

CHAPTER 55

AN ACT concerning certain workers' compensation benefits for surviving dependents of employees deemed essential during coronavirus disease 2019 pandemic 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.34:15-95.8 Worker's compensation benefits for certain surviving dependents of employees deemed essential during coronavirus disease 2019 pandemic.

1. a. Beginning on January 1, 2020, and in each fiscal year thereafter, a dependent of an essential employee, who is receiving weekly benefits pursuant to R.S.34:15-13 for a death that occurred after March 1, 2020 due to the contraction of coronavirus disease 2019 in the course of employment, 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 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, “essential employee” means an employee in the public or private sector who, during a state of emergency:

(1) is a public safety worker or first responder, including any fire, police or other emergency responders;

(2) is involved in providing medical and other healthcare services, emergency transportation, social services, and other care services, including services provided in health care facilities, residential facilities, or homes;

(3) performs functions which involve physical proximity to members of the public and are essential to the public's health, safety, and welfare, including transportation services, financial services, and the production, preparation, storage, sale, and distribution of essential goods such as food, beverages, medicine, fuel, and supplies for conducting essential business and work at home; or

(4) is any other employee deemed an essential employee by the public authority declaring the state of emergency.

If the state of emergency does not apply to the entire State, an employee shall be regarded as an essential employee only if the employee is working in the area subject to the state of emergency.

f. The Commissioner of Labor and Workforce Development shall promulgate rules and regulations as are necessary to effectuate the purposes of this act.

2. This act shall take effect immediately.

Approved April 19, 2021.