



VOLUNTARY CANCER AWARD PROGRAM FAQ

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Overview

What is the Voluntary Cancer Award Program (VCAP) and why is it needed?

Following the passage of the 2007 presumption of cancer legislation, a number of reports began circulating stating that firefighters were denied workers' compensation benefits or experiencing delays in the receipt of their benefits for as long as two years or more. There have also been cases where injured firefighters passed away before a claim determination was made or any benefits were disbursed. In many cases, this caused financial hardship to the surviving families.

The VCAP was designed to address this concern by providing immediate payment upon diagnosis of any of the following five currently covered cancers: brain, skin, digestive, hematological, or genitourinary. This would provide immediate payment to more firefighters and result in an increase in the amount paid to firefighters at a reduced cost for employers when compared with the current statutory environment.

What is the most outstanding feature as to why a department would elect this VCAP program?

If a fire department stays in the current 2007 presumption statute, adjusters will continue to send Tentative Notice of Contest (TNO) notifications to claimant firefighters. This is due in part to the intrusive and often lengthy investigations and legal proceedings that come with the workers' compensation process. Should a department choose to join the VCAP, they will come under the newer statute and the Trust will begin sending out award payments based on type and stage of a covered cancer that is diagnosed within 10 days of submitting the claim.

How is this program voluntary and what happens if we elect not to opt in?

Under our proposed model, the state's fire agencies will have a choice: they can elect to remain under the current workers' compensation presumption statute, or to opt into the new VCAP model. Once a department elects the VCAP option they can opt out of it at the next renewal and go back to the 2007 WC firefighter presumption statute.

How did the idea for the VCAP program come about?

The VCAP was conceived by meetings of the City Municipal League, Special Districts Association of Colorado, the Colorado Fire Chiefs Association, and the Colorado Professional Fire Fighters, which



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had previously formed the Colorado Firefighter Heart and Circulatory Benefits (CFH) Trust. Since that model was successful in handling cardiac claims, it is believed that this model would also work for cancer.

What is the 2007 “Presumption of Cancer” statute?

Section 8-41-209, C.R.S. defines certain cancers as work-related for firefighters, and therefore, compensable as an occupational disease if the employer is unable to provide sufficient evidence that the cancer is not job-related. The statute also creates eligibility criteria. These include a requirement that upon joining the fire service a firefighter must have undergone a physical examination that neglected to identify any trace of cancer at the time, and be employed for a minimum of five years.

What is the difference between the 2007 WC presumptive statute and the 2006 statute?

The 2007 firefighter presumptive statute simply reversed the burden of proof from the employee having to prove cancer was job-related to the employer having to prove that any one of five cancers was not job-related.

What are the advantages for the firefighters?

There are several reasons, all of which apply direct benefit to the firefighters themselves. These include:

- 1) **No More Invasive Investigation:** When adjusting a cancer claim, it can take more than three months for an employer to research prior exposures and investigate prior employment, lifestyle, family history, and medical records. Through the VCAP, firefighters will no longer be subject to this type of an intrusive investigation.
- 2) **More Claims will be Eligible for Compensation:** More firefighters' claims will be accepted on receipt of diagnosis with one of the five covered cancers. No investigation into the cause of the cancer will be needed upon confirmation of eligibility.
- 3) **Faster Pay Outs:** Claim process will be streamlined and payments will start within 10 days of confirmation to the Trust of a diagnosed cancer. It is not going to get any easier for a firefighter to collect under the current 2007 presumption due in part to the 2016 State Supreme Court rulings on 3 claims, which upheld the employer's right to investigate and rebut cancer claims.
- 4) **Line of Duty Benefits:** A diagnosis of cancer will be enable eligibility as if a line of duty event.

What are the advantages for a department?

- Limited liability for former employees is capped to 10 years vs. the current unlimited liability for even after being retired for 30 years.
- Improves relationship between management and firefighters by removing the delay previously needed for investigations into health and lifestyle.
- Caps losses covered under the award program to \$250,000, which previously could be well in excess of \$500,000 and weighing into a department's experience rating.



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- Lowers available Self-insured retentions and Excess rates by 15-30 percent.
- Trust is member-owned, so every department has a say in how the Trust operates.
- Funding stays in Colorado for the use of further supporting Colorado firefighters as opposed to funding going to other states to pay stockholders and executive salaries.
- Reduction of WC rates/costs allowing relief from the current financial burden.

Where will the VCAP funds be kept and who will manage them?

As a multiple employer trust, the firefighter's employers hold the responsibility of managing the VCAP funds in the interest of firefighters and their respective employers who are in the Trust. To that end, the funds will be managed by a Trust administrator under the oversight of the Board of Trustees. The VCAP funds will be located in Colorado banks.

Who will be represented on the Trust Board?

