



**ANALYSIS OF IDAHO DRAFT LEGISLATION RELATING TO
MENTAL INJURY BENEFITS FOR FIRST RESPONDERS
As Drafted on October 9, 2018**

The draft legislation, if enacted in its current form, may result in a significant¹ impact on system costs for certain first responder classifications in Idaho. However, the impact on statewide privately insured workers compensation (WC) costs would be expected to be small² since data reported to NCCI shows that such first responder classifications represent approximately 3% of losses³ in Idaho. If enacted, the ultimate cost impact would be realized through future loss experience and reflected in subsequent NCCI rate filings in the state.

This analysis is prospective only (i.e., for accidents occurring on or after the effective date). If the proposed changes extend to occupational disease exposure occurring prior to the effective date but manifesting on or after the effective date, there may be retroactive cost impacts arising from the provisions of this proposal.

Summary of Draft Legislation

The changes proposed by the draft legislation would amend section 72-451 of the Idaho Code. Specifically, the proposal specifies the conditions under which a post-traumatic stress injury (“PTSI”), suffered by a first responder, would be a compensable WC injury or occupational disease as follows:

- diagnosis by a licensed psychologist or psychiatrist,
- a preponderance of evidence that the PTSI was caused by event(s) arising out of and in the course of employment,
- conditions causing the PTSI are not generally inherent in every working situation, and
- the PTSI did not arise from a personnel action.

The PTSI diagnosis would need to meet the criteria for post-traumatic stress disorder (“PTSD”) contained in the Diagnostic and Statistical Manual of Mental Disorders from the American Psychiatric Association, third edition revised or any successor manual⁴. The proposal defines first responders to include peace officers, firefighters, volunteer emergency responders, emergency medical service providers, ambulance-based clinicians, and emergency communications officers.

The provisions of this proposal would be applicable to first responders with dates of injury or manifestations of occupational disease on or after July 1, 2019.

Actuarial Analysis

¹ Significant in this context is defined as an impact greater than or equal to 5.0%.

² Small in this context is defined as an impact on overall system costs of less than 1.0%.

³ Source: NCCI Workers Compensation Statistical Plan data for Idaho. This figure of 3% may understate the total population share of Idaho first responders, since the organizations employing them are often self-insured and therefore are not required to report data to NCCI.

⁴ The latest edition is the fifth edition; however, the language in the draft explicitly refers to the third edition revised.



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Currently in Idaho, work-related psychological injuries, disorders or conditions may only be compensable under the WC statutes when accompanied by a physical injury. In addition, the accident or injury must be the predominant cause compared to all other causes combined, and there must be clear and convincing evidence that the psychological injury arose out of and in the course of employment.

Under the proposal, PTSI suffered by first responders would be compensable under the conditions specified, and there would not be a need for an accompanying physical injury.

First responders are more likely to be exposed to highly stressful situations throughout the course of their employment when compared to an average employee across all occupations. The incidence of PTSD and other stress-related conditions is estimated to be significantly higher for first responders compared to the general population. According to the U.S. Department of Veterans Affairs, about 55% of the general population will experience at least one trauma in their lives and, as a result, about 7% to 8% of the population will have PTSD at some point in their lives⁵. In comparison, the National Center for Biotechnical Information (NCBI), part of the National Institutes of Health, concluded that the prevalence of PTSD among emergency medical technicians is greater than 20%⁶, and various sources have reported the prevalence of PTSD among firefighters to be in the range of 7% to 37%⁷.

By changing the compensability standard for first responders, the proposal, if enacted in its current form, may substantially increase the number of compensable first responder WC claims since PTSI, not accompanied by a physical injury, could be deemed a compensable injury or occupational disease. In addition, if the proposed changes extend to occupational disease exposure occurring prior to the effective date but the occupational disease manifesting itself on or after the effective date, there may be retroactive cost impacts arising from the provisions of this proposal.

The classifications potentially impacted by this proposal represent about 3% of privately insured WC losses in Idaho. NCCI is unable to quantify the expected increase in the number of mental injury claims that would be entitled to indemnity and medical benefits if this proposal were enacted. However, **due to the relatively greater exposure to stress-related injuries for first responders, NCCI estimates that WC claims could increase significantly for these occupational classifications if this proposal were enacted. Given the limited share of costs that these classifications comprise, NCCI anticipates the impact of such an enactment on privately insured WC system costs in Idaho to be small.**

⁵ U.S. Department of Veterans Affairs. (No date). How Common is PTSD? Retrieved from https://www.ptsd.va.gov/understand/common/common_adults.asp.

⁶ Donnelly, E., and Siebert, D. (2009, Sep-Oct). Occupational risk factors in the emergency medical services. Retrieved from <http://www.ncbi.nlm.nih.gov/pubmed/20066645>.

⁷ Tull, Matthew. (2013, January 29). Rates of PTSD in Firefighters. Retrieved from <http://ptsd.about.com/od/prevalence/a/Firefighters.htm>.