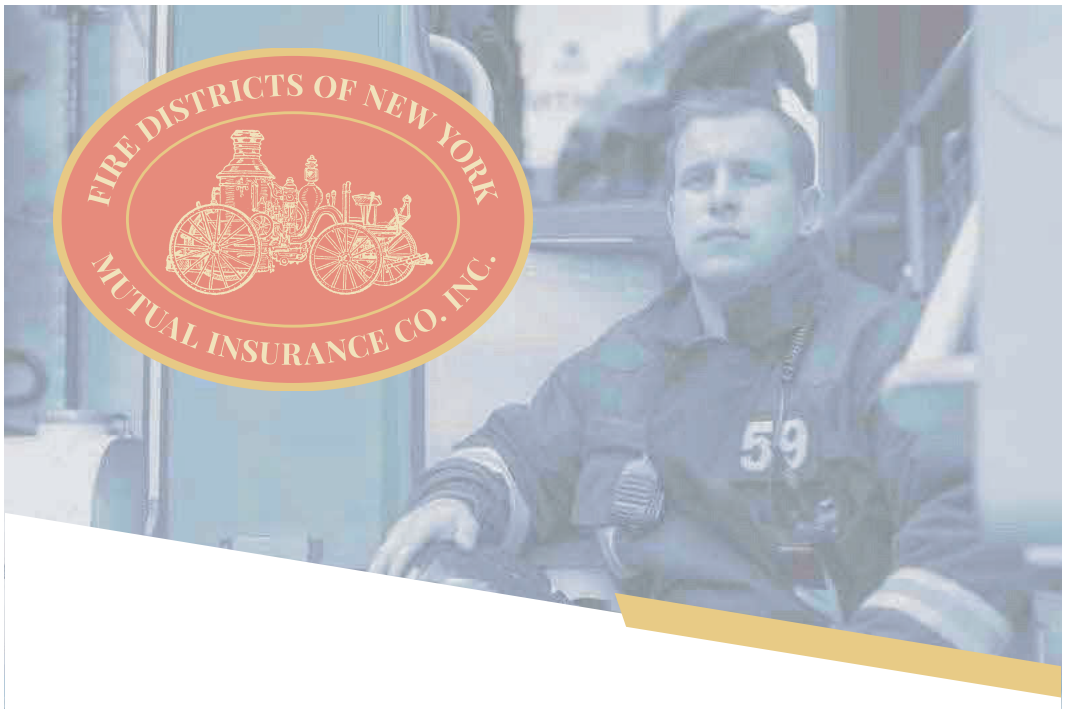

Your Rights As A Volunteer Firefighter

Fire Districts of NY Mutual Insurance Co. Inc.
1 Blue Hill Plaza, 16th Floor
P.O. Box 1609, Pearl River, NY 10965

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FDM

FIRE DISTRICTS OF NY
MUTUAL INSURANCE CO.

The FDM Insurance Companies are:

- Fire Districts of NY Mutual Insurance Co., Inc.
- FDM Preferred Insurance Company, Inc.
- Fire Districts Insurance Company, Inc.

MEDICAL CARE

All medical care for your injury or illness is paid for by your political subdivision's insurer. This care is covered regardless if you lose time from work.

Health care providers must be authorized by the Board. You can find a list of authorized health care providers on the Workers' Compensation Board's website at **wcb.ny.gov** or by calling 800-781-2362. You can receive care from any of these providers or from your own doctor if he or she is authorized.

The health care provider will send the bills directly to the insurer and the Board. You do not have to pay any bills unless the Board disallows your claim. If specific medical services are disputed, the insurer must pay any undisputed portion. It must also explain in writing why the services were not paid and request any information needed to pay them.

Your health care providers may ask you to sign an A-9 form (Notice that You May Be Responsible for Medical Costs in the Event of Failure to Prosecute, or if Compensation Claim is Disallowed, or if Agreement Pursuant to WCL §32 is Approved). This states that you will pay the bills if the Board disallows the claim, or if you drop the claim before it is accepted.

