

Request For Board Action

REFERRED TO BOARD: August 24, 2022

AGENDA ITEM NO: 13

ORIGINATING DEPARTMENT: Administration

SUBJECT: Consideration of an Ordinance amending Section 12 to Chapter 8 of Title 1 of the Municipal Code of Antioch Establishing an Administrative Hearing Procedure for Public Safety Employee Benefit Act Claims

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The Public Safety Employee Benefits Act (PSEBA) provides health insurance benefits for full-time law enforcement personnel who suffer a catastrophic injury or is killed in the line of duty as a result of the officer's response to a fresh pursuit, an emergency, an unlawful act perpetrated by another, or during the investigation of a criminal act. This benefit is extended to eligible family members of the law enforcement officers as well. The Village of Antioch currently has two PSEBA recipients, and would like to establish a policy and procedure for any applications moving forward.

The proposed ordinance provides an administrative process for applications submitted to the Village of Antioch requesting PSEBA benefits. Once applications are received, a hearing will be held to determine whether the former employee is eligible for benefits under the Act.

DOCUMENTS ATTACHED:

1. Ordinance

RECOMMENDED MOTION:

Move to Approve an Ordinance amending Section 12 to Chapter 8 of Title 1 of the Municipal Code of Antioch Establishing an Administrative Hearing Procedure for Public Safety Employee Benefit Act Claims, waiving the second reading.

VILLAGE OF ANTIOCH

ORDINANCE NO. 22-__

**AN ORDINANCE ADDING SECTION 12 TO CHAPTER 8 OF TITLE 1
OF THE MUNICIPAL CODE OF ANTIOCH ESTABLISHING AN
ADMINISTRATIVE HEARING PROCEDURE FOR PUBLIC SAFETY
EMPLOYEE BENEFIT ACT CLAIMS**

**Adopted by
The President and Board of Trustees
of the
Village of Antioch**

This __ day of August, 2022

**Published in pamphlet by authority of the
President and Board of Trustees of the Village of Antioch
On the _____ day of August, 2022.**

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WHEREAS, the Village of Antioch, Lake County, Illinois (“Village”) is a municipality duly organized and operating pursuant to the 1970 Illinois Constitution and laws of the State of Illinois; and

WHEREAS, the Mayor of the Village (“Mayor”) and Board of Trustees, as corporate authority for the Village, have in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Antioch, as amended; and

WHEREAS, the Public Safety Employee Benefits Act (“PSEBA” or “Act”) was enacted in 1997 to provide for the municipal payment of health insurance premiums when a full-time law enforcement, correctional officer or firefighter “suffers a catastrophic injury or is killed in the line of duty” (820 ILCS 320/10(a)) and the injury or death further meets one or more of the following statutory criteria for the award of health insurance benefits:

- As a result of the officer’s response to fresh pursuit;
- In response to what is reasonably believed to be an emergency;
- As a result of an unlawful act perpetrated by another; or
- During participation in the investigation of a criminal act; and

WHEREAS, a non-home rule duty municipality is entitled by law to establish an administrative procedure for assessing claims under PSEBA by enacting an ordinance containing a procedural process which fulfills the substantive requirements of the Act; and

WHEREAS, the Mayor and Board of Trustees of the Village of Antioch finds it necessary and proper to amend its Village Code to provide an administrative hearing procedure for public safety employee benefit act claims, which this Board finds is in the best interest of the Village of Antioch and its citizens and residents.

THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Antioch, Lake County, Illinois, as follows:

SECTION 1: The recitals above shall be and are hereby incorporated in this Section One as if restated herein.

SECTION 2: That Title 1, Chapter 8 of the Antioch Village Code be amended to add a new Section 12 to read in its entirety as follows:

§12- ADMINISTRATIVE HEARING PROCEDURE FOR PUBLIC SAFETY EMPLOYEE BENEFIT CLAIMS.

The purpose of this section is to provide a fair and efficient method of determining the eligibility of a former employee for the benefits enumerated under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) through the process of administrative hearings. All benefits provided former police officers pursuant to the Public Safety Employee Benefits Act (Act) will be consistent with the Act.

The system of the administrative hearing shall be comprised of a hearing officer whose power and authority and limitations are as follows:

(A) Powers of the Hearing Officer. The hearing officer shall have all of the powers granted under common law relative to the conduct of an administrative hearing including the power to:

- (1) Preside over all village hearings involving the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.);
- (2) Administer oaths;
- (3) Hear testimony and accept evidence that is relevant to the issue of eligibility under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.);
- (4) Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents and other evidence upon the request of the parties or their representatives;
- (5) Rule upon objections in the admissibility of evidence;

(6) Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing;

(7) Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

(B) Hearing Officer. The Mayor is hereby authorized to appoint a person or persons to hold the position of a hearing officer for each and every individual hearing that shall come before this village. In making said selection, the Mayor shall consider all pertinent information including, at a minimum:

(1) The candidate's ability to comply with the job description as set forth herein;

(2) Background and performance data made available to the Mayor on file with the village or otherwise obtained by the Village;

(3) The candidate must be an attorney licensed to practice law in the State of Illinois for at least five (5) years and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

(C) Notice of PSEBA Claim. The system of administrative hearings for determination of police officers eligibility for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) shall be initiated by the serving of a written notice on the Village Administrator by any police officer (or family representative).

(D) Application Process. Any applicant for PSEBA benefits must fully complete a PSEBA application in the format provided by the Village.

