

Texas Firefighters and Cancer: A Broken System

By Bennett Sandlin

The way we care for firefighters who are diagnosed with cancer needs to be fixed because it isn't working well for firefighters or the public they serve.

The problem is not with medical treatment for their cancer, which is a matter of health insurance coverage. The problem is in workers' compensation coverage, which provides for lost income and other benefits. Specifically, the problem is determining whether the cancer is related to firefighting duties.

The current state law on which cancers are automatically presumed to be related to firefighting has resulted in vastly different interpretations resulting in protracted administrative and legal disputes. At a time when a firefighter and family and friends are struggling to deal with a potentially life-threatening illness, the bureaucratic and judicial confrontation over workers' compensation coverage and benefits is overwhelming. Firefighters who have devoted years of their lives to serving and protecting the public suddenly feel betrayed and abandoned. And the cities that employ them feel trapped between their loyalty to a city employee and their responsibility for managing taxpayer dollars.

The Texas Municipal League Intergovernmental Risk Pool provides workers' compensation coverage to more than 2,300 local governments, including more than a thousand Texas cities. TMLIRP is often in the position of denying workers' compensation coverage and disputing and appealing rulings based on our legal counsel's reading of the current state law. Cancer claims for firefighters are some of the most difficult claims we deal with at TMLIRP when we must make decisions based on our reading of the law rather than our compassion for the firefighters who have protected us and our neighbors.

According to the National Cancer Institute, there are more than 100 types of cancer and about 38 percent of all Americans will be diagnosed with some type of cancer during their lifetimes. In 2015, more than 107,000 Texans were diagnosed with new cases of cancer, according to the Centers for Disease Control and Prevention. It could be assumed that about 38 percent of all firefighters could be diagnosed with some type of cancer during their lifetime even if they sat behind a desk all day. But studies have indicated firefighting may have additional cancer risks compared with the general population.

Some have said the solution is to presume all cancers diagnosed in firefighters are work related. If workers compensation benefits for full-time paid firefighters are automatically provided for 20 specific cancers that have been studied for possible links to firefighting, the cost to taxpayers statewide for those benefits would be between \$18.1 million to \$22.7 million annually, and over \$200 million over the course of the next 10 years. This figure does not include volunteer firefighters, and including all cancers would cost substantially more.

The largest component of the workers' compensation claims paid for such cancers are the income benefits and the death benefits for the firefighter's spouse's lifetime, which the spouses of other public employees do not receive for life. This is on top of vested pension, state and federal benefits that are also available. These income benefits increase costs substantially, usually into the millions of dollars per claim.

Where should the line be drawn on what is work-related and what is not? We know this for certain, the current law has resulted in litigation, legal expenses and hardships for everyone involved.

Our firefighters and our taxpayers deserve a better system. Here is what we propose:

- The list of cancers presumed to be related to firefighting should be examined and defined and these cases should be moved out of workers' compensation into a new system.
- The cost of the additional cancer claims and the associated income and death benefits in the new system should be shared by cities and the state to spread the cost among all those who benefit from the work of firefighters.
- Allow the medical costs for firefighter cancer claims to be handled under the health coverage provided by the governmental entity because many medical providers do not treat workers' compensation patients.

There are many details that would have to be worked out with the biggest being a source for the state funding. A number of legislators have expressed concern about the way firefighters are treated under the current system. We hope they would work with TMLIRP, cities and firefighters to find a comprehensive solution that works better for everyone involved. A state as great as Texas can and should do this.

Bennett Sandlin is Executive Director of the Texas Municipal League.