

VILLAGE OF BRADLEY

ORDINANCE NO. O-10-21-2

AN ORDINANCE CREATING A NEW ARTICLE XI (PSEBA ADMINISTRATIVE HEARINGS) WITHIN CHAPTER 2 (ADMINISTRATION) OF THE BRADLEY VILLAGE CODE FOR THE PURPOSES OF ESTABLISHING AN ADMINISTRATIVE PROCEDURE FOR ASSESSING AND DETERMINING CLAIMS UNDER THE ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT

ADOPTED BY THE
BOARD OF TRUSTEES OF THE
VILLAGE OF BRADLEY

THIS 25 DAY OF October, 2021

Published in pamphlet form by the authority of the Board of Trustees of the Village of Bradley, Kankakee County, Illinois this 25 day of October, 2021

ORDINANCE NO. O-10-21-2

AN ORDINANCE CREATING A NEW ARTICLE XI (PSEBA ADMINISTRATIVE HEARINGS) WITHIN CHAPTER 2 (ADMINISTRATION) OF THE BRADLEY VILLAGE CODE FOR THE PURPOSES OF ESTABLISHING AN ADMINISTRATIVE PROCEDURE FOR ASSESSING AND DETERMINING CLAIMS UNDER THE ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT

WHEREAS, the Corporate Authorities of the Village of Bradley, Kankakee County, Illinois, have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, Section 10 of the Public Safety Employee Benefits Act (“PSEBA”) (820 ILCS 320/10(a)) provides, in relevant part, that any “employer [of] full-time law enforcement...officer[s], or firefighter[s]” must pay insurance premiums for any law enforcement officer or firefighter, including premiums for their spouses and dependents, who “suffers a catastrophic injury or is killed in the line of duty”; and

WHEREAS, *Englum v. The City of Charleston*, 2017 IL App (4th) 160747 (2017) found that a non-home rule municipality’s ordinance establishing an administrative procedure for assessing claims under PSEBA “complemented the determinations of the legislature by enacting a procedural process to fulfill the substantive requirements of the [Act]” and such an ordinance “facilitate[s] the purpose of the [Act]” ¶ 73; and

WHEREAS, the Court in *Englum* found that non-home rule municipalities have the authority to enact an ordinance establishing a local administrative procedure to determine eligibility for PSEBA benefits; and

WHEREAS, as a result of the decision in *Englum*, the Corporate Authorities of the Village have determined that it is in the best interests of the Village and its citizens to pass this Ordinance creating an administrative procedure for assessing and determining PSEBA claims, as set forth herein.

NOW THEREFORE, BE IT ORDAINED BY THE CORPORATE AUTHORITIES OF THE VILLAGE OF BRADLEY, KANKAKEE COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. The Corporate Authorities hereby find that all of the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2. A new Article XI (PSEBA Administrative Hearings) is hereby created within Chapter 2 (Administration) of the Bradley Village Code, as follows:

Sect. 2-657-Purpose.

The purpose of this Article is to provide a fair and efficient method for determining the eligibility of a full-time employee for the benefits enumerated under the Illinois Public Safety Employee

Benefits Act (“PSEBA”) through an administrative process, including if necessary, an administrative hearing. Nothing in this Article is intended or shall be deemed to expand or limit any person’s entitlement to PSEBA benefits in any manner that is inconsistent with PSEBA.

Sect. 2-658-Defintions.

For the purpose of this Article, the following terms will have the following meanings. These definitions are derived from the federal Public Health and Welfare Act, which was enacted in 1944 and amended in 1984 to define, by inclusion or reference, the following terms.

Chief: The Chief of the Bradley Police Department if the Employee is a full-time law enforcement officer or the Chief of the Bradley Fire Department if the Employee is a full-time firefighter.

Employee: Any full-time law enforcement officer or firefighter employed by the Village.

Sect. 2-659-Application Procedure.

