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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Department of Labor and Workforce Development
Division:	Bureau of Workers' Compensation
Contact Person:	Amanda Terry
Address:	220 French Landing Drive, 1-B, Nashville, TN 37243
Phone:	615-253-1847
Email:	amanda.terry@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Amanda Terry
Address:	220 French Landing Dr. 1-B, Nashville, TN 37243
Phone:	615-253-1847
Email:	amanda.terry@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	220 French Landing Dr. 1-A			
Address 2:	Tennessee Room			
City:	Nashville, TN			
Zip:	37243			
Hearing Date:	02/09/2024			
Hearing Time:	11:00 am	<input checked="" type="checkbox"/> X CST/CDT	<input type="checkbox"/> EST/EDT	

Additional Hearing Information:

Please bring identification so that you may be checked into the building.

Written comments will be accepted until close of business on 2/23/2024 and can be sent to amanda.terry@tn.gov.

Revision Type (check all that apply):

☐ Amendment
☒ X New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0800-02-34	Grant Program for Firefighters Diagnosed with Posttraumatic Stress Disorder
Rule Number	Rule Title
0800-02-34-.01	Definitions
0800-02-34-.02	Purpose and Scope
0800-02-34-.03	Applications and Eligibility for Grants Related to Mental Health Awareness Training
0800-02-34-.04	Awards and Distribution of Funds
0800-02-34-.05	Severability
0800-02-34-.06	Time Limits
0800-02-34-.07	Available Grants for the Mitigation of Costs to an Employer of Providing Workers' Compensation Benefits for Firefighters Diagnosed with PTSD
0800-02-34-.08	Grant Allocation Committee
0800-02-34-.09	Appeals
0800-02-34-.10	Refunds

New Rules
Chapter 0800-02-34
Grant Program for Firefighters Diagnosed with Posttraumatic Stress Disorder

0800-02-34-.01 Definitions.

(1) "Administrator" means the chief administrative officer of the Bureau of Workers' Compensation, or the Administrator's designee.

(2) "Applicant" means a party who has submitted a request for program funds on the form prescribed by the Administrator.

(3) "Award Letter" means the Administrator's written notification of the conditioned award of monies from the program.

(4) "Bureau" means the bureau of workers' compensation.

(5) "Commissioner" means the commissioner of the department of labor and workforce development.

(2) "Department" means the department of labor and workforce development.

(3) "Employer" means a municipality, county, metropolitan form of government, or other political subdivision of this state that employs firefighters.

(4) "Fire department":

(a) Means a department of a municipality, county, or political subdivision, or an organization, agency, or entity that offers its services, for or without pay, for the purpose of suppressing fires, performing rescue services, or for other emergency response purposes; and

(b) Does not include law enforcement agencies, emergency medical agencies licensed by the Tennessee emergency medical services board, and rescue squads that do not provide fire protection.

(5) "Federal grants" means any federal discretionary grant program that awards financial assistance to be used for the purpose of the purchase of firefighting equipment and training including, but not limited to, the Federal Emergency Management Agency Assistance to Firefighters Grants (AFG).

(6) "Firefighter":

(a) Means a regular or full-time, paid employee of the fire department of a municipality, county, municipal form of government, or other political subdivision of this state and whose duties require the employee to actively engage in fire suppression, rescue services, or other emergency response tasks; and

(b) Includes employees whose previous duties required the employee to respond to and be actively engaged in fire suppression, rescue services, or other emergency response tasks.

(7) "Grant Allocation Committee" means a group of five (5) or more individuals to advise the Grant Program regarding the allocation of funds.

(8) "Maximum Medical Improvement" shall have the same meaning as in T.C.A. § 50-6-207(1)(D).

(8) "Mental health professional" means an individual professionally licensed in this state to diagnose and treat post-traumatic stress disorders; and

(9) "Post-traumatic stress disorder" (PTSD) has the same meaning as defined in the most recent publication of the Diagnostic and Statistical Manual of Mental Disorders (DSM) of the American Psychiatric Association.

(10) "Program" means the Grant Program for Firefighters Diagnosed with Posttraumatic Stress Disorder.

