

STATEMENTS OF POLICY

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CH. 130]

Guidelines for Employment Screening Programs under Act 115 of 2001

The Department of Labor and Industry (Department), Bureau of Workers' Compensation issues a statement of policy in accordance with section 108 of the Workers' Compensation Act (act) (77 P. S. § 27.1).

A. Effective Date

This statement of policy will be effective immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Persons

The contact person for this statement of policy is Richard H. Thompson, Director, Bureau of Workers' Compensation, Department of Labor and Industry, 1171 South Cameron Street, Room 103, Harrisburg, PA 17104-2501.

C. Statutory Authority

The act of December 20, 2001 (P. L. 967, No. 115) requires the Department to issue and publish guidelines for an employment screening program for Hepatitis C in enumerated occupations. Section 108(m.1) of the act.

D. Purpose of the Statement of Policy

The purpose of this statement of policy is to provide guidelines for the screening program that includes testing for the Hepatitis C virus so that an employer may rebut the presumption that the presence of the virus is work-related in occupations enumerated in section 108(m.1) of the act. The program provides for Food and Drug Administration-approved testing, supplemental testing and future interval testing. A screening program should not preclude other procedures.

The Department established these guidelines in coordination with the Department of Health and the Pennsylvania Emergency Management Agency as required under section 108(m.1) of the act.

(Editor's Note: The regulations of the Department, 34 Pa. Code, are amended by adding § 130.1 to read as set forth in Annex A.)

JOHNNY J. BUTLER,
Secretary

Fiscal Note: 12-62. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VIII. BUREAU OF WORKERS' COMPENSATION

CHAPTER 130. OCCUPATIONAL DISEASE UNDER THE WORKERS' COMPENSATION ACT—STATEMENT OF POLICY

Sec.

130.1. Guidelines for employment screening programs under Act 115 of 2001.

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(a) Hepatitis C is a blood-borne virus that attacks the liver. Since its identification in 1989, the virus has become the leading cause of liver transplants in the United States and is responsible for 8,000 to 10,000 deaths per year. Nearly 4 million Americans are currently infected to date. The number of infected Americans is expected to triple within the next 10 to 20 years, according to the National Institute of Health. Emergency medical and public safety employees have been identified as a group with a higher risk of exposure to the virus because of the nature of their employment.

(b) On December 20, 2001, Governor Mark Schweiker signed into law Act 115 of 2001, which amends section 108 of the Workers' Compensation Act (77 P. S. § 1208) (act) to create a presumption that Hepatitis C in the following occupations is an occupational disease within the meaning of the act:

- (1) Professional and volunteer firefighters.
- (2) Volunteer ambulance corp personnel.
- (3) Volunteer rescue and lifesaving squad personnel.
- (4) Emergency medical services personnel and paramedics.
- (5) Pennsylvania State Police officers.
- (6) Police officers requiring certification under 53 Pa.C.S. Chapter 21 (relating to employees).

(7) Commonwealth and county correctional employees and forensic security employees of the Department of Public Welfare, having duties including care, custody and control of inmates involving exposure to Hepatitis C.

(c) The presumption is not conclusive and shall be rebutted "if the employer has established an employment screening program, in accordance with guidelines established by the Department in coordination with the Department of Health and the Pennsylvania Emergency Management Agency and published in the *Pennsylvania Bulletin*, and testing pursuant to that program establishes that the employee incurred the Hepatitis C virus prior to any job-related exposure."

(d) The purpose of this chapter is to provide guidelines for the screening program that includes testing for the Hepatitis C virus so that an employer may rebut the presumption that the presence of the virus is work-related.

(e) An employment screening program for Hepatitis C should be implemented by having an employee undergo medical testing utilizing Food and Drug Administration-approved tests for Hepatitis C, as directed by a physician. As part of the employment screening program, supplemental testing should be conducted where the initial test yields a positive result, or when deemed appropriate by a physician. Future interval testing, to be administered in accordance with accepted standards of care, should be conducted when a physician determines that such testing is appropriate.

(f) The screening program should include testing. Act 115 of 2001 should not be interpreted to preclude other related procedures, such as the distribution of questionnaires requesting information on prior employment, including a description of job duties and responsibilities.

(g) This chapter is intended to provide guidance to the Bureau of Workers' Compensation staff, workers' compensation insurance carriers, employers, employees, workers' compensation practitioners and other interested parties concerning the implementation of Act 115 of 2001. This chapter does not constitute a rule or regulation with the force of law.

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