



Effect of the “presumption gap” on acceptance of COVID-19 claims

Claims reported through February 4, 2022

Presented to the Minnesota Senate Labor & Industry Policy Committee

February 9, 2022

Workers' compensation COVID-19 presumption

The presumption amended Minnesota Statutes section 176.011, subdivision 15

The rebuttable presumption covers:

- a licensed peace officer, firefighter, paramedic or emergency medical technician;
 - certain workers employed at a corrections, detention or secure treatment facility;
 - a health care provider, nurse or assistive employee employed in a health care, home care or long-term care setting, with direct COVID-19 patient care or ancillary work in COVID-19 patient units;
 - a person required to provide child care to children of first responders and health care workers under Executive Orders 20-02 and 20-19.
- For these workers, their COVID-19 illness is presumed to be work-related unless the employer can prove that their infection was a result of non-work exposure.
 - Effective for workers contracting COVID-19 on or after April 8, 2020 through December 31, 2021 and February 3, 2022 through January 13, 2023

Coverage for COVID-19 claims without a presumption

Filing a claim

For the time period when the presumption was not in effect, an employee who would have been covered under the presumption can claim a workers' compensation illness if they believe their illness is due to their employment, just like any other employee (including those not covered under the presumption) could.

The difference is that without the presumption, *the burden of proof in a disputed claim is on the employee* to show that their illness arose out of and in the course of employment.

Contesting a denial

The Department sends a brochure to all employees when a claim is filed. For employees that have their claim denied, the brochure notes that if the insurer has denied primary liability for the claimed illness (has never paid any benefits) an employee can:

- Call the insurance claims adjuster, explain the problem and try to work it out.
- If a conversation with the claims adjuster does not resolve the matter, employees may discuss with an Alternative Dispute Resolution specialist at the Department.
- If the problem has not been resolved, the Alternative Dispute Resolution specialist can explain the dispute-resolution process and provide information to help decide the best way to resolve the problem.
- Employees may also appeal the denial and request a hearing by filing an Employee's Claim Petition form.

About these claim counts

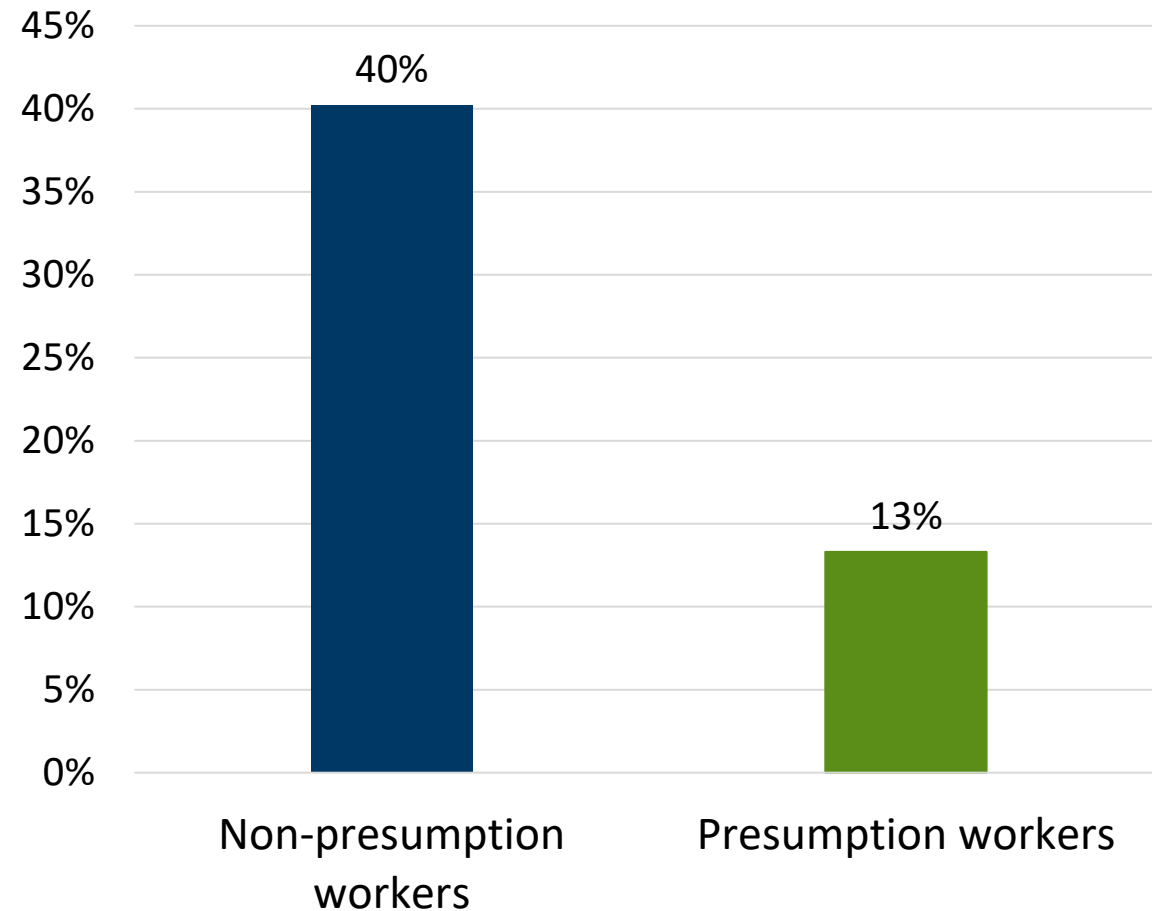
- Injury reports are received 3-4 weeks, on average, after the date of illness
 - The illness date is either reported by the worker or employer. It does not always correspond with the date of onset of symptoms.
 - Primary liability decisions generally arrive a week or two after the claim is reported
 - DLI continues to receive claims with illness dates six months earlier
- Because of this reporting time lag, claim counts for November and December 2021 are preliminary and the January 2022 claims numbers reflect a partial month.

