



# **PTSD coverage in workers' comp accelerates as the focus on mental health intensifies**

Public Policy & Regulatory Affairs



White paper

## Introduction

Coverage for mental health disorders, particularly post-traumatic stress disorder (PTSD), has been a high-profile topic in the workers' compensation industry for some time. Related efforts at the state legislative level to address, and often expand, coverage have increased over the past few years — and will continue to be an area of focus in 2024.

## PTSD defined

PTSD is a serious and potentially debilitating mental health disorder that can occur when an individual experiences or witnesses an extreme act of violence, a serious accident, war, or other life-threatening and/or traumatic events. Accepted as a clinical diagnosis in 1980, PTSD was originally linked to combat, but acknowledgment of the condition has expanded well beyond the original connection. In the workers' compensation setting, the focus has often been on first responders (firefighters, emergency medical technicians [EMTs], police officers, and paramedics) who have witnessed serious accidents, deaths, and traumatic events.

## Physical-mental vs. mental-mental injuries

With respect to workers' compensation mental health claims, states often use the terms “physical-mental” and “mental-mental.” A “physical-mental” claim is one where the injured person's mental health disorder results from or is related to a physical injury. On the other hand, with a “mental-mental” claim, the injured person's mental health condition does not result from a physical injury.

States differ on the extent to which they cover “physical-mental” vs. “mental-mental” claims. Some states allow for full coverage of mental-only claims, while other states offer limited or no benefits (and often require a preceding or accompanying physical injury).

Other mental health conditions, such as anxiety, are also a concern for legislators. However, PTSD has been an area of focus for legislators seeking to expand workers' compensation laws, particularly to cover first responders and other select groups of employees. Most states have adopted some form of PTSD-related coverage policy, and almost every state has at least formally considered legislation addressing workers' compensation coverage for PTSD.

## What are “presumptions”?

Though not unique to mental health claims, “presumptions” are a category of coverage law prominent in this area. While some legislation may call for workers’ compensation coverage of PTSD under certain conditions and subject to the normal claims filing and investigation process, presumption laws add extra weight to claims in the legal process.

A presumption is a legal presupposition or benefit of doubt that is required if certain conditions (usually outlined in law) are met in a claim. Most legal presumptions related to PTSD are rebuttable, a legal principle that presumes something to be true unless proven otherwise. (The burden of proof would lie with any party who wishes to rebut.)

In 2017, Vermont was one of the first states to include an explicit PTSD presumption for first responders [in statute](#). Presumption laws for PTSD (and some other non-mental health conditions) in workers’ compensation have greatly expanded in the years since then.

## Coverage expansion continues

PTSD coverage continues to expand — not only to new states, but also to new employment types and other mental health conditions. In some states, the focus of new laws or proposed legislation has expanded beyond on-the-scene first responders to 911 dispatchers, hospital workers, teachers, and other types of municipal employees. Many states last year considered new or expanded PTSD and mental health coverage in workers’ compensation, with some enacting new legislation in the end.

One of the more newsworthy and dramatic examples of recent expansion was a bill enacted in Connecticut. Senate Bill 913 ([Public Act No. 23-35 2023](#)) — [signed into law](#) in June of 2023 and made effective January 1, 2024 — extended workers’ compensation coverage for PTSD to all employees. Prior to that change in law, coverage was afforded in statute for certain eligible individuals, notably police officers, firefighters, emergency medical services personnel, corrections employees, 911 telecommunicators, and health care providers.



A presumption is a legal presupposition or benefit of doubt which assumes a fact is true until there is a certain weight of evidence that rebuts it.



In June 2023, a Connecticut bill was signed into law extending workers’ compensation coverage for PTSD to all employees.

Other examples from last year were bills in Tennessee and Washington, both of which were signed in May of 2023 and became effective January 1, 2024. Tennessee Senate Bill 856 ([Public Chapter No. 465](#)) provides that if a firefighter is diagnosed with PTSD by a mental health professional as a result of responding to one or more incidents, with at least one of four factors specifically listed in the bill, the injury is presumed to have been incurred in the line of duty and is compensable under the state workers' compensation law, unless shown by a preponderance of evidence that the PTSD was caused by non-service-connected risk factors or exposure. And Washington SB 5454 ([Chapter 370, Laws of 2023](#)) provides that for certain direct care registered nurses there exists a prima facie (but rebuttable) presumption that PTSD is an occupational disease — expanding a presumption previously made applicable to firefighters in that state.

Some legislation has gone beyond PTSD to other mental health conditions, as exemplified in a pair of bills in Virginia enacted last year. Virginia House Bill 1775 ([Chapter 243](#)) and Senate Bill 904 ([Chapter 244](#)) add that an anxiety or depressive disorder incurred by a law enforcement officer or firefighter is to be considered compensable on the same basis as PTSD under the state workers' compensation law. The added coverage applies to any qualifying incident or exposure occurring in the line of duty on or after July 1, 2023.

