

§ 44. If any provision of this act or the application thereof shall be held to be invalid, such invalidity shall not affect other provisions of this act which can be given effect without the invalid provision, and to that end, the provisions of this act are severable.

§ 45. This act shall take effect immediately, provided:

1. Sections one through forty-one-e of this act shall take effect July 1, 1999; provided that:

(a) the commissioner of health and the superintendent of insurance may promulgate regulations prior to such date;

(b) a standard or expedited appeal in progress on the effective date of this act shall be subject to the provisions of law in effect when such an appeal was initiated, provided that any final adverse determination pursuant to such an appeal made after the effective date of this act may be externally appealed pursuant to the provisions of this act;

2. Sections thirty-nine through forty-one-a of this act shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such date; and

3. Notwithstanding any contrary provisions of sections 3216, 3221, 3231, 4304, 4305 and 4317 of the insurance law, or of any later amendments or successor provision or regulations or rules that implement said sections, an insurer, company, organization or other entity subject to article forty-nine of the public health law or article forty-nine of the insurance law may elect to unilaterally modify the coverage for a policy or contract of hospital, surgical or medical expense insurance, effective April 1, 2000, to comply with the requirements of sections thirty-nine through forty-one-a of this act without regard to the time of coverage renewal and without providing for the termination, non-renewal or discontinuance of said coverage.

RETIREMENT AND SOCIAL SECURITY—INJURY
PERFORMING DUTIES—BENEFITS

CHAPTER 587

A. 6947-C

Approved Aug. 5, 1998, effective as provided in section 4

AN ACT to amend the general municipal law and the retirement and social security law, in relation to benefits for employees of governmental entities performing emergency medical services in the city of New York, who are injured in the performance of their duties

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

§ 1. The general municipal law is amended by adding a new section 207-o to read as follows:

§ 207-o. Performance of duty disability retirement. Notwithstanding the provisions of any general, special or local law or administrative code to the contrary, but except for the purposes of the workers' compensation law and the labor law, a paid employee who performs the functions of an emergency medical technician or advanced emergency medical technician, where such employee is drawn from competitive civil service lists and successfully passed a physical examination on employment, who, on or after March seventeenth, nineteen hundred ninety-six, contracts HIV (where the employee may have been exposed to a bodily fluid of a person under his or her care or treatment, or while the employee examined, transported or otherwise had contact with such person, in the performance of his or her duties) tuberculosis or hepatitis, will be presumed to have contracted such disease as a natural and proximate result of an accidental injury received in the performance or discharge of his or her duties and not resulting from his or her willful negligence, unless the contrary be proved by competent evidence.

§ 2. Subdivision a of section 444 of the retirement and social security law, as amended by chapter 622 of the laws of 1997, is amended to read as follows:

a. Except as provided in subdivision c of section four hundred forty-five-a of this article, subdivision c of section four hundred forty-five-b of this article, subdivision c of section four hundred forty-five-c of this article, and subdivision c of section four hundred forty-five-d of this article, the maximum retirement benefit computed without optional modification provided to a member of a retirement system who is subject to the provisions of this article, other than a policeman, a fireman, an investigator member of the New York city employees' retirement system, a member of the uniformed personnel in institutions under the jurisdiction of the New York city department of correction who receives a performance of duty disability retirement allowance, a member of the uniformed personnel in institutions under the jurisdiction of the department of correctional services or a security hospital treatment assistant, as those terms are defined in subdivision i of section eighty-nine of this chapter, who receives a performance of duty disability retirement allowance, a member of a teachers' retirement system or a member of the New York state and local employees' retirement system or a member of the New York city employees' retirement system employed by the city of New York or by the New York city health and hospital corporation in the position of the emergency medical technician or advanced emergency medical technician (as those terms are defined in section three thousand one of the public health law) and who receives a performance of duty disability pension, from funds other than those based on a member's own or increased-take-home-pay contributions, shall, before any reduction for early retirement, be sixty per centum of the first fifteen thousand three hundred dollars of final average salary, and fifty per centum of final average salary in excess of fifteen thousand three hundred dollars, and forty per centum of final average salary in excess of twenty-seven thousand three hundred dollars, provided, however, that the benefits provided by subdivision c of section four hundred forty-five-d of this article based upon the additional member contributions required by subdivision d of such section four hundred forty-five-d shall be subject to the maximum retirement benefit computations set forth in this section. The maximum retirement benefit computed without optional modification payable to a policeman, an investigator member of the New York city employees' retirement system or a fireman shall equal that payable upon completion of thirty years of service.

§ 3. The retirement and social security law is amended by adding a new section 607-b to read as follows:

§ 607-b. Performance of duty disability retirement. a. Any member of the New York city employees' retirement system who is employed by the city of New York or by the New York city health and hospital corporation in the position of emergency medical technician or advanced emergency medical technician, as those terms are defined in section three thousand one of the public health law, who, on or after March seventeenth, nineteen hundred ninety-six, becomes physically or mentally incapacitated for the performance of duties as the natural and proximate result of an injury, sustained in the performance or discharge of his or her duties shall be paid a performance of duty disability retirement allowance equal to three-quarters of final average salary, subject to the provisions of subdivision c of section six hundred five of this article and section 13-176 of the administrative code of the city of New York.

b. Notwithstanding any provision of this chapter or of any general or special law to the contrary, a member covered by this section who contracts HIV (where the member may have been exposed to a bodily fluid of a person under his or her care or treatment, or while the member examined, transported or otherwise had contact with such person, in the performance of his or her duties) tuberculosis or hepatitis, will be presumed to have contracted such disease in the performance or discharge of his or her duties, unless the contrary be proved by competent evidence.

