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COMMISSIONER OF SAFETY

State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
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August 7, 2020

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

Pursuant to RSA 21-I:29-a II, the Department of Safety, Office of the Commissioner, requests authorization to disburse death benefits in the amount of one hundred thousand dollars (\$100,000) to Mrs. Jennifer Sabine, of Newington, NH as the surviving spouse of deceased Fire Chief Darin Sabine as a result of his death on September 7, 2019. After an investigation, conducted pursuant to RSA 21-I:29-a, I have determined that his death constituted a line-of-duty death within the meaning of the statute. Effective upon Governor and Council approval. Funding source: 100% General Funds.

Explanation

Pursuant to RSA 21-I:29-a, this request is to disburse death benefits to the family of Fire Chief Darin Sabine, who died on September 7, 2019. Chief Sabine, who served the community of Newington, New Hampshire, died as a result of cancer. The then Acting Chief of the Newington Fire Department submitted the notice for death benefits on behalf of Chief Sabine's family. The pertinent statute provides that:

“[t]he commissioner of safety, upon notice from the family or chief of [a] department of any firefighter...who may be entitled to a line-of-duty death benefit or upon the commissioner's own initiative, shall obtain the available records related to the circumstances, cause, and manner of such death and the decedent's status as a firefighter...[and] may cause further inquiry to be made, and shall make a determination of whether the death qualifies as a line-of-duty death and who is entitled to the death benefit.”

RSA 21-I:29-a, III (emphasis added). For the purposes of this statute, a firefighter is considered to have been killed in the line of duty if he or she “dies while in the performance of his or her duties as a result of incident, accident, or violence causing death or injuries which are the direct or proximate cause of death.” Id. Upon receipt of the notice, the statute requires the Commissioner of Safety to conduct an investigation. See RSA 21-I:29-a, III (b) (The commissioner of safety...shall make a determination of whether the death qualifies as a line-of-duty death.”); RSA 21-I:29-a, III (“The determination shall be made... within 180 days from the date the commissioner received notice from the family or chief of

department of the firefighter”). The statute further provides: “If the commissioner of safety...determines by a preponderance of the evidence that the death is a qualified line-of-duty death, the commissioner shall submit an item to the governor seeking approval of payment of the benefit.” RSA 21-I:29-a, III (e).

After reviewing voluminous records gathered in the course of this investigation, including statements from a treating physician in the field of oncology, I have determined that Chief Sabine’s death is more likely than not related to his work as a career firefighter.

Chief Sabine was diagnosed with colon cancer at the age of thirty-two (32) in 2017 and he passed away a little over two (2) years later at the age of thirty-five (35).

Based on the preponderance of the evidence presented to me, I have concluded that Chief Sabine’s cancer was more likely than not occupationally related. This conclusion is based on the circumstances of this case, including Chief Sabine’s age, the location and aggressiveness of the cancer, the absence of any risk factors outside of his occupation, and the medical opinion from his treating physician. There was also a significant deficit of evidence that would weigh against a finding that Chief Sabine’s cancer was occupationally related.

I note that the term “incident shall include any death that is determined to be occupationally related by the worker’s compensation insurance carrier, a self-insured workers’ compensation plan, or by the labor commissioner for workers’ compensation purposes pursuant to RSA 281-A.” RSA 21-I:29-a, I (f) (emphasis added). The statute, as currently enacted, does not require a workers’ compensation determination as a pre-requisite for the issuance of the line-of-duty benefit; it merely states that such events are instructive to the Commissioner of Safety when performing his review. See RSA 21-I:29-a, III (b) (“The commissioner of safety may consult with...the labor commissioner, and may disclose to either any information or records obtained in the course of his or her inquiry).

To date, Chief Sabine’s death has not been determined to be occupationally related by any insurance carrier, self-insured workers’ compensation plan, or by the labor commissioner pursuant to RSA 281-A. The workers’ compensation carrier, Primex, did issue a preliminary denial due to a lack of medical evidence twenty-one (21) days after receiving notice of Chief Sabine’s claim. That preliminary denial was subject to an appeal and hearing procedure, however no appeal has been taken to date. The timeframe to request a hearing challenging the preliminary denial at the Department of Labor has since expired. RSA 281-A:42-d.

Respectfully submitted,



Robert L. Quinn
Commissioner of Safety