## Consequences of coverage expansion: The debate

As PTSD coverage continues to expand, there is increased debate among stakeholders regarding whether this is a positive or negative trend, and the downstream consequences of expansion.

Supporters of expanded coverage — particularly special presumptive coverage for first responders and other limited employment types — argue that mental health disorders are as traumatic as physical injuries, and certain occupations are more susceptible to these conditions. A classic example is a police officer who witnesses a firefight that results in a death or severe injury. Statistics show that the incidence of PTSD is higher in first responders than the general population. Those who encourage expansion to other limited occupations, such as teachers, point to the continued instances of school violence involving children. Proponents also argue that adding presumptive weight to a PTSD claim is needed, as it is sometimes difficult to prove a causal connection to a work-related incident.



The incidence of PTSD is higher in first responders than in the general population.

Opponents of expanding presumptive PTSD coverage have raised “equal protection” concerns and examples where other, less obvious, occupations may be susceptible to PTSD. “Equal protection” is the basic legal principle that all people (in this case, all employment types) should be protected and treated equally by the laws, with no favoritism. Opponents have also pointed out scenarios where a first responder may be less likely than others to develop PTSD. For example, a police officer who responds to a convenience store shooting. In this case, the officer did not witness the shooting and the convenience store clerk who sees the violence firsthand could be much more traumatized.

## Associated concerns

Other considerations and consequences for workers’ compensation payers and regulators surround the length of PTSD claims and the associated costs, treatment, and administrative processes.

Mental health disorders, and related treatment, may continue for longer periods of time than physical injuries. And mental health disorders require different medical treatment than physical injuries. So, overall claim costs can be a concern for the workers’ compensation payers (employers and insurers) responsible for the claims.

Recent efforts in some states have focused on methods to better address and quantify treatment and coverage. These efforts include access to mental health care for injured workers, which remains a concern across the general population as well. More recent examples of seeking to expand mental health care in workers’ compensation in response to expanded coverage can be seen in states like California and New York. California [Senate Bill 1002](#), which became effective January 1, 2023, [addresses](#) inclusion of licensed clinical social workers (LCSWs) in the treatment of injured workers. In New York, [legislation](#) introduced last year (still pending) would authorize LCSWs to provide services to injured workers. Other examples include more public policy focus on the use of mental health treatment guidelines in the system, particularly by regulators charged with overseeing this expanded category of compensable claims.



Recently, some states have explored better methods to address and quantify treatment and coverage, including access to mental health care.



The expansion of PTSD and mental health coverage in workers' compensation is also a concern for regulators charged with implementing statutes enacted by state legislators. This can range from adopting treatment guidelines, to hearing disputes, to fleshing out details in supplemental regulations. An example of the latter can be seen in Florida, where the Division of Workers' Compensation was required by the state's 2018 first responder PTSD coverage [legislation](#) to adopt supplemental [regulations](#) specifying which injuries qualify as "grievous bodily harm of a nature that shocks the conscience" (to quote the statute).

## Conclusion: The PTSD coverage expansion trend persists

The current trend of expanding PTSD / mental health legislation has continued into 2024. Included within the thousands of pieces of legislation the Optum Public Policy & Regulatory Affairs (PPRA) team is tracking this year are several bills that would, if passed and signed into law, expand coverage in this area. Some contain presumptive coverage language, while others do not. As of last count, we have seen over 20 new bills in this area this year.

For more details on the legislation the Optum PPRA team is tracking in this area, view our [Legislative and Regulatory Tracker](#). The tracker allows you to filter legislation by industry, topic, and disposition (status). For example, you can look for workers' compensation presumption legislation that has been recently enacted or is still pending. The color-coded interactive map allows you to further narrow down and view legislation by state.

Our PPRA experts continually review the public policy landscape. As we track regulations and legislation in each state, we provide early notification and education regarding new developments and changes to support our clients and stakeholders in remaining informed, prepared, and compliant.



The Optum PPRA team is currently tracking several bills that could further expand coverage for PTSD.

## Related publications

[Policy Guys Podcast: “What you need to know about Post-Traumatic Stress Disorder \(PTSD\).”](#) with Robert Hall, MD, Corporate Medical Director, Optum Workers’ Comp and Auto No-Fault

[Recorded webinar slides: “Using GRACE to deal with stress and trauma in claims and in life.”](#) with Tron Emptage, MA, RPh, Chief Clinical Officer, Optum Workers’ Comp and Auto No-Fault and Lilli Correll, MA, LPC, CCTP, Vice President, Genoa Healthcare

[Recorded webinar slides: “Innovation and Trends in Behavioral Health.”](#) with Tron Emptage, MA, RPh, Chief Clinical Officer, Optum Workers’ Comp and Auto No-Fault

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