§ 4. This act shall take effect immediately provided that section 607-b of the retirement and social security law as added by section three of this act shall expire on the same date as article 14 of the retirement and social security law expires pursuant to section 615 of the retirement and social security law.

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investigational if the coverage has been recommended by an external review agent. In establishing a procedure for appeals to be heard by an external review agent, the bill provides a mechanism for consumers to obtain an independent, impartial opinion regarding coverage determinations. The bill also requires that qualified clinical peer reviewers conduct the external review so that consumers will be assured that qualified medical personnel are making treatment determinations. In addition, the bill imposes uniform standards on the review of coverage determinations. With such standards, there will be consistency among plans concerning determinations regarding medical necessity and the coverage of experimental and investigational treatments. The bill has the additional protection of requiring an expedited external review process so that enrollees will not experience a delay in accessing beneficial services or treatments which are of an experimental or investigational nature.

Along with requiring that consumers be provided access to an external appeals process, the bill also includes provisions relating to payments under provider contracts. Providers are increasingly entering into risk sharing arrangements and, in many instances, they do not have sufficient information to determine the actual amount of reimbursement. The bill requires contracts between providers and HMOs or insurers to include an explanation of the provider payment methodology, the time periods for provider payments, the information to be relied upon to calculate payments and adjustments, and the process to be employed to resolve disputes concerning provider payments. These and other provisions of the bill also protect enrollees by assuring that provider contracts do not compromise quality or access to care.

BUDGET IMPLICATIONS:

There are no significant fiscal implications in fiscal year 1998-1999.

RETIREMENT AND SOCIAL SECURITY—INJURY PERFORMING DUTIES—BENEFITS

Memorandum in Support, New York State Assembly

Text of Law. see ch. 587

PURPOSE: This bill intends to provide New York City emergency medical technicians with financial security should they be injured in the performance of their duties.

SUMMARY OF PROVISIONS:

This bill would:

- provide that an emergency medical technician or an advanced emergency medical technician employed by New York City of the New York City Health and Hospital Corporation with a 75% pension if such person is injured while performing his/her duties;
- provide that if any of these employees contracts HIV, tuberculosis or hepatitis such disease shall be presumed to have been contracted as part of employment, unless evidence to the contrary can be shown; and,
- provide that such benefits shall only be applicable to a disability alleged to have occurred on or after March 17, 1996.

EFFECTS OF EXISTING LAW WHICH THIS BILL WOULD ALTER: New York City emergency medical technicians (EMTs) are currently not entitled to the benefits enumerated above which are provided by this proposal.

JUSTIFICATION: The 2,500 New York City emergency medical technicians respond to over 1.5 million emergency medical calls each year and it is estimated that this number will increase by 10% annually. Since March 17, 1996 New York City's EMS service has been merged into the NYC Fire Department and known as the FDNY Bureau of Emergency Medical Services (BEMS). The EMTs in BEMS now work side by side with members of the fire department but, if injured, the benefits are radically different from one another.

Some BEMS members suffer serious disabling back and spinal injuries resulting from hundreds or thousands of incidents of carrying heavy patients up and down multiple flights of stairs in the City's walk-up buildings, as well as in many buildings where elevator services are

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disabled. In addition, some members contract serious deadly diseases such as HIV, TB and hepatitis from infected patients. Serious disabling injuries can result from vehicular accidents and assaults at the scene of assistance.

A serious inequity is now apparent. If a BEMS paramedic and a fire-fighter both suffer a serious disabling injury at the same emergency, the firefighter can receive a 75% pension for life. The BEMS paramedic receives 18 months of disability wages and then faces termination if he/she cannot return to work. This is grossly unfair.

During 1997, the New York City Fire Department Emergency Medical Service experienced its first fully documented line of duty death of an EMT who contracted HIV, and subsequently AIDS, from an on-the-job exposure. Tracy Allen Lee was 34 years of age when she died of AIDS. The City of New York ultimately declared her death to be "line of duty". Yet, the fact that Ms. Lee died at about the same time her paid leave was exhausted does not diminish the argument that EMS workers deserve line of death benefits, too.

This bill overcomes this unfairness and recognizes the strenuous and dangerous working conditions that New York City EMTs face. EMTs are deserving of this benefit, as is his or her family should the EMT suffer a disabling injury or death.

LEGISLATIVE HISTORY: The benefits provided by this proposal to New York City emergency medical technicians were granted to state correction officers through Chapter 722 of the Laws of 1996.

FISCAL IMPLICATIONS:

\$30,000 to New York City in FY 1998-99 and then increasing by \$30,000 annually to a total of \$300,000 in FY 2007-08 and remaining constant thereafter. (Jonathan Schwartz, Consulting Actuary)

EFFECTIVE DATE: Immediately.

PUBLIC HEALTH—ESTABLISHMENT OF HOSPITALS

Memorandum in Support, New York State Assembly

Text of Law, see ch. 588

PURPOSE OR GENERAL IDEA OF BILL:

To provide the Commissioner of Health with the authority to approve the establishment of limited liability companies or corporations in select cases.

SUMMARY OF SPECIFIC PROVISIONS:

Section 2801-a of the Public Health Law is amended by adding a new subdivision 2-a.

JUSTIFICATION:

Currently, all establishment applications must be approved by the Public Health Council after a review and the possessing of a lengthy and costly certificate of need application. There are currently approved single proprietors or partnerships which seek to change their form of operation to a limited liability company or a corporation. There are no changes on the individuals involved with the operation of the facility. The individuals are known to the Department and the Commissioner is in a position to make decisions approving the establishment in these limited situations. The amendment provides for due process in the event the Commissioner proposes to disapprove.

LEGISLATIVE HISTORY:

This is new bill.

FISCAL IMPLICATIONS:

Savings to both the Department and the Applicant.

EFFECTIVE DATE:

This act shall take effect immediately.

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