COVID-19 claims are accepted without a presumption

For claims with dates of illness since July 1, 2021:

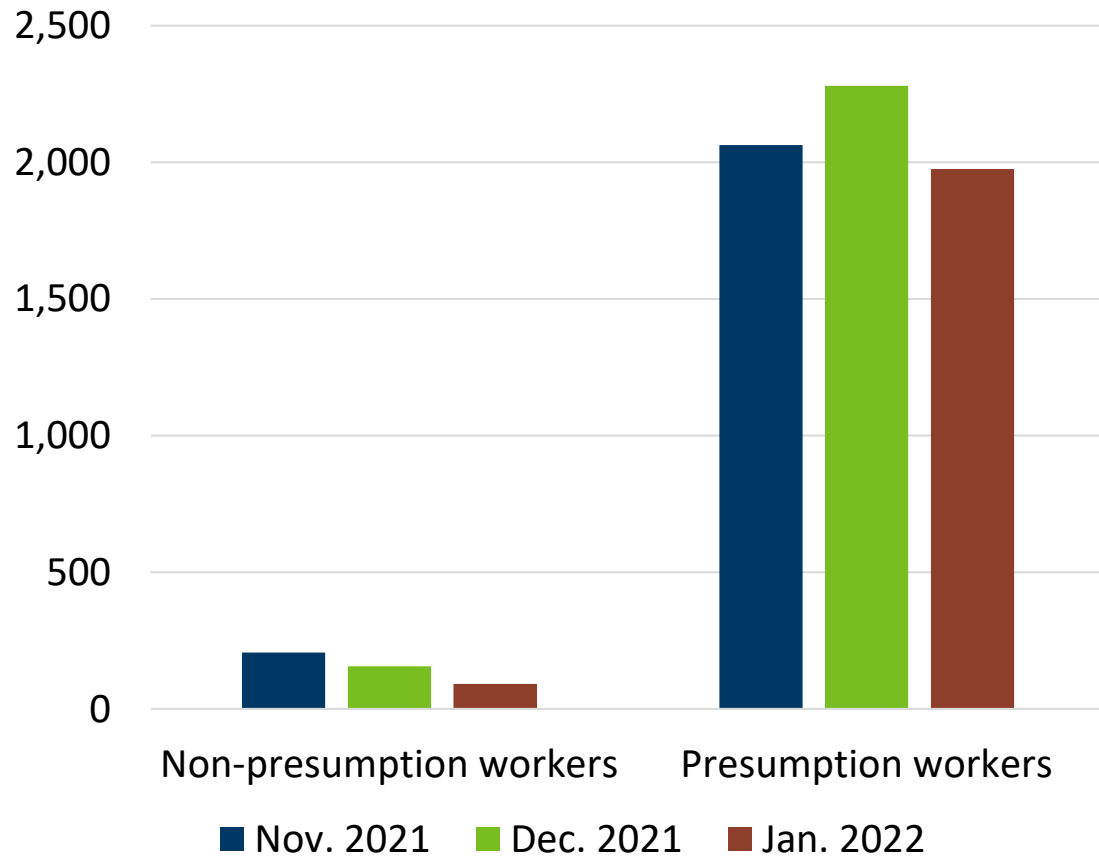
- The denial rate for non-presumption worker claims is three times higher than the rate for workers covered by the presumption.
- 60% of the claims filed by workers without the presumption were paid workers' compensation benefits.

