Firefighters Cancer Relief Fund and Post-Traumatic Stress Legislation

By: John D. Moran, Principal Analyst
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Issue
Provide a brief history and update on (1) the firefighters cancer relief fund and (2) post-traumatic stress disorder (PTSD) legislation for firefighters.

Summary
The legislature enacted PA 16-10, which created the firefighters cancer relief program and account to provide wage replacement benefits to eligible paid and volunteer firefighters diagnosed with cancer. Initially, the firefighters cancer relief account, also known as the firefighters fund, would be funded by diverting funds from the enhanced emergency 9-1-1 program (E-911). But later, this method was found to be impermissible under federal law. Currently, the account has a $400,000 General Fund appropriation for FY 19. Also, under PA 16-10, codified at CGS §§ 7-313g -313k, firefighters are not eligible for benefits until July 1, 2022.

Over the last five years there have been at least five bills considered by the General Assembly that would have expanded workers’ compensation coverage to firefighters who suffer PTSD due to an on-the-job experience. None of the bills passed.

Funding for the Cancer Relief fund
In 2016, the legislature passed a law (PA 16-10) that created the firefighters cancer relief program to provide wage replacement benefits to eligible paid and volunteer firefighters diagnosed with cancer. Under the act, the program would be funded by diverting funds from the enhanced E-911
program, which is funded through a monthly phone service subscriber fee imposed by the Public Utilities Regulatory Authority (PURA). In early 2017, PURA ruled that such a diversion was not permissible under federal law.

The January 11, 2017 PURA decision, reads, in part:

The Public Utilities Regulatory Authority finds that because the proposed funding of the Firefighter’s Cancer Relief Program through the E-911 subscriber fee would create disparate treatment among telecommunications providers, implementation of the Firefighter’s Cancer Relief Program is not permissible under Federal law. Federal law is clear regarding when subscriber fees collected to fund E-911 programs are used for other purposes. States and municipalities must certify how E-911 funds are used. If collected E-911 funds are used for other purposes, the state or municipality will forgo its ability to obtain Federal grant money for the advancement of E-911 services.

Then in PA 17-2, June Special Session (JSS) (§§ 219 & 220), the legislature removed the requirement that the firefighters’ cancer relief program be funded with a portion of the monthly phone service subscriber fee used to support the E-911 program. More specifically, the act eliminated requirements for (1) PURA to include the cancer relief program when it annually determines the amount of the E-911 fee and (2) one cent per access line to be diverted from the E-911 fee to the cancer relief program each month. Since then the legislature has appropriated $400,000 for FY 19 for the firefighters fund in the Department of Administrative Services (PA 18-81).

Cancer Relief Fund and Program

The law (1) establishes the firefighters cancer relief program and account, (2) creates a relief account subcommittee to review and approve claims for benefits from the account, (3) sets eligibility criteria for firefighters, including the types of cancer covered under the program, and (4) requires the state treasurer to file an annual status report on the account and program with the Public Safety and Security Committee.

The law defines “firefighter” as any (1) uniformed member of a paid municipal, state, or volunteer fire department and (2) local fire marshal, deputy fire marshal, fire investigator, fire inspector, and other classes of inspectors and investigators for whom the State Fire Marshal and the Codes and Standards Committee have jointly adopted minimum qualification standards (CGS § 7-313g).
**Relief Subcommittee**

The law creates the firefighters cancer relief subcommittee of the Connecticut State Firefighters Association, a private membership organization, which must consist of one member from each of the following organizations:

1. Connecticut State Firefighters Association,
2. Connecticut Fire Chiefs Association,
3. Uniformed Professional Firefighters of the International Association of Firefighters,
4. Connecticut Fire Marshals Association, and

The subcommittee must review claims for wage replacement benefits submitted to the relief program and provide wage replacement benefits to any firefighter who the subcommittee determines is eligible. The subcommittee may use existing workers’ compensation law to determine the weekly wage replacement benefits (CGS § 7-313i).

