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Firefighters Compassionate Allowances

SSA's decision wait times continue to grow

Eligible for Cancer Related Benefits

Ohio's presumption of causation legislation

Fall 2024 Newsletter

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Representing Clients Throughout Northwest Ohio and Southeast Michigan

Firefighters Eligible for Cancer Related Benefits

In 2017, The Dispatch conducted a statewide survey of 1,300 firefighters and learned around half of them felt that cancer was their biggest risk on the job. The survey also found that 1 in 6 firefighters had received a cancer diagnosis at some point in their careers. The American Cancer Society reports that risks not only come from fire itself, in which all types create a mixture of toxic combustion products, but also from exposure to diesel fumes expelled by emergency vehicles. Sadly, even chemicals such as PFAS, which are at best believed to be possibly carcinogenic, can be found in equipment meant to protect firefighters .

Experiences and reports such as these are likely why the Ohio Legislature decided to consider, by presumption, that cases of cancer in firefighters were caused by their employment conditions. Certain criteria must be met for claim approval, but this legislation makes it possible for many of these community heroes to be found eligible for workers' compensation benefits.

At the time the law was enacted, the BWC and State Fire Marshal announced a $1.5 million joint fund for exposure prevention and training. As of July 1, 2024, The Firefighter Exposure to Environmental Elements Grant (FEEEG) has re-opened. FEEEG is only available to Ohio firefighter employers to assist with minimizing exposure to dangerous environmental elements.

Grant funds can be used to purchase various types of machinery and gear such as diesel exhaust systems, extractors/washing machines for turnout gear or PPE, hoods with barrier protection, Turnout gear and dryers, and washable gloves.

Ohio BWC Approval Requirements

Any type of cancer and its recommended treatment can be covered under the workers' compensation claim. An eligible firefighter must be under 70 years old and have served a minimum of six years on hazardous duty. Additionally, the hazardous duty service must have occurred within the last 15 years. Employers still have the opportunity to dispute these claims. If there is proof the firefighter was exposed to cancer-causing agents while off duty, such as tobacco products, claim approval may be prohibited or at least more challenging to obtain. A knowledgeable attorney can analyze your specific circumstances and work with you to build a strong case.



In the largest study of United States firefighters ever undertaken, the Centers for Disease Control and Prevention found that compared with the US population, mortality from all cancers was modestly elevated including respiratory, digestive, and urinary cancers. Findings also showed an increased number of deaths from rectal, skin, kidney, lymphatic and hematopoietic cancers, non-Hodgkin's lymphoma, and multiple myeloma.

Additionally, the group of firefighters in the study had a rate of mesothelioma two times larger than the rate in the U.S. population as a whole.

It's wise to speak with an experienced attorney before filing a workers' compensation claim for any occupational disease, including cancer. For firefighters specifically, the Ohio BWC created form C-265, otherwise known as a Presumption of

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Causation for Firefighter Cancer form. This form should be completed and provided in addition to the First Report of an Injury, Occupational Disease or Death (FROI) form.

Form C-265 asks a number of questions the Ohio BWC will use to determine eligibility, including;

- Age of firefighter
- First and last date of service
- Diagnosis and provider who made it
- Exposure to carcinogenic agents (asbestos, benzene, formaldehyde, silica, etc.)
- Length and dates of assignment to hazardous duty

At Schaffer & Associates, we understand that cancer is a very real threat our brave firefighters face. It's no secret that in their line of work, firefighters are exposed to numerous risks and hazards other than cancer on a daily basis. We take their cases seriously and proudly work to help them secure the benefits they deserve.

Compassionate Allowances

The Social Security Administration's (SSA) Compassionate Allowance program was designed in 2008 to quickly identify and accept claims when the applicant's disability clearly meets their terms. The SSA reports that to date, more than one million people with severe disabilities have been approved through this accelerated, policy-compliant disability process.

Even if you are diagnosed with one of their approved conditions, you will have to provide the SSA with medical confirmation. These allowances are reserved for special, extreme cases. Approved conditions are those which are typically severe or fatal in nature. Examples include early-onset Alzheimer's disease, pancreatic cancer, ALS, and malignant multiple sclerosis.

Within certain conditions, particularly in many types of cancers, a specific type or stage must be identified. The full list of nearly 300 conditions and their criteria can be found at ssa.gov, with 9 new conditions joining the list in 2024.

- Adult Heart Transplant Wait List – Status Levels 1-4
- Bainbridge-Ropers Syndrome
- Plasmablastic Lymphoma
- Costello Syndrome
- Histiocytic Malignancies
- Neonatal Marfan Syndrome
- Snijders Blok-Campeau Syndrome
- PACS1 Syndrome
- Renal Medullary Carcinoma

Timing is Everything

If a Compassionate Allowance case is accepted, beneficiaries can often begin receiving funds in a matter of weeks. This is a huge benefit for those who meet the Compassionate Allowance criteria, as those submitting a regular application don't see nearly such fast results. Too many waiting applicants have been known to face home evictions, utility shut-offs, and even death.

