

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1723 Session of
2023

INTRODUCED BY RABB, WAXMAN, BULLOCK, PARKER AND SANCHEZ,
SEPTEMBER 27, 2023

REFERRED TO COMMITTEE ON LABOR AND INDUSTRY, SEPTEMBER 27, 2023

AN ACT

1 Amending the act of June 28, 1935 (P.L.477, No.193), entitled
2 "An act providing for the payment of the salary, medical and
3 hospital expenses of certain employes of State and local
4 government who are injured or contract certain diseases in
5 the performance of their duty; and providing that absence
6 during such injury shall not reduce any usual sick leave
7 period," further providing for the payment of the salary and
8 medical and hospital expenses of certain employees of State
9 and local government who are injured or contract certain
10 diseases in the performance of their duty; repealing
11 provisions relating to the term "fireman"; and providing for
12 affirmation and for definitions.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 1(a) of the act of June 28, 1935
16 (P.L.477, No.193), referred to as the Enforcement Officer
17 Disability Benefits Law, is amended and the section is amended
18 by adding subsections to read:

19 Section 1. (a) Be it enacted, &c., That:

20 (1) any member of the State Police Force;

21 (2) any enforcement officer or investigator employed by the
22 Pennsylvania Liquor Control Board;

23 (3) the parole agents, enforcement officers and

1 investigators of the Pennsylvania Board of Probation and Parole;
2 (4) Capitol Police officers;
3 (5) correction employes employed by the Department of
4 Corrections, whose principal duty is the care, custody and
5 control of inmates;
6 (6) psychiatric security aides employed by the Department of
7 Human Services and the Department of Corrections, whose
8 principal duty is the care, custody, and control of the
9 criminally insane;
10 (7) drug enforcement agents of the Office of Attorney
11 General whose principal duty is the enforcement of the drug laws
12 of the Commonwealth;
13 (8) special agents of the Office of Attorney General whose
14 principal duty is the enforcement of the criminal laws of the
15 Commonwealth;
16 (9) any member of the Delaware River Port Authority Police;
17 (10) any policeman, fireman or park guard of any county,
18 city, borough, town or township;
19 (10.1) firemen employed by the Commonwealth;
20 (11) any sheriff or deputy sheriff; or
21 (12) any enforcement officer or investigator of the
22 Pennsylvania Game Commission or the Pennsylvania Fish and Boat
23 Commission;
24 who is injured in the performance of his duties including, in
25 the case of firemen, duty as special fire police, and by reason
26 thereof is temporarily incapacitated from performing his duties,
27 shall be paid by the Commonwealth of Pennsylvania if an employe
28 identified under paragraph (1), (2), (3), (4), (5), (6), (7),
29 (8) or (12) or by the Delaware River Port Authority if a member
30 of the Delaware River Port Authority Police or by the county,

1 township or municipality, by which he is employed, his full rate
2 of salary, as fixed by ordinance or resolution, until the
3 disability arising therefrom has ceased. All medical and
4 hospital bills, incurred in connection with any such injury,
5 shall be paid by the Commonwealth of Pennsylvania or by the
6 Delaware River Port Authority or by such county, city, township
7 or municipality[.] unless the employe obtains medical care from
8 a physician or health care provider outside of the method
9 permitted under subsection (f). During the time salary for
10 temporary incapacity shall be paid by the Commonwealth of
11 Pennsylvania or by the Delaware River Port Authority or by the
12 county, city, borough, town or township, any workmen's
13 compensation, received or collected by any such employe for such
14 period, shall be turned over to the Commonwealth of Pennsylvania
15 or to the Delaware River Port Authority or to such county, city,
16 borough, town or township, and paid into the treasury thereof,
17 and if such payment shall not be so made by the employe the
18 amount so due the Commonwealth of Pennsylvania, the Delaware
19 River Port Authority or the county, city, borough, town or
20 township shall be deducted from any salary then or thereafter
21 becoming due and owing.

22 * * *

23 (e) Employes receiving benefits under this act shall be
24 prohibited from engaging in secondary employment outside of
25 their employment with the employer while receiving benefits
26 designated under this act. If an employe violates this section,
27 they may be subject to termination or the employer may cease
28 benefits.

29 (f) (1) Employers shall provide payment for reasonable
30 surgical and medical services, services rendered by physicians

1 or other health care providers, including an additional opinion
2 when invasive surgery may be necessary, medicines and supplies,
3 as and when needed. Provided, that an employer establishes a
4 list of at least six designated health care providers that
5 contain specialties that are appropriate for an anticipated
6 work-related medical problem or injury and are geographically
7 accessible with no more than four of whom may be a coordinated
8 care organization and no fewer than three of whom shall be
9 physicians, the employe shall be required to visit one of the
10 physicians or other health care providers so designated and
11 shall continue to visit the same or another designated physician
12 or health care provider for a period of ninety days from the
13 date of the first visit. The compiled list shall contain each
14 provider's name, address, telephone number and any specialties.

15 (2) The employer shall not include on the list a physician
16 or other health care provider who is employed, owned or
17 controlled by the employer unless employment, ownership or
18 control is disclosed on the list. Should invasive surgery for an
19 employe be prescribed by a physician or other health care
20 provider so designated by the employer, the employe shall be
21 permitted to receive an additional opinion from any health care
22 provider of the employe's own choice. If the additional opinion
23 differs from the opinion provided by the physician or health
24 care provider so designated by the employer, the employe shall
25 determine which course of treatment to follow: Provided, that
26 the second opinion provides a specific and detailed course of
27 treatment. If the employe chooses to follow the procedures
28 designated in the second opinion, such procedures shall be
29 performed by one of the physicians or other health care
30 providers so designated by the employer for a period of ninety

1 days from the date of the visit to the physician or other health
2 care provider of the employe's own choice. Should the employe
3 not comply with the foregoing, the employer will be relieved
4 from liability for the payment for the services rendered during
5 such applicable period.

