

Heart & Lung

According to NRS 617.453–617.487, inclusive, it is “conclusively presumed” that public–safety officers in Nevada who contract heart disease, lung disease or hepatitis at any point in their lifetime did so as a result of their occupation – making each such individual eligible for permanent disability benefits, complete medical coverage and potential indemnity. These benefits must be provided by taxpayers in the city or county where the officer was employed.

Prior to 1989, the burden of proof fell on employees to demonstrate that they had been exposed to dangerous materials in the course of their duties which increased the likelihood of contracting disease. However, during the 1989 session, lawmakers amended NRS 617 to remove this burden of proof and make retired public–safety workers who contract one of these diseases – even if the result of old age or an unhealthy lifestyle – eligible for the same benefits as those who legitimately contract disease through the course of their duties.

Lawmakers in the 2015 session took initial steps to reform this entitlement by limiting the benefits available to medical coverage only when a claim is filed post–retirement, and by disqualifying those who regularly use tobacco products or fail to follow a doctor’s guidance.¹

Key Points

Heart and lung disease are among the most common causes of death nationwide. According to the Centers for Disease Control, heart and lung disease were the first and sixth most common causes of death in the United States for 2020, respectively.²

Because heart and lung diseases are so pervasive within the general population, Nevada’s “conclusive presumption” that public–safety officers get these diseases as a result of their occupation means many individuals who would have contracted these diseases regardless of their occupation are likely to qualify.

Presumptive liabilities exceed \$2.4 billion for just six jurisdictions. It’s difficult to calculate a finite figure for the heart and lung liabilities facing Nevada’s local governments because their liability is open–ended – employees can file a claim decades after retirement providing they served in municipal police or fire positions for at least 20 years. (For non–public–safety personnel, occupational disease claims must be filed within five years of retirement.)

Nevertheless, the cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks and the Las Vegas Metropolitan Police Department jointly commissioned a series of actuarial studies in 2008 that remain the most authoritative source for quantifying heart and lung liabilities. These studies concluded that the unfunded liability then facing the jurisdictions exceeded \$2.4 billion combined.³ It remains unclear how the change in scope of benefits enacted in 2015 impacts this estimate.

Nevada is the only state in the union with a lifetime manifestation period. While some other states have presumptive benefits statutes, none are as generous as Nevada’s. Legislation in 2015 capped the manifestation period for the onset of occupational diseases to a time period equivalent to an employee’s period of service, but there is no limitation for those who served 20 or more years. In California, all claims must be made within five years from last employment and this provision is typical in states with presumptive benefits.

¹Nevada Legislature, 78th Session, Senate Bill 153.

²U.S. Centers for Disease Control and Prevention, National Center for Health Statistics, National Vital Statistics Reports, 2020.

³Scott Lefkowitz, “Unpaid Benefit Costs for Heart Disease, Lung Disease, Hepatitis, and Cancer Claims, as of June 30, 2008,” Oliver Wyman Actuarial Consulting, Inc., Prepared for Cities of Henderson, Las Vegas, North Las Vegas, Reno and Sparks and the Las Vegas Metropolitan Police Department.

Recommendations

Repeal the conclusive presumption provisions. Officers who contract diseases in the course of duty deserve to receive compensation from their employer and to receive medical treatment. However, Nevada’s conclusive presumption statutes make a mockery of that legitimate obligation by entitling retirees who contract disease as a result of poor diet, lack of exercise or other unhealthy lifestyles to the same benefits.

Cap the manifestation period to five years. The open-ended nature of heart and lung liabilities makes it nearly impossible for local governments to accurately account for these liabilities. Forty-nine states limit the manifestation period. Nevada should as well.

Leading Causes of Death in the United States, 2021

Cause of death	Number of mortalities
1. Heart disease	695,457
2. Cancer	605,213
3. COVID-19	416,893
4. Accidental injury	224,935
5. Stroke	162,890
6. Lung disease	142,342
7. Alzheimer disease	119,399
8. Diabetes	103,294
9. Liver disease	56,585
10. Kidney disease	54,358

Source: U.S. Centers for Disease Control and Prevention, National Center for Health Statistics.

Actuarial Heart & Lung Liability by City (as of FY08)