Any Employee seeking PSEBA benefits from the Village must file an application with the Village, as follows:

1. Any Employee that believes they are entitled to PSEBA benefits (or any family member(s) of any such injured or deceased Employee), (“Applicant”) must file a full and complete PSEBA application with the Village Clerk. Any Employee that files any original or amended application seeking a line-of-duty pension application with the Bradley Board of Fire and Police Commissioners must file a complete PSEBA application, if at all, within thirty (30) days after filing said pension application.
2. The PSEBA application must be submitted to the Village Clerk in its entirety. A complete PSEBA application shall include, at a minimum, the following:
 - a. The name of the Employee seeking PSEBA benefits; and
 - b. The Employee’s date of hire, detailed information regarding the incident, including information relating to how the injury was sustained in the line of duty (date, time, place, nature of injury, and other factual circumstances surrounding the incident giving rise to said claim); and
 - c. The Applicant’s firsthand knowledge explaining, to the Village’s satisfaction, how the injury/death directly resulted from:
 - i. Response to fresh pursuit;
 - ii. Response to what is reasonably believed to be an emergency;
 - iii. An unlawful act perpetrated by another; or
 - iv. Participation during the investigation of a criminal act;
 - d. A signed PSEBA medical authorization release which authorizes the collection of information related to the incident including, but not limited to, disability pension proceedings, worker’s compensation records, and medical records and specifies the name and address for pertinent health care provider(s);
 - e. A signed PSEBA general information release specifying the name and signature of the Applicant or her/his authorized representative along with legal proof of said

- representation and name and signature of witness authorizing the collection of information pertinent to the incident review process;
- f. The name(s) of witnesses to the incident;
 - g. The name(s) of witnesses the Applicant intends to call at the PSEBA hearing;
 - h. Information and supporting pension documentation filed with the appropriate pension board;
 - i. Information supporting the PSEBA eligibility requirements;
 - j. Other sources of health insurance benefits currently enrolled in or received by the Applicant and/or family members if the Applicant is deceased; and
 - k. The application must be sworn and notarized to certify the truthfulness of the content of the above information.

Sect. 2-660-Application Review Procedure.

1. The Village Clerk shall review the application for its completeness and notify the Applicant whether their PSEBA application is complete within five (5) business days and the Applicant shall have five (5) business days to remedy any deficiencies in their application. Failure to timely file a full and complete application shall result in a forfeiture of the benefits under PSEBA by failure to properly submit a complete application.
2. An application submitted by a firefighter will be reviewed by the Chief of the Fire Department and an application submitted by a police officer will be reviewed by the Chief of the Police Department. A review of the application by the Chief of the Employee's department shall not occur until the application is complete. On the date that the PSEBA application is deemed complete by the Village, the Village Clerk shall forward the completed application to the Chief for review, submit the completed application to the Village as the Preliminary Record, and a copy of the same shall be date stamped and provided to the Applicant.
3. Upon receipt of a complete application for PSEBA benefits, the Chief shall review the application and supporting documents to make an initial determination regarding the application for benefits. That determination may be:
 - a. A determination to grant benefits based upon the preliminary record.
 - b. A determination to deny benefits.
 - c. The making of such other finding as is consistent with the evidence or by agreement of the Applicant and the Village.
4. If the Chief grants the benefit based on the preliminary record and subject to any necessary authorization by the Village Board, the Applicant will be notified and required to make further contact with the Chief within thirty (30) calendar days for benefit explanation and processing.
5. If the Chief denies the benefit based on the preliminary record, the Applicant will receive written notice of such denial. The Applicant shall have the right to request an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the result of the administrative hearing. The Applicant must request an administrative hearing which must be served in writing to the Chief not later than thirty (30) calendar days after being served with written notice of the denial. Upon

receipt of a timely notice from the Applicant, the Chief shall schedule an administrative hearing and serve the Applicant with notice of the administrative hearing along with a date for the scheduled administrative hearing.

6. Failure to request an administrative hearing within 30 calendar days after being served with written notice of the denial of PSEBA benefits by the Chief shall result in the forfeiture of benefits under the PSEBA.
7. In the event the Chief is unable to review the application, the Village Clerk shall send a letter notifying the Applicant that the Chief is unable to make an initial determination of benefits and the matter is being set for an administrative hearing before a hearing officer to make a determination on whether to grant the Applicant PSEBA benefits based on the result of the administrative hearing. The Village Clerk shall schedule the administrative hearing and serve the Applicant with notice of the administrative hearing along with a date for the scheduled administrative hearing.
8. If the Applicant or Village, upon receiving written notice of the administrative hearing date, cannot attend said date, the Applicant or the Village, as the case may be, must contact the hearing officer in writing within seven (7) days after being served. The hearing officer shall establish an alternative hearing date which is within thirty (30) days of the original hearing date. Continuances will be granted for good cause only. Failure to appear at the administrative hearing shall result in denial of PSEBA benefits.

Sect. 2-661-Administrative Composition.

