

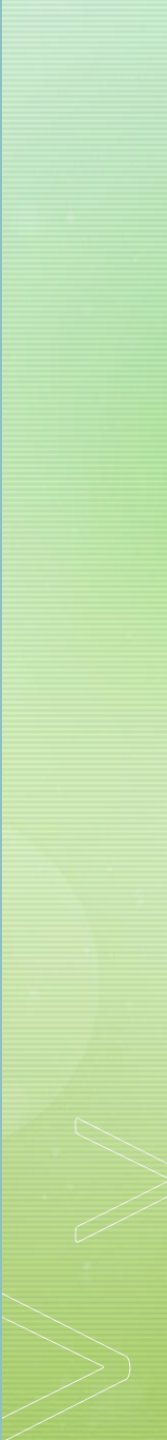
Doug Palmer, Hamrick Palmer Johansen  
Kevin Hart, IAFF Local 452



# Workers Comp Presumption & SIE's Duty of Good Faith




# Presumptive Conditions RCW 51.32.185

- Respiratory Diseases
  - Heart Problems (72-hours smoke/fumes, 24-hours exertion)
  - Cancer
  - Infectious Disease
  - PTSD
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# Presumptive Conditions Service Requirements

- Cancer: After 10 years of service
  - PTSD: After 10 years of service
  - Service in other states?
  - Continues after retirement for up to 5 years, depending on length of service
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# Presumptive Conditions Local Best Practices

- Update list of preferred professionals: MDs and Attorneys
  - Member should have careful conversation with doctor prior to filing a presumptive claim.
  - Just say no to having statement recorded
  - Just say no to signing medical releases from SIE/TPA/Attorney
  - When to talk with a workers compensation attorney
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# Duty of Good Faith and Fair Dealing Effective July 1, 2024

- Covers 99% of Self-Insureds employing firefighters
- Must give equal consideration to the worker's interests
- Coerces a worker to accept less than the compensation due

# Duty of Good Faith and Fair Dealing Penalties

- Good Faith Violation: \$1,618.46 to \$84,159.92
- Rules Violation Penalty: Up to \$3,483
- Unreasonable Delay Penalty: up to 25% of delayed benefits up to a 3x kicker for good faith violation.
- 3 Good Faith Violations in 3 Years: Loss of Self-Insurance Status



# Duty of Good Faith and Fair Dealing Department Rules

- Pattern and Practice Violations: Repeated smaller violations that show a greater concern for the SIE's interests over the workers' interests.
  - Claims Suppression Actions
  - Delaying decisions, benefits, and not timely communicating with workers and DLI
  - Poor training and supervision of Claims Managers
- Workers and Unions must file complaints

# Duty of Good Faith and Fair Dealing Department Rules

- Intentional Violations: Single bad, intentional acts sufficient to impose penalty.
  - Claim Suppression
  - Intentionally fails to forward information to DLI
  - Coercing a worker to accept less than the compensation due.
- Proving Intentional Violations



# Duty of Good Faith and Fair Dealing Best Practices

- Help Members file complaints
  - Form Complaint
  - Attach documents
  - Keep a copy
- Ombuds for Self-Insurance 888-317-0493
- Attorneys
- Too many complaints, not too few



# Questions?

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