of the PTSD. Evidence of preexisting PTSD, as a stand-alone, would not be sufficient to defeat the presumption.

House Bill No. 4473 strongly favors Michigan first responders, though it is not as burdensome as some other states' legislation. For instance, Minnesota's PTSD presumption law, effective January 1, 2019, is applicable to many more first responder-type jobs than Michigan's proposed bill. Minnesota's law covers, most notably, 911 dispatchers and registered nurses.

We do not expect House Bill 4473 to be signed into law before the November 2020 election. However, we will continue to track the bill's progress as it moves through the various legislative committees.

AUTHORS/ CONTRIBUTORS

Michael A. Cassar

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