The administrative hearing shall be scheduled and conducted by a hearing officer whose authority and limitations are as follows:

1. Authority of the hearing officer. The hearing officer shall have all of the authorities granted to her/him under common law relative to the conduct of an administrative hearing, including the authority to:
 - a. Preside over Village hearings involving PSEBA;
 - b. Administer oaths;
 - c. Hear testimony and accept evidence that is relevant to the issue of eligibility under PSEBA;
 - d. Issue subpoenas to secure attendance of witnesses and the production of relevant papers or documents upon the request of the parties or their representatives;
 - e. Rule upon objections in the admissibility of evidence;
 - f. Preserve and authenticate the record of the hearing and all exhibits in evidence introduced at the hearing; and
 - g. Issue a determination based on the evidence presented at the hearing, the determination of which shall be in writing and shall include a written finding of fact, decision and order.
2. Hearing Officer. The President of the Board of Trustees, with the advice and consent of the Board of Trustees, is hereby authorized to appoint a person to hold the position of

Hearing Officer for each hearing on PSEBA benefits that shall come before this Village. In making said selection, the following information should be considered, at a minimum:

- a. The individual's ability to comply with the job description as set forth herein; and
- b. The individual must be an attorney licensed to practice law in the State of Illinois and have knowledge of and experience in employment and labor law, general civil procedure, the rules of evidence, and administrative practice.

Sect. 2-662-Administrative Hearing.

The system of administrative hearings for the determination of eligibility for benefits under PSEBA shall be initiated by the Applicant after the submission of a full and complete PSEBA application is denied by the Chief or, in the event the Chief is unable to review the application, the Village Clerk will set the matter for an administrative hearing. An administrative hearing shall be held to adjudicate and determine whether the Applicant is eligible for benefits under PSEBA. If the Applicant is found eligible, the benefits shall be consistent with the Act.

1. **Record.** The Village shall ensure that all hearings are attended by a certified court reporter and a transcript of all proceedings shall be made by said certified court reporter and a copy be provided to the Applicant within twenty-eight (28) days of the date of the administrative hearing.
2. **Procedures.** The Village and the Applicant are entitled, should they so choose, to representation by legal counsel at said administrative hearing. Parties are entitled to present witnesses, testimony and documents, may cross-examine opposing witnesses, and may request the issuance of subpoenas to compel the appearance of relevant witnesses or the production of relevant documents.
3. **Evidence.** The Illinois Rules of Evidence shall apply to the extent practicable unless, by such application, the Hearing Officer determines that application of the rule would be an injustice or preclude the introduction of evidence of the type commonly relied upon by a reasonably prudent person in the conduct of her or his affairs. Such determination shall be in the sole discretion of the Hearing Officer. The Hearing Officer must state on the record her or his reason for that determination.
4. **Final Determination.** A written determination by the Hearing Officer of whether the petitioning Applicant is eligible for the benefits under PSEBA shall constitute a final administrative determination for the purpose of judicial review under the common law writ of certiorari.
5. **Burden of Proof.** At any administrative hearing, the Applicant shall have the obligation and burden of proof to establish that the Applicant is eligible and qualified to receive PSEBA benefits. The standard of proof in all hearings conducted under this Ordinance shall be by the preponderance of the evidence.
6. **Administrative Records.** All records pertaining to the administrative process shall be held in a separate file under the Applicant's name with the Village.

Sect. 2-663-Health Insurance Benefits.

Upon qualification for PSEBA benefits, the Applicant shall be entitled to the Village's basic group health insurance plan. Basic group health insurance plan shall mean the lowest-cost health insurance plan, as defined in 820 ILCS 320/3¹, as amended from time to time. Prior to January 1, 2022, basic group health insurance shall mean the lowest-cost plan available to the Village. The basic group health insurance plan may change from time to time. An Applicant may choose to enroll in any other health insurance plan offered by the Village different from the basic group health insurance plan, but shall pay the difference in insurance premium between the Village's basic plan and the other plan. Failure of the PSEBA beneficiary to timely pay the premium's non-basic level coverage shall result in coverage in the basic plan. PSEBA benefits do not include benefits not provided under the Village's basic group health insurance plan such as, but not limited to, disability benefits, life insurance, dental or vision benefits, etc.

