

# NEW YORK STATE GAP COVERAGE CANCER LEGISLATION

## Frequently Asked Questions

- Q. What is the purpose of Assembly Bill 711B/Senate Bill 1411B
- A. It provides volunteer firefighters with monetary assistance in the event they are diagnosed with cancer. This is a less expensive alternative than providing VFBL/Worker's Compensation coverage for those believed to have contracted cancer from firefighting. There was an initial estimate of a 150% increase in VFBL costs if coverage was provided under workers' compensation. Thus, many self-insured counties had stated the extreme cost increase would force them to drop VFBL from their worker's compensation pool. Furthermore data from states with VFBL coverage, such as Pennsylvania, showed that more than half the claims are denied as insurers aggressively challenged these claims. Thus, the New York State Assembly and Senate worked with the fire service and the localities to craft a bill which would provide extensive coverage but meet the threshold cost needs of the localities.
- Q. What are the benefits provided under the legislation?
- A. There are three separate benefits, which are independent of each other:
1. The lump-sum benefit provides a payout for a diagnosis of cancer based upon the severity of the diagnosis. For less severe forms of cancer there is a lump sum payment of \$6,250. If the cancer is more severe based on the guidelines of the bill, there will be a lump sum payment of \$25,000. This lump sum payment is drawn from a pool of \$50,000 per firefighter which will be available if there is more than one negative diagnosis over the volunteer firefighters' lifetime.
  2. If the volunteer firefighter becomes totally disabled, the volunteer firefighter will be eligible for a monthly benefit of \$1,500 payable up to 36 consecutive monthly payments.
  3. In case of death, volunteer firefighters' family will be eligible for an accidental death benefit in the amount of \$50,000.
- These benefits will not be subject to New York State income tax.
- Q. Is this benefit available to all volunteer firefighters?
- A. A volunteer firefighter will be eligible for the enhanced cancer disability benefit if the following three criteria are met:
1. The volunteer has served for at least five years as an interior firefighter as evidenced by passage of the mask fit test which is required of all volunteer firefighters with an interior firefighter rating;

2. Upon entrance into the volunteer service the volunteer firefighter successfully passed a physical examination; and

3. The volunteer firefighter has a disease caused by an uncontrolled division of abnormal cells in any part of the body or a malignant growth or tumor affecting the lymphatic or hematological systems or digestive, urinary, prostate, neurological, breast or reproductive systems or melanoma.

Q. Why does the legislation only cover interior firefighters with at least 5 years of active interior firefighting service?

A. First, when addressing the cancer legislation with policy staff in the Assembly, the issue of a study focusing solely on volunteer firefighters was raised. Although there have been numerous studies relating cancer to firefighting, those studies have only addressed the relation between career firefighters, who are all interior rated, and cancer. The policy staff expressed concerns that if the position of the volunteer fire service was to have the same status as career firefighters, the bill should be narrowly tailored to mirror the coverage provided to career firefighters. Secondly, working with leading experts on occupational cancer, it was determined that exposure to a toxin would generally take at least five years before, at the very least, a blood form of cancer would be diagnosed. These two issues resulted in the bill to be more narrowly tailored to mirror the career firefighter provisions and to meet the likely health issues associated with cancer and firefighting.

Q. Does the bill cover me through my entire volunteer service or just when I serve as an interior firefighter?

A. As long as you meet the requirements of the bill as of the effective date, January 1, 2019, you are covered under this bill as long as you remain in the volunteer service. Once you disengage from the volunteer service, the coverage will stay with a volunteer for up to 5 years after service. After 5 years the volunteer has the option of keeping coverage by paying the premiums associated with the disability insurance. Again, this mirrors the career disability benefits as they are able to keep their benefits for 2 years after they disengage from service.

Q. Do I have to prove that I got cancer from firefighting?

A. There is no requirement that a volunteer prove he was in contact with a specific carcinogen. It is assumed from the cited studies, which show interior firefighters are more likely to be diagnosed with cancer, that no further proof is needed other than proof of cancer. Therefore, a volunteer who meets the eligibility requirements only needs to provide proof of diagnosis by a board-certified physician in the medical specialty appropriate for the type of cancer diagnosed that the volunteer has a designated form of cancer. This information must then be submitted to the insurance carrier. Also, unlike under VFBL, your claim cannot be challenged.

Q. How do I know if I am eligible for the \$25,000 or \$6,250 payment?

A. These payments are based on the severity of the cancer which must be shown by evidence from a board-certified doctor of the cancer. For a serious form of cancer, which would allow for the \$25,000 payment, there must be proof of one or more malignant tumors characterized by the uncontrollable and abnormal growth and the spread of malignant cells with invasion of normal tissue and that either:

(i). There is metastasis; and

1. surgery, radiotherapy, or chemotherapy is medically necessary; or

2. There is a tumor of the prostate, provided that it is treated with radical prostatectomy or external beam therapy; or

(ii). The firefighter has terminal cancer, his or her life expectancy is 24 months or less from the date of diagnosis, and will not benefit from, or has exhausted, curative therapy.

It should be noted that when this legislative language was crafted, experts in the field of occupational health were consulted as to the proper guidelines for severe and non-severe forms of cancer.

Q. Is the bill retroactive?

A. No, the bill is not retroactive. Since the protections are backed by disability insurance coverage, it will only cover those events that have yet to occur. As we know, insurance does not pay for acts which have already occurred before receiving coverage. But, prior 2019 active interior firefighter status will count towards the laws 5 years interior status requirement. Thus, the clock does not start to tick for the volunteer's ability to meet the five-year requirement when the bill is effective. For example, a volunteer who has three years of interior service prior to the effective date would only need to have two more years in order to meet the requirements of the bill.

Q. Why is the effective date January 1, 2019?

A. The bill was designed to allow the insurance market to develop in order to provide more choice to fire departments who buy insurance coverage. The later effective date will also allow the State of New York to further assess the cost if there are dramatic changes in the insurance market. Presently we are aware of four major insurance providers who will likely write policies based on this legislation.

Q. Who pays for this disability coverage and how much will it cost?

A. The bill would require that any fire district, department or company to provide and maintain an enhanced cancer disability benefit insurance program for each eligible volunteer firefighter. A similar bill was passed in Georgia and the cost estimates of that bill are \$300 per firefighter for the required benefits. Since New York State has a larger

pool of eligible firefighters, there is an assumption that costs will be no more than the \$300 per year/per firefighter presently estimated for coverage in Georgia.

Q. Does the bill have reporting requirements?

A. Yes, the bill requires that any fire district, department or company whose member has received a disability payment under the provisions of this act to report such payments to the Office of Fire Prevention and Control. The purpose of this section is to provide the fire service with further documented data as to the number of volunteer firefighters diagnosed with cancer. This will allow FASNY to review such incidents for potential future legislative action.