

POLICY NUMBER: POL-12

Chapter:
CLAIMS

Subject:
SURVIVOR BENEFITS

Effective Date:
November 8, 1994

Last Update:
May 8, 2019

PURPOSE STATEMENT:

The purpose of the policy is to describe the benefits payable to a worker's dependants, including a surviving spouse, a child, and any other person who may be entitled to benefits, under the *Workers Compensation Act*, resulting from the death of a worker due to a workplace injury.

REFERENCE:

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, Sections 1(1)(e), 1(1)(h), 1(1)(s), 1(1)(w),
37 - 39

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7, Sections 38-40

Workers Compensation Act R.S.P.E.I. 1988, Cap. W-7.1, General Regulations, Section 8

DEFINITION:

In this policy:

"Child" includes a child to whom a worker stands in the place of a parent.

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“Dependant or dependants” means those members of a family of a worker who were wholly or partly dependent upon that worker’s earnings at the time of death, or who but for the incapacity due to the accident of the worker would have been so dependent; but a person shall be deemed not to be partly dependent upon the earnings of another person unless he or she was dependent partly on contributions from that other person for the provision of the ordinary necessities of life.

“Member of the family” means a spouse, parent, grand-parent, step-parent, child, step-child, grandchild, brother, sister, half-brother, half-sister, or a person who stands in the place of a parent to the worker or to whom the worker stands in the place of a parent.

“Spouse” means an individual who, at the time of the worker's death, is married to the worker; has entered into a marriage with the worker that is voidable or void; is not married to the worker but is cohabiting with the worker in a conjugal relationship and has done so continuously for a period of at least one year immediately preceding the worker’s death; or is not married to the worker but is cohabiting with the worker in a conjugal relationship and together they are the natural or adoptive parents of a child.

POLICY:

1. Compensation will be paid to a worker’s dependants, including a spouse, child, and any other person who may be entitled to benefits resulting from the death of a worker due to personal injury arising out of and in the course of employment.

The death must have been either a direct result of the workplace injury or must have been hastened by it, as supported by objective medical information.

2. The Workers Compensation Board will pay the necessary expenses of the burial of a worker, to a maximum of \$7,500 as of January 1, 2014 and adjusted annually each July 1st thereafter.

In addition, the necessary expenses for transportation of the body of the worker from the scene of the accident to the site of the burial will be paid

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3. A spouse who is a sole dependant will be paid a lump sum payment in the amount equal to 40% of the maximum annual earnings in the year the death occurred, and thereafter a monthly payment as follows:
 - where death resulted from an accident that occurred before January 1, 1992, the amount of \$650 per month payable for life;
 - where the death resulted from an accident that occurred after December 31, 1991 an amount equal to 70% of the wage loss benefits that would have been payable to the worker under the *Workers Compensation Act*, less a percentage of any Canada Pension Plan (CPP) survivor benefits payable to the spouse as a result of the death. Benefits are payable until the spouse dies or reaches age 65, or until the worker would have reached age 65, whichever date is later.

4. The percentage amount of CPP survivor benefits that will be deducted is:
 - 100% for monthly payments prior to July 1, 2002;
 - 50% for monthly payments after June 30, 2002.

5. A dependent spouse and children under 18 years of age will be paid an amount based on the following:
 - for the spouse, an amount as provided in section 3;
 - for death resulting from an accident that occurred before January 1, 1992, the amount of \$250 per month payable until the child reaches age 18; or until the child reaches age 22, if the child continues to be enrolled full time in an educational institution recognized by the Workers Compensation Board;
 - for death resulting from an accident that occurred after December 31, 1991, for each child an amount equal to 10% of the wage loss benefits that would have been payable to the worker under the *Workers Compensation Act* until the child reaches age 18, or age 22 if the child continues to be enrolled full time in an educational institution recognized by the Workers Compensation Board; provided that the total payment for all children shall not exceed 30% of the wage loss benefits that would have been payable to the worker.

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6. A guardian of dependent children under the age of 18 years without a parent will be paid a monthly amount based on the following:
 - for accidents that occurred before January 1, 1992, the amount of \$250 per child per month but not to exceed \$1,000 per month in total for all children under the age of 18 years in the custody of a guardian;
 - for accidents that occurred after December 31, 1991, an amount equal to 20% of the wage loss benefits that would have been payable to the worker under the *Workers Compensation Act* for each child under the age of 18 years but not to exceed 60% in total of the wage loss benefits that would have been payable to the worker.
7. Payments in respect of a child who is physically or mentally incapable of earning shall continue to be payable so long as the child remains incapable of earning.
8. Dependants, other than spouse or child, will be paid an amount proportionate to the financial loss to the dependants but not to exceed \$250 per month for any dependant or \$500 per month in total for all dependants.
9. A dependent spouse's entitlement to benefits is not affected as a result of remarriage.
10. Should the dependent spouse die while in receipt of compensation, the payment of compensation shall cease.
11. A dependent spouse entitled to compensation because of the death of the spouse is not entitled to any further compensation as a dependant of any other worker whose death results from an accident.

Where Death Occurs Before Payment of Compensation

12. Where a worker or dependant dies before compensation is paid, the Workers Compensation Board may pay such members of the family of the deceased worker or dependant, or such persons caring or providing for the deceased worker or dependant prior to the death the compensation the deceased worker would have been entitled to during that time.

Benefit and Expense Adjustments

13. For the period July 1, 1995, to June 30, 2014, the payments provided to a spouse, a child and a dependant were adjusted as of the first day of July in each year by an amount equal to the lesser of:
 - (a) 75% of the percentage change in the Consumer Price Index for Charlottetown and Summerside for all items for the 12 month period ending on December 31 previous as determined by the Workers Compensation Board on the basis of monthly reports published in that respect by Statistics Canada for that period; or
 - (b) 4%.

14. On July 1, 2014, and on the first day of July in each year thereafter, the payments provided to a spouse, a child and a dependant will be adjusted by an amount equal to the lesser of:
 - (a) 80% of the percentage change in the Consumer Price Index for Charlottetown and Summerside for all items for December of the previous year and December one year earlier, as determined by the Workers Compensation Board on the basis of reports published in that respect by Statistics Canada for that period; or
 - (b) 4%.

15. On July 1, 2014, and on the first day of July in each year thereafter, the maximum amount for burial expenses will be adjusted by an amount equal to the lesser of:
 - (a) 80% of the percentage change in the Consumer Price Index for Charlottetown and Summerside for all items for December of the previous year and December one year earlier, as determined by the Workers Compensation Board on the basis of reports published in that respect by Statistics Canada for that period; or
 - (b) 4%.

16. If the percentage change in the Consumer Price Index is negative, there will be no adjustment to benefits or expenses.

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HISTORY:

May 8, 2019 - Non-substantive changes to be consistent with legislation regarding adjustments to the maximum amount for burial expenses and to clarify that there is no adjustment if the Consumer Price Index change is negative.

January 10, 2019 – Non-substantive changes to reflect the legislative amendment to the lump sum payment for the death of a worker, effective January 1, 2019.

July 14, 2016 - Non-substantive changes to clarify references to dependants and legislation. Reviewed by Director and CEO; no other changes required.

November 21, 2014 - Non-substantive changes made to reflect changes to the *Workers Compensation Act* which became effective January 1, 2014.

April 14, 2008 - The policy was reviewed as a result of the 60 month policy review process. No changes were made to the policy during this review.”

September 26, 2002 - Replaces Policy and Practice “Survivor Benefits” dated November 8, 1994.

Board of Directors Approval Date: November 8, 1994