1. Open Enrollment. Individuals receiving benefits under PSEBA will only be able to change from one plan to another during the Village's Open Enrollment Period.
2. Other Benefits. Health insurance benefits payable from any other source will reduce the benefits payable from the Village. Each Applicant shall sign an affidavit attesting that the Applicant is not eligible for insurance benefits from any other source, unless there is another source. If there is another source, the Applicant shall notify the Village of that source no later than five (5) business days from that source becoming available to the Applicant or the Applicant's beneficiaries. The Village reserves the right on an annual basis to have the benefit recipient provide another affidavit affirming whether other health insurance is available or payable to the Applicant, his/her spouse and/or his/her qualifying dependent children. The affidavit must be completed and returned to the Village within thirty (30) calendar days of written notice from the Village. If the recipient does not complete and return the affidavit within the time required, the Village shall give the recipient an additional written notice providing an additional fifteen (15) calendar days for the recipient to complete and return the affidavit. Failure to return the affidavit within the time required shall result in the recipient incurring responsibility for reimbursing the Village for premiums paid during the period the affidavit is due and not filed.
3. Disclosure of Health Insurance Coverage. The Applicant has an ongoing obligation and shall update health insurance coverage information provided and failure to do so may result in the denial of benefits and/or reimbursement to the Village for duplicate coverage. If duplicate coverage has been received by a PSEBA beneficiary, further PSEBA benefits will be denied until the Village has been fully reimbursed by the PSEBA beneficiary for what it would have been credited if it had known about other coverage.
4. Reimbursement. Receipt of health insurance benefits from other sources without notice to the Village shall require the Applicant to reimburse the Village for the value of those benefits.

¹ An amendment to 820 ILCS 320/3, adding the definition of "health insurance plan" becomes effective January 1, 2022.

5. **Medicare Eligibility.** The Applicant shall notify the Village when the Applicant becomes Medicare eligible regardless of the status of the enrollment period, so the Village may assist with the transition to Medicare coverage and/or adjust health insurance benefits or PSEBA benefits accordingly.

Sect. 2-664-Severability.

If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Sect. 2-665-Conflict of Laws.

Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION 3. In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 4. That all ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Ordinance, are hereby repealed to the extent of the conflict.

SECTION 5. That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 6. That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED by the Board of Trustees on a roll call vote on the 25 day of October, 2021.

TRUSTEES:

GRANT VANDENHOUT	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
GENE JORDAN	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
RYAN LEBRAN	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
BRIAN BILLINGSLEY	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
DARREN WESTPHAL	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>
BRIAN TIERI	Aye - <input checked="" type="checkbox"/>	Nay - <input type="checkbox"/>	Absent - <input type="checkbox"/>

VILLAGE PRESIDENT:

MICHAEL WATSON Non-Voting -

TOTALS:

Aye - 6 Nay - 0 Absent -

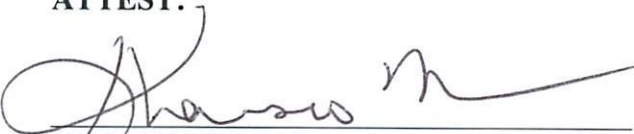
ATTEST:


~~JULIE TAMBLING, VILLAGE CLERK (Deputy)~~
Khamseo Nelson

APPROVED this 25 day of October, 2021.


MICHAEL WATSON VILLAGE PRESIDENT


ATTEST:


~~JULIE TAMBLING, VILLAGE CLERK (Deputy)~~
Khamseo Nelson

STATE OF ILLINOIS)
) §§
COUNTY OF KANKAKEE)

I, Julie Tambling, Village Clerk of the Village of Bradley, County of Kankakee and State of Illinois, DO HEREBY CERTIFY that the attached is a true, perfect, and complete copy of Ordinance number 0-10-21-2 "AN ORDINANCE CREATING A NEW ARTICLE XI (PSEBA ADMINISTRATIVE HEARINGS) WITHIN CHAPTER 2 (ADMINISTRATION) OF THE BRADLEY VILLAGE CODE FOR THE PURPOSES OF ESTABLISHING AN ADMINISTRATIVE PROCEDURE FOR ASSESSING AND DETERMINING CLAIMS UNDER THE ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT," which was adopted by the Village Corporate Authorities at a meeting held on the 25 day of October 2021.

IN WITNESS WHEREOF, I have hereunto set my hand in the Village of Bradley, County of Kankakee and State of Illinois, on this 25 day of October 2021.



JULIE TAMBLING, VILLAGE CLERK (Deputy)
Khamsee Nelson

(SEAL)