

Line of Duty Act Eligibility Determination Report 2023

Report to the General Assembly of Virginia



Virginia Department of Human Resource Management
Virginia Retirement System



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Report to the General Assembly of Virginia

Introduction

The Line of Duty Act (LODA) program, Title 9.1 of the *Code of Virginia*, was established in 1972. LODA provides benefits to eligible family members of eligible employees and volunteers killed in the line of duty and to those eligible employees and volunteers disabled in the line of duty and their eligible family members.

Employers fund LODA benefits in one of two ways:

- Participation in the Line of Duty Death and Health Benefits Trust Fund (LODA Fund) administered by the Virginia Retirement System (VRS).
- Self-funding by the employer or through the employer's insurance company.

Initially, the Department of Accounts (DOA) administered the program, with VRS overseeing the LODA Trust Fund. However, the 2017 General Assembly passed House Bill 1345 making VRS the LODA program administrator and the Virginia Department of Human Resource Management (DHRM) responsible for administering the LODA Health Benefits Plans.

As required in Title 9.1, the benefits include premium-free medical coverage, one-time retroactive health insurance premium reimbursement when applicable, and, in the case of approved death claims, a one-time death benefit payment. The one-time retroactive health insurance premium reimbursement covers health insurance premiums paid between the date the employer ceased to subsidize medical premiums and the health benefits plan enrollment date.

As established in statute, VRS makes eligibility decisions for eligible individuals whose disabling condition is likely to be permanent or whose death occurred in the line of duty because of a work-related accident or a presumptive illness. In addition to determining eligibility, VRS issues benefit payments on behalf of the LODA Fund participating employers, issues notification for benefit payments for employers who opted not to participate in the LODA Fund (LODA Fund non-participating employers), and handles the daily management of the program, including actuarial oversight of the LODA Fund. VRS partners with DHRM, the Virginia State Police and the VRS medical review board to administer the program. The VRS medical review board is an independent, third-party administrator comprised of physicians and other healthcare professionals who review medical records provided by the LODA claimant.

The LODA Health Benefits Plans administered by DHRM provide premium-free medical coverage for approved LODA applicants, eligible spouses, and eligible dependent children. Eligibility for applicants, spouses, and dependents is defined in § 9.1-400 of the *Code of Virginia*. DHRM uses income verification, remarriage, death of health plan participant, dependent eligibility based on age, return to full duty and Medicare eligibility due to age (approved applicants with a date of disability after July 1, 2017) to determine eligibility for the LODA Health Benefits Plans.

As required by the 2023 Appropriation Act, this report summarizes the LODA program claims data, eligibility decisions and program costs for fiscal year 2023 (FY 2023).

The specific requirement in Item 498(H) of the 2023 Appropriation Act is cited below:

The Virginia Retirement System and the Department of Human Resource Management shall report annually on or before January 1 to the Governor and the Virginia General Assembly the detailed aggregate of eligibility determinations for employees in accordance with § 9.1-400. This report shall tabulate claims data, types of injuries and associated costs with provided benefits. In accordance with § 9.1-408, the name of the employer or employee shall not appear in such publications and all documents to determine eligibility shall remain confidential.

Program Overview

State agencies with LODA-eligible employees participate automatically in the Line of Duty Death and Health Benefits Trust Fund (commonly referred to as the LODA Fund), which is administered by VRS. Political subdivisions were given the opportunity to opt out of the LODA Fund in 2012 for their eligible employees and volunteers. The election not to participate was irrevocable. Regardless of participation in the Fund, by statute, LODA benefits must be provided to eligible employees and volunteers.

LODA FUND PARTICIPATING EMPLOYERS

As of June 30, 2023, 104 employers participate in the LODA Fund.

Exhibit 1: Participating Employer LODA-Eligible Population June 30, 2023

Participant Types	Population
Full-time Employees	16,075
Part-time Employees	837
Volunteers	1,952
National Guard	7,613
TOTAL Population	26,477

Participating employers pay VRS a LODA contribution rate. VRS, in turn, issues benefit payments on behalf of participating employers from the LODA Fund.

The Fund pays:

- LODA Health Benefits Plans premiums to DHRM.
- Death benefit payments to survivors.
- Retroactive health insurance reimbursements to individuals, as applicable.
- Virginia State Police investigation fee.
- Funeral expenses to funeral homes, if requested by claimant.

Annually, participating employers provide VRS with a list of eligible employees and volunteers from the prior fiscal year, along with payment of the LODA contribution rate based on that population. The VRS Board of Trustees approves the LODA Fund contribution rate, which is a per capita rate (an amount the employer or organization pays per eligible participant).

Exhibit 2: Participating Employer Per Capita Contribution Rate

Participants	FY 2023 Rate
Full-time/Part-time Participants	\$681.84
Volunteers	\$170.46
National Guard Members	\$68.18

LODA FUND NON-PARTICIPATING EMPLOYERS

There is no requirement for non-participating employers to report covered personnel to VRS; however, a 2019 survey indicated there were 43,961 LODA-covered personnel with these employers.

Localities that opted out of the LODA Fund in 2012 must provide their own source of funding for LODA benefits. As of June 30, 2023, there are 230 non-participating employers. Because they do not contribute to the LODA Fund, non-participating employers are responsible for paying LODA benefits to qualifying employees and volunteers. Their program costs include:

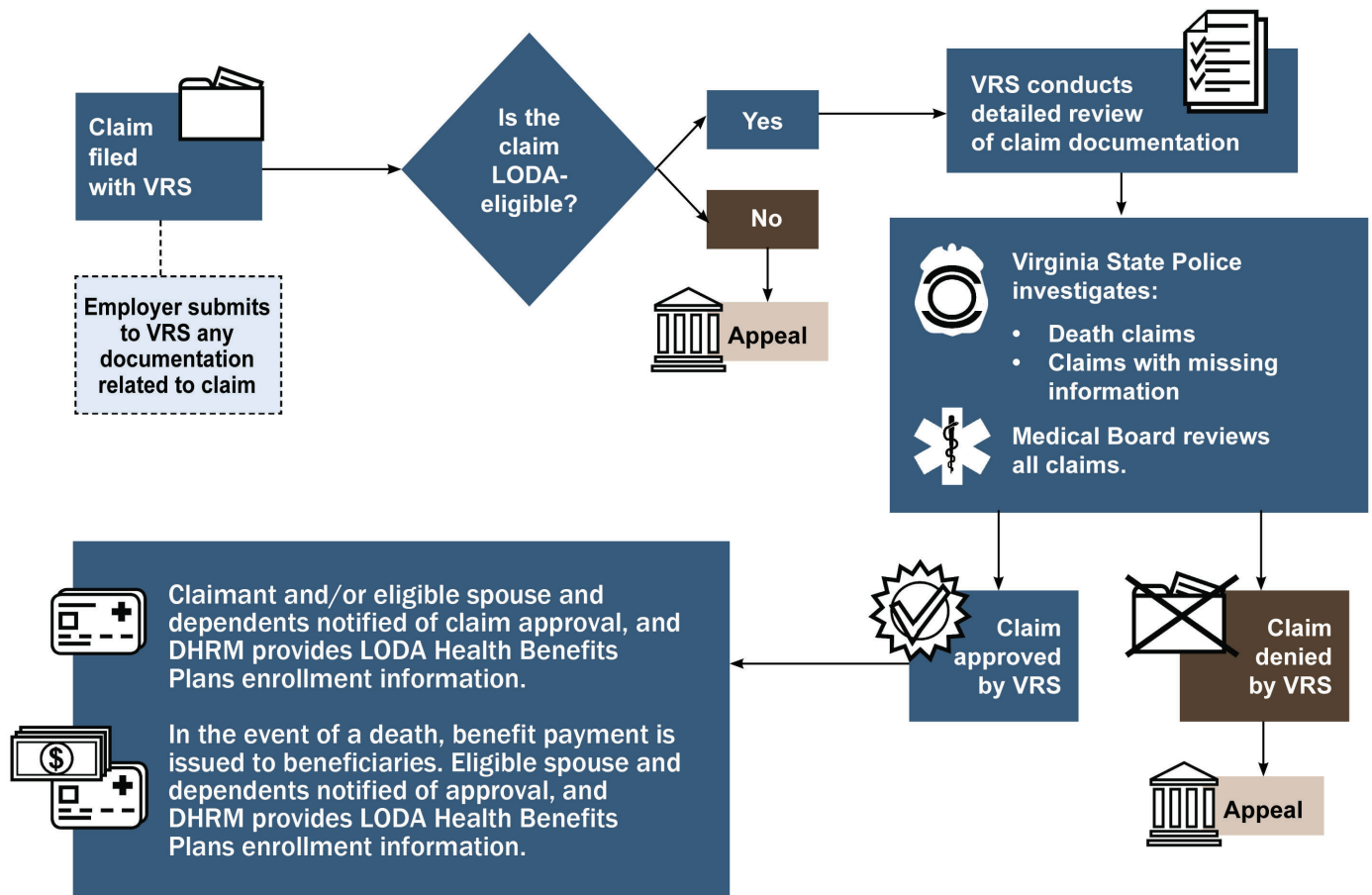
- LODA Health Benefits Plans premiums to DHRM.
- Death benefit payments to survivors.
- Retroactive health insurance reimbursements to individuals, as applicable.
- Virginia State Police investigation fee.
- Funeral expenses to funeral homes, if requested by claimant.
- VRS administrative fee of \$3,750 per claim. (If a claim is denied during the preliminary review period, the fee is \$250.)

Claims Process

Claims are received from applicants who work or volunteer in a LODA-covered position for either a participating or non-participating employer.

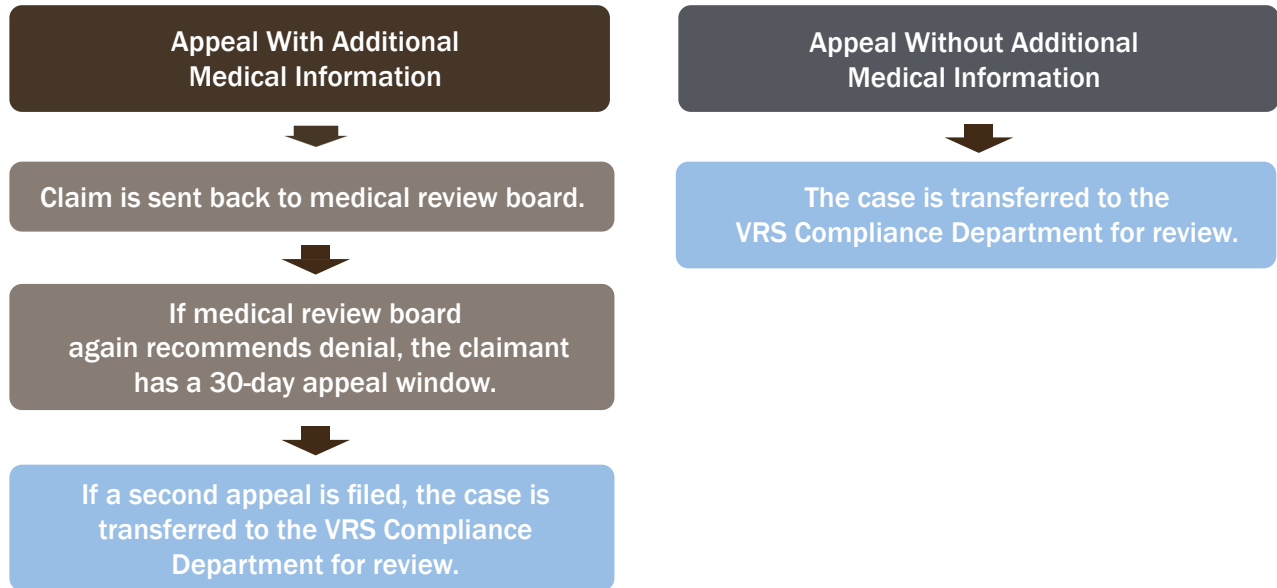
- VRS provides LODA eligibility decisions for all employers, regardless of LODA fund participation.
- VRS notifies each employer of claims received from employees and the subsequent claims decisions.

Exhibit 3: LODA Claims Flow Process



If a claim is denied, two appeal paths are available.

Exhibit 4: Two Paths to Appeal LODA Claims



WHEN A LODA DEATH CLAIM IS APPROVED

VRS notifies the eligible spouse and eligible children, as well as the employer, of LODA claim approval and includes information about the premium-free health insurance through the LODA Health Benefits Plans administered by DHRM. DHRM provides the enrollment application, determines if applicants are eligible for coverage and notifies the eligible spouse and children when approved for coverage.

The beneficiary/beneficiaries receive a one-time death benefit payment based on a valid will. If no will exists, the payment is made according to the order of precedence as stipulated by the *Code of Virginia* (§ 64.2-200).

One-time LODA death benefit payment amounts are as follows:

- \$100,000, if death occurs in the line of duty; or
- \$25,000 for a presumptive death (cancer, heart issues, etc., associated with the job).

The LODA Fund pays an additional \$20,000 benefit when certain members of the National Guard and U.S. military reserves are killed in action in any armed conflict.

WHEN A LODA DISABILITY CLAIM IS APPROVED

VRS notifies the claimant, eligible spouse, and eligible children, as well as the employer, of LODA claim approval and includes information about the premium-free health insurance available through the LODA Health Benefits Plans administered by DHRM. DHRM provides the enrollment application, determines if applicants are eligible for coverage and notifies the eligible spouse and children when approved for coverage.

Review of Fiscal Year 2023 Claims

CARRYOVER CLAIMS

The LODA program began FY 2023 with 64 carryover claims that were in various stages of review at the close of FY 2022.

Exhibit 5: Claims Pending as of June 30, 2022

Status of Claim	Number of Claims
Eligibility review* pending at fiscal year-end	44
Compliance review** pending at fiscal year-end	20
TOTAL Claims Pending	64

*Eligibility review includes investigation by the Virginia State Police, claims under review by the medical review board and claims awaiting documents to determine eligibility.

**The Compliance review process is the final internal appeal process that includes an informal fact-finding proceeding under the Administrative Processes Act § 2.2-4009.

NEW CLAIMS

In FY 2023, VRS received 40 new claims from participating employers and 61 new claims from non-participating employers, for a total of 101 new claims.

Exhibit 6: Percentage of Claims Received by Employer Type



Exhibit 7 displays new claims received in FY 2023 and FY 2022 classified by disability or death and whether such disability or death was due to a presumption or a result of a line of duty incident. Exhibit 8 follows with an illustration of FY 2023 claims by employer type.

Exhibit 7: Summary of Claim Types

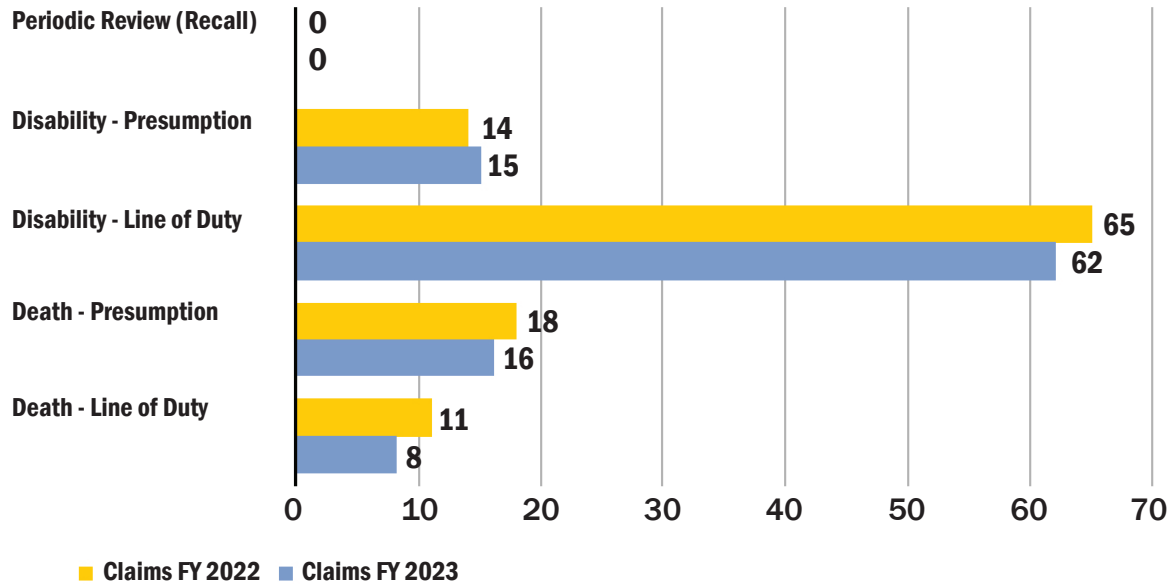


Exhibit 8: Claims Received by Employer Type

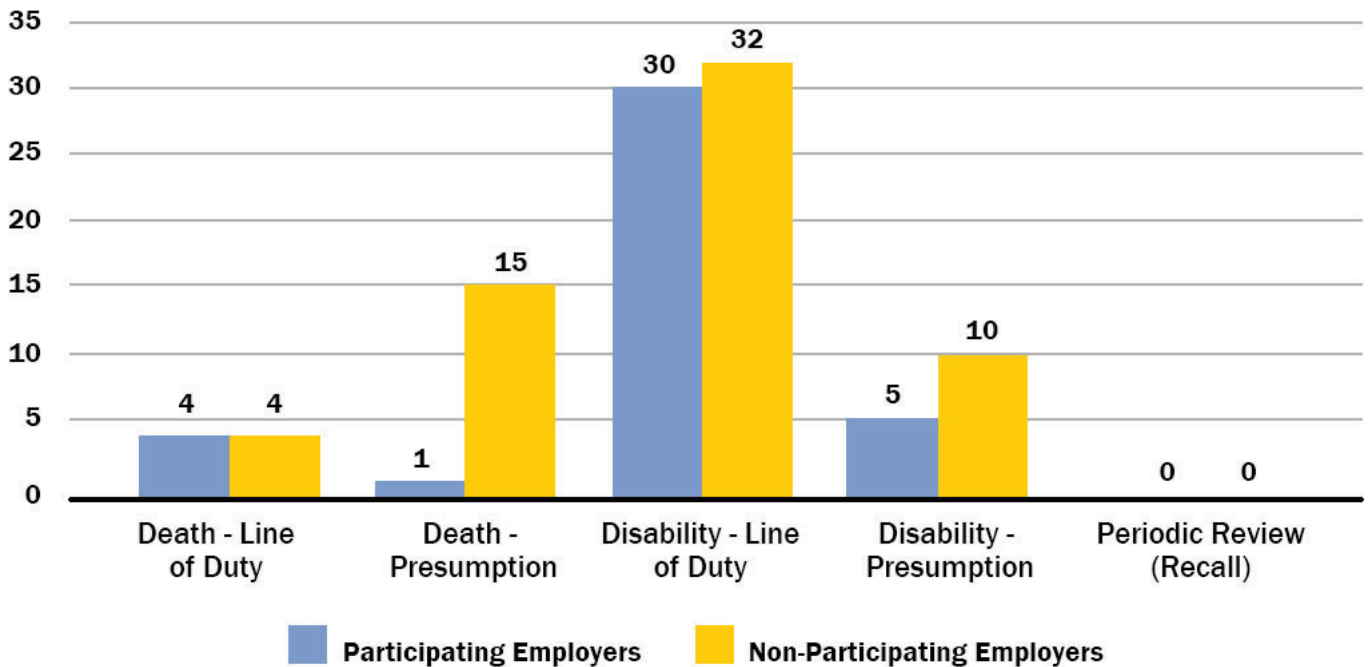


Exhibit 9 summarizes new claims received in FY 2023 by types of disabling conditions. The three highest occurring claim types were for orthopedic, post-traumatic stress disorder and cardiovascular.

Exhibit 9: Types of Disabling Conditions

Conditions	Number of Claims
Orthopedic	31
Post-Traumatic Stress Disorder	21
Cardiovascular	18
Cancer	15
Multiple Disabling Conditions	4
COVID-19 Virus	4
Neurological	4
Fatal Accidents	2
Felonious Assault	1
Self-Inflicted	1
TOTAL Claims	101

LODA CLAIM DECISIONS

In FY 2023, VRS made 128 claim eligibility decisions:

- 106 were for disabling conditions (Exhibit 10).
- 22 were deaths (Exhibit 11).

The 106 disability claims consist of 18 disability decisions due to presumption causes and 88 disability decisions due to line of duty that included one periodic review (recall) case.

Exhibit 10: Presumption Decisions and Line of Duty Decisions

Presumption Decisions	Number of Claims
Approvals	12
Denials	4
Compliance Review/Appeal	2
Total	18
Line of Duty Decisions	Number of Claims
Approvals*	66
Denials	20
Compliance Review/Appeal	2
Total	88
TOTAL Decisions All Disability Claims	106

*The approvals include one LODA disability periodic review (recall) case.

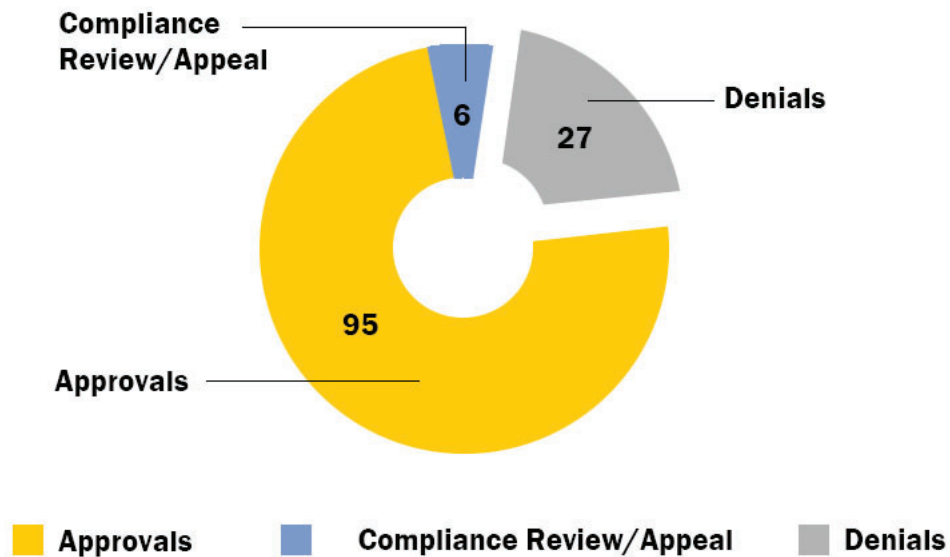
In FY 2023, there were 22 eligibility decisions due to death claims, as illustrated in Exhibit 11. Eleven claims were due to death presumption decisions, and 11 were attributed to line of duty death decisions.

Exhibit 11: Death Claim Decisions

Death Claims Decisions	Number of Claims
Presumption Decisions	
Approvals	8
Denials	3
Total	11
Line of Duty Decisions	
Approvals	9
Denials	2
Total	11
TOTAL Decisions	22

In FY 2023, VRS issued 128 total decisions regarding LODA claims. Exhibit 12 provides a breakdown of these decisions and whether they were approved, denied, or continue under review.

Exhibit 12: Total LODA Claims Decisions Issued



Exhibits 13 and 14 detail FY 2023 claim decisions by employer type and whether a disability or death claim.

Exhibit 13: Disability Decisions by Participating and Non-Participating Employer

Disability Decisions	Participating Employer	Non-Participating Employer
Presumption Decisions		
Approvals	8	4
Denials	0	4
Compliance Review/Appeal	1	1
Total	9	9
Line of Duty Decisions		
Approvals	32	34*
Denials	10	10
Compliance Review/Appeal	0	2
Total	42	46
TOTAL Decisions	51	55

*Includes one periodic review (recall) case.

Exhibit 14: Death Claim Decisions by Participating and Non-Participating Employer

Death Claim Decisions	Participating Employer	Non-Participating Employer
Presumption Decisions		
Approval	2	6
Denials	1	2
Total	3	8
Line of Duty Decisions		
Approvals	3	6
Denials	1	1
Total	4	7
TOTAL Decisions	7	15

At the end of FY 2023, 51 claims were carried over to FY 2024.

Exhibit 15: LODA Carryover Claims Pending Review in FY 2024

Claims Pending as of June 30, 2023	Number of Claims
Eligibility Review	41
Compliance Review/Appeal	10
TOTAL	51

Program Costs

The LODA Health Benefits Plans costs are the largest contributor to the overall LODA program costs.

LODA Health Benefits Plans, administered by DHRM, include premium-free coverage for:

- Eligible family members of employees or volunteers killed in the line of duty.
- Employees or volunteers determined to be disabled in the line of duty and their eligible family members.

DHRM bills the LODA Fund monthly for premium costs for the LODA health insurance plan that covers participating employers. DHRM also bills each non-participating employer monthly for health insurance premiums for their LODA-covered population.

LODA Health Benefits Plans participants who are eligible for coverage in the LODA Plan 3 – Medicare Primary are required to enroll in Medicare. Because enrollment is required, the eligible participant and spouse/dependents qualify for reimbursement of any Medicare premium that is being paid directly. This would include any Medicare Part B premium and, if applicable, any Part D income-related monthly adjustment amount (IRMAA). Participating and non-participating employers are responsible for reimbursement to the participant.

Additionally, in some cases, there may be a one-time reimbursement of unsubsidized health insurance premiums for LODA-approved individuals.

Exhibit 16 separates health benefits costs by LODA-participating employers and non-participating employers. Those costs include the LODA Health Benefits Plans costs, quarterly reimbursement of Medicare Part B premiums, and the one-time reimbursement of unsubsidized health insurance premiums for qualified individuals at the time of LODA approval.

Exhibit 16: Health Benefits Plans Costs

Health Benefits Plans Costs FY 2023	
Non-Participating Employer Costs	FY 2023
Premiums: Non-Participating Employers	\$15,096,895.00
Medicare Reimbursement Non-Participating Employers*	-
Health Insurance Premium Reimbursement Non-Participating Employers (unsubsidized premiums)	\$74,073.14
TOTAL*	\$15,170,968.14
Participating Employer Costs	
Premiums: Participating Employers	\$14,316,595.00
Medicare Part B Reimbursement for Participating Employers	\$1,000,391.00
Health Insurance Premium Reimbursement for Participating Employers (unsubsidized premiums)	\$190,757.40
TOTAL	\$15,507,743.40

*Non-participating employer cost to reimburse for Medicare Part B premiums is not reported; and, therefore, not reflected in total.

Medical plan costs for participating and non-participating employers are about \$30,678,711.54. However, this cost is understated because it does not include reimbursement by non-participating employers for Medicare Part B.

Non-participating employers receive a payment from the VRS-administered health insurance credit program to reimburse these employers for health insurance premium costs for eligible individuals. In FY 2023, VRS transferred \$138,687 to non-participating employers to reimburse some of the costs associated with health insurance premiums. VRS also transferred \$488,531 to the LODA Trust Fund from the health insurance credit program for participating employers.

In FY 2023, health benefits enrollment increased slightly.

Exhibit 17: Health Benefits Plans Enrollment Year Over Year

Fiscal Year Ending	Total Enrollment
Enrollment June 30, 2020	3,217
Enrollment June 30, 2021	3,343
Enrollment June 30, 2022	3,475
Enrollment June 30, 2023	3,628

Exhibit 18: Health Benefits Plans Claims-Related Charges

Claims Related Charges	
Medical	\$16,334,496.81
Drug	\$8,182,925.02
Vision	\$58,326.95
Other Provider Payments	\$88,980.87
TOTAL Claims Related Charges	\$24,664,729.65

Exhibit 19: Health Benefits Plans Premium Rates by Fiscal Year

Plan Type	Rates		
Plan year July 1 - June 30			
LODA Plan 1 - Former LODA Employment	FY 21 - 22	FY 22 - 23	
Single	\$1,049	\$1,119	
Dual	\$1,764	\$1,882	
Family	\$2,486	\$2,653	
LODA Plan 2 - Current LODA Employment	FY 21 - 22	FY 22 - 23	
Single	\$1,016	\$1,084	
Dual	\$1,733	\$1,850	
Family	\$2,458	\$2,623	
Plan year January 1 - December 31			
LODA Plan 3 - Medicare Primary	FY21	FY22	FY23
	\$293	\$296	\$302

LODA program costs for participating and non-participating employers include the cost to provide medical benefits, pay LODA death benefits and support state police investigations. A detailed review of the medical plan costs appears in Exhibit 16. VRS costs also include the overhead associated with maintaining and administering the program, as provided in the next exhibit.

Exhibit 20: Program Costs for FY 2023

Participating Employer – LODA Fund	
Health Benefits Plans Costs	\$15,507,744.00
Death Benefits Paid	\$208,333.00
Total	\$15,716,077.00
Less Offset Health Insurance Credit	(\$488,531.00)
Adjusted TOTAL for LODA Fund Benefits Programs	\$15,227,546.00
Program Administration – LODA Fund	
Actuarial Consultant Fee	\$37,185.00
LODA Services	\$71,933.71
LODA Claim Management & Activities	\$141,704.00
Overhead	\$450,703.29
TOTAL Administration Expenses	\$701,526.00
Less Non-Participating Employer Administrative Fees	(\$172,750.00)
Net Participating Administration Expenses	\$528,776.00
TOTAL Participating Employer Costs	\$15,756,322.00
Non-Participating Employer	
LODA Health Benefits Plan Costs*	\$15,096,895.00
Death Benefits Paid	\$725,000.00
Virginia State Police Investigations (VSP)	\$6,565.53
LODA Administrative Processing Fee	\$180,250.00
Total*	\$16,008,710.53
Less Offset Health Insurance Credit	(\$138,687.00)
Net Non-Participating Employer Costs	\$15,870,023.53
TOTAL FY 2023 Program Costs	\$31,626,345.53

**Non-participating employer cost to reimburse for Medicare Part B premiums is not reported; and, therefore, not reflected in total.*

Appendix

Claim – A LODA claim begins with the receipt of an Application for LODA benefits.

Claimant – An eligible employee or volunteer applying for LODA benefits (disability claims) or someone applying on behalf of an eligible employee or volunteer (death claims).

Contribution Rates – LODA Fund participating employers pay a per capita contribution rate to the LODA Fund to cover the cost of LODA benefits, meaning the amount the state agency or political subdivision contributes per paid employee (full-time and part-time) and volunteer.

Death Benefit – One-time payment made to the beneficiary or beneficiaries of the deceased person and paid based on the provisions set by the will of the deceased person. If there is no will, the benefit is paid according to the order of precedence defined in the *Code of Virginia* § 64.2-200. LODA benefits are not paid based on the beneficiaries named by VRS members for VRS survivor benefits.

Department of Human Resource Management – The Department of Human Resource Management (DHRM) is a state agency that administers the LODA Health Benefits Plans.

Health Insurance Credit – Established by the General Assembly on January 1, 1990, this program provides a credit to assist with the cost of health insurance premiums for eligible retirees. On July 1, 2017, *Code of Virginia* § 9.1-400 was amended making changes to the HIC transfer program to include covered spouses and providing a transfer of funds to Non-participating employers. For LODA participants, health insurance premiums are paid directly by the LODA Fund or by the Non-participating employer. The applicable HIC reimbursements are transferred annually from the Retiree HIC Trust Fund to reimburse the LODA Fund or the Non-participating employer.

Line of Duty Act Fund (LODA Fund) – The Line of Duty Death and Health Benefits Trust Fund (commonly referred to as the LODA Fund) provides a funding mechanism for LODA benefit payments. State agencies participate in the LODA Fund. Political subdivisions participate automatically unless they opted out before or on July 1, 2012, and directly fund the cost of benefits.

LODA – Line of Duty Act, *Code of Virginia* § 9.1-400, et seq. The Virginia Line of Duty Act (LODA) provides benefits to eligible family members of employees and volunteers killed in the line of duty. In addition, there are benefits for those employees and volunteers who are disabled in the line of duty and their eligible family members.

LODA Covered Positions – As defined in the *Code of Virginia* § 9.1-400,

- Law-enforcement officer of the Commonwealth or any of its political subdivisions.
- Correctional officer as defined in § 53.1-1.
- Jail officer.
- Regional jail or jail farm superintendent.

- Sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond.
- Police chaplain.
- Member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of the county, city, or town.
- Member of any fire company providing fire protection services for facilities of the Virginia National Guard.
- Member of the Virginia National Guard or the Virginia Defense Force while the member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code.
- Special agent of the Virginia Alcoholic Beverage Control Authority.
- Special agent of the Virginia Cannabis Control Authority.
- Regular or special conservation police officer who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of *Code of Virginia* § 9.1-400.
- Commissioned forest warden appointed under the provisions of § 10.1-1135.
- Member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900.
- Department of Emergency Management hazardous materials officer.
- Employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28.
- Employee of any county, city or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body.
- Nonfirefighter regional hazardous materials emergency response team member.
- Conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.
- Full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

LODA Fund Participating Employer – All state agencies and any political subdivision employer in the Commonwealth that did not make an election to become a LODA Fund non-participating employer.

LODA Non-participating Employer – Any political subdivision employer in the Commonwealth that adopted a resolution to opt out of participating in the LODA Fund prior to or on July 1, 2012, and directly funds the cost of benefits.

LODA Health Benefit Plans – Premium-free health plan coverage for eligible disabled persons, eligible spouses, and eligible dependents, administered by the Department of Human Resource Management.

Presumption – Certain conditions that are presumed to have been suffered in the line of duty, regardless of whether they developed directly on the job. The presumption conditions are position specific (e.g., lung cancer for firefighters or heart disease for law enforcement) and depend on the facts and circumstances of each particular case.

PROGRAM WEBSITES

[Virginia Line of Duty Act](#)

[DHRM Line of Duty Act Health Benefits Plans](#)