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EMAIL TO: All Sheriffs
FROM: Eddie Caldwell
Executive Vice President and General Counsel
North Carolina Sheriffs' Association
SENT: April 9, 2020
SUBJECT: Workers' Comp Regarding COVID-19 --- Eligibility for Law
Enforcement Officers and Detention Officers

Several sheriffs have asked about the eligibility for Workers' Compensation of a deputy or detention officer who contracts COVID-19. Attached is a letter from Commissioner of Insurance Mike Causey that explains the current status of the law.

Of particular importance are the last two sentences of Commissioner Causey's letter, regarding the current status of the law: "However, COVID-19 provides some specific challenges in evaluating Workers' Compensation claims because it is often difficult to tell when and where an individual contracted the virus. This makes it important for individuals to remember the need to always properly document their work."

The North Carolina Sheriffs' Association has asked the North Carolina General Assembly to evaluate the current workers' compensation law and to consider whether improvements in the current law are needed to protect law enforcement officers and detention officers. The North Carolina Association of Chiefs of Police has submitted a similar request to the legislature.

The House Select Committee on COVID-19 has been divided into four Working Groups. The Working Group that deals with public safety issues is the Continuity of State Operations Working Group. The Association has asked this Working Group to add this topic to their agenda for future consideration, and they have agreed to do so.

The North Carolina Sheriffs' Association requested that this Continuity of State Operations Working Group evaluate the issue of workers' compensation coverage and line of duty death benefits for any law enforcement officer, detention officer or first responder who contracts COVID-19 due to exposure on the job. The request specifically asks for the legislature to include consideration of a rebuttable



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Post Office Box 20049 • Raleigh, N.C. 27619-0049 • Telephone: (919) SHERIFF (743-7433)

Fax: (919) 783-5272 • E-mail: nlsa@ncsheriffs.net • www.ncsheriffs.org

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Email to All Sheriffs

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presumption that the illness is job related for the law enforcement officer, detention officer or first responder who falls ill from COVID-19.

The Association will continue to work with the legislators on this very important issue, and evaluate whether or not to pursue changes in the law when the North Carolina General Assembly reconvenes at the end of April.

We have also begun discussions with the North Carolina Association of County Commissioners about this important topic of mutual interest. The NCACC Risk Management Workers' Compensation Pool provides workers' compensation coverage to employees in many North Carolina counties.

As always, if you have any questions or would like to share your thoughts on this important issue, please send an email to ecaldwell@ncsheriffs.net or call me at 919-459-1052.

Thanks....Eddie C.



Edmond W. (Eddie) Caldwell, Jr.

Executive Vice President and General Counsel

North Carolina Sheriffs' Association, Inc.

Post Office Box 20049

Raleigh, North Carolina 27619-0049

Telephone: (919) 459-1052

Fax: (919) 783-5272

Email: ecaldwell@ncsheriffs.net

Webpage: www.ncsheriffs.org

North Carolina Sheriffs' Association

Proudly Serving the Sheriffs and Citizens of North Carolina since 1922



MIKE CAUSEY
INSURANCE COMMISSIONER

April 9, 2020

Dear Law Enforcement Officials:

We have been receiving many inquiries as to whether first responders, including police, fire, and EMS will receive workers compensation benefits if they contract the COVID-19 virus while on duty. There have also been some suggestions that the Industrial Commission can issue a policy directing that workers compensation benefits be granted to first responders for their heroic efforts during this disaster. Some of these suggestions and questions arise from a misconception about how workers compensation benefits are determined and about the role of the Industrial Commission in determining these benefits.

First, the Industrial Commission is responsible for administering the Workers' Compensation Act ("the WC Act") found in Chapter 97 of the North Carolina General Statutes. It acts like a court system that hears workers compensation disputes. It does not regulate the insurers providing workers compensation insurance or employers who self-insure their workers' compensation benefits, nor does it issue general policies on how claims should be assessed or paid. Instead, the Commissioners with the Industrial Commission sit as hearing officers on matters of dispute between claimants and carriers. A decision of the Industrial Commission can also be appealed to the Court of Appeals, if necessary. The decisions of the Commissioners are fact-specific; in other words, each case is decided on the application of law to the specific facts of the case.

Workers Compensation benefits are determined under the WC Act. The WC Act specifies procedures and how benefits are to be determined, among other things. Claims must meet certain requirements to be compensable and each claim is determined on a case-by-case basis. There are no blanket compensation rules that can be applied to certain classes of workers, like first responders. Each claim must be individually filed and compensation will be determined on the merits of each claim.

In order for a workers compensation claim to be compensable, the disease or injury must arise out of and in the course of employment. However, COVID-19 provides some specific challenges in evaluating workers compensation claims because it is often difficult to tell when and where an individual contracted the virus. This makes it important for individuals to remember the need to always properly document their work.

If you have any questions, we will be more than happy to assist.

Sincerely,

Mike Causey
Insurance Commissioner

NORTH CAROLINA DEPARTMENT OF INSURANCE

ALBEMARLE BUILDING • 325 N. SALISBURY STREET • SUITE 1100 • RALEIGH, NC 27603 • 919.807.6000