Medical Treatment Guidelines

The Workers' Compensation Board has Medical Treatment Guidelines (MTGs) that health care providers are required to use when treating certain injuries. MTGs allow the health care provider to perform much of your treatment without needing to ask the insurer for authorization. However, your health care provider may still need to ask for authorization before performing certain tests or procedures.

If you or your health care provider receive a notice that a treatment authorization has been denied, you should read the notice carefully. You or your health care provider may be able to request a review of the denial, giving you the opportunity to present evidence to the Board. The Board will then determine whether the treatment should be authorized.

Preferred Provider Organizations

The workers' compensation insurance carrier or local political subdivision may use a network of providers, known as a Preferred Provider Organization (PPO), to care for its members. You can choose to opt out of the PPO provider network by notifying the workers' compensation insurance carrier or your local political subdivision in

writing (a short letter specifying your intent to opt-out is all that's needed). You will need to wait 30 days after the initial visit to the PPO provider to seek treatment from your desired provider. The workers' compensation insurance carrier or local political subdivision has the right to require that you seek a second opinion from another PPO provider.

Diagnostic Tests

If you are required to use a specific network provider for diagnostic tests, the workers' compensation insurance carrier or local political subdivision will send you a DT-1 form (Notice That Claimant Must Arrange for Diagnostic Tests & Examinations through a Network Provider). You should inform your health care provider(s) that the insurer has this requirement.

The insurer cannot demand that you use a network provider for a diagnostic test in a medical emergency; it cannot demand that you use a network that does not have a provider or facility within a reasonable distance from your home or employment.

Pharmacy Charges

You can use any pharmacy, unless the insurer or local political subdivision uses an independent pharmacy, pharmacy network, or Pharmacy Benefit Manager (PBM). You should let the pharmacist know that you have a workers' compensation case. Many pharmacists will bill the insurer directly; however, the pharmacy can ask for payment of the prescription up front. If you pay for the prescription, the pharmacy can only charge the amount specified by law. You will be fully reimbursed, even if you pay in advance, and you are not responsible for copays. If the insurer or local political subdivision uses an independent pharmacy, pharmacy network, or PBM, the pharmacy/pharmacies should be within a reasonable distance from your home or employment or offer mail order service. The insurer or local political subdivision must notify you, in writing, which local pharmacies you can use along with their locations and addresses.

Opioid Pain Medications

If you are prescribed opioid pain medications including (but not limited to) OxyContin, Percocet, or Vicodin, you should know that these medications have serious side effects, can reduce your ability to function, and are highly addictive.

Continued use of opioid pain medication causes changes in the brain and results in the need for higher dosages to obtain the same level of pain relief (called tolerance). Continued use of opioids can cause increased sensitivity to pain, and may even make the pain worse.

Some common side effects of opioid use include: drowsiness, severe sedation, dizziness, nausea, vomiting, constipation, confusion, and memory loss. Severe side effects can include difficulty breathing, overdose, and death.

Uncomfortable withdrawal symptoms (a result of developing a dependence) may occur when opioids are reduced or stopped suddenly. Normal, day-to-day functioning may become difficult. Cravings for opioids may be uncontrollable, which can lead to use of other drugs and behaviors harmful to oneself or others (called addiction). If there are concerns that opioids are harming you or your loved one, don't hesitate to get help.

Cash Benefits

- You are eligible for benefits when your volunteer company responds as a unit, whether the injury occurred while serving the home area or providing aid to another municipality.
- Total disability, schedule loss of use, and death benefits are fixed.
- Weekly cash benefits for other types of injuries are determined based on your wage-earning capacity.
- Every volunteer member is considered to have an earning capacity. The Board considers the work that you could reasonably be expected to obtain based on your age, education, training, and experience to determine a reasonable wage-earning capacity.
- Benefits are payable from the first day of disability, with no waiting period. The amount of the weekly cash benefit will depend on whether the disability is temporary or permanent, and the loss of the volunteer's earning capacity, which is his or her disability.

