



General Assembly

Substitute Bill No. 422

February Session, 2022



AN ACT CONCERNING THE ESSENTIAL WORKERS COVID-19 ASSISTANCE PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-900 of the 2022 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) As used in this section and section 31-290a:

5 (1) "Affected person" means an essential employee who died or was
6 unable to work as a result of contracting COVID-19, or due to symptoms
7 that were later diagnosed as COVID-19, at any time between March 10,
8 2020, and July 20, 2021, provided: (A) The contraction of COVID-19 by
9 such employee is confirmed by a positive laboratory test or, if a
10 laboratory test was not available for the employee, as diagnosed and
11 documented by the employee's licensed physician, licensed physician
12 assistant or licensed advanced practice registered nurse, based on the
13 employee's symptoms; (B) a copy of the positive laboratory test or the
14 written documentation of the physician's, physician assistant's or
15 advanced practice registered nurse's diagnosis is provided to the
16 administrator; and (C) such employee, during the fourteen consecutive
17 days immediately preceding the date the employee died or was unable
18 to work due to contracting COVID-19, (i) was not employed in a

19 capacity where the employee worked solely from home and did not
20 have physical interaction with other employees, or (ii) was the recipient
21 of a written offer or directive from such employee's employer to work
22 solely from home but otherwise chose to work at a work site of the
23 employer. "Affected person" does not include a federal employee who
24 qualifies for benefits under the COVID-19 workers' compensation
25 presumption included in the American Rescue Plan Act of 2021;

26 (2) "Affected employee" means an essential employee who, at any
27 time between July 21, 2021, and the end of the public health and civil
28 preparedness emergencies declared by the Governor on March 10, 2022,
29 and extended by the General Assembly on February 14, 2022, or any
30 extension of such declaration, is unable to perform the functions of such
31 essential employee's job due to an eligible reason for leave, provided an
32 affected employee shall not include an essential employee who (A)
33 during the fourteen consecutive days immediately preceding the
34 eligible reason for leave, was employed in a capacity where such
35 affected employee worked solely from home and did not have physical
36 interaction with other employees, or (B) was the recipient of a written
37 offer or directive from such essential employee's employer to work
38 solely from home but otherwise chose to work at a work site of the
39 employer;

40 (3) "Eligible reason for leave" means:

41 (A) The affected employee's need to (i) self-isolate and care for oneself
42 because the affected employee has been diagnosed with COVID-19, is
43 experiencing symptoms of COVID-19 or has been exposed to someone
44 diagnosed with COVID-19, (ii) seek preventive care concerning COVID-
45 19, (iii) seek or obtain medical diagnosis, care or treatment if
46 experiencing symptoms of COVID-19, or (iv) seek or obtain COVID-19
47 immunization or immunizations, including booster doses, or recover
48 from any injury, disability, illness or condition related to such
49 immunization or booster doses;

50 (B) The affected employee's need to comply with an order or

51 determination to self-isolate, on the basis that the affected employee's
52 physical presence at work or in the community would likely jeopardize
53 the affected employee's health, the health of other employees or the
54 health of an individual in the affected employee's household because of
55 (i) possible exposure to COVID-19, or (ii) the employee is exhibiting
56 symptoms of COVID-19, regardless of whether the affected employee
57 has been diagnosed with COVID-19;

58 (C) The affected employee's inability to work because the affected
59 employee is (i) prohibited from working by his or her employer due to
60 health concerns related to the potential transmission of COVID-19, (ii)
61 subject to an individual or general local, state or federal quarantine or
62 isolation order, including a shelter-in-place or stay-at-home order,
63 related to COVID-19, or (iii) seeking or awaiting the results of a
64 diagnostic test for, or a medical diagnosis of, COVID-19 and such
65 affected employee has been exposed to COVID-19 or the affected
66 employee's employer has requested such test or diagnosis;

67 (D) The affected employee's need to care for or assist a family member
68 who is (i) self-isolating, seeking preventative care or seeking or
69 obtaining medical diagnosis, care, treatment or immunizations or
70 booster doses, or recovering from such immunizations or booster doses,
71 or (ii) self-isolating due to an order or determination as described in
72 subparagraph (B) of this subdivision;

73 (E) The affected employee's need to care for a family member (i) when
74 the care provider of such family member is unavailable due to COVID-
75 19, or (ii) if the family member's school or place of care has been closed
76 by a local, state or federal public official or at the discretion of the school
77 or place of care, due to COVID-19, including if a school or place of care
78 (I) is physically closed but providing virtual learning instruction, (II)
79 requires or makes optional virtual learning instruction, or (III) requires
80 or makes available a hybrid or in-person and virtual learning instruction
81 models; or

