

CHAPTER 127

AN ACT concerning workers' compensation death benefits and supplementing chapter 15 of Title 34 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

C.34:15-95.6 Entitlement to receive weekly supplemental benefits from Second Injury Fund, certain circumstances.

1. a. Beginning on January 1, 2020, and in each fiscal year thereafter, a dependent of a public safety worker, who is receiving weekly benefits pursuant to R.S.34:15-13 for a death that occurred after December 31, 1979, and who is not entitled to receive special adjustment benefits pursuant to section 1 of P.L.1980, c.83 (C.34:15-95.4), shall be entitled to receive weekly supplemental benefits from the Second Injury Fund during the period in which the dependent is eligible to receive the initially-awarded weekly benefits, whenever the amount of the initially-awarded weekly benefits is less than the total amount of weekly benefits that would be payable to the dependent if that total amount included weekly supplemental benefits calculated in the manner indicated in subsection b. of this section. In making the determination of the aggregate annual surcharge for the Second Injury Fund to be levied pursuant to paragraph (4) of subsection c. of R.S.34:15-94 for calendar year 2020 and each subsequent calendar year, the Commissioner of Labor and Workforce Development shall include the anticipated additional amounts, including administrative costs, required for payment of supplemental benefits pursuant to this section during the fiscal year which begins on July 1 of the respective calendar year.

b. The base amount of the weekly supplemental benefits to be paid pursuant to this section during each fiscal year shall be calculated in a manner so that when it is added to the workers' compensation weekly death benefits initially awarded, the sum of the initial award and the base weekly supplemental benefits shall bear the same percentage relationship to the maximum workers' compensation death benefit rate for the current fiscal year that the dependent's initial weekly death benefits bore to the maximum workers' compensation death benefit rate in effect at the time of the death, except that:

(1) The actual amount of the supplemental benefits paid pursuant to this section to any dependent shall be reduced by an amount equal to the dependent's benefit payable under the Federal Old-Age, Survivors' and Disability Insurance Act, excluding any disability benefits paid to that dependent under that act and any cost of living increases in benefits paid to that dependent under that act, or Black Lung benefits ;

(2) A supplemental benefit shall not be paid if the actual amount of the benefit to be paid is calculated to be less than \$5 per week, and

(3) A supplemental benefit shall not be paid to a dependent who elects to not receive benefits under the Federal Old Age, Survivors and Disability Insurance Act for which the dependent is eligible.

c. Notwithstanding any other provision of this section, weekly supplemental benefits paid pursuant to this section shall not be paid in a manner which in any way changes or modifies the provisions of section 1 or 9 of P.L.1980, c.83 (C.34:15-95.4 or 34:15-95.5).

d. An insurance carrier or self-insured employer responsible for the payment of workers' compensation death benefits to a dependent shall notify the Division of Workers' Compensation of the need to have the Second Injury Fund make supplemental benefit payments to the dependent pursuant to this section not later than the 60th day after the date on which it is determined that the payment of supplemental benefits is required pursuant to this section. If the insurance carrier or self-insured employer fails to notify the division and

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that failure results in the payment of an incorrect amount of benefits, the liability for the payment of the supplemental benefits shall be transferred from the Second Injury Fund to the employer until the time at which the insurance carrier or self-insured employer provides the required notice.

e. For the purposes of this section, “public safety worker” means a member, employee, or officer of a paid, partially-paid, or volunteer fire or police department, force, company or district, including the State Police or a first aid or rescue squad.

C.34:15-95.7 Determination of aggregate annual surcharge.

2. In making the determination of the aggregate annual surcharge for the Second Injury Fund to be levied pursuant to paragraph (4) of subsection c. of R.S.34:15-94 for calendar year 2020, the Commissioner of Labor and Workforce Development shall include the anticipated additional amounts, including administrative costs, required for the payment of supplemental benefits which shall begin on January 1, 2020 pursuant to section 1 of P.L.2019, c.127 (C.34:15-95.6).

3. This act shall take effect immediately.

Approved June 17, 2019.