(11) "State Fire Marshal" means the commissioner of the department of commerce and insurance, or designee.

(12) "State Fire Marshal's Office" means the division of fire prevention at the department of commerce and insurance.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.02 Purpose and Scope.

(1) Pursuant to PC 465 (2023), the department shall establish and administer a grant program to mitigate the costs to an employer of providing workers' compensation for firefighters diagnosed with post-traumatic stress disorder by a mental health professional and shall utilize existing staff to assist in the implementation of the program to provide grant funding from whatever funding sources are available to the department.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0780-02-24-.03 Applications and Eligibility for Grants Related to Mental Health Awareness Training.

(1) An employer may apply for a grant and meet the requirements described below, which must be verified by the state fire marshal's office.

(2) The department may award an employer a grant if the employer provides mental health awareness training for its personnel, which must include:

(a) Understanding the signs and symptoms of stress, depression anxiety, psychological trauma, complex trauma, and addiction;

(b) Understanding, navigating, and reducing mental health stigma;

(c) Utilizing appropriate de-escalation strategies; and

(d) Managing stress, using self-care techniques, developing coping skills, and promoting resiliency.

(3) An employer may develop the mental health awareness training described below or may use a training program developed by another entity that satisfies the criteria set forth herein.

(4) The employer shall grant a firefighter who receives mental health awareness training in accordance with these rules the appropriate continuing education credits.

(5) Fire departments shall complete applications on forms prescribed by the administrator.

(6) Application deadlines will be established annually by the Administrator based on available funding and will be published on the Department's website.

(7) The applications shall be reviewed in accordance with state law and contracting rules and procedures established by the Central Procurement Office at the Department of General Services.

(8) Applications for matching funds to meet local match requirements for federal grants shall include a copy of the award letter of the federal grant.

(9) To be eligible to receive an award for a grant program, a fire department must be recognized by the State Fire Marshal's Office, pursuant to T.C.A. § 68-102-304.

(10) Employers and employee shall cooperate with the application review process by providing requested documentation and information. Failure to cooperate could result in a denial of an award.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.04 Awards.

(1) The department shall endeavor to award all funds appropriated to the program each year, and any funds remaining will not revert to the general fund but will remain available for expenditure in subsequent fiscal years.

(2) The total amount paid on behalf of any eligible employer must not exceed \$100,000 in any one (1) fiscal year and must not exceed the total sum of \$250,000 per employer who participates in this program. The total aggregate amount to be paid from the program is limited to the monies available to the program.

(3) The payment of a training award will be made through a grant contract where funds are obligated through a grant award, training is performed, and the employer submitting an expenditure report for reimbursement.

(4) The payment of a presumption mitigation award will be made upon conclusion of the workers' compensation claim and after a final order from a Court of proper jurisdiction. The amount awarded to mitigate the cost will be determined by the Administrator upon advisement from the Grant Allocation Committee.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.05 Severability.

(1) If any provision of these Rules or the application thereof to any person or circumstance is, for any reason, held to be invalid, the remainder of the Rules and the application of the provisions to other persons or circumstances shall not be affected in any respect whatsoever.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.06 Time Limits.

(1) All time limits referenced in these Rules may be extended by the administrator unless specifically set by statute.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.07 Available Grants for the Mitigation of Costs to an Employer of Providing Workers' Compensation Benefits for Firefighters Diagnosed with PTSD.

(1) The department may award a grant to mitigate the costs to an employer by making payment directly to an employer or an employer's workers' compensation benefits provider for expenses incurred as a result of the employer's liability for disability and medical benefits due to the statutory presumption in PC 465 (2023). This grant to mitigate is paid after expenses are incurred. The employer requesting reimbursement must show proper documentation that:

- (a) Confirms and has accepted as compensable the diagnosis of PTDS in an eligible firefighter as defined in (2);
- (b) Confirms that treatment has been provided by a qualified mental health professional; and
- (c) Confirms the medical and indemnity benefits have been paid as a direct result of the PTSD

presumption and not as a result of a physical injury occurred at the same time as the PTSD injury or other mental injury diagnosis.

