



Oregon

Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division

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Nov. 9, 2015

To: Workers' compensation insurers, self-insured employers, and service companies

Subject: Death during permanent total disability

INDUSTRY NOTICE

This industry notice provides clarification regarding the benefits due when an injured worker dies during a period of permanent total disability (PTD), as described under Oregon Revised Statutes (ORS) 656.204 and 656.208.

For dates of injury on or after Sept. 20, 1985, the date of marriage is irrelevant in determining whether a spouse is eligible for fatal and burial benefits.

Additionally, on July 1, 2009, ORS 656.204 was updated to require insurers and self-insured employers to pay any remaining unpaid burial benefit to the estate of the worker. This update applies to all qualifying claims, *regardless of the date of injury*. **These benefits are a continuation of PTD benefits.**

Therefore, any monthly surviving spouse or dependent benefits due must continue on the established PTD payment schedule, and burial benefits must be paid to the beneficiaries/estate of the injured worker within 30 days of the injured worker's death.

Under ORS 656.506 and Oregon Administrative Rule 436-075-0020, benefits are increased beyond the statutory amount and reimbursed through the Retroactive Program benefit schedule in effect at the time of death. The current schedule is provided in Bulletin 373, effective Oct. 1, 2015.

The following table on the next page outlines the requirements.

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Requirements:

| Date of Injury | | Burial Due When: | Statutory Benefits | | |
|----------------|-----------|--|--------------------|------------|--------------------------|
| From | Through | | Date of Injury | | Amount |
| 7/1/1915 | 6/30/1973 | NO BURIAL DUE <u>UNLESS</u> DEATH IS DIRECTLY RELATED TO INJURY | 7/1/1915 | 6/30/1941 | \$100 |
| | | | 7/1/1941 | 6/30/1945 | \$150 |
| | | | 7/1/1945 | 6/30/1950 | \$200 |
| | | | 7/1/1950 | 6/30/1956 | \$300 |
| | | | 7/1/1956 | 6/30/1964 | \$400 |
| | | | 7/1/1964 | 6/30/1973 | \$600 |
| 7/1/1973 | 9/19/1985 | WORKER LEAVES QUALIFYING DEPENDENT(S) (must be married at date of injury or within <u>two</u> years) <i>or</i> DEATH IS DIRECTLY RELATED TO INJURY | 7/1/1973 | 10/31/1981 | \$1,000 |
| | | | 11/1/1981 | 9/19/1985 | \$3,000 |
| 9/20/1985 | 6/30/2016 | WORKER LEAVES QUALIFYING DEPENDENT(S) (date of marriage does not matter) <i>or</i> DEATH IS DIRECTLY RELATED TO INJURY | 9/20/1985 | 6/30/1994 | \$3,000 |
| | | | 7/1/1994 | 6/30/2008 | 10 x average weekly wage |
| | | | 7/1/2008 | 6/30/2016 | 20 x average weekly wage |

We appreciate your dedication to adherence to the requirements of Oregon Revised Statutes and Oregon Administrative Rules. For more information, please contact Self-Insurance, Registration, and Reimbursements Manager **Adam Breitenstein** at 503-947-7751, or email adam.j.breitenstein@oregon.gov.



John Shilts, Administrator
Workers' Compensation Division