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~~International Association of Fire Fighters~~
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS®

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General President

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MEMORANDUM

TO: LOCAL AND STATE ASSOCIATION PRESIDENTS
FR: ALFRED K. WHITEHEAD, GENERAL PRESIDENT
DT: NOVEMBER 12, 1996
RE: HEALTH BENEFITS FOR DISABLED FIRE FIGHTERS

As reported in various IAFF publications, Congress recently enacted an important new benefit for public safety officers. This new benefit may require the involvement of IAFF Locals, and this memo is intended to offer you some guidance on how to make this new program work for you and your members.

Under legislation signed into law on September 30, jurisdictions must continue to provide health benefits to a public safety officer who suffers a career-ending injury during an emergency situation. Jurisdictions that refuse to provide such benefits will lose a portion of the federal funds currently provided to their local police department.

It is important to note that the new program is not intended to be a general health plan for disabled public safety officers. Rather, it is intended as a special token of appreciation for those fire fighters and police officers whose careers end suddenly because they were protecting the public safety.

Successful implementation of this new law may require the involvement of IAFF Locals. Few local governments are aware of it, and would therefore be unprepared if they were presented with a request for these benefits. In some cases, it may be necessary for the employer to work with the health insurance provider to ensure the continuation of health coverage for a qualified disabled fire fighter.

Therefore, we recommend that IAFF Locals notify their employer about the law immediately so that they can make any necessary preparations.


Attached are two documents for your use. The first is an excerpt from the legislation enacted by Congress. The top of the page contains the actual legal language while the bottom of the page is the explanation of the provision contained in the congressional Conference Report.

The second document is a Question and Answer sheet prepared by the IAFF. Not all questions have definitive answers, and some may have to be resolved on a case-by-case basis. We are working with the Department of Justice to clarify the issues left in doubt by the legislation, and we will keep you posted on any developments on this matter in the coming months.

Q: What if the injury occurred prior to October 1, but the fire fighter was not officially retired until after that date?

The legislation does not specifically address this issue, but a plain reading of the language used ("retires or is separated from service due to an injury suffered") indicates that the key date is the date of retirement. The IAFF's interpretation is thus that a fire fighter injured before October 1, but retired afterward, should be covered.

Q: Are "presumptive" disabilities covered?

 No. The benefit is only for those who retire as a direct result of a specific injury. Fire fighters who retire from presumptive disabilities, such as heart and lung disease, or cumulative problems, such as bad backs and bad knees, are not covered.

Q: How is the law enforced?

The federal government will cut off a portion of federal funds to any jurisdiction that does not provide the required benefits. The law focuses on two particular public safety grant programs under the Department of Justice: the Community Oriented Policing grants and the Local Law Enforcement Block Grant. Together, these programs provide funds to the vast majority of U.S. municipalities. State and local governments would lose 10% of those funds if they did not provide the required benefits. Federal officials are not required to monitor compliance, so the penalties will only be levied once the federal official who has "authority to obligate or expend" the funds is notified about a violation of the law.

Q: How do I find out if my locality receives funds under these programs?

The Community Oriented Policing ("COPS") grants are administered directly by an office within the Department of Justice. To find out if your city receives money under COPS, contact Anne Marie Sullivan, the program's Information Specialist, at 202/514-3750. Ms. Sullivan will attempt to answer basic questions over the phone, but may need written requests if you want to know how much money is received.

The Local Law Enforcement Block grants are given to the states for administration. To find out if your city receives money, therefore, you will need to contact your state government. The Bureau of Justice Assistance Response Center (800/421-6770) should be able to tell you whom to contact in your state.

Q: What should I do if my locality refuses to provide the benefits?

We are hopeful that it will never come to this; the prospect of losing funding should be sufficient to persuade jurisdictions to provide the benefits. That is why we are encouraging locals to inform their state and city governments about this requirement as soon as possible. The threat of punitive withholding of funds has worked for the federal government in the past, without it having to resort to acting upon the threat. However, should problems arise, call the IAFF.

PUBLIC SAFETY OFFICERS HEALTH BENEFITS

Excerpt from HR 3610 as signed into law 9/30/96

Sec. 615. Of the funds appropriated in this Act under the heading 'OFFICE OF JUSTICE PROGRAMS--state and local law enforcement assistance' and 'Community Oriented Policing Services Program', not more than ninety percent of the amount to be awarded to an entity under the Local Law Enforcement Block Grant and part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 shall be made available to such an entity when it is made known to the Federal official having authority to obligate or expend such funds that the entity that employs a public safety officer (as such term is defined in section 1204 of title I of the Omnibus Crime Control and Safe Streets Act of 1968) does not provide such a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation or a hot pursuit (as such terms are defined by State law) with the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation.

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Excerpt from the Conference Report on HR 3610 as approved by Congress 9/30/96

Sec. 615.--The conference agreement includes section 615, which requires a combined ten percent reduction in Community Oriented Policing grants and the Local Law Enforcement Block Grant, to a locality if it is made known that public safety officers in that locality, who retire as a result of injuries sustained in the line of duty do not continue to receive health insurance benefits at the same or better level of benefits as would be paid by the locality under a regular retirement plan. The House bill proposed this provision as section 616. The Senate-reported bill deleted this provision.

QUESTIONS AND ANSWERS ABOUT THE
DISABLED PUBLIC SAFETY OFFICERS HEALTH BENEFITS ACT

Q: What does the Act Provide?

The Disabled Public Safety Officers Health Benefits Act was signed into law on September 30, 1996. It requires state and local governments to continue full health benefits for "a public safety officer who retires or is separated from service due to injury suffered as the direct and proximate result of a personal injury sustained in the line of duty while responding to an emergency situation."

Q: Who is covered?

Public Safety Officers are defined as "an individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, a firefighter, or rescue squad or ambulance crew."


Q: What types of health benefits are covered?

The law requires continuance of "the same or better level of health insurance benefits that are paid by the entity at the time of retirement or separation." This is understood to include the same benefits, premium payments, and dependent coverage.

Q: What is meant by an "emergency situation"?

The legislation does not specifically define this term. If the term is defined in state law, then that definition would be used. In general, the term is understood to refer to an occurrence requiring mitigation for which a fire fighter is authorized or obligated to perform involving fire suppression, hazardous materials response, emergency medical operations or rescue. The exact definition of an emergency situation may wind up being determined on a case-by-case basis.

Q: What is the effective date of the law?

 The new health benefits act is expressly linked to an appropriations bill that became effective October 1, 1996. There is no retroactive provision in the law, so local governments are not required to provide these benefits to public safety officers who retired before that date. However, there is nothing in the law that specifically prohibits employers from voluntarily making these benefits retroactive.