6 (3) It shall be the duty of the employer to provide a
7 clearly written notification of the employe's rights and duties
8 under this section to the employe. The employer shall further
9 ensure that the employe has been informed and that the employe
10 understands these rights and duties. This duty shall be
11 evidenced only by the employe's written acknowledgment of having
12 been informed and having understood the employe's rights and
13 duties. Any failure of the employer to provide and evidence such
14 notification shall relieve the employe from any notification
15 duty owed, notwithstanding any provision of this act to the
16 contrary, and the employer shall remain liable for all rendered
17 treatment.

18 (4) Subsequent treatment may be provided by any health care
19 provider of the employe's own choice. Any employe who, next
20 following termination of the applicable period, is provided
21 treatment from a nondesignated health care provider shall notify
22 the employer within five days of the first visit to said health
23 care provider. Failure to so notify the employer will relieve
24 the employer from liability for the payment for the services
25 rendered prior to appropriate notice if such services are
26 determined unreasonable or unnecessary.

27 (5) Any provider who treats an injured employe shall be
28 required to file periodic reports with the employer on a form
29 prescribed by the employer which shall include, where pertinent,
30 history, diagnosis, treatment, prognosis and physical findings.

1 The report shall be filed within ten days of commencing
2 treatment and at least once a month thereafter as long as
3 treatment continues. The employer shall not be liable to pay for
4 such treatment until a report has been filed.

5 Section 2. Section 2.1 of the act is repealed:

6 [Section 2.1. For the purposes of this act, the term
7 "fireman" shall mean and include the following:

8 (1) Paid firemen not employed by the Commonwealth.

9 (2) Emergency medical services personnel employed within a
10 city fire department.

11 (3) Firemen of airport authorities, including fire
12 suppression instructors.

13 (4) Fire and safety marshals who are firemen employed by the
14 Commonwealth.

15 (5) Fire academy instructors employed at the State Fire
16 Academy.

17 (6) Assistant fire marshals employed by the Commonwealth.

18 (7) Forest patrolmen and forest technicians employed by the
19 Commonwealth.]

20 Section 3. The act is amended by adding sections to read:

21 Section 2.2. (a) Employees who receive benefits under this
22 act shall be required to file an affirmation on a quarterly
23 basis with the employer affirming that they are unable to work
24 and to ensure compliance with this act. An employe must affirm
25 in the quarterly affirmation that the employe is not receiving
26 income from secondary employment or other employment beyond the
27 employe's employer under this act while receiving benefits under
28 this act.

29 (b) The process and forms for quarterly affirmations shall
30 be provided by the employer.

1 (c) Quarterly affirmations may require the employe to submit
2 any pertinent medical documentation or information provided by a
3 physician or health care provider.

4 (d) Medical documentation or other pertinent medical
5 information requested by the employer to be included in a
6 quarterly affirmation shall have been performed by a physician
7 or health care provider within forty-five days of the submission
8 of the quarterly affirmation.

9 (e) Failure to file a quarterly affirmation or providing
10 false information on a quarterly affirmation may result in
11 termination or the loss of benefits provided under this act.

12 (f) If an employe is physically unable, due to a medical
13 condition, to file a quarterly affirmation, the employer shall
14 waive this requirement or make alternative arrangements with the
15 employe to fulfill this requirement.

16 (g) Annual reports must be compiled by each employer subject
17 to this act and posted on their publicly accessible Internet
18 website by December 31 of each year. Each report must contain
19 the expenses paid by the employer on benefits under this act,
20 other associated costs related to this act, as well as the
21 number of their employes receiving benefits in that calendar
22 year.

23 (h) Commencing on January 1, 2024, the Auditor General shall
24 establish a five-year reoccurring cycle where the Auditor
25 General audits the benefits and procedures provided under this
26 act for each employer subject to the requirements of this act.

27 (i) At the end of the five-year cycle or when all employers
28 have been audited, the Auditor General shall submit a report to
29 the Governor and the General Assembly. The report shall be
30 published on the Auditor General's publicly accessible Internet

1 website.

2 Section 2.3. The following words and phrases when used in
3 this act shall have the meanings given to them in this section
4 unless the context clearly indicates otherwise:

5 "Employer." Any agency, department, office, board,
6 commission, political subdivision, port authority or other
7 entity of the Commonwealth, and any recipient of State funds
8 that is subject to section 1(a).

9 "Fireman." Includes:

10 (1) Paid firemen not employed by the Commonwealth.

11 (2) Emergency medical services personnel employed within a
12 city fire department.

13 (3) Firemen of airport authorities, including fire
14 suppression instructors.

15 (4) Fire and safety marshals who are firemen employed by the
16 Commonwealth.

17 (5) Fire academy instructors employed at the State Fire
18 Academy.

19 (6) Assistant fire marshals employed by the Commonwealth.

20 (7) Forest patrolmen and forest technicians employed by the
21 Commonwealth.

22 "Health care provider." An individual licensed under the act
23 of December 20, 1985 (P.L.457, No.112), known as the "Medical
24 Practice Act of 1985."

25 "Physician." As defined in section 2 of the "Medical
26 Practice Act of 1985."

27 Section 4. This act shall take effect in 60 days.