Disability Classifications

Your health care provider will give you an opinion on the extent of your disability. Cash benefits are directly related to these disability classifications:

- **Permanent Total Disability:** Your wage-earning capacity is permanently and totally lost.
  - » The weekly cash benefits for all volunteer firefighters with a permanent total disability, regardless of the date of accident, is $600 (subject to NYS legislative change).
- **Temporary Total Disability:** Your wage-earning capacity is totally lost, but only on a temporary basis.
  - » The weekly cash benefit for volunteers with a temporary total disability, who were injured or became ill on or after July 1, 1992, is $400.
  - » The weekly cash benefit for volunteers with a temporary total disability, who were injured or became ill on or after July 1, 2022, is $650.

- **Temporary Partial Disability:** Your wage-earning capacity is partially lost, but only on a temporary basis.
- **Permanent Partial Disability:** Part of your wage-earning capacity has been permanently lost.
  - » The weekly cash benefits for all volunteer firefighters found to have a temporary or permanent partial disability, who are injured or became ill on or after July 1, 1992 are set forth in the table below.

TEMPORARY OR PERMANENT PARTIAL DISABILITY

The weekly cash benefits for all volunteer ambulance workers and volunteer firefighters found to have a temporary or permanent partial disability, who are injured or became ill on or after July 1, 1992.

Loss of Earning Capacity	Weekly Benefit
≥ 75%	$400
50-75%	$268
25-50%	$30
≤ 25%	No cash benefit.

DEATH BENEFITS: SURVIVING SPOUSE & DEPENDENT CHILDREN CASH BENEFITS

Marital Status / Dependent Status	Cash Benefits
Not remarried / no dependent children	$887 weekly cash benefit.
Not remarried / with dependent children	Smaller weekly cash benefit. *Children entitled to weekly cash benefits.*
Remarried / no dependent children	$92,219 lump sum benefit.
Remarried / with dependent children	Smaller lump sum benefit. *Children continue to receive weekly cash benefits.*

Funeral expense: The funeral expenses for volunteer members are payable up to a maximum amount of $6,700. However, if a volunteer firefighter dies from injuries received in the line of duty as the direct result of firefighting, the $6,700 maximum is not applicable.

Lump sum benefit: A lump sum benefit of $56,000 is paid to the surviving spouse, or to the estate if there is no surviving spouse. The funeral expense and lump sum benefits are in addition to all other benefits provided.

REHABILITATION & SOCIAL WORK

Rehabilitation programs offer special services designed to eliminate a disability, if possible. They also reduce or alleviate a disability to the greatest degree possible; help you return to work when possible; or provide you with aid to live and work at your maximum capability. The Board's Rehabilitation staff includes counselors, social workers, a consultant physiatrist (physical medicine and rehabilitation specialist), and claims examiners to coordinate and follow up on medical and vocational rehabilitation services.

Rehabilitation is voluntary, except in limited circumstances. You should contact the Rehabilitation unit at the Board to determine if you are required to participate.

There are four general types of services:

1. **Vocational rehabilitation programs** help people whose disability keeps them from returning to their former jobs. These services may provide guidance to help determine the best way to return to work.
2. **Selective placement programs** help people who are left with a permanent disability and who need a job that will fit their abilities.
3. **Medical rehabilitation programs** include exercise and muscle conditioning, under the supervision of a physician, to restore a person to their maximum capabilities. Only physicians may recommend a medical rehabilitation program.
4. **Social services,** which are provided by social workers, are designed to assist with family or financial problems that interfere with rehabilitation.

If you participate in one of the rehabilitation programs, you will continue to receive cash benefits based on the extent of your disability. If you return to work and still have a loss of earning capacity, you may be entitled to compensation benefits.

How to Report and File a Claim

All injuries other than minor injuries must be reported to the Workers' Compensation Board within 10 days. Failure to file within 10 days after the accident is a misdemeanor and punishable by a fine. In addition, the Board may impose a penalty of up to $2,500 (WCL §110 and 12 NYCRR §310.1). For this reason, FDM recommends reporting the claim as soon as possible. The Fire District/employer completes a **C-2F form** (Employer's Report of Work-Related Injury/Illness) and sends the form to FDM.

