

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

SENATE BILL 1457

By: Treat

AS INTRODUCED

An Act relating to workers' compensation; amending 85A O.S. 2021, Section 13, which relates to mental-health related injuries; exempting first responders from physical injury requirement for certain claim; providing for computation of benefits for certain persons; providing for temporary pension benefits; imposing limits on total period of disability benefits; providing for award of permanent total disability based upon maximum medical improvement; providing for payment of benefits based on certain injury; imposing time limit on benefits; imposing limit on employer responsibility for certain medical benefits; requiring employer to maintain health insurance coverage under certain circumstance; providing that payment of certain claims be made through certain pool; defining terms; updating statutory reference; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 85A O.S. 2021, Section 13, is amended to read as follows:

Section 13. A. 1. A mental injury or illness is not a compensable injury unless caused by a physical injury to the employee, and shall not be considered an injury arising out of and in the course and scope of employment or compensable unless

1 demonstrated by a preponderance of the evidence; provided, however,
2 that this physical injury limitation shall not apply to any victim
3 of a crime of violence, a law enforcement officer, paid or volunteer
4 firefighter, or emergency medical technician employed on a full-time
5 basis by a municipality, county, or this state, or a voluntary
6 firefighter who suffers post-traumatic stress disorder, as defined
7 in subsection E of this section, while responding to an emergency.
8 For the purposes of this section, such employee shall be referred to
9 as a first responder.

10 2. No mental injury or illness under this section shall be
11 compensable unless it is also diagnosed by a licensed psychiatrist
12 or psychologist and unless the diagnosis of the condition meets the
13 criteria established in the most current issue of the Diagnostic and
14 Statistical Manual of Mental Disorders.

15 B. 1. Notwithstanding any other provision of ~~this act~~ the
16 Administrative Workers' Compensation Act, where a claim is for
17 mental injury or illness, the employee shall be limited to twenty-
18 six (26) weeks of disability benefits unless it is shown by clear
19 and convincing evidence that benefits should continue for a set
20 period of time, not to exceed a total of fifty-two (52) weeks. If
21 the treating physician is of the opinion that the first responder is
22 temporarily unable to perform his or her job or any alternative work
23 offered by the employer, he or she shall be entitled to receive
24 compensation which is the greater of the weekly benefit provided for

1 in a collective bargaining agreement or according to the policy of
2 the employer, or seventy percent (70%) of the injured employee's
3 average weekly wage not to exceed the state average weekly wage. If
4 the employee has a temporary pension benefit available at no
5 additional cost to the employee and the benefit is equal to or
6 greater than the temporary award in this system, the employer may
7 elect to exercise the temporary pension benefit. In no event shall
8 disability benefits extend beyond fifty-two (52) weeks.

9 2. Notwithstanding any other provision of this section, a first
10 responder who receives benefits provided herein for a mental injury
11 or illness not accompanied by a physical injury who, after reaching
12 maximum medical improvement, is unable to perform the essential
13 functions of his or her employment position and who is not eligible
14 to receive a disability retirement through his or her pension or
15 retirement system shall be eligible to be awarded permanent
16 disability benefits not to exceed Fifty Thousand Dollars
17 (\$50,000.00) as provided for in this act.

18 3. a. In cases where death results directly from the mental
19 injury or illness within a period of one (1) year,
20 compensation shall be paid to the dependents as
21 provided in other death cases under ~~this act~~ the
22 Administrative Workers' Compensation Act.

23 b. Death directly or indirectly related to the mental
24 injury or illness occurring one (1) year or more from
25

1 the incident resulting in the mental injury or illness
2 shall not be a compensable injury.

3 C. 1. In the event that the Oklahoma Workers' Compensation
4 Commission finds that a first responder has suffered post-traumatic
5 stress disorder not accompanied by a physical injury, the employer
6 shall provide reasonable and necessary medical treatment for such
7 injury, subject to the Oklahoma Workers' Compensation Commission's
8 Fee Schedule, for a period not longer than one (1) year. The
9 employer shall not be responsible for medical treatment in the form
10 of prescription medicine in excess of Ten Thousand Dollars
11 (\$10,000.00).

12 2. During any period in which a first responder is temporarily
13 unable to perform his or her job, the employer shall pay to maintain
14 health insurance coverage for the first responder, if such health
15 insurance was in effect on the date of the injury.

16 D. For the purposes of this section, claim payments for
17 volunteer firefighters shall be paid pursuant to the Volunteer
18 Firefighter Group Insurance Pool.

19 E. For the purposes of this section:

20 1. "Post-traumatic stress disorder" means an injury or
21 condition in which a first responder has been exposed to a traumatic
22 event and:

23 a. has experienced, witnessed, or was confronted with an
24 event that involved actual or threatened death or

1 serious injury, or a threat to the physical integrity
2 of others, and the response involved fear,
3 helplessness, or horror,

4 b. the traumatic event is persistently re-experienced in
5 one or more of the following ways:

6 (1) recurrent and intrusive distressing recollections
7 of the event,

8 (2) recurrent distressing dreams,

9 (3) acting or feeling as if the traumatic event were
10 recurring,

11 (4) intense psychological distress at exposure to
12 cues that symbolize an aspect of the traumatic
13 event, or

14 (5) physiological reactivity on exposure to cues that
15 symbolize an aspect of the traumatic event,

16 c. persistent avoidance of stimuli associated with the
17 trauma and numbing of general responsiveness such as
18 efforts to avoid thoughts, feelings, or conversations
19 associated with the trauma, markedly diminished
20 interest or participation in significant activities,
21 or a feeling of detachment or estrangement from
22 others,

23 d. persistent symptoms of increased arousal such as
24 difficulty falling or staying asleep, irritability or

