

Ordinance Number 23-35

**AN ORDINANCE ESTABLISHING THE ADMINISTRATIVE  
PROCEDURE FOR THE VILLAGE OF EAST DUNDEE TO DETERMINE  
ELIGIBILITY UNDER THE PUBLIC SAFETY EMPLOYEE BENEFITS ACT**

**WHEREAS**, the Public Safety Employee Benefits Act (PSEBA), (the Act), was enacted in November 1997 to provide free health insurance benefits to the full-time police officers, and firefighters who are killed or catastrophically injured in the line of duty; and

**WHEREAS**, it has been determined by the Village President and Board of Trustees that it is in the best interest of the Village and public safety employees to establish administrative procedures to determine eligibility under the Act by creating a PSEBA application and hearing process; and

**WHEREAS**, the Village of East Dundee is a home rule municipality and pursuant to the Illinois Constitution, Article VII, Section 6, has certain powers which it is exercising.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE**, as follows:

Section I: Purpose.

A. The purpose of this chapter is to provide a fair and efficient method of determining the eligibility of full-time Village of East Dundee police officers to the benefits enumerated under the Public Safety Employee Benefits Act, 820 ILCS 320/1 *et seq.* ("PSEBA") through an administrative process, including, if necessary, an administrative hearing. All benefits provided to employees pursuant to the ordinance must be consistent with the PSEBA. Individuals eligible for benefits under the PSEBA will be eligible for benefits under this ordinance (hereinafter referred to as "Applicants").

B. The Administrative procedure established herein is intended to determine eligibility to receive certain health insurance benefits from the Village. This administrative procedure is not a contract that bestows a benefit or entitlement on any particular individual and may be modified by the Village at any time without notice.

C. Any full-time police officer, who after November 14, 1997, suffers a catastrophic injury in the line of duty, may apply for health insurance benefits under the Act as set forth below. The same benefits may be extended to the spouse and eligible dependent children of the catastrophically injured police officer killed in the line of duty, provided the conditions as established by the Act are met.

Section II: Application Procedure.

A. *Application Required.* To seek benefits under the Act, a full-time police officer, or in the event of the death or incapacity of the police officer, a family member of the injured or deceased police officer, must file with the Administration and/or Human Resources Department a fully completed PSEBA application, in writing, within 30 calendar days of the granting of a line-of-duty disability pension, or within 30 calendar days of the date of the adoption of this Ordinance in the event that the employee has filed a pension claim prior to the date of adoption of this ordinance, whichever is later.

The Village's PSEBA Application must be completed and submitted with all of the supporting documentation filed with the pension board by the Applicant. Applicant must also submit any other documents or information submitted or identified as exhibits at the pension hearing, and any pension board determination or ruling, documents/information supporting the PSEBA eligibility requirements. Failure to timely file the fully completed application along with submittal of other required information shall result in a forfeiture of the benefits under PSEBA.

Upon request, the Human Resources Director, or their designee, shall furnish a Public Safety Employee Benefit Act application to the Applicant.

B. *Sworn Statement Required.* The PSEBA application shall include a sworn and notarized statement explaining how the disabling injury or death directly resulted from:

- (1) Response to fresh pursuit;
- (2) Response to what is reasonably believed to be an emergency;
- (3) Response to an unlawful act perpetrated by another; or
- (4) A Participation during the investigation of a criminal act.

C. *Medical Release Required.* A signed PSEBA medical release authorizing the collection of medical information related to the incident including, but not limited to, the disability pension proceedings, worker's compensation records and medical records, must be submitted with the PSEBA application. The PSEBA medical information release must specify the name, address, email and phone information for pertinent health care provider(s) and hospital(s), along with employee's signature and a witness signature. A review of the PSEBA application will not occur until the PSEBA medical authorization release is submitted.

D. *General Information Release Required.* A signed PSEBA general information release authorizing the collection of general information related to the incident, including, but not limited to disability pension proceedings, worker's compensation records and medical records, must be submitted with the application. The PSEBA general information release must specify the name and signature of the employee along with the name and signature of a witness authorizing the collection of information pertinent to the incident review process. A review of the PSEBA application will not occur until the PSEBA general information release is submitted.

E. *Other Information.* The Human Resources Director, or their designee, may require other information necessary to decide as to whether an administrative hearing is required, including, but not limited to health insurance benefits the employee is currently receiving or is eligible to receive; or, any other health insurance benefits the Applicant or family members are otherwise entitled. The Applicant has an ongoing obligation to update information provided. Failure to do so may result in the denial of benefits.

Section III: Application Review by the Human Resources Director, or their designee, and Notification.

A. Upon receipt of a fully completed application for PSEBA benefits timely filed, the Human Resources Director, or their designee, shall review the application and supporting documents to make an initial determination regarding the application for benefits. That determination may be:

- (1) A determination to grant benefits based upon the preliminary record.
- (2) A determination to deny benefits.
- (3) The making of such other finding as is consistent with the evidence or by agreement of the Applicant and the Village.

B. If the Human Resources Director, or their designee, grants the benefit based on the preliminary record and subject to any necessary authorization by the Village Board, the Applicant will be notified and required to make further contact with the Human Resources Director, or their designee, within thirty (30) calendar days for benefit explanation and processing.

