

WORKERS' COMPENSATION DEATH AND BURIAL BENEFITS

When the death of an employee is the result of a work-related injury or illness, weekly dependent compensation is paid by the self-insured employer or insurance carrier to the surviving spouse and/or dependents. There is an allowance for burial costs and also any medical or hospital expenses for the deceased employee are paid.

The insurance carrier or self-insured employer may request that the dependent(s) supply copies of marriage, death, and/or birth certificates, and also relevant divorce decrees as part of the claim filing.

WHO ARE DEPENDENTS?

A surviving spouse who lived with the deceased employee at the time of death, minor children, and children who have reached adulthood who are physically or mentally handicapped are presumed by law to be dependents of the employee.

Based upon the facts and circumstances of each case, dependents may also include members of the employee's family, which may include step-children, a surviving spouse who was not residing with the employee, brothers or sisters (including half-brothers and sisters), and also lineal descendants or ancestors.



WHEN DOES COMPENSATION BEGIN?

Once the insurance carrier or self-insured employer identifies all dependents who are entitled to compensation, weekly compensation is paid to the dependents. The weekly compensation is divided equally among the dependents. If there are reasons not to divide the compensation equally among all dependents, the case must be submitted to an administrative law judge for a decision on how compensation will be divided.

HOW IS COMPENSATION CALCULATED?

Weekly compensation paid to dependents is 66 2/3% of the deceased employee's average gross weekly wage on the date of the accident or when the occupational disease began, up to the maximum of the state's average weekly wage, determined annually by the Utah Department of Workforce Services. If the wages do not exceed the state maximum, an additional \$20 per week (eff. 05/09/17; \$5 per week before 05/09/17) is added for a dependent spouse and up to 4 dependent minor children \$100 max. (after 05/09/17). This amount is then divided between all dependents.



Example: If wages are \$10.00 per hour and the work week is 40 hours per week, the average weekly wage is \$400.00 x 66 2/3% = \$267.00. Assuming there is a surviving spouse and 2 minor children, and since this amount is less than the current state average weekly wage, an additional \$60.00 is added for a total of \$327.00 per week compensation.

For more information about maximum and minimum wage replacement rates, contact your workers' compensation carrier or the Utah Labor Commission. This information is also available online at: www.laborcommission.utah.gov.

HOW LONG IS COMPENSATION PAID?

Once the insurance carrier or self-insured employer identifies all the dependents entitled to compensation following the death of the injured worker, the weekly compensation is paid for a 312 week period following the date of death. Once each person's dependency status is established as of the date of death, the only



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changes that may be made during the initial 312 weeks of payments are for remarriage of a surviving spouse, minor children reaching age 18 or graduating from high school (whichever is later), emancipation of a minor child, the death of a dependent, or a child born after the employee's death.

WHAT HAPPENS AFTER 312 WEEKS?

Once the initial 312 weeks have passed, the law requires a yearly review of all dependent compensation payments to ensure dependent(s) still qualify for workers' compensation payments. After the initial 312 weeks of compensation, a surviving spouse is no longer presumed to be dependent and must show by individual facts and circumstances that dependency still exists. Minor children are still presumed dependent after the initial 312 weeks of compensation.

To evaluate continued dependency, the insurance carrier or self-insured employer will solicit dependency information from all dependents once per year. This is done via a form sent by the insurance carrier or self-insured employer which the dependent(s) must complete and return. The insurance carrier or self-insured employer reviews the information on the dependency form to decide whether or not to continue payments. If continued dependency is challenged, a dependent may request a hearing with the Utah Labor Commission and the case will be heard by an administrative law judge.

Also, after the initial 312 week period, the weekly workers' compensation payment, by law, is reduced by 50% of the Social Security survivor benefits received by the dependent(s). You will be asked to provide the amount of survivor benefits received, if any, so this offset can be calculated. This means that if you receive Social Security survivor benefits, your weekly workers' compensation payment will go down after the initial 312 weeks of payments.

WHAT HAPPENS IF A SURVIVING SPOUSE REMARRIES?

Dependent benefits payable to a surviving spouse end upon remarriage. If the remarriage takes place during the initial 312 weeks following the death of the employee, a lump sum is paid to the surviving spouse. The amount is equal to the remaining payments owed to the surviving spouse through the initial 312 weeks of compensation or 52 weeks of compensation, whichever is less. If there are other dependents still entitled to compensation, this accelerated payment will affect their weekly share of compensation and their weekly award will also be modified.

If remarriage occurs after the initial 312 weeks, the spouse's share is ended. If there are other dependents, their compensation will increase to include the former spouse's portion of the weekly compensation, less the \$20 paid (\$5 before 05/09/2017) for the surviving spouse but only if compensation is not paid at the maximum rate.

WHAT IF MY CLAIM IS DENIED?

If your claim for dependent benefits or continued dependent benefits after the initial 312 weeks is denied, you may ask for a hearing on behalf of yourself or any minor dependent children affected by the decision. Applications for Hearing are filed with the Utah Labor Commission's Adjudication Division.

A hearing will be scheduled and heard by a Utah Labor Commission administrative law judge who will issue a written decision after the hearing. Prior to the hearing, if both sides agree, mediation will be held at the Utah Labor Commission with the goal of helping the parties resolve the case without a hearing.



For more information, contact the Utah Labor Commission at 801-530-6800 or toll free 1-800-530-5090. Or, visit the Utah Labor Commission's website at: www.laborcommission.utah.gov.



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