Despite this program, the U.S. Government Accountability Office revealed that almost 110,000 Americans died while waiting for Social Security benefits from 2008 through 2019. Initially denied benefits, these applicants died either awaiting a decision on their appeal or for a hearing date. With a median wait time of 506 days in 2019 and 839 days in 2015, it's no wonder that some people never see their benefits.

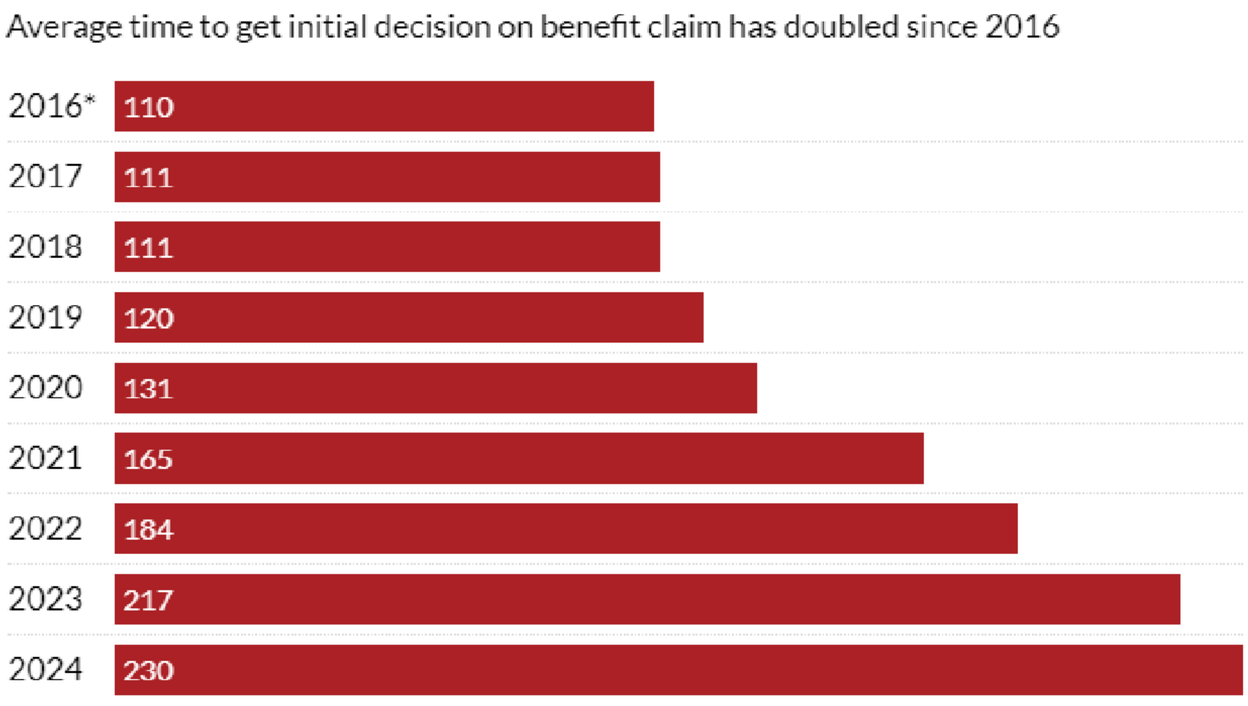
More recently, Social Security Commissioner Martin O'Malley stated 30,000 applicants died in 2023 alone while waiting on their decisions.

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In fact, the AARP reported the average time to receive an initial decision has doubled since 2016. John Heard, an attorney out of San Antonio and the former president of the National Organization of Social Security Claimants' Representatives reported to AARP, "I've been doing this since 1976 and it's the worst I've ever seen,".

We and our clients have personally experienced the weight of these delays and SSA's subpar customer service. Unfortunately, we often have to explain to desperate and fed-up clients that SSA's programs are by no means perfect systems. It's frustrating and unfortunate that anyone who applies for benefits is at the mercy of SSA while dealing with health struggles and often financial crises.



Why the wait?

The Center on Budget and Policy Priorities estimates the Social Security Administration's budget has diminished by 19% since 2010 while at the same time, beneficiaries have increased by 25%. While underfunding is partially to blame, SSA has also been vocal about its high attrition rates and general understaffing.

The COVID-19 pandemic shut down SSA's in-person business for over two years, during which time their workforce markedly shrank to its lowest number in 25 years. Additionally, changes in the claim assessment process and the implementation of technology have created learning curves, likely contributing to the slowdown.

Disability benefits not the easy way out

The SSA has strict criteria on what they consider a disability. Even if you live with a disability, you may not be considered disabled under their terms, let alone qualify for a Compassionate Allowance. The SSA reported that 61% of initial applications were denied in 2023. Your chance of winning an appeal after a requested reconsideration is even worse with a denial rate of 85%. Proving that you're disabled with medical evidence takes time and effort.

While hiring an attorney to manage your claim or appeal will not speed up the process, it does increase your chances of an approved application. The U.S. Government Accountability Office found an applicant's chances of acceptance increase by three to five times (depending on the applicant's race) when they are represented.

If you have received a denial of your benefits or would like help filing an application, contact our office for a free consultation. Call (419) 350-8277 or send a message to speak to an experienced attorney at Schaffer & Associates LPA.



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