

FIRST RESPONDER PRESUMED COVERAGE FUND

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House Bill 4172 (H-1) as reported from committee

Sponsor: Rep. Jeff Yarocho

Committee: Insurance

Complete to 3-17-21

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4172 would amend the Worker's Disability Compensation Act to do all of the following:

- Beginning January 1, 2022, allow eligible part-time, paid on-call, and volunteer firefighters and former full-time, part-time, paid on-call, and volunteer firefighters to seek benefits from the First Responder Presumed Coverage Fund created under the act.
- Add breast cancer, ovarian cancer, and cervical cancer to the cancers presumed to arise in the course of employment as a firefighter with respect to a claim against the fund.
- Rename the fund the Christopher R. Slezak First Responder Presumed Coverage Fund.

Currently, for any respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, or lymphatic cancer, a member in active service of a fully paid fire department or public fire authority who meets the following criteria must suspend a worker's compensation claim he or she has under the act and instead can claim benefits from the First Responder Presumed Coverage Fund:

- He or she has been employed at least 60 months in that active service when the cancer manifests itself.
- He or she is exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in performing his or her work-related duties.

The cancer is presumed to arise out of and in the course of employment only with respect to a claim against the fund and only in the absence of a non-work-related cause. Mere evidence that the condition was preexisting, or an abstract medical opinion that the employment did not cause it, is not enough to overcome this presumption. The presumption can be rebutted by scientific evidence that the individual was a substantial and consistent user of cigarettes or other tobacco products in the 10 years before the date of injury and that this use was a significant factor in causing, aggravating, or promoting the cancer.

Under the bill, breast cancer, ovarian cancer, and non-HPV cervical cancer would be included in the above list of cancers for which an eligible person may claim benefits from the fund.

The bill also would remove the references to fire department or authority members being fully paid and in active service and would add, beginning January 1, 2022, coverage for part-time, paid on-call, and volunteer members of a fire department or public fire authority and for former members who were full-time, part-time, paid on-call, or volunteer members of such a department or authority.

Specifically, beginning January 1, 2022, for a cancer diagnosed on or after that date, the above provisions would also apply to a part-time, paid on-call, or volunteer member of a fire

department of public fire authority who has or had 60 months or more in active service in the department or authority at the time the cancer manifests itself and who is or was exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties.

In addition, beginning January 1, 2022, for a cancer diagnosed on or after that date, the above provisions would apply to a retiree who was a full-time, part-time, paid on-call, or volunteer member of a fire department or public fire authority who has or had 60 months or more in active service in the department or authority at the time the cancer manifests itself and who is or was exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties.

For purposes of a claim against the fund, a fire department or public fire authority would be considered the employer of a volunteer member.

Finally, the bill would rename the fund as the Christopher R. Slezak First Responder Presumed Coverage Fund. Christopher R. Slezak was a firefighter with the Sterling Heights Fire Department from 1998 until his medical retirement in 2019. In May 2009, at age 36, he was diagnosed with leukemia. He was not eligible for worker's compensation because he could not prove that his cancer was caused by exposure during his years fighting fires. Christopher R. Slezak testified in support of the legislation that resulted in the creation of the First Responder Presumed Coverage Fund. He died November 25, 2020. He was 48 years old.

The bill would take effect 180 days after its enactment.

MCL 418.405

FISCAL IMPACT:

House Bill 4172 would likely increase costs for the Department of Labor and Economic Opportunity (LEO) by an indeterminate amount by increasing the population that is eligible to file claims against and receive benefits from the First Responder Presumed Coverage Fund (FRPCF).

The bill would expand the population eligible to file claims to include part-time, paid on-call, and volunteer firefighters, as well as former members (retirees and individuals separated for other reasons) of those categories. The bill would also expand coverage to include breast, ovarian, and non-HPV cervical cancer. As of December 2020, the current eligible population of firefighters (full-time) is approximately 7,600. This population would expand to include approximately 29,150 total active firefighters (over a 280% expansion), which does not include the population expansion resulting from the inclusion of former members. The impact of including the additional types of cancer as qualifying conditions is presently indeterminate, but would likely increase the state's liability under the program. In addition to increases in benefit obligations, there would also likely be increased administrative costs if the number of active claims increases. As of Fiscal Year (FY) 2019-20, the state utilized a contracted vendor to administer claims and increased claim volumes would likely result in higher vendor costs.

For reference, in Calendar Year (CY) 2020, there were a total of eight claims applications received; three were approved and four were pending at year end. Spending on claims in CY 2020 totaled \$379,039, while total program expenditures were \$643,433.

The FRPCF is currently funded with revenues that the state receives from internet gaming. Specifically, the FRPCF receives (on appropriation) \$2.0 million annually from the Internet Sports Betting Fund and \$2.0 million annually from the Internet Gaming Fund, after other statutory allocations are made from each of those funds.

POSITIONS:

Representatives of the following entities testified in support of the bill (2-18-21):

- Michigan Association of Fire Chiefs
- Michigan State Firemen's Association
- Michigan Professional Fire Fighters Union
- Brighton Fire Department
- Saginaw Fire Department

The following entities indicated support for the bill:

- Michigan Fire Inspector's Society (2-18-21)
- Michigan Fire Service Instructors Association (2-18-21)
- Michigan Association for Justice (2-18-21)
- AFSCME Council 25 (3-4-21)

The Department of Labor and Economic Opportunity indicated a neutral position on the bill. (3-4-21)

The Michigan Manufacturers Association indicated opposition to the bill. (3-4-21)

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.