Denial percentage, COVID-19 claims with illness dates July 1 - Dec. 31, 2021

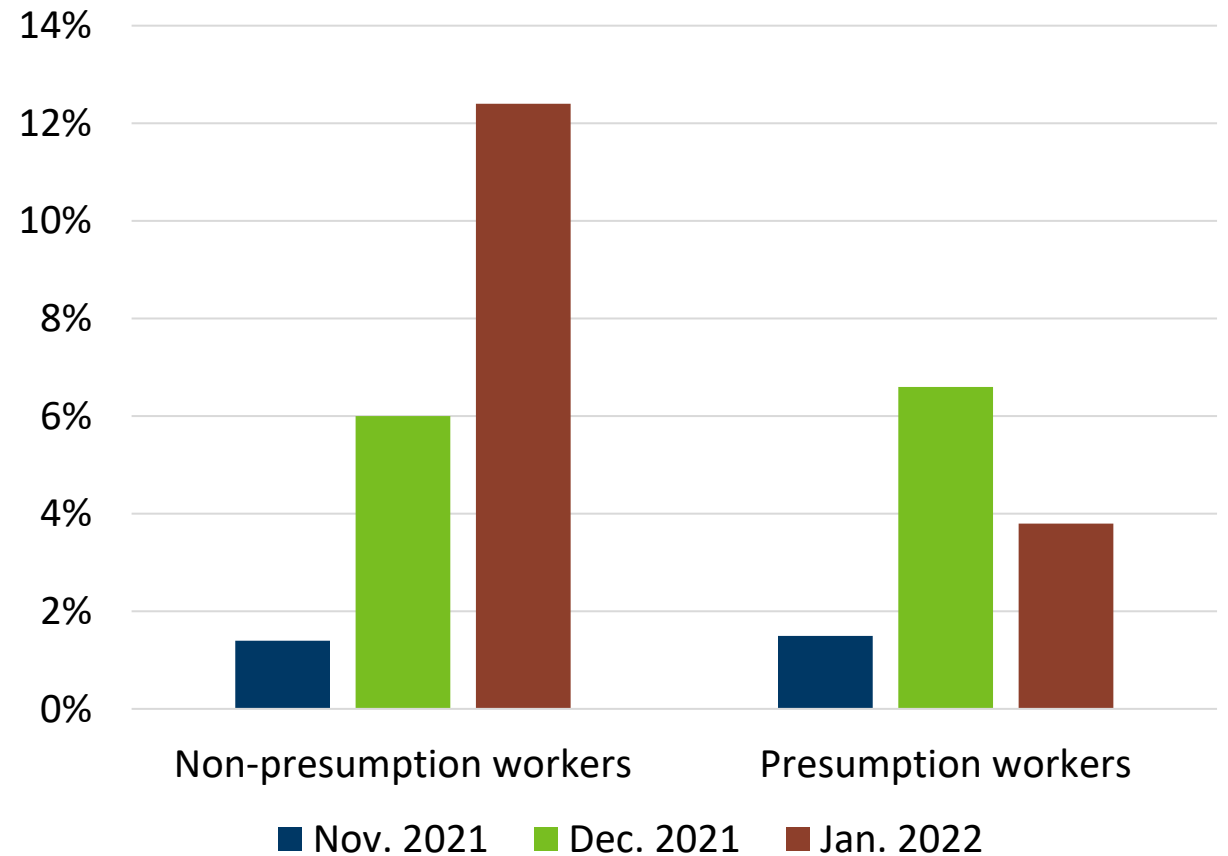


Nearly 2,000 January CV-19 claims for presumption group workers have been filed, almost all have a liability decision