When completing a C-2F form , it is important to remember that statements may be legally binding. The Fire District should note on the form if they believe the claim to be questionable or fraudulent. FDM can be contacted for assistance with completing the form. A C-2F form can be filed by a third-party designated by the Fire District,

however, the employer is ultimately responsible for ensuring it is filed. Filing a C-2F form is not necessarily an admission that you agree with the facts of a reported accident. It is a statement that a volunteer/employee reported a work-related injury or illness to the Fire District.

Disputed Claims

Insurers will often accept a claim and promptly begin paying benefits. However, an insurer can dispute a claim. To contest a claim, an insurer must file a notice of controversy with the Board within 18 days after the disability begins or within 10 days of learning of the accident, whichever is later. It must give the reasons why the claim is not being paid.

Hearings & Appeals

If there is a dispute in your claim, Board claims examiners and conciliators will make the first attempt to resolve the issue. If they can't, the Board will hold hearings in front of a workers' compensation law judge. The judge may take testimonies and review your medical records and wages. The judge then decides the issue and sets the amount of any award.

Either side may appeal the judge's decision. This must be done in writing within 30 days of the decision. Three Board members review appealed cases. They may agree, change part of a decision, or reject it. They may also return the case for more hearings. Insurers don't have to pay lost wage benefits while the case is being reviewed by the three Board members. An insurer can accept part of a case and appeal another. In that instance, it must pay the accepted part of the award while the case is reviewed. The insurer must pay your wages and medical bills if your award is upheld by those Board members, even if it appeals the case further.

Either side may appeal that decision to the full membership of the Workers' Compensation Board of Commissioners. If the full Board takes the case, it will either agree, change, or overturn the decision.

Appeals from Board decisions may be taken within 30 days to the Appellate Division, Third Department, and Supreme Court of the State of New York.

The Board may reopen a closed case, subject to time limitations, upon application of any party. The application must state the basis of the request.

You have the right to legal representation. Your attorney or licensed representative cannot ask you for a fee or accept a fee from you. The legal fee is determined by the Board and deducted from your compensation award.

FREQUENTLY ASKED QUESTIONS

What are the benefits under the Volunteer Firefighters' Benefits Law?

All active volunteer members of a fire company or fire department of a county, city, town, village, or fire district are eligible for weekly cash payments, medical, podiatry, chiropractic, rehabilitative, and hospital care furnished during periods of disability resulting from injury "in the line of duty" as a volunteer firefighter, and in the case of death from such injury, weekly cash payments to surviving statutory dependents.

What is meant by "in the line of duty?"

"In the line of duty" covers volunteer firefighters in various emergency situations and many activities compensable under law, when authorized by the proper authority.

These include:

- Participation at a fire, hazardous material incident, alarm of fire, or other emergency situation that triggers response by the fire company or one of its units.
- Travel to, from, and during fires or other calls to which the company responds; travel in connection with activities authorized under the law. Some duties in the firehouse pursuant to orders and authorization.
- Inspection of property for hazards or other dangerous conditions pursuant to orders and authorization.
- Attendance at fire instructions, a fire training school, or instructing at fire training.
- Participation in authorized drills, parades, funerals inspections or reviews, tournaments, contests, or public exhibitions conducted for firefighters pursuant to orders and authorization.
- Fundraising activities (non-competitive events) pursuant to orders and authorization.
- Attendance at a convention or conference as an authorized fire company delegate.
- Testing fire apparatus and equipment, fire alarm systems, water supply systems, and fire cisterns; construction, repair, maintenance, and inspection of the fire house.
- Fire prevention activities pursuant to orders and authorization.
- Meetings of the fire company pursuant to orders and authorization.
- Pumping water or other substances from a basement or building pursuant to orders and authorization.
- Inspecting fire apparatus prior to delivery pursuant to orders and authorization.
- Participation in a supervised physical fitness class pursuant to orders and authorization.

May a volunteer firefighter render emergency service with another fire company or fire department?

Yes. Whenever volunteer firefighters offer their services on an individual basis to another fire company or fire department within New York State, but outside the area regularly served by the fire company of which they are members, and after such services are accepted by the officer in command, the responsibility for benefits resulting from any injury in the line of duty will be that of the fire company or fire department (and it's "home" political subdivision) which has accepted such voluntary services.