(1) In general, the application will require the PSEBA applicant to state in full detail the nature of the former employee's claim giving full particulars thereof, i.e., date, time, place, nature of injury, and any other factual circumstances surrounding said incident giving rise to said claim.

(2) The applicant must describe in detail how the injury or death resulted from:

- As a result of the officer's response to fresh pursuit;
- In response to what is reasonably believed to be an emergency;
- As a result of an unlawful act perpetrated by another; and/or
- During participation in the investigation of a criminal act.

(3) The applicant shall request the benefits enumerated under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) and

further request the setting of a hearing for the eligibility to receive said benefits.

(4). The claim shall be submitted within sixty (60) days of the date the disability pension has been awarded by the pension board.

(E) Authorization. Any applicant for PSEBA benefits must execute a signed PSEBA medical authorization release which authorizes the collection of information related to the injury, including, but not limited to: disability pension records, workers' compensation records, medical records and accident incident reports.

(F) No Review until Complete Application is Filed. The Village's initial review of the PSEBA application shall not occur until the application is fully completed and all required information is submitted or otherwise obtained.

(G) Hearing Procedures. An administrative hearing shall be held to adjudicate and determine whether the former public safety employee is eligible for benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.). If the former employee is found eligible, the employee benefits shall be consistent with the Act.

(1) Time and Date. Hearings shall be held on the date, time and place as established by the Village with appropriate notice served upon the former public safety employee.

(2) Record. All hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter.

(3) Procedures. The Village and the petitioning former public safety employee shall be entitled to representation by counsel at said hearing and may present witnesses, may present testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.

(4) Administrative Hearing Rules. The Rules of Procedure in Administrative Hearings as set forth by the Illinois Department of Labor regulations (56 Ill. Admin. Code 120) shall apply.

(5) Burden of Proof. The Applicant shall have the obligation and burden of proof to establish eligibility for PSEBA benefits. The standard of proof is a preponderance of the evidence.

(6) Final Determination. The determination by the hearing officer of whether the petitioning former public safety employee is eligible for the benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1

et seq.) shall constitute a final determination for the purpose of judicial review as provided by law.

(7) Expedited Hearing. The hearing procedures set forth in this Code may be expedited by the Village in instances where the eligibility for benefits is obvious and without doubt.

(H) Eligibility for Paid Health Insurance Premiums

- (1) Basic Group Health Plan. An applicant that has been approved for eligibility for PSEBA benefits (the "PSEBA beneficiary") will be enrolled in the Village's identified basic health group plan. The basic group health plan will be determined annually at the start of the benefit open enrollment period. If the PSEBA beneficiary chooses to enroll in any other group health plan offered by the Village of Antioch, the PSEBA beneficiary must pay the difference in insurance premiums. The basic group health insurance plan does not include any supplemental coverage such as dental, vision or life insurance, nor does it cover the cost of any co-pays or deductibles.
- (2) Other Benefits. Health insurance benefits payable from any other source will reduce the benefits payable from the Village. Each PSEBA beneficiary shall sign an affidavit attesting that the PSEBA beneficiary, his or her spouse, and eligible dependents are not eligible for insurance benefits from any other source. When and if the PSEBA beneficiary, his or her spouse, or eligible dependents are eligible for benefits from another source, the PSEBA beneficiary shall notify the Village of that other source no later than five (5) business days from the other coverage taking effect.
- (3) Disclosure of Health Insurance Coverage. The PSEBA beneficiary has an on-going obligation and shall update health insurance coverage information provided and failure to do so may result in the denial of benefits and/or reimbursement to the Village for duplicate coverage. If duplicate coverage has been received by a PSEBA beneficiary, further PSEBA benefits may be denied until the Village has been fully reimbursed by the PSEBA beneficiary for benefits that would not have been paid due to the other health coverage.
- (4) Reimbursement. Receipt of health insurance benefits from other sources without notice to the Village shall require the PSEBA beneficiary to reimburse the Village for the value of those benefits.
- (5) Medicare Eligibility. The PSEBA beneficiary shall notify the Village when he or she becomes Medicare eligible regardless of the status of the enrollment period, so the Village may assist with the transition to

Medicare coverage and/or adjust health insurance benefits or PSEBA benefits accordingly.

SECTION 3: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect any other provisions or applications of this Ordinance, and each invalid provision or application shall be severable.

SECTION 4: This Ordinance shall be in full force and effect, after passage, approval and publication as required by law.

SECTION 5: This Ordinance shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

PASSED by the Board of Trustees of the Village of Antioch, Lake County, Illinois this ____ day of August, 2022, on the following roll call vote:

AYES:

ABSENT:

ABSTENTION:

APPROVED by me, Scott Gartner, as Village President of the Board of Trustees of the Village of Antioch, Lake County, Illinois this ____ day of August, 2022.

Scott J. Gartner, Village Mayor

ATTESTED AND FILED in my office this ____ day of August, 2022.

Lori K. Romine, Village Clerk

STATE OF ILLINOIS)
)
COUNTY OF LAKE) SS

CLERK'S CERTIFICATE

I, Lori K. Romine, the duly elected and qualified Village Clerk of the Village of Antioch, Lake County, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

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which Ordinance was duly adopted by said Board of Trustees at a regular meeting held on the ___ day of August, 2022.

I do further certify that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of August, 2022.

Lori K. Romine, Village Clerk,
Village of Antioch