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House Bill 4172 (Substitute H-1 as passed by the House)  
Sponsor: Representative Jeff Yaroch  
House Committee: Insurance  
Senate Committee: Insurance and Banking

Date Completed: 10-19-21

## **CONTENT**

**The bill would amend Chapter 4 (Occupational Diseases and Disablements) of the Worker's Disability Compensation Act to require, beginning January 1, 2022, a part-time, paid on-call, or volunteer, or former part-time, paid on-call, or volunteer, member of a fire department or public fire authority to suspend a workers' compensation claim and instead claim like benefits from the First Responder Presumed Coverage Fund for respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer.**

### Personal Injury: Respiratory & Heart Diseases

The Act establishes benefits for personal injury sustained by an employee in the course of his or her employment, or for death resulting from such personal injury. The definition of "personal injury" in Chapter 4 refers to a disease or disability that is due to causes and conditions that are characteristic of and peculiar to the business of the employer and that arises out of and in the course of the employment.

The term includes respiratory and heart diseases, or illnesses resulting therefrom, that develop or manifest themselves while the person is in active service and result from the performance of his or her duties, for a member of a fully paid fire department of an airport operated by a county, public airport authority, or State university or college; a member of a fully paid fire or police department of a city, township, or incorporated village employed and compensated on a full-time basis; a member of a fully paid public fire authority employed and compensated on a full-time basis; a county sheriff and the deputies of the county sheriff; a member of the Michigan State Police; a conservation officer; or an officer of the Motor Carrier Enforcement Division of the Department of State Police.

### Claim of Benefits; Presumption & Rebuttal

Chapter 4 requires a member of a fully paid fire department or public fire authority who is in active service, has 60 months or more in active service when the cancer manifests itself, and is exposed to the hazards incidental to fire suppression, rescue, or emergency medical services in the performance of his or her work-related duties with the department or authority to suspend a claim he or she may have against his or her employer under the Act and allows them to claim like benefits from the First Responder Presumed Coverage Fund for any respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, or lymphatic cancer.

The types of cancers listed above are presumed to arise out of and in the course of employment only with respect to a claim against the Fund and in the absence of nonwork-related causation or specific incidents that establish a cause independent of the employment. Mere evidence that the condition was preexisting, or an abstract medical opinion that the employment was not the cause of the disease or condition, is sufficient to overcome the presumption for purposes of a claim against the Fund.

The presumption may be rebutted by scientific evidence that individual was a substantial and consistent user of cigarettes or other tobacco products within the 10 years immediately preceding the date of injury, and that this use was a significant factor in the cause, aggravation, or progression of the cancer.

Instead, under the bill, a full-time member, and, beginning January 1, 2022, for a cancer listed below diagnosed on or after January 1, 2022, a part-time, paid on-call, or volunteer member, of a fire department or public fire authority, and, beginning January 1, 2022, for a cancer described below diagnosed on or after January 1, 2022, a former member 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 active service in the department or public fire 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 with the department or authority must suspend a claim he or she may have against his or her employer made under the Act and may claim like benefits from the First Responder Presumed Coverage Fund for any respiratory tract, bladder, skin, brain, kidney, blood, thyroid, testicular, prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer.

The bill would retain the provisions described above pertaining to the rebuttable presumption. Additionally, under the bill, for purposes of a claim against the Fund, a fire department or public fire authority would be considered the employer of a volunteer member.

Chapter 4 specifies that if an employee is eligible for any pension benefits, that eligibility does not prohibit the employee or dependents of that employee from receiving benefits under Section 315 for the medical expenses or portion of medical expenses that are not provided for by the pension program. (Section 315 requires an employer to provide to an employee who receives a personal injury arising out of and in the course of employment, reasonable medical, surgical, and hospital services and medicines, or other attendance or treatment recognized by the laws of this state as legal, when they are needed, subject to exceptions.) Under the bill, this provision also would apply to a former member.

The bill would take effect 180 days after its enactment.

MCL 418.405

Legislative Analyst: Stephen Jackson

### **FISCAL IMPACT**

The bill likely would result in increased costs from the First Responder Presumed Coverage Fund to support additional claims and administrative costs in the Department of Labor and Economic Opportunity. The bill would allow part-time, paid-on-call, or volunteer member of a fire department or authority who had more than 60 months of active service to be eligible for compensation and include both current and former members. The bill would increase the population that is eligible to file claims from the First Responder Presumed Coverage Fund from 7,600 to around 30,000 current employees; it is unknown how many former employees also would be eligible.

The Workers' Disability Compensation Agency oversees administration of the Fund with support from vendors. In calendar year 2020, the Fund supported 21 claims and spent \$379,039 to support those claims. The Department anticipates calendar year 2021 costs to total \$407,000 for claims. The Department also anticipates additional payments to vendors to support administration of the claims equal to 1.5 FTEs.

Beginning in 2020, the First Responder Presumed Coverage Fund receives annual deposits of \$2.0 million each from the Internet Sports Betting Fund and Internet Gaming Fund, after the deposits are made to the Compulsive Gaming Prevention Fund. The \$4.0 million deposits into the First Responder Presumed Coverage Fund each year. The total costs to cover the administration and claims for the expanded population is unknown, but the bill could increase these costs to greater than the annual \$4.0 million deposits into the Fund.

Fiscal Analyst: Cory Savino

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.