

117TH CONGRESS
1ST SESSION

H. R. 1357

To provide for the establishment of a COVID–19 Compensation Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2021

Mrs. CAROLYN B. MALONEY of New York (for herself, Ms. BARRAGÁN, Mr. BISHOP of Georgia, Mr. CARSON, Ms. CLARKE of New York, Mr. CONNOLLY, Mr. CUELLAR, Ms. DEAN, Mr. DESAULNIER, Ms. ESHOO, Mr. ESPAILLAT, Mr. GOMEZ, Mrs. HAYES, Mr. HASTINGS, Ms. NORTON, Ms. JACKSON LEE, Mr. JONES, Ms. KAPTUR, Mr. KEATING, Mr. KHANNA, Mrs. LAWRENCE, Mr. LYNCH, Ms. MENG, Ms. OCASIO-CORTEZ, Mr. PAYNE, Ms. PRESSLEY, Mr. RASKIN, Miss RICE of New York, Ms. SHERRILL, Mr. SIRES, Mr. SOTO, Mr. SUOZZI, Mr. TONKO, Mr. THOMPSON of Mississippi, Mr. VELA, Ms. VELÁZQUEZ, Ms. WATERS, Mrs. WATSON COLEMAN, Mr. WELCH, and Mr. SAN NICOLAS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the establishment of a COVID–19 Compensation Fund, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Pandemic Heroes
5 Compensation Act of 2021”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act, the following definitions apply:

3 (1) CLAIMANT.—The term “claimant” means
4 an individual filing a claim for compensation under
5 this Act.

6 (2) COLLATERAL SOURCE.—The term “collat-
7 eral source” means all compensation other than
8 compensation under this Act, including life insur-
9 ance, pension funds, death benefit programs, and
10 payments by Federal, State, Territory, or local gov-
11 ernments.

12 (3) COVID-19.—The term “COVID-19”
13 means novel coronavirus disease 2019, as identified
14 by the Centers for Disease Control.

15 (4) ECONOMIC LOSS.—The term “economic
16 loss” means any pecuniary loss (including the loss of
17 earnings or other benefits related to employment,
18 medical expense loss, replacement services loss, loss
19 due to death, burial costs, and loss of business or
20 employment opportunities) resulting from harm due
21 to COVID-19 to the extent recovery for such loss is
22 allowed under applicable Federal, State, local, Trib-
23 al, or territorial law.

24 (5) ESSENTIAL WORKER.—The term “essential
25 worker” means any individual, employee, or con-
26 tractor working for a person, business, nonprofit en-

1 tity, or Federal, State, tribal, territorial or local gov-
2 ernment that is determined, during the response to
3 the COVID–19 pandemic, to be essential, based on
4 State, local, tribal, or territorial orders or declara-
5 tions (or equivalent), or Federal guidance published
6 by the Cyber & Infrastructure Security Agency
7 (CISA), and who performed work outside their place
8 of residence.

9 (6) NONECONOMIC LOSSES.—The term “non-
10 economic losses” means losses for physical and emo-
11 tional pain, suffering, inconvenience, physical im-
12 pairment, mental anguish, disfigurement, loss of en-
13 joyment of life, loss of society and companionship,
14 loss of consortium (other than loss of domestic serv-
15 ice), hedonic damages, injury to reputation, and all
16 other nonpecuniary losses of any kind or nature.

17 (7) SPECIAL MASTER.—The term “Special Mas-
18 ter” means the Special Master appointed by the At-
19 torney General under section 3.

20 (8) PLACE OF RESIDENCE.—The term “place of
21 residence” means the physical location or locations
22 at which claimant resided or was residing during the
23 eligibility period.

24 (9) ELIGIBILITY PERIOD.—The term “eligibility
25 period” means any time during which any Federal,

1 State, Tribal, territorial, or local COVID–19 related
2 emergency order or declaration (or equivalent) is or
3 was in effect, regardless of the claimant’s place of
4 residence.

5 **SEC. 3. ADMINISTRATION.**

6 (a) IN GENERAL.—The Attorney General, acting
7 through a Special Master appointed by the Attorney Gen-
8 eral, shall—

9 (1) administer the compensation program es-
10 tablished under this Act;

11 (2) promulgate all procedural and substantive
12 rules for the administration of this Act; and

13 (3) employ and supervise hearing officers and
14 other administrative personnel to perform the duties
15 of the Special Master under this Act.