Number of Covid-19 claims by month of illness

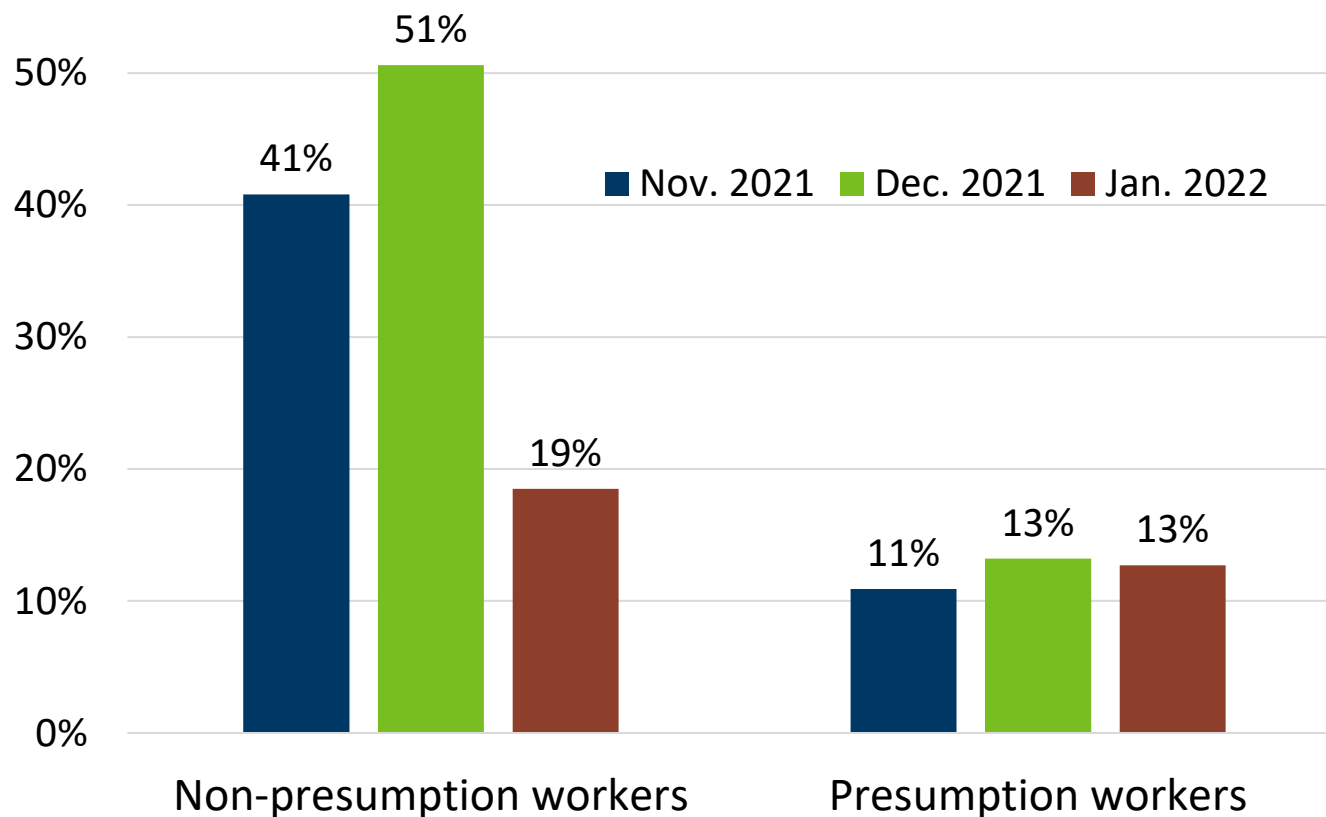


Percentage of claims without a primary liability decision filed, by month of illness



Claims denial rates are the same for December and January for the presumption workers

Percentage of primary liability decisions that are denials by month of illness



- No evidence, thus far, that presumption group workers' claims in the presumption gap have higher denial rates.
- Data indicates that insurers and self-insured employers are making liability decisions quickly and maintaining stability in the workers' compensation system.