82 (F) The affected employee's inability to work because the affected

83 employee has a health condition that may increase susceptibility to or
84 risk of COVID-19, including, but not limited to, age, heart disease,
85 asthma, lung disease, diabetes, kidney disease or a weakened immune
86 system;

87 [(2)] (4) "Essential employee" means any person employed in a
88 category recommended by the Centers for Disease Control and
89 Prevention's Advisory Committee on Immunization Practices as of
90 February 20, 2021, to receive a COVID-19 vaccination in phase 1a, [or]
91 1b or 1c of the COVID-19 vaccination program;

92 [(3)] (5) "Administrator" means an employee of the Office of the
93 Comptroller, or a third-party administrator;

94 [(4)] (6) "Assistance" means moneys payable by the Comptroller from
95 the Connecticut Essential Workers COVID-19 Assistance Fund,
96 established pursuant to subsection (c) of this section, to assist affected
97 persons and affected employees pursuant to this section;

98 [(5)] (7) "Uncompensated leave" means the wages or salary lost by (A)
99 an affected person unable to work as a result of contracting COVID-19,
100 or due to symptoms that were later diagnosed as COVID-19, at any time
101 during the public health and civil preparedness emergencies declared
102 by the Governor on March 10, 2020, or any extension of such
103 declarations, or (B) an affected employee as a result of an eligible reason
104 for leave. "Uncompensated leave" does not include any leave from
105 employment for which the affected person or affected employee
106 received paid leave provided through a paid leave plan provided by an
107 employer or pursuant to any state or federal law;

108 [(6)] (8) "COVID-19" means the respiratory disease designated by the
109 World Health Organization on February 11, 2020, as coronavirus 2019,
110 and any related mutation thereof recognized by the World Health
111 Organization as a communicable respiratory disease; and

112 (9) "Family member" has the same meaning as set forth in section 31-
113 51kk.

114 (b) There is established the Connecticut Essential Workers COVID-19
115 Assistance Program. The program shall offer assistance, within
116 available funds and on a first-come, first-served basis, to affected
117 persons and affected employees eligible for assistance under this
118 section, pending verification of eligibility, provided no assistance shall
119 be paid to any affected person after June 30, 2024. The program shall be
120 administered by the administrator. The administrator shall accept
121 applications for assistance on or after October 1, 2021. For the purposes
122 of this section, the administrator shall be authorized to (1) determine
123 whether an affected person or affected employee meets the
124 requirements for eligibility for assistance under this section and the
125 amount of assistance that should be provided; (2) summon and examine
126 under oath such witnesses that may provide information relevant to the
127 eligibility of an affected person or affected employee, and direct the
128 production of, and examine or cause to be produced or examined, such
129 books, records, vouchers, memoranda, documents, letters, contracts or
130 other papers in relation to any matter at issue as the administrator may
131 find proper; and (3) take or cause to be taken affidavits or depositions
132 within or without the state.

133 (c) There is established an account to be known as the "Connecticut
134 Essential Workers COVID-19 Assistance Fund" which shall be a
135 separate, nonlapsing account within the General Fund. The account
136 shall contain any moneys required by law to be deposited in the account.
137 Moneys in the account shall be expended by the Comptroller at the
138 discretion of the administrator for the purposes of (1) assistance offered
139 under the Connecticut Essential Workers COVID-19 Assistance
140 Program, and (2) costs and expenses of operating the program,
141 including the hiring of necessary employees and the expense of public
142 outreach and education regarding the program and fund, provided not
143 more than five per cent of the total moneys received by the fund shall
144 be used for any administrative costs, including hiring temporary or
145 durational staff or contracting with a third-party administrator, or other
146 costs and expenses incurred by the administrator or Comptroller in
147 connection with carrying out the provisions of this section and

148 subsection (a) of section 31-306. The administrator shall make all
149 reasonable efforts to limit the costs and expenses of operating the
150 program without compromising affected persons' and affected
151 employees' access to the program.

