

**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.

Source

The provisions of this Chapter 130 adopted July 19, 2002, effective July 20, 2002, 32 Pa.B. 3495, unless otherwise noted.

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

(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. § 27.1) (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 [D]epartment 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 employe incurred the Hepatitis C virus prior to any job-related exposure."

(d) The purpose of this section 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 section 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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