

116TH CONGRESS
2D SESSION

H. R. 7672

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

IN THE HOUSE OF REPRESENTATIVES

JULY 20, 2020

Mr. VELA introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for the establishment of a COVID–19 Victims 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 “Coronavirus Victims
5 Compensation Fund Act of 2020”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act, the following definitions apply:

8 (1) CLAIMANT.—The term “claimant” means
9 an individual filing a claim for compensation under
10 this Act.

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

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

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

19 (5) NONECONOMIC LOSSES.—The term “non-
20 economic losses” means losses for physical and emo-
21 tional pain, suffering, inconvenience, physical im-
22 pairment, mental anguish, disfigurement, loss of en-
23 joyment of life, loss of society and companionship,
24 loss of consortium (other than loss of domestic serv-

1 ice), hedonic damages, injury to reputation, and all
2 other nonpecuniary losses of any kind or nature.

3 (6) SPECIAL MASTER.—The term “Special Mas-
4 ter” means the Special Master appointed by the At-
5 torney General under section 3.

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

10 (8) ELIGIBILITY PERIOD.—The term “eligibility
11 period” means any time during which any Federal,
12 State, Tribal, territorial, or local COVID–19 related
13 emergency order or declaration (or equivalent) is or
14 was in effect, regardless of the claimant’s place of
15 residence.

16 **SEC. 3. ADMINISTRATION.**

17 (a) IN GENERAL.—The Attorney General, acting
18 through a Special Master appointed by the Attorney Gen-
19 eral, shall—

20 (1) administer the compensation program es-
21 tablished under this Act;

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

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

4 (b) APPOINTMENT OF SPECIAL MASTER AND DEP-
5 UTY SPECIAL MASTERS.—The Attorney General may ap-
6 point a Special Master and no more than two Deputy Spe-
7 cial Masters without regard to the provisions of title 5,
8 United States Code, governing appointments in the com-
9 petitive service. Any such employee shall serve at the
10 pleasure of the Attorney General. The Attorney General
11 shall fix the annual salary of the Special Master and the
12 Deputy Special Masters.

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

17 **SEC. 4. DETERMINATION OF ELIGIBILITY FOR COMPENSA-**
18 **TION.**

19 (a) FILING OF CLAIM.—

20 (1) IN GENERAL.—A claimant may file a claim
21 for compensation under this Act with the Special
22 Master. The claim shall be on the form developed
23 under paragraph (2) and shall state the factual basis
24 for eligibility for compensation and the amount of
25 compensation sought.

1 (2) CLAIM FORM.—

2 (A) IN GENERAL.—The Special Master
3 shall develop a claim form that claimants shall
4 use when submitting claims under paragraph
5 (1). The Special Master shall ensure that such
6 form can be filed electronically, if determined to
7 be practicable.

8 (B) CONTENTS.—The form developed
9 under subparagraph (A) shall request—

10 (i) information from the claimant con-
11 cerning the harm that the claimant suf-
12 fered as a result of COVID–19, or in the
13 case of a claim filed on behalf of a dece-
14 dent, information confirming the dece-
15 dent’s death, as a result of COVID–19;

16 (ii) information from the claimant
17 concerning any possible economic and non-
18 economic losses that the claimant suffered
19 as a result of COVID–19 or that was
20 caused by the death of the decedent from
21 COVID–19; and

22 (iii) information regarding collateral
23 sources of compensation the claimant has
24 received or is entitled to receive as a result
25 of COVID–19.

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

4 (b) REVIEW AND DETERMINATION.—

5 (1) REVIEW.—The Special Master shall review
6 a claim submitted under subsection (a) and deter-
7 mine—

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

10 (B) with respect to a claimant determined
11 to be an eligible individual—

12 (i) the extent of the harm to the
13 claimant, including any economic and non-
14 economic losses; and

15 (ii) subject to paragraph (7), the
16 amount of compensation to which the
17 claimant is entitled based on the harm to
18 the claimant, the facts of the claim, and
19 the individual circumstances of the claim-
20 ant.

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

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

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

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

8 (B) the right to present evidence, including
9 the presentation of witnesses and documents;
10 and

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

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

17 (6) COLLATERAL COMPENSATION.—The Special
18 Master shall reduce the amount of compensation de-
19 termined under paragraph (1) by the amount of the
20 collateral source compensation the claimant has re-
21 ceived or is entitled to receive as a result of the
22 claimant suffering from COVID–19.

23 (7) LIMITATIONS ON CLAIMS.—Noneconomic
24 losses shall not exceed such limit as the Special Mas-
25 ter may impose.

1 (c) ELIGIBILITY.—

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

6 (A) expressed symptoms consistent with
7 COVID–19, including those with laboratory
8 confirmations, diagnosis by a healthcare pro-
9 vider, or for whom there is or was an absence
10 of an alternate diagnosis that explains claim-
11 ant’s or decedent’s symptoms;

12 (B) suffered economic loss; and

13 (C) meets the requirements of paragraph
14 (2).

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

22 **SEC. 5. ASSISTANCE TO CLAIMANTS.**

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

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

2 (a) IN GENERAL.—Subject to the limitations under
3 subsection (d), not later than 20 days after the date on
4 which a determination is made by the Special Master re-
5 garding the amount of compensation due a claimant under
6 this Act, the Special Master shall authorize payment to
7 such claimant of the amount determined with respect to
8 the claimant.

9 (b) FUNDING.—

10 (1) IN GENERAL.—The Attorney General is au-
11 thorized to accept such amounts as may be contrib-
12 uted by individuals, business concerns, or other enti-
13 ties to carry out this Act, under such terms and con-
14 ditions as the Attorney General may impose.

15 (2) USE OF SEPARATE ACCOUNT.—In making
16 payments under this section, amounts contained in
17 any account containing funds provided under para-
18 graph (1) shall be used prior to using appropriated
19 amounts.

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

1 (d) ATTORNEY FEES.—The Special Master shall have
2 the sole discretion to determine reasonable compensation
3 for services rendered for attorney fees for services ren-
4 dered, if any.

5 **SEC. 7. REGULATIONS.**

6 Not later than 90 days after the date of enactment
7 of this Act, the Attorney General, in consultation with the
8 Special Master, shall promulgate regulations to carry out
9 this Act, including regulations with respect to—

10 (1) forms to be used in submitting claims under
11 this Act;

12 (2) the information to be included in such
13 forms;

14 (3) procedures for hearing and the presentation
15 of evidence;

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

18 (5) other matters determined appropriate by
19 the Attorney General.

20 **SEC. 8. RIGHT OF SUBROGATION.**

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

1 **SEC. 9. COVID-19 VICTIMS COMPENSATION FUND.**

2 (a) IN GENERAL.—There is established in the Treas-
3 ury of the United States a fund to be known as the
4 “COVID-19 Victims Compensation Fund”, consisting of
5 amounts deposited into such fund under subsection (b).

6 (b) AVAILABILITY OF FUNDS.—Amounts deposited
7 into the COVID-19 Victims Compensation Fund shall be
8 available, without further appropriation, to the Special
9 Master to provide compensation.

10 (c) TERMINATION.—The COVID-19 Victims Com-
11 pensation Fund shall be permanently closed on the date
12 that is 1 year after the Special Master determines that
13 no additional claims may be filed.

14 **SEC. 10. APPROPRIATION.**

15 There is authorized to be appropriated for purposes
16 of carrying out this Act such sums as may be necessary
17 for fiscal year 2020 and each fiscal year thereafter
18 through fiscal year 2026, to remain available until ex-
19 pended.