(2) The employer shall attest that the firefighter meets the following criteria:

- (a) Firefighter is a full-time paid employee currently or formerly actively involved suppression, rescue services, or other emergency response tasks;
- (b) There is a documented incident occurred during discharge of duties;
- (c) A licensed professional confirms that PTSD is the diagnosis according to the DMS-5 and that other diagnoses have been excluded;
- (d) The individual is a candidate for improvement with treatment and not already permanently and totally disabled;
- (e) The firefighter has received ten (10) EAP sessions with a mental health service provider for the purpose of treating PTSD through the employee's health benefits or otherwise, as provided in TCA § 8-50-119 (c)(1). If functional progress is not being made after 12 treatments, then further funding under the program may cease until the diagnosis can be re-evaluated.

(3) Employers and employee shall cooperate with the application review process by providing requested documentation, information, medical records, billing records and proper authorizations to release information.

(4) Fire departments shall complete the application for an award on forms prescribed by the administrator.

(5) Application deadlines will be established annually by the Administrator based on available funding and will be published on the Department's website.

(6) The applications shall be reviewed in accordance with state law and contracting rules and procedures established by the Central Procurement Office at the Department of General Services

(7) Applications for matching funds to meet local match requirements for federal grants shall include a copy of the award letter of the federal grant.

(8) To be eligible to receive an award for a grant program, a fire department must be recognized by the State Fire Marshal's Office, pursuant to T.C.A. § 68-102-304.

(9) A penalty of not less than \$50 nor more than \$500 shall apply if the employer misuses the funds or fails to send the report required under 0800-02-34-.03 (1) (d) to the bureau.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.08 Grant Allocation Committee.

(1) The administrator shall appoint a committee to assist and advise the administrator regarding the allocation of funds.

(2) In advising the administrator, the committee members shall consider the statutory requirements for awarding program grants.

(3) Members of the committee shall serve without compensation but, when engaged in the conduct of their official duties as members of the committee, shall be entitled to reimbursement for travel expenses in accordance with uniform regulations promulgated by the department of finance and administration and approved by the attorney general and reporter.

(4) The administrator may conduct periodic committee meetings and shall conduct each meeting in any manner practical for the effective consideration of the applicants, including allowing for telephonic, electronic, or in-person interactions.

(5) Each member appointed shall serve a term of four (4) years and may be reappointed by the administrator. If a member leaves the position prior to the expiration of the term, the administrator shall appoint an individual meeting the qualifications of this section to serve the unexpired portion of the term. The individual may be reappointed by the administrator upon expiration of the term.

(6) In making the initial appointments, the administrator shall have the authority to shorten and stagger the terms of the committee members to ensure that the terms of no more than one-half of the committee members shall terminate at the same time.

(7) The administrator shall have authority to remove a committee member during an unexpired term for the nonperformance of duties or for cause.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34-.09 Appeals

(1) At the request of an affected employer, the administrator or designee may hold an informal conference for the purpose of discussing any issues involving an employer who is denied a grant from the program. If the employer requests the conference, an affected employer or their representative will be afforded an opportunity to participate. Counsel at such conference may represent any party.

(2) An employer who is denied a grant may appeal such decision directly to the administrator. Said appeal must be submitted in writing within fifteen (15) calendar days of the of notice of the denial. The administrator or designee shall hear the appeal in accordance with the provision of the Uniform Administrative Procedures Act, complied in Title 4, Chapter 5., and in accordance with Tenn. R. and Regs. 0800-02-13.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

0800-02-34.10 Refunds.

(1) Upon knowledge of the recipient's receipt of monies paid by the program, whether by error, fraud, or refund, the program shall contact the recipient telephonically and via written correspondence to arrange for reimbursement of all monies received by the recipient through error, fraud, or refund. In the event the monies are not refunded to the Program within ninety (90) days of the recipient's receipt, the Department shall assume the rights of a creditor against the recipient and may, at the discretion of the administrator, take action to collect those monies paid by the program.

Authority: T.C.A. §§7-51-206, 50-6-111, 50-6-233 (2023).

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: October 20, 2023

Signature: _____



Name of Officer: Troy Haley

Title of Officer: Administrator

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