The Trust Board will consist of either 7 or 9 members who represent professional firefighters and fire departments. Representatives will include a large and small city, a large and small district, and 2 or 4 positions reserved for non-career firefighters such as human resources and risk management professionals.

Is the Trust financially stable to fulfill claim obligations?

The cancer benefits plan places an aggregate limit of \$250,000 for a covered cancer type. The annual rates are developed based on statewide claim data and are recommended by our independent actuary to finance multiple full-limit claims every year. The Trust also has over \$1 million surplus in cash as an extra layer of security and confidence.

Logistics

What should I do to join the Cancer Award Program?

Enrolling your department in the Cancer Program is easy. We will need the number of eligible firefighters and a firefighter roster from you. Depending on your current status with the Trust, there might be a couple of additional agreements. Contact us for paperwork. If you prefer an online process, let us know and we will give you a login.

Who gets to decide where firefighters receive treatment and does the VCAP have preferred providers?

Medical benefits are provided by the employer or the individual's own health benefit plan. There is no directed care or preferred providers at this time. Firefighters can use their own personal physician.

We are already a Trust member through the Heart Award Program. Do we need to re-execute the Trust Agreement to join the Cancer Award Program?



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You don't need to re-execute the Trust Agreement but a new Resolution (linked, page 2 to 4) is required to acknowledge the participation in the new program.

How much is paid out under the VCAP?

Awards are organized into tiered award levels, ranging from \$200 up to \$250,000 depending on the covered individual's type and stage of cancer. Awards under \$4,000 are paid out in a lump sum while amounts over this will pay \$4,000 every two weeks.

Is the award taxable?

No. The VCAP working group has been advised that under current rules the cash award, with the exception of rehabilitation expense, is not taxable.

Is there any reimbursement program for the Cancer Award Coverage?

Yes. If you have workers' compensation coverage through the Colorado Special Districts Property & Liability Pool, you will be getting a credit that fully offsets the cancer coverage cost for the first year. Going forward, the reimbursement will be determined by the Pool based on the cancer rate which is part of the NCCI fire classification rate.

Can I join the program at any time?

Absolutely. You may enroll into the program at any time. The contribution will be prorated based on the actual effective date.

Can I cancel coverage or opt out of the program during the coverage period?

No; however, you may choose not to renew your annual coverage when it expires. When you do so, your department will automatically fall back under the workers' compensation system.

Eligibility

What are the eligibility requirements for firefighters?

- The firefighter's employer must elect to join the VCAP Trust and pay their annual contribution.
- He or she must be a full-time firefighter for 5 years or a part-time or volunteer firefighter in active service for 10 years with the latter having maintained minimum training participation in their department for 36 hours each year.
- Firefighter must have had a physical examination at or after being hired, and prior to diagnosis.

Please note that a break in active service of no more than one year will not be considered a break in continuous full-time employment for full-time firefighters.

How does an employer participate in the VCAP?



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Upon passing a Governing Body Resolution to join the Trust, qualified employers would then sign a Trust Agreement, submit a roster of qualifying firefighters, and pay the associated contribution. Any cancer claims already filed under the workers' compensation system prior to the participation will not be transferred to the VCAP. The VCAP accepts full participation only, meaning a fire operation must enroll all eligible firefighters, including full-time, part-time and volunteer.

Firefighter is defined as those whose duties “are directly involved in the provision of fire protections services”. Would our Chiefs and administrative support staff be included in this?

While the term “directly involved” is not defined in the statute, our interpretation is that any sworn firefighters whether responding to fire or being support staff behind the scenes are eligible, provided that they have met the other eligibility requirements. We feel fire prevention and community outreach as well as mechanics and dispatch positions would qualify as long as they became eligible as sworn firefighters before moving to the administrative positions.

If a covered individual returns to work and the same cancer surfaces at a later date, are they eligible for awards again?

They would be eligible for a different type of covered cancer or an advancement of the same previously covered cancer to the next stage. For an advancement of the same cancer, only the difference in the amount of benefits will be awarded.

I have a firefighter employed at two fire departments. We are a member of the Cancer Award Program, but the other is not. He works for us as a full time firefighter and part time at the other departments. Upon a diagnosis of cancer, which system would respond?

If the other department is subject to the workers' compensation system, the firefighter would be eligible under both systems. Workers' comp may take offsets for any benefits from other programs.

Can I combine the years of service when determining eligibility?

Yes. You may combine previous services with any fire employer(s). For example, you have a full time firefighter who has been with your department for 3 years and, prior to that he was a volunteer firefighter for 3 years. In this case, he has earned 6 years of service in total which qualifies him for the cancer coverage. Note that for part time and volunteer firefighters, their previous services must be appropriately weighted for eligibility. Contact us for details.

