

Accidental Disability Pension Extended to Members who Contract COVID-19

On July 1, 2020, Governor Phil Murphy signed into law A3945, which extends eligibility for accidental disability benefits to certain members who contract COVID-19 and become permanently and totally disabled as a result. The law also extends accidental disability death benefits to eligible beneficiaries of covered members who pass away from COVID-19. A3945 makes the contraction of COVID-19 by a covered member a traumatic event.

The new law applies to the pension systems for Police and Firefighters' Retirement System (PFRS), State Police Retirement System (SPRS), and Public Employees' Retirement System (PERS). It specifically covers law enforcement officers, firefighters, or emergency medical responders. It applies retroactive to March 9, 2020, and includes members who performed regular or assigned duties but were not yet enrolled in the pension systems. The new law does not apply to a member who retired and subsequently returned to employment under Executive Order to assist during the public health emergency or state of emergency without re-enrollment in the pension system.

The new law specifically notes new onset disease (one not previously diagnosed) and chronic psychological disease resulting from COVID-19 exposure with subsequent recovery from the virus are not considered a permanent and total disability for the purposes of an accidental disability pension. However, it does apply to complications from COVID-19 or a pre-existing condition that was aggravated or accelerated by the virus.

In order for the accidental disability pension to apply, they must:

1. Be a member of one of the pension systems (PFRS, SPRS, PERS);
2. Become permanently and totally disabled as a result of COVID-19;
3. Their regular or assigned duties requiring interaction with the public or directly supervising other personnel interacting with the public;
4. Their symptoms began within 14 days of their exposure or interaction with the public;

5. They have a positive COVID-19 test;
6. The exposure occurred between March 9, 2020, and either the termination of the public health emergency or state of emergency, whichever may be later.

In order for a beneficiary to seek death benefits under an accidental disability pension, the widow or widower must prove:

1. The member contracted COVID-19 during the public health emergency and state of emergency between March 9, 2020, and either the termination of the public health emergency or state of emergency;
2. The member died as a result of COVID-19;
3. The member had regular or assigned duties require interaction with the public or they directly supervise other personnel interacting with the public;
4. The member's symptoms began within 14 days of their exposure or interaction with the public.

Comment: The extension to members and eligible beneficiaries essentially takes away the burden to prove COVID-19 was contracted while in the line of duty. This new law gives insight into conceivably how the Assembly will vote on A3999, currently pending, which seeks to create a rebuttable presumption of compensability in workers' compensation for essential workers who contract COVID-19.

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