C. If the Human Resources Director, or their designee, denies the benefit based on the preliminary record, the Applicant will receive written notice of such denial and the Applicant shall have the right to request an administrative hearing which must be served in writing to the Human Resources Director, or their designee, not later than 30 calendar days after being served with written notice of the denial. Upon receipt of a timely notice from the Applicant, the Human Resources Director, or their designee, shall schedule an administrative hearing and serve the Applicant with notice of the administrative hearing along with a date for the scheduled administrative hearing.

D. Failure to request an administrative hearing within 30 calendar days after being served with written notice of the denial of PSEBA benefits by the Human Resources Director, or their designee, shall result in the forfeiture of benefits under the PSEBA.

E. If the Applicant or Village, upon receiving written notice of the administrative hearing date, cannot attend said date as indicated in the notice of administrative hearing, the Applicant or the Village, as the case may be, must contact the Hearing Officer within seven calendar days after being served with notice of the administrative hearing, communicating alternative hearing date(s) which are within close proximity of the original hearing date indicated by the Hearing Officer. Continuances will be granted for good cause only. Failure to appear and/or cooperate in the hearing process may result in denial of benefits.

Section IV: Administrative Hearing/Hearing Officer.

A. *Power of the Hearing Officer.* The Hearing Officer shall have all of the powers granted to him under common law relative to the conduct of an administrative hearing including the power to:

- (1) preside over all Village hearings involving PSEBA;
- (2) administer oaths;
- (3) hear testimony taken under oath and affirmation and accept evidence that is relevant to the issue of eligibility under PSEBA;
- (4) issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
- (5) rule upon objections in the admissibility of evidence and other motions;
- (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, after entertaining arguments in either oral or written format, at the discretion of the Hearing Officer, the determination of which shall be in writing and shall include a written finding of fact, decision and order.

B. *Appointment of Hearing officer.* The Village President, with the consent of the Board of Trustees, is hereby authorized to appoint a person to hold the position of a Hearing Officer for any hearing that shall be scheduled by the Village. In making said selection, the Village President shall consider all pertinent information including, at a minimum:

- (1) the candidate's ability to competently perform the services; and
- (2) the candidate's service record and performance data made available to the Village President 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 ten years prior to appointment and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

Section V: Administrative Hearing.

A. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the 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 Applicant.
- (2) *Record.* The proceedings shall be recorded 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 Applicant 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. Each party shall bear the costs of its own counsel and witnesses.

(4) *Evidence.* In so far as is practical, the rules of evidence as set forth in the Illinois Code of Evidence shall apply.

(5) *Final determination.* The determination by the Hearing Officer of whether the Applicant is eligible for the benefits under the Public Safety Employee Benefits Act (820 ILCS 320/1 et seq.) shall constitute a final administrative determination for the purpose of judicial review.

(6) *Burden of proof.* At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is qualified to receive the benefits by clear and convincing evidence.

(7) *Administrative records.* All records pertaining to the administrative process will be held in a separate file in the Applicant's name maintained by the Village.

#### Section VI: Health Insurance Benefits.

A. If the Human Resources Director, or their designee, or Hearing Officer awards PSEBA benefits, the Village's basic level insurance plan, as designated by the Village in the event the Village offers more than one insurance plan will be the plan offered. The Village's basic level insurance plan may change from time to time. If the Applicant chooses to enroll in a plan available in the Village other than the designated basic level insurance plan, then the Applicant must pay any difference in insurance premiums between the Village's basic plan and that of another plan on a monthly basis, due by the 15th of each month in which coverage is effective. Failure to pay said premiums by the 15th of the month in which coverage is effective, may result in cancellation of the health insurance plan.

B. Individuals receiving benefits under PSEBA will only be able to change from one plan to another during the Village's Open Enrollment Period.

#### Section VII: Other Health Insurance Benefits.

A. Health insurance benefits payable from any other source will reduce the benefits payable from the Village. Each Applicant will be required to sign an affidavit attesting to the fact that he/she is not eligible for insurance benefits from any other source.

B. It is the responsibility of the Applicant and/or the benefit recipient to notify the Village within 30 days of any changes to other sources of health insurance benefits. Receipt of benefits in violation of this provision will require reimbursement to the Village of any benefits received. The Village reserves the right on an annual basis to have the Applicant and/or the benefit recipient provide another affidavit affirming whether other health insurance is available or payable to the Applicant, his/her spouse and/or his/her qualifying dependent children.

The Applicant is also required to notify the Village when the Applicant and/or benefit recipient becomes Medicare eligible so the Village can assist with the transition to Medicare coverage and/or adjust health insurance benefits accordingly.

Section VIII: If any provision of this Ordinance is subsequently declared by State or Federal legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect.

Section IX: This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

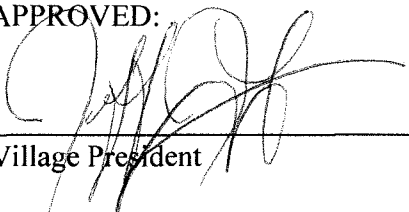
Ayes: Mahony, Kunze, Brittin, Saviano and Saeder

Nays: 0

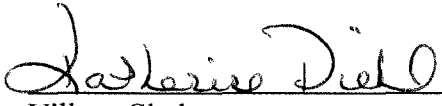
Absent: Treiber

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of East Dundee, Illinois, this <sup>7<sup>th</sup></sup> day of August, 2023.

APPROVED:

  
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Village President

ATTEST:

  
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Village Clerk