16 (b) APPOINTMENT OF SPECIAL MASTER AND DEP-
17 UTY SPECIAL MASTERS.—The Attorney General may ap-
18 point a Special Master and no more than two Deputy Spe-
19 cial Masters without regard to the provisions of title 5,
20 United States Code, governing appointments in the com-
21 petitive service. Any such employee shall serve at the
22 pleasure of the Attorney General. The Attorney General
23 shall fix the annual salary of the Special Master and the
24 Deputy Special Masters.

1 (c) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated such sums as may be
3 necessary to pay the administrative and support costs for
4 the Special Master in carrying out this Act.

5 **SEC. 4. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**
6 **TION.**

7 (a) FILING OF CLAIM.—

8 (1) IN GENERAL.—A claimant may file a claim
9 for compensation under this Act with the Special
10 Master. The claim shall be on the form developed
11 under paragraph (2) and shall state the factual basis
12 for eligibility for compensation and the amount of
13 compensation sought.

14 (2) CLAIM FORM.—

15 (A) IN GENERAL.—The Special Master
16 shall develop a claim form that claimants shall
17 use when submitting claims under paragraph
18 (1). The Special Master shall ensure that such
19 form can be filed electronically, if determined to
20 be practicable.

21 (B) CONTENTS.—The form developed
22 under subparagraph (A) shall request—

23 (i) information from the claimant con-
24 cerning the harm that the claimant suf-
25 fered as a result of COVID–19, or in the

1 case of a claim filed on behalf of a dece-
2 dent, information confirming the dece-
3 dent's death, as a result of COVID-19;

4 (ii) information establishing that the
5 claimant or decedent was an essential
6 worker;

7 (iii) information from the claimant
8 concerning any possible economic and non-
9 economic losses that the claimant suffered
10 as a result of COVID-19 or that was
11 caused by the death of the decedent from
12 COVID-19; and

13 (iv) information regarding collateral
14 sources of compensation the claimant has
15 received or is entitled to receive as a result
16 of COVID-19.

17 (3) LIMITATION.—No claim may be filed under
18 paragraph (1) after the date that is 5 years after
19 the end of the eligibility period.

20 (b) REVIEW AND DETERMINATION.—

21 (1) REVIEW.—The Special Master shall review
22 a claim submitted under subsection (a) and deter-
23 mine—

24 (A) whether the claimant is an eligible in-
25 dividual under subsection (c); and

1 (B) with respect to a claimant determined
2 to be an eligible individual—

3 (i) the extent of the harm to the
4 claimant, including any economic and non-
5 economic losses; and

6 (ii) subject to paragraph (7), the
7 amount of compensation to which the
8 claimant is entitled based on the harm to
9 the claimant, the facts of the claim, and
10 the individual circumstances of the claim-
11 ant.

12 (2) NEGLIGENCE.—With respect to a claimant,
13 the Special Master shall not consider negligence or
14 any other theory of liability.

15 (3) DETERMINATION.—A determination under
16 this subsection shall be final and not subject to judi-
17 cial review.

18 (4) RIGHTS OF CLAIMANT.—A claimant in a re-
19 view under paragraph (1) shall have—

20 (A) the right to be represented by an at-
21 torney or other representative;

22 (B) the right to present evidence, including
23 the presentation of witnesses and documents;
24 and

1 (C) any other due process rights deter-
2 mined appropriate by the Special Master.

3 (5) NO PUNITIVE DAMAGES.—The Special Mas-
4 ter may not include amounts for punitive damages
5 in any compensation paid under a claim under this
6 Act.

7 (6) COLLATERAL COMPENSATION.—The Special
8 Master shall reduce the amount of compensation de-
9 termined under paragraph (1) by the amount of the
10 collateral source compensation the claimant has re-
11 ceived or is entitled to receive as a result of the
12 claimant suffering from COVID–19.

13 (7) LIMITATIONS ON CLAIMS.—Noneconomic
14 losses shall not exceed such limit as the Special Mas-
15 ter may impose.