**Benefit Amount and Duration**

By law, a firefighter approved for wage replacement benefits by the subcommittee may be eligible for benefits on and after July 1, 2019. But the part of the law that provides eligibility qualifications (CGS § 7-313j(b)) requires a firefighter to work five years as a firefighter after the act’s effective date (2017) to be eligible, which is 2022.

The subcommittee must determine the weekly benefit amount and duration, which cannot exceed (1) 100%, raised to the next even dollar, of the average weekly earnings of all workers in the state for the year in which the cancer was diagnosed and (2) 24 months. The act requires the labor commissioner to determine the average weekly earnings of all workers in the state on or before August 15 each year, to be effective the following October 1.

The law specifically excludes a firefighter who receives benefits from the account from concurrently receiving unemployment or workers’ compensation benefits or any other municipal, state, or federal wage replacement benefits (CGS § 7-313i).
Relief Program Qualifications

The program provides wage replacement benefits for an eligible firefighter suffering from any condition of cancer affecting the brain, skin, or the skeletal, digestive, endocrine, respiratory, lymphatic, reproductive, urinary, or hematological systems that results in death or temporary or permanent total or partial disability if the firefighter meets the following conditions:

1. passed a physical examination upon entry into service, or subsequent to entry, that failed to reveal any evidence of such disease, and passed annual physicals that failed to reveal any evidence of cancer or propensity for cancer;

2. worked or volunteered at a fire department for at least five years since February 1, 2017;

3. has not used any cigarettes or any other tobacco products within 15 years of applying for benefits;

4. has a disease that is known to result from exposure to heat, radiation, or a known carcinogen as determined by the International Agency for Research on Cancer or the National Toxicology Program of the U.S. Department of Health and Human Services;

5. met the definition of firefighter and is either a fire marshal, investigator, or inspector or an interior structural firefighter, which is an individual who performs fire suppression, rescue, or both, inside of buildings or enclosed structures that are involved in a fire situation beyond the incipient stage as defined in federal regulations; and

6. complied with certain federal Occupational Safety and Health Act (OSHA) standards for at least five consecutive years.

Those no longer actively serving as firefighters, including retired firefighters, who are otherwise eligible may apply for benefits up to five years from the date they last served as firefighters.

A firefighter will be required to submit to annual physical examinations, including blood testing, during his or her active service and for a period of up to five years after the date he or she last served as a firefighter as a condition of receiving the benefits. An individual who no longer serves as a firefighter must bear the cost of any required physical examination (CGS § 7-313j).

Report to the Public Safety and Security Committee

By January 1, 2018 and annually thereafter, the treasurer, in consultation with the firefighters association, must report to the Public Safety and Security Committee on the status of the firefighters cancer relief account and relief program. The report must include the (1) account balance; (2) projected and actual participation in the program; and (3) demographic information of
each firefighter who receives benefits under the program, including gender, age, town of residence, and income level. We have contacted the treasurer’s office to obtain a copy of the report and are awaiting their reply (CGS § 7-313k).

**PTSD Legislation in the Last Five Years**

We were able to identify at least five bills in the last five years specifically related to expanding workers’ compensation coverage to firefighters who suffered PTSD as a direct result of witnessing a traumatic event or the immediate aftermath of such event (SB 593 (2015), SB 902 (2015), SB 134 (2016), SB 763 (2017), and SB 27 (2017)). None of these bills became public acts.

Current law contains a provision that only makes a firefighter eligible under the specific situation of witnessing the death of another firefighter while on the job. Under workers compensation law, a firefighter may be eligible for benefits if he or she suffers from mental or emotional impairment that a licensed and board certified mental health professional determines is PTSD “originating from the firefighter witnessing the death of another firefighter while engaged in the line of duty and not subject to any other [legal] exclusion (CGS § 31-275(16)(b)(ii)).”

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