



March 27, 2017

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To: Senate Veterans Affairs & Emergency Preparedness Committee

From: Chief Michael Ibberson, Swatara Township Fire-Rescue

Re: SWIF/Cancer Presumption Act 46 of 2011

I would like to begin by thanking the honorable members of the Senate Veterans Affairs & Labor and Industry Committee for the opportunity to share my experience in dealing with SWIF involving a member of one of our Township's volunteer fire companies. I am the full time, paid Chief of the Swatara Township that is comprised of fire (5) independent fire companies in Swatara Township, Dauphin County. Our firefighters provide a diverse range of fire and rescue services for our community of approximately 26,000 residents.

On or about July 24, 2016 I was advised that one of our long-term Township volunteer firefighters was diagnosed with cancer. This firefighter has faithfully served Swatara Township for over thirty years during which time he responded to and actively engaged in the suppression of hundreds of fires and many hazardous materials incidents. This member is currently an active member of the Township fire company.



I met with this affected firefighter and obtained information regarding his diagnosis, his current status as a member of the fire company and began compiling information on his level of activity over his volunteer firefighting career. I also spoke with various other senior firefighters and administrators who confirmed that this individual engaged in the suppression of many, many fires throughout his tenure as a firefighter in Swatara Township. Based upon my initial investigation I submitted a claim to SWIF under the Cancer Presumption Act 46 of 2011.

On July 28, 2016, I received a response from a SWIF Representative in which the following were requested to complete the investigation into this claim:

1. The member's first date of service with the Swatara Township VFD.
2. The member's last date of service with the Swatara Township VFD.
3. Reports filed pursuant to the PA Fire Information Reporting System.
4. Response logs and roster of active members.
5. The number of exposures over the period of time the member was a volunteer fire fighter with the Swatara Township VFD.
6. Exposure documentation from the PA Fire Information Reporting System.
7. Any inspections of the fire company by Federal OSHA
8. Documentation that the fire company complies with or follows NFPA 1500 for the period the member was a volunteer fire fighter.
9. The fire company's records of all calls, the responders on the calls, and the type of exposure resented at the call (in part, this would be included in the NFPA 1500 documentation if your company complies) that Mr. was a part of.

Based upon this request I obtained and forwarded additional information to SWIF to further document the above listed items. As you can imagine, this was a daunting task as they requested records that were in part in excess of thirty years old. Nonetheless, an arduous effort was initiated and as much of this information that could be recovered was compiled for SWIF as requested.

Much to my surprise I received a Notice of Worker's Compensation Denial on August 12, 2016 which was less than two weeks after the initial request for information was received. This denial of coverage was based upon the following:

6. Other good cause. Please explain fully in the space below.

There is no medical evidence at this time to indicate claimant suffered a work-related injury.

It is my understanding that according to Act 46 if an active member of the fire company is exposed to a Group 1 known Carcinogen according to the International Association for Research on Cancer (IARC) then the Presumptive clause of the Act is initiated and coverage should be afforded to the member. It is also my understanding that various studies have determined that soot generated from a fire is considered a Class 1 known Carcinogen as it contains Benzene, a known carcinogen. Our member was exposed to smoke and soot on hundreds of occasions while engaging as a firefighter in Swatara Township.

From what I have learned Act 46 was intended to apply to all cancer developed in active members, or those members who had separated from the service within 600 weeks of diagnosis. I also understand that a provision of Act 46 requires “firefighters” to participate in PennFIRS Reporting to make a presumptive cancer claim and must have passed a physical exam before their service that did not reveal the presence of cancer.

As stated earlier our affected member has been a firefighter in Swatara Township for over thirty years and has had many physical examinations prior to his cancer diagnosis. We have documented his cancer diagnosis that has not been refuted by SWIF. Swatara Township participates in PennFIRS, however, much of our member’s service pre-dates the creation of PennFIRS. We have also documented that the affected member was exposed to known Class 1 Carcinogens while engaging in firefighting activities during the tenure of his service to Swatara Township.

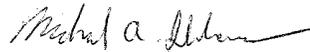
However, based upon the above facts and circumstances the SWIF Representative issued a Notice of Worker’s Compensation Denial within two

weeks of receipt of the claim with little to no explanation of the denial. It is my opinion that the decision by the SWIF Representative was abrupt, rushed and prior to a good faith evaluation of this claim as presented under Act 46. It further appears that this type of claims adjustment could be construed to be acting in Bad Faith per the Pennsylvania State Insurance Commissioner's Office standards.

Again, I thank you for the opportunity to share my experience with you and It is my hope that the Committee will carefully evaluate the current state of all Act 46 presumptive cancer claims that have been denied by SWIF and determine if the SWIF representatives are acting in good faith in accordance with the intent of the Act.

If you have any further questions or concerns, please feel free to contact me.

Sincerely,



Michael A Ibberson