



JOHN A. OLSZEWSKI, JR.
County Executive

STACY L. RODGERS
County Administrative Officer

April 2, 2020

Dear Mr. Rose,

Thank you for your letter requesting the establishment of a worker's compensation presumption for members of the Fraternal Order of Police Lodge 4 (FOP 4) who contract COVID-19 infection. County Executive Olszewski asked me to provide a response on his behalf. First and foremost, I agree that our public safety first responders are playing a critical role during this unprecedented public health crisis. Baltimore County is extremely fortunate to have so many outstanding men and women first responders that continue to answer the call to serve, even in the most challenging of times. I recognize this is a time of great anxiety, especially so for public safety personnel and their families.

Our Administration has made a number of adjustments to our personnel policies in response to this crisis in order to make them more flexible. We are doing everything we can to ensure our employees are not impacted by this crisis in an unduly harsh manner. To that end, if a member of FOP 4 is directed to quarantine by the BCoPD based on suspected exposure, regardless of where that exposure occurred, that employee will be placed on administrative leave and *will not* have to use their personal sick leave or other leave types in accordance with current County policy. The Administration expects that this policy will be applied flexibly by the Department and will be available throughout the duration of the period of emergency. This policy is not contingent upon a worker's compensation investigation and finding that the infection arose out of and in the course of employment, which is the typical standard for worker's compensation benefits.

The safety of our first responders is our top priority. Under Chief Melissa Hyatt's leadership, BCoPD has implemented as many measures as possible to ensure our police officers are well prepared and well equipped to perform their jobs safely during this crisis. That said, COVID-19 exposures among first responders will rise as the number of infections continues to grow. Already, we know there are a number of BCoPD members under quarantine as a result of possible COVID-19 exposure. We can expect more exposures in the weeks to come as we build toward the peak of the virus.

In the event a member of FOP 4 is exposed to COVID-19, members are strongly advised to file a first report of injury according to the usual process. If a member believes they have been exposed or infected while at work, the member should inform their supervisor so that the supervisor can document the alleged exposure on the Supervisor's Report of Injury, pursuant to BCoPD's normal employee injury investigation process. The report is then submitted to the County's Worker's Compensation Claims division for further investigation.

The County's position at this time is that COVID-19 related claims will be treated akin to any other injury/disease under the worker's compensation law, and would undergo a case-by-case investigation as to compensability. There are two types of worker's compensations claims: accidental injuries and occupational diseases. If the transmission of any disease can be traced to a specific, identifiable, accidental injury at work, then the contraction of that disease could be said to arise out of and in the course of the employment and could be treated as a compensable accidental injury. For an illness to be compensable as an occupational disease under worker's compensation, the contraction of the illness must be tied directly back to the scope of employment, and the exposure to that illness must be directly linked to the specific and peculiar conditions of that employment. I can assure you that any COVID-19-related claim will be investigated thoroughly to determine if the standards are met for either an accidental injury or an occupational disease.

I would also like to remind FOP 4 members that they are entitled to access all of their County-provided health care insurance while any specific claim is under investigation. No County employee should be denied treatment because a worker's compensation claim is pending.

Maryland's worker's compensation presumptions are a matter of State law, recognized in the Maryland Labor and Employment Article §9-503. Such presumptions are limited to certain occupational diseases and there are currently no presumptions for accidental injuries. Therefore, the County does not possess the authority to amend this article to include an additional COVID-19 presumption. Because there are many circumstances under which an individual can contract a virus such as COVID-19, we do not believe it is appropriate to create a new presumption at this time. Again, however, this does not change the fact that an employee may be entitled to worker's compensation benefits based on an investigation of the infection.

I hope this letter brings some clarity to the processes and laws that must be followed when a member is exposed to COVID-19. Our Administration is grateful for the outstanding service our men and women provide to the citizens of the County on a daily basis, and especially so in the midst of a public health crisis of unknown duration. We are committed to doing right by all of our first responders and essential employees, and we appreciate your partnership and leadership during this critical period for our County.

Sincerely,

Andrew Vetter
Deputy Administrative Officer