16 (c) ELIGIBILITY.—

17 (1) IN GENERAL.—A claimant or decedent shall
18 be determined to be an eligible individual for pur-
19 poses of this subsection if the Special Master deter-
20 mines that such claimant or decedent—

21 (A) was designated an essential worker
22 during the eligibility period or was a family
23 member of such an essential worker who re-
24 sided with the essential worker during the eligi-
25 bility period;

1 (B) expressed symptoms consistent with
2 COVID–19, including those with laboratory
3 confirmations, diagnosis by a healthcare pro-
4 vider, or for whom there is or was an absence
5 of an alternate diagnosis that explains claim-
6 ant’s or decedent’s symptoms;

7 (C) suffered economic loss; and

8 (D) meets the requirements of paragraph
9 (2).

10 (2) SINGLE CLAIM.—Not more than one claim
11 may be submitted under this Act by an individual or
12 on behalf of a deceased individual. If the claimant
13 dies during the pendency of a claim, the decedent’s
14 family or other individual representing the decedent
15 may continue the claimant’s claim with added ex-
16 penses related to the claimant’s death, as needed.

17 **SEC. 5. ASSISTANCE TO CLAIMANTS.**

18 The Special Master will establish an office to provide
19 assistance to all claimants in submitting claims.

20 **SEC. 6. PAYMENTS TO ELIGIBLE INDIVIDUALS.**

21 (a) IN GENERAL.—Subject to the limitations under
22 subsection (d), not later than 20 days after the date on
23 which a determination is made by the Special Master re-
24 garding the amount of compensation due a claimant under
25 this Act, the Special Master shall authorize payment to

1 such claimant of the amount determined with respect to
2 the claimant.

3 (b) FUNDING.—

4 (1) IN GENERAL.—The Attorney General is au-
5 thORIZED to accept such amounts as may be contrib-
6 uted by individuals, business concerns, or other enti-
7 ties to carry out this Act, under such terms and con-
8 ditions as the Attorney General may impose.

9 (2) USE OF SEPARATE ACCOUNT.—In making
10 payments under this section, amounts contained in
11 any account containing funds provided under para-
12 graph (1) shall be used prior to using appropriated
13 amounts.

14 (c) DEVELOPMENT OF AGENCY POLICIES AND PRO-
15 CEDURES.—Not later than 120 days after the date of en-
16 actment the Special Master shall develop agency policies
17 and procedures that meet the requirements including poli-
18 cies and procedures for presumptive award schedules, ad-
19 ministrative expenses, and related internal memoranda.

20 (d) ATTORNEY FEES.—The Special Master shall have
21 the sole discretion to determine reasonable compensation
22 for services rendered for attorney fees for services ren-
23 dered, if any.

1 **SEC. 7. REGULATIONS.**

2 Not later than 90 days after the date of enactment
3 of this Act, the Attorney General, in consultation with the
4 Special Master, shall promulgate regulations to carry out
5 this Act, including regulations with respect to—

6 (1) forms to be used in submitting claims under
7 this Act;

8 (2) the information to be included in such
9 forms;

10 (3) procedures for hearing and the presentation
11 of evidence;

12 (4) procedures to assist an individual in filing
13 and pursuing claims under this Act; and

14 (5) other matters determined appropriate by
15 the Attorney General.

16 **SEC. 8. RIGHT OF SUBROGATION.**

17 The United States shall have the right of subrogation
18 with respect to any claim paid by the United States, sub-
19 ject to the limitation described in this Act.

20 **SEC. 9. VICTIM COMPENSATION FUND.**

21 (a) IN GENERAL.—There is established in the Treas-
22 ury of the United States a fund to be known as the
23 “COVID–19 Compensation Fund”, consisting of amounts
24 deposited into such fund under subsection (b).

25 (b) AVAILABILITY OF FUNDS.—Amounts deposited
26 into the COVID–19 Compensation Fund shall be avail-

1 able, without further appropriation, to the Special Master
2 to provide compensation.

3 (c) **TERMINATION.**—The COVID–19 Compensation
4 Fund shall be permanently closed on the date that is 1
5 year after the Special Master determines that no addi-
6 tional claims may be filed.

7 **SEC. 10. APPROPRIATION.**

8 There is authorized to be appropriated for purposes
9 of carrying out this Act such sums as may be necessary
10 for fiscal year 2021 and each fiscal year thereafter
11 through fiscal year 2026, to remain available until ex-
12 pended.

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