

ORDINANCE NO. 2018- 25

AN ORDINANCE ESTABLISHING THE ADMINISTRATIVE PROCEDURE FOR THE CITY OF MT. VERNON 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 City Council that it is in the best interest of the City 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 City 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 MAYOR AND MT. VERNON CITY COUNCIL, as follows:

Section I: Purpose.

A. The purpose of this chapter is to provide a fair and efficient method of determining the eligibility of a full-time City of Mt. Vernon police officer or firefighter (hereinafter "public safety employee") to the benefits enumerated under the Public Safety Employee Benefits Act ("PSEBA") through an administrative process, including if necessary, an administrative hearing. All benefits provided employees pursuant to PSEBA must be consistent with the PSEBA.

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

C. Any full-time police officer or firefighter, 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 public safety employee 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 public safety employee, or in the event of the death or incapacity of the public safety employee, a family member of the injured or deceased public safety employee, must file with the City's Human Resources Director 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 application must include the name of employee, date of hire, detailed information regarding the incident, (including date, time, place, nature of injury, any other factual circumstances surrounding said incident giving rise to said claim), witnesses to the incident, information and supporting documentation filed with the pension board by the Applicant or identified as exhibits by the pension board and any pension board determination or ruling, and 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 her 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 occurred:

- (1) as a result of a public safety employee's response to fresh pursuit;
- (2) as a result of a public safety employee's response to what is reasonably believed to be an emergency;
- (3) as a result of an unlawful act perpetrated by another; or
- (4) 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 telephone number for pertinent health care provider(s) and hospital(s), along with the 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 may require other information necessary to make a determination 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 employee 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 and Notification.

A. Upon receipt of a fully completed and timely application for PSEBA benefits, the Human Resources Director 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 City.

B. If the Human Resources Director grants the benefit based on the preliminary record and subject to any necessary authorization by the City Council, the Applicant will be notified and required to make further contact with the Human Resources Director for benefit explanation and processing.

C. If the Human Resources Director 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. Such a request must be submitted to the Human Resources

Director 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 shall schedule an administrative hearing with the hearing officer, 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 shall result in the forfeiture of benefits under the PSEBA.

E. If the Applicant or City, 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 City, as the case may be, must contact the Hearing Officer within seven (7) calendar days after being served with notice of the administrative hearing, communicating alternative hearing date(s). 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 City 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 Mayor, with the consent of the City Council, is hereby authorized to appoint a person to hold the position of a Hearing Officer for any hearing that shall be scheduled by the City's Human Resources Director. In making said selection, the Mayor 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 Mayor on file with the City or otherwise obtained by the City.

(3) the candidate must be an attorney licensed to practice law in the State of Illinois for at least three (3) 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.

The Hearing Officer shall serve a term of one year beginning on May 1 of each calendar year and ending April 30 of the following year. A Hearing Officer may be removed for cause by the Mayor with the consent of the City Council.

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 City Hearing Officer with appropriate notice served upon the Applicant and City.

(2) *Record.* The City's Human Resources Director shall ensure that all hearings shall be attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the City and Applicant at their respective expenses.

(3) *Procedures.* The City and Applicant shall be entitled to representation by counsel at said hearing and may present witnesses, present testimony and documents, cross-examine opposing witnesses, and 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, and subject to judicial review via a common law *writ of certiorari*.

(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 PSEBA benefits.

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

Section VI. Health Insurance Benefits.

A. If the Human Resources Director or Hearing Officer awards PSEBA benefits, the City's basic level insurance plan, as designated by the City in the event the City offers more than one insurance plan, will be the plan offered. The City's basic level insurance plan may change from time to time. If the Applicant chooses to enroll in a plan available in the City other than the designated basic level insurance plan, then the Applicant must pay any difference in insurance premiums between the City'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 City'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 City. 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 benefit recipient to notify the City 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 City of any benefits received. The City reserves the right on an annual basis to have the benefit recipient provide another affidavit affirming whether other health insurance is available or payable to the recipient, his/her spouse and/or his/her qualifying dependent children.

The recipient also is required to notify the City when the recipient becomes Medicare eligible so the City 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.

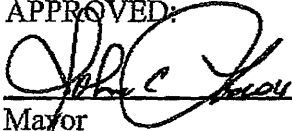
PASSED by the City Council of the City of Mt. Vernon, Illinois by a roll call vote this 21st day of May, 2018.

APPROVED by the Mayor of the City of Mt. Vernon, Illinois this 21st day of May, 2018.

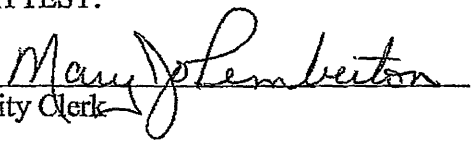
AYES: 5

NAYS: 0

ABSENT AND/OR NOT VOTING: N/A

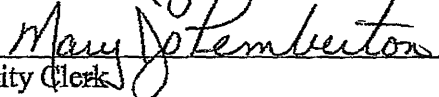
APPROVED:


Mayor

ATTEST:


City Clerk

PUBLISHED IN PAMPHLET FORM THIS 22ND DAY May, 2018.



City Clerk