Coverage

How does the VCAP affect workers' compensation rates?

Workers' compensation rates for firefighters in Colorado have grown proportionately higher than all other classes since the passage of the 2007 presumptive cancer statute, creating an unsustainable cost burden to employers. The VCAP would effectively reduce WC rates over time. As employers move from WC to the VCAP, their WC cancer experience will not go into the NCCI rate calculation.



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Subsequently, NCCI rates will decrease as cancer claims go down. Some current providers of worker's compensation are considering credits for participation in the VCAP program.

Can an employee still file a workers' compensation claim?

Yes, however it may not make sense to. The 2017 VCAP legislation, as currently written, takes away the 2007 presumptive cancer statute for those employers electing to opt in and replace it with the new VCAP legislation parameters. A preexisting worker's compensation statute from 2006 still gives firefighters the right to file a claim as a work-related disease, but the burden of evidence is on the firefighter to prove that the cancer was job-related. If a claimant does receive an award under workers' compensation, it would be offset by any payments issued under the VCAP and vice versa.

What happens with the claims we already filed under the workers' compensation?

The cancer claims that were already filed under workers' compensation will continue to be handled by workers' comp system. Only future cancer claims will be absorbed by the Cancer Award Program as long as the fire entity is a member of the Trust. In case the fire entity opts out of the Cancer Award Program in the future, it will fall back under the 2007 WC statute for any new claims. Existing claims filed under the Cancer Award Program at the time of diagnosis are handled by the Trust.

Is the award considered disability coverage or medical coverage?

Neither. It is a cash award based solely on diagnosis. The reimbursement is set for the covered firefighter's anticipated cash needs.

Do we, as an employer, face unlimited liability under the Cancer Award Program?

No, the coverage is limited to 10 years after the last day of employment or active service as long as your department is in the Cancer Award Program.

What about retirees? Are they still covered under the Cancer Award Program?

Yes, after you opt in the Cancer Award Program, the retirees are automatically covered for 10 years from the last day of employment or active service, provided that they have met the other eligibility requirements.

What happens if we opt out a few years later? What coverage will be available to our firefighters?

You will be subject to the old 2007 Presumptive of Cancer statute if you are no longer with the Trust. Future cancer claims will be handled by the workers' compensation system. The claims already filed under the Cancer Award Program will continue to be handled by the Trust.

What are Line of Duty benefits?

"Line of duty" is a designation that the incident is considered to have happened in the line of duty. The VCAP statute designates cancer claims as a line of duty event under this program. Since each individual fire operation determines what benefits are given for a line of duty occurrence, there is no set standard that we are aware of.



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What qualifies as a medical exam required by the Plan Document?

Employment exams do qualify where given at the time of employment or just prior to employment. General Physician exams where blood work is done, skin examination and age appropriate prostate exam. There is no definitive exam for cancer and General Practitioners typically use the industry norms for reviewing the general health of Firefighters. These pre-employment and/or Post employment examinations meet the criteria for the statute.

Is there a Coverage Plan Document available?

Yes, it is available on our website. You can request a copy from jdepaepe@mcgriff.com. Our diagnosis-based coverage form works much like an accident policy, with cash awards set to cover a window of deficiencies between an employer's current medical benefits, retirement, short and long-term disability, and post-employment medical benefits.

Administration

How were the rates determined? Do you have an independent actuary for long term solvency of the Trust fund?

Yes, we use an independent actuary for both Heart and Cancer Programs. The rates were actuarially sustainable at a high degree of credibility. A copy of the actuary report is available upon request.

How do you manage investment? Does the Trust Committee have necessary expertise to oversee the assets and debits?

As the Trust is a Public Entity established through Intergovernmental Agreement, we are limited by statute for our investments. All investments are with COLOTRUST for the foreseeable future. The Trust will hire an investment advisor should the occasion call it.

Are the Administration Service Agreement and the Investment Management Agreement available?

In the spirit of transparency, copies of the Administration Service Agreement are available upon request. As we use COLOTRUST, we do not have a need for custodial services or an Investment Management Agreement.

Is the Trust reinsured to promote solvency for the benefits of members?

The Trust will be purchasing stop-loss insurance. We have been in discussion since last year to get this in place and will continue to make progress.

What happens if a member is terminated for being delinquent or a member withdraws from the Trust, especially in regards to benefits payable to covered firefighters and/or additional required contributions to the Trust?

When a member is terminated or leaves the Trust, they immediately come under the 2007 WC Presumption. Claims diagnosed while in the Trust are paid by the Trust with no assessment to the entity. We have no assessment provisions within the Trust Agreement. Rates are set moving forward and a member can withdraw at any renewal with no penalty.



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Are financial statements available for review? Do you have a current list of participating members?

Yes, we can provide both reports upon request.