Are all activities covered under the law?

Yes, except:

- Fundraising activity not ordered or authorized by the fire commissioners, or practice for—or participation in—any recreational or social activity. Fundraising activity shall not include competitive events in which volunteer firefighters are competitors, such as baseball, basketball, football, bowling, tugs of war, water ball fights, donkey basketball, drum corps, or other competitive events in which volunteer firefighters are competitors and which involve physical exertion on the part of the competitors.
- Work or service not rendered as a volunteer firefighter but rendered as an officer, official, or employee of a public corporation or special district thereof.
- Work or service not rendered as a volunteer firefighter but in the course of employment for a private employer.
- Work or service not rendered as a volunteer firefighter but as a civil defense volunteer.
- Work or service rendered while on leave of absence or while suspended from duty.

Is the injury due to carelessness compensable?

Yes. Carelessness alone will not deprive a firefighter of benefits. Willful intent to injure oneself or another will deprive the firefighter of benefits.

Is it necessary to lose time in regular employment in order that a disability be compensable?

No. It is not necessary that a volunteer firefighter lose time in regular employment to receive the weekly cash payments under the law if the disability is one that results (a) in loss of earning capacity or (b) in loss, or partial loss, of use of an arm, leg, or eye, and/or loss of hearing. Also, if medical care is necessary, it will be provided, even though there is no time lost from work.

How is earning capacity defined?

Earning capacity is the capability of a volunteer firefighter to perform on a five-or-six-day basis in regular employment at the time of injury, or other work that could be considered a reasonable substitute if there is no employment. Every volunteer is considered to have earning capacity. The Workers' Compensation Board determines the reasonable earning capacity of the volunteer firefighter with due regard to the provisions of the law and the work the firefighter could reasonably obtain and for which the firefighter is qualified by age, education, training, and experience.

How is a claim for benefits presented?

Written notice must be given within 90 days of any injury in the line of duty, or death as a result of such injury, to the fire commissioners or other appropriate officials of the "home" area.

However, the Board may excuse the failure to give written notice on any of the following:

- That, for some sufficient reason, notice could not have been given.
- That a member of a body in charge of, or any officer of, the fire department or fire company had knowledge within the prescribed 90 day period of the injury or death.
- That a political subdivision, or its insurance carrier, had not been prejudiced by a delay in giving such notice.
- That the cause of disablement or death was not known to be due to service as a volunteer firefighter in sufficient time to comply with the notice requirement.

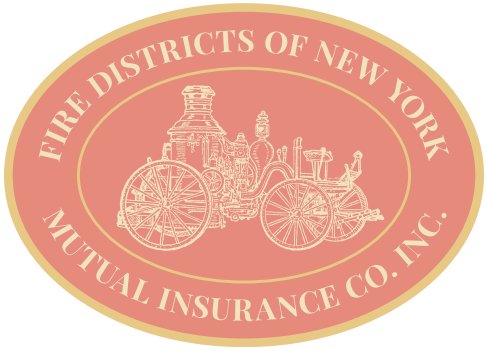
If the injury is service incurred, how much medical care is provided?

Necessary medical care is provided for as long as the injury and process of recovery require, including services of physicians, podiatrists, and surgeons, hospital care, X-rays, laboratory tests, nursing service, prescribed drugs, medical or surgical appliances and the repair or replacement of such when necessary. Advance authorization may be necessary in certain instances.

What are the implications of the "heart bill"?

In a separate chapter of the Laws of 1977, the Legislature passed a new section of the Volunteer Firefighters' Benefits Law to clarify the law regarding benefits payable when a volunteer firefighter suffers the injury of heart attack in the line of duty. This amendment does not make any malfunction of the heart or coronary arteries causing disability or death automatically payable.

There is still the legal burden on the volunteer or the family to provide evidence which shows that a malfunction occurred which caused the death and that it resulted from duties as a volunteer.



Taking exceptional care of volunteers injured in the line of duty since 1978

If you would like additional copies of this brochure,
or more information about FDM, contact us:

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