

Legislative Analysis



FIRST RESPONDER PRESUMED COVERAGE FUND

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<http://www.house.mi.gov/hfa>

House Bill 4172 as introduced
Sponsor: Rep. Jeff Yaroach
Committee: Insurance
Complete to 2-17-21

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 retired 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 and ovarian cancer to the diseases presumed to arise in the course of employment as a firefighter with respect to a claim against the fund.
- Provide that an active or retired firefighter who is eligible for the federal Medicare program (e.g., is 65 years old or older) cannot receive benefits from 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 and ovarian cancer would be included in the above list of cancers for which an otherwise eligible person may claim benefits from the fund.

The bill would provide that an individual who is eligible for the federal Medicare program (e.g., is 65 years old or older)¹ may not receive medical benefit or expense payments from the fund.

¹ <https://www.hhs.gov/answers/medicare-and-medicaid/who-is-eligible-for-medicare/index.html>

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 retirees who were full-time, part-time, paid on-call, or volunteer members of such a department or authority.

Specifically, beginning January 1, 2022, the above provisions would also apply to a 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.

In addition, beginning January 1, 2022, 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 on November 25, 2020. He was 48 years old.

The bill would take effect 90 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).

Beginning on January 1, 2022, the bill would expand the population eligible to file claims to include part-time, paid on-call, and volunteer firefighters, as well as retirees of those categories. The bill would also expand coverage to include breast and ovarian cancer. Based on the population of firefighters 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, which does not include the population expansion from retirees (data for retired firefighters is pending), over a 280% expansion. The impact of including breast and ovarian cancer in the qualifying conditions is presently indeterminate, but would likely

increase the state's liability under the program. The bill would stipulate that retirees and active firefighters that are eligible for Medicare (those 65 and over) could not receive benefits from the fund, which would lower state liabilities by an indeterminate amount and mitigate the impact of expanding coverage to retirees. 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, as of December 2020, there was one approved application to the program and six applications pending for Calendar Year (CY) 2020. For FY 2018-19, the most recent fiscal year for which data are readily available, there were 15 claims receiving wage loss and medical benefit payments at the close of CY 2019. Expenditures in CY 2019 for claims and administrative expenses totaled \$364,678.

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 and assuming there are sufficient revenues to support the other priority distributions.

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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.