152 (d) (1) To apply for assistance from the Connecticut Essential Workers
153 COVID-19 Assistance Fund, an affected person with a pending workers'
154 compensation claim under chapter 568, related to COVID-19, or an
155 affected person who does not have such pending workers'
156 compensation claim, shall submit a claim to the administrator, in such
157 form as required by the administrator, not later than July 20, 2022. An
158 affected person who does not have a pending workers' compensation
159 claim related to COVID-19 shall submit a claim to the administrator, in
160 such form as required by the administrator, not later than one year after
161 the date such person was initially unable to work as a result of
162 contracting COVID-19 or due to symptoms that were later diagnosed as
163 COVID-19 or July 20, 2022, whichever is later. Any such claim shall
164 include: [(1)] (A) A certificate issued by a licensed medical professional
165 documenting the laboratory test or diagnosis that such affected person
166 contracted COVID-19 [(A)] (i) requiring such person to isolate and
167 quarantine from others, [(B)] (ii) preventing such affected person from
168 performing such affected person's employment duties, or [(C)] (iii)
169 requiring in-patient or outpatient medical treatment; [(2)] (B) for the
170 purposes of requesting assistance for uncompensated leave, evidence of
171 [(A)] (i) such affected person's weekly earnings during the eight
172 calendar weeks immediately preceding the time of diagnosis, except in
173 the case of an employee who has not yet worked for that employer for
174 an eight-week period, for the time period such employee was employed,
175 and [(B)] (ii) uncompensated leave due to the contraction of COVID-19
176 or symptoms that were later diagnosed as COVID-19; [(3)] (C) for the
177 purposes of requesting assistance for out-of-pocket costs for medical
178 and surgical aid or hospital or nursing service, evidence of such affected
179 person's costs; and [(4)] (D) any additional information as requested or
180 required by the administrator.

181 (2) To apply for assistance from the Connecticut Essential Workers
182 COVID-19 Assistance Fund, an affected employee shall submit a claim
183 to the administrator, in such form as required by the administrator. Any
184 such claim shall include: (A) Evidence of such affected employee's
185 hourly earnings during the eight calendar weeks immediately
186 preceding the date that such employee was unable to work due to an
187 eligible reason for leave; (B) the amount of uncompensated leave
188 incurred by the affected employee due to being unable to work because
189 of an eligible reason for leave; and (C) any additional information as
190 requested or required by the administrator.

191 (e) (1) The level of assistance offered to an affected person shall be
192 calculated as follows, subject to available funds, and payable on a
193 retroactive basis from the date such person was initially unable to work
194 as a result of contracting COVID-19 or due to symptoms that were later
195 diagnosed as COVID-19, but not earlier than March 10, 2020, and not
196 later than July 20, 2021: [(1)] (A) Weekly assistance for all
197 uncompensated leave, calculated as seventy-five per cent of such
198 affected person's average weekly earnings during the eight calendar
199 weeks immediately preceding the date such person was initially unable
200 to work as a result of contracting COVID-19, or due to symptoms that
201 were later diagnosed as COVID-19, except in the case of an employee
202 who has not yet worked for that employer for an eight-week period,
203 seventy-five per cent of such affected person's average weekly earnings
204 for the time period such employee was employed, and after such
205 earnings have been reduced by any deduction for: [(A)] (i) Federal or
206 state taxes, or both; [(B)] (ii) the federal Insurance Contributions Act,
207 provided such assistance shall not exceed the average weekly earnings
208 of all workers in the state as calculated by the Labor Commissioner,
209 pursuant to section 31-309; and [(C)] (iii) any benefits received for total
210 or partial unemployment as provided in chapter 567, and any amount
211 of temporary total or temporary partial disability benefits under chapter
212 568, for the same days of such claimed assistance; [, (2)] (B) all
213 documented out-of-pocket COVID-19 related costs for medical and
214 surgical aid or hospital and nursing service incurred directly as a result

215 of such affected person contracting COVID-19, including, but not
216 limited to, medical rehabilitation services, mental health therapy
217 services and prescription drugs; [] and [(3)] (C) burial expenses in the
218 amount of three thousand dollars in any case in which an employee died
219 due to contracting COVID-19 during [(A)] (i) the public health and civil
220 preparedness emergencies declared by the Governor on March 10, 2020,
221 or any extension of such declarations, or [(B)] (ii) any new public health
222 and civil preparedness emergencies declared by the Governor as a result
223 of a COVID-19 outbreak in this state.

224 (2) The level of assistance provided to an affected employee, subject
225 to available funds, and payable on a retroactive basis from the date such
226 employee was initially unable to work due to an eligible reason for
227 leave, but not earlier than July 21, 2021, shall be one hundred per cent of
228 such affected employee's hourly uncompensated leave, provided such
229 assistance for any affected employee shall not exceed eighty hours of
230 uncompensated leave.

231 (f) The administrator shall promptly review all claims submitted
232 pursuant to this section. The administrator shall evaluate each claim and
233 determine, on the basis of information provided by the affected person
234 or affected employee, or additional information provided at the request
235 of the administrator, whether or not such claim should be approved
236 and, if approved, the amount of assistance offered. The administrator
237 shall provide such determination, in writing, to such affected person or
238 affected employee not later than sixty business days after having
239 received the notice of claim, or, if the administrator requested additional
240 information, not later than ten business days after receiving such
241 additional information, and shall direct the Comptroller to pay any such
242 assistance offered to such affected person or affected employee in the
243 amount and for the duration determined by the administrator, if
244 applicable.

245 (g) For purposes of this section, a pending workers' compensation
246 claim submitted by an affected person or affected employee shall not
247 prevent the administrator from approving such person's claim for

248 assistance under this section, provided any workers' compensation
249 benefits such affected person receives for the workers' compensation
250 claim shall be offset by the amount of assistance such affected person
251 receives for uncompensated leave under this section, as deemed
252 appropriate by the presiding workers' compensation commissioner.
253 Any assistance available under this section shall be offset by any
254 workers' compensation benefits already paid to the affected person for
255 the uncompensated leave or out-of-pocket medical costs, including
256 payments made without prejudice. It shall be the responsibility of the
257 administrator of the fund to notify the Workers' Compensation
258 Commission of an available offset.

259 (h) An affected person or affected employee may request that a
260 determination made pursuant to subsection (f) of this section be
261 reconsidered by the administrator's designee by filing a request with the
262 administrator, on a form prescribed by the administrator, not later than
263 twenty business days after the mailing of the notice of such
264 determination. The administrator, not later than three business days
265 after receipt of such request for reconsideration, shall designate an
266 individual to conduct such reconsideration and shall submit to such
267 designated individual all documents relating to such affected person's
268 or affected employee's claim. The administrator's designee shall conduct
269 any reconsideration requested by an affected person or affected
270 employee, which shall consist of a de novo review of all relevant
271 evidence, not later than twenty business days after such individual's
272 designation. Such administrator's designee shall issue such designee's
273 decision affirming, modifying or reversing the decision of the
274 administrator not later than twenty business days after the designee's
275 reconsideration of the determination and shall submit such decision in
276 writing to the administrator and the affected person or affected
277 employee. The decision shall include a short statement of findings that
278 shall specify any assistance to be paid to the affected person or affected
279 employee in accordance with subsection (f) of this section.

280 (i) Any statement, document, information or matter may be

281 considered by the administrator or, on reconsideration, by the
282 administrator's designee, if in the opinion of the administrator or
283 designee, it contributes to a determination of the claim, whether or not
284 the same would be admissible in a court of law.

285 (j) There shall be no right of appeal by any affected person or affected
286 employee claiming assistance under this section following the final
287 decision of the administrator's designee issued pursuant to subsection
288 (h) of this section.

289 (k) Any assistance provided to an affected person or affected
290 employee under this section shall not be considered income for the
291 purpose of the state's personal income tax law, corporation tax or any
292 other tax laws.

293 (l) If a claim is paid to an affected person or affected employee
294 erroneously or as a result of wilful misrepresentation by such affected
295 person or affected employee, the administrator may seek repayment of
296 benefits from the affected person or affected employee having received
297 such compensation and may also, in the case of wilful
298 misrepresentation, seek payment of a penalty in the amount of fifty per
299 cent of the benefits paid as a result of such misrepresentation.

300 (m) On or before January 1, 2022, and monthly thereafter, and any
301 other time at the request of the administrator, the Comptroller shall
302 submit a report to the administrator indicating the value of the
303 Connecticut Essential Workers COVID-19 Assistance Fund at the time
304 of the report.

305 (n) On or before January 1, 2022, and at least quarterly thereafter, the
306 administrator shall submit to the joint standing committee of the
307 General Assembly having cognizance of matters relating to labor, in
308 accordance with section 11-4a, a report on the financial condition of the
309 Connecticut Essential Workers COVID-19 Assistance Fund. Such report
310 shall include (1) an estimate of the fund's value as of the date of the
311 report; (2) the effect of scheduled payments on the fund's value; (3) an

312 estimate of the monthly administrative costs necessary to operate the
313 program and the fund; and (4) any recommendations for legislation to
314 improve the operation or administration of the program and the fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	31-900

Statement of Legislative Commissioners:

In Subsection (g), "or affected employee" was added for consistency.

LAB *Joint Favorable Subst.*