



Oregon
Kate Brown, Governor

Department of Consumer and Business Services

Workers' Compensation Division
350 Winter St. NE
P.O. Box 14480
Salem, OR 97309-0405
503-947-7810
Toll free: 800-452-0288
Fax: 503-947-7581
www.wcd.oregon.gov

Industry Notice

Nov. 7, 2022

To: Workers' compensation insurers, self-insured employers, service companies, workers, attorneys, and other interested parties

Subject: House Bill 4086 (2022) changes in death benefits eligibility starting Jan. 1, 2023

[House Bill 4086](#) broadens eligibility criteria for death benefits as summarized in this notice. The changes from House Bill 4086 apply only to claims with dates of injury on or after Jan. 1, 2023.

When a worker dies from an on-the-job injury or occupational disease, or while permanently and totally disabled, their beneficiaries may file a claim for death benefits. Beneficiaries can include a spouse, child, or dependent.

Current law

- A surviving spouse's death benefits payments can end if the surviving spouse remarries or cohabits with another person for more than one year and a child has resulted from the relationship.
- If the injured worker was unmarried but cohabited with another individual in Oregon for over one year prior to the injury and children resulted from that relationship, the cohabitant is eligible for benefits the same as if they were legally married.
- A dependent is defined as including the following individuals:
 - A parent, grandparent, or stepparent
 - A grandson or granddaughter
 - A brother, sister, half-brother, or half-sister
 - A niece or nephew

Law changes effective Jan. 1, 2023:

- The description of cohabitation is changed.
 - If a cohