SENATE, No. 3660

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED FEBRUARY 27, 2023

Sponsored by:
Senator VIN GOPAL
District 11 (Monmouth)
Senator LINDA R. GREENSTEIN
District 14 (Mercer and Middlesex)

SYNOPSIS
Establishes First Responders COVID-19 Supplemental Benefits Program; appropriates $20 million.

CURRENT VERSION OF TEXT
As introduced.
AN ACT concerning workers’ compensation for first responders, supplementing chapter 15 of Title 34 of the Revised Statutes, and making an appropriation.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. a. The First Responders COVID-19 Supplemental Benefits Program is established in the Division of Workers’ Compensation in the Department of Labor and Workforce Development to provide supplemental benefits to each eligible first responder. The supplemental benefits shall be provided from the Second Injury Fund for the time in which an eligible first responder qualifies for regular compensation awarded pursuant to R.S.34:15-12 equal to 70 percent of the weekly wages received at the time of injury subject to minimum and maximum compensation stated in subsection a. of R.S.34:15-12, but shall not commence until all benefits or compensation which is equal to the responder’s full salary as required or permitted by law or a collective bargaining agreement have ended. The period in which the supplemental benefits are provided shall continue as long as the responder is unable to work because of illness or injury of the worker arising from contracting COVID-19 but shall not exceed a total of 180 weeks. The amount of the supplemental benefits provided pursuant to this section shall be such that the sum of the weekly regular compensation plus the weekly supplemental benefit is equal to 100 percent of the weekly wages received a the time of the injury, except that that sum shall not exceed $1,800. If the eligible first responder is a volunteer who, pursuant to R.S.34:15-75, is conclusively presumed to receive a salary sufficient to be entitled to the maximum compensation authorized by R.S.34:15-1 et seq., the weekly supplemental benefits shall be such that, the sum of the weekly regular compensation and the weekly supplemental benefit shall be equal to 100 percent of the weekly wages the responder received from paid employment at the time of the injury, or the maximum compensation authorized by R.S.23:15-1 et seq., whichever is more, except that that sum shall not exceed $1,800. The supplemental benefits shall be provided only during the time the responder is unable to work in any employment.

b. Supplemental benefits shall not be provided pursuant to this section unless a claim is filed within two years following the end of the public health emergency which was declared by the Governor in Executive Order 106 of 2020 and extended by subsequent executive orders. If a claim for supplemental benefits filed within that two-year period is approved, the benefits shall be rewarded retroactively to the beginning of the supplemental benefit period indicated in subsection a. of this section.
c. This section is intended to provide supplemental benefits to eligible first responders under the circumstances specified in this section, and shall not be construed as reducing, limiting or curtailing any rights of any worker or employee to any benefits provided by R.S.34:15-1 et seq.

2. a. The commissioner shall, not later than October 31 of 2023 and each subsequent year until the commissioner determines that all eligible first responders have received all supplemental benefits to which they are entitled pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), issue to the Legislature and the advisory council established pursuant to pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill), and make public, a report containing:

(1) available information regarding the number of claim petitions with respect to which a determination was rendered by the Division of Workers' Compensation that the claimant is an eligible first responder entitled to a supplemental benefit pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), the total amount of supplemental benefits awarded pursuant to that section, the total anticipated costs, and the accrued costs for the period of the report, of those supplemental benefits;

(2) an estimate of what portion of the funds appropriated pursuant to section 5 of P.L. , c. (C. ) (pending before the Legislature as this bill) will be necessary to pay all benefits awarded pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), and a request to the Governor and the Legislature for any additional appropriation which may be required to make the payments.

b. Supplemental benefits paid pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill) shall not be considered when:

(1) making a determination of the aggregate annual surcharge to be levied upon policyholders and self-insured employers pursuant to R.S. 34:15-94; or.

(2) calculating an employer's Experience Modification Factor, pursuant to the New Jersey Workers' Compensation and Employers Liability and Insurance Manual administered by the Compensation Rating and Inspection Bureau established by section 2 of P.L.1995, c.393 (C.34:15-89.1) and section 1 of P.L.2008, c.97 (C. 34:15-90.1).

3. a. There is established in the Division of Workers' Compensation in the Department of Labor and Workforce Development the First Responders COVID-19 Supplemental Benefits Program Advisory Council.

b. The advisory council shall consist of 12 members as follows:
(1) the Commissioner of Labor and Workforce Development or a designee, who shall serve ex officio;
(2) the Commissioner of Human Services or a designee, who shall serve ex officio;
(3) the Commissioner of Health or a designee, who shall serve ex officio;
(4) one representative of each of the following organizations selected by that organization: the New Jersey State Police Benevolent Association, Inc.; the Fraternal Order of Police; the Professional Fire Fighters Association of New Jersey; the New Jersey State Firefighters Mutual Benevolent Association; the EMS Council of New Jersey; and the New Jersey State Firemen’s Association; and
(5) three public members appointed by the Governor, each of whom shall have experience serving as a first responder.

c. Public members of the advisory council shall serve until the end of a term of three years and be eligible for reappointment, or until the advisory council is dissolved pursuant to subsection f. of this section, whichever occurs first. Vacancies in the membership shall be filled in the same manner in which the original appointments were made. The members of the advisory council shall serve without compensation, but may, within the limits of funds appropriated or otherwise made available to the council, be reimbursed for actual expenses necessarily incurred by the members in the discharge of their official duties.

d. The advisory council shall be entitled to receive assistance and services from any State, county, or municipal department, board, commission, or agency as may be available to it for its purposes. The division shall provide staff and administrative support to the advisory council.

e. The advisory council shall organize within 30 days after the appointment of its members. The members shall select one person from among them to serve as the chairperson. The members also shall select a secretary who need not be a member of the advisory council.

f. The advisory council shall advise the division on best practices and provide recommendations concerning the administration of the First Responders COVID-19 Supplemental Benefits Program. The advisory council shall issue annual reports to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), summarizing its activities and providing recommendations for administration of the program. The first annual report shall be issued not later than March 31, 2024, and an annual reports shall be issued not later than March 31 of each subsequent year until the commissioner determines that all eligible first responders have received all supplemental benefits to which they are entitled pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill). The advisory council
shall dissolve on the 30th day after the issuance of its final annual report.

4. For the purposes of P.L. , c. (C. ) (now pending before the Legislature as this bill):
   “Commissioner” means the “Commissioner of Labor and Workforce Development” or designee of the commissioner.
   “Eligible first responder” means a first responder who is eligible for workers’ compensation because the responder has contracted COVID-19 and it has been determined pursuant to section 2 of P.L.2020, c.84 (C.34:15-31.2) or section 6 of P.L.2019, c.156 (C.34:15-31.7) that the contraction is work-related and fully compensable under the provisions of R.S.34:15-1 et seq.
   “First responder” means a law enforcement officer, paid or volunteer firefighter, paid or volunteer member of a duly incorporated first aid, emergency, ambulance, or rescue squad association, or any individual who, in the course of employment, is dispatched to the scene of a motor vehicle accident or other emergency situation for the purpose of providing medical care or other assistance.

5. There is appropriated from the General Fund to the Second Injury Fund $20,000,000 for the First Responders COVID-19 Supplemental Benefits Program in the Division of Workers’ Compensation in Department of Labor. The commissioner shall use the funds received pursuant to this section exclusively for the provision and administration of supplemental benefits to eligible first responders as set forth in section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), and any expenses of the advisory council established pursuant to section 3 of P.L. , c. (C. ) (pending before the Legislature as this bill) and its members deemed necessary by the commissioner. Upon a determination by the commissioner that all eligible first responders have received all supplemental benefits to which they are entitled pursuant to section 1 of P.L. , c. (C. ) (pending before the Legislature as this bill), any of the funds appropriated from the General Fund to the Second Injury Fund for the First Responders COVID-19 Supplemental Benefits Program which remain shall be returned to the General Fund.

6. This act shall take effect immediately.

STATEMENT

This bill establishes the First Responders COVID-19 Supplemental Benefits Program in the Division of Workers’ Compensation. The bill provides supplemental benefits to first
responders determined to be eligible for workers’ compensation because they have contracted COVID-19 in the course of employment. The supplemental benefits are provided for the time in which an eligible first responder qualifies for regular workers’ compensation equal to 70 percent of the weekly wages received at the time of injury subject to the stated minimum and maximum compensation levels. The supplemental benefits do not commence until all benefits which are equal to the responder’s full salary have ended. The supplemental benefits are provided as long as the responder is unable to work due to COVID-19 but not more than 180 weeks. The amount of the supplemental benefit is such that the sum of the weekly regular workers’ compensation plus the weekly supplemental benefit equals 100 percent of the responder’s weekly wage, except that that sum shall not exceed $1,800. If the responder is a volunteer paid the maximum weekly workers’ compensation rate, the supplemental benefits shall also be such that the sum of the weekly regular compensation plus the weekly supplemental benefit equals 100 percent of the responder’s weekly wage up to the maximum of $1,800, except that for the volunteers the maximum workers’ compensation rate shall continue to apply, even if it exceeds 100 percent of the weekly wage.

The bill directs the Commissioner of Labor and Workforce Development to issue annual reports of available information regarding the number of claims by first responders entitled to the supplemental benefits, the total amount of benefits awarded, the total anticipated and the accrued costs of the benefits, and an estimate of what portion of the funds appropriated for the program will be needed to pay all of the benefits, and a request to the Governor and the Legislature for any additional appropriation which may be required to make the payments. The supplemental benefits are not to be considered in determining the annual surcharge levied on policyholders and self-insured employers for the Second Injury Fund or the experience ratings of individual employers.

The bill establishes the First Responders COVID-19 Supplemental Benefits Program Advisory Council in the Division of Workers’ Compensation to advise the division and provide recommendations concerning the administration of the program. The council is comprised of the following 12 members: the Commissioners of Labor and Workforce Development, Human Services, and Health; one representative each selected by the New Jersey State Police Benevolent Association, Inc., the Fraternal Order of Police, the Professional Fire Fighters Association of New Jersey, the New Jersey State Firefighters Mutual Benevolent Association, the EMS Council of New Jersey, and the New Jersey State Firemen’s Association; and three public members appointed by the Governor with experience as first responders.
The advisory council will be dissolved, and the annual reports by both the council and the commissioner will cease, upon a determination that all eligible first responders have received all supplemental benefits to which they are entitled.

The bill appropriates from the General Fund to the Second Injury Fund $20,000,000 for the First Responders COVID-19 Supplemental Benefits Program, to be used for the provision of the supplemental benefits and any necessary expenses of the advisory council.

The purpose of this legislation is to assist first responders, whose public service has rendered them particularly vulnerable to COVID-19, by alleviating long-term economic hardships due to COVID-19. The support provided by the bill is especially important in cases where first responders become unable to work for long periods of time because of post-acute sequelae of COVID-19 (PASC), persistent, long-term symptoms following recovery from acute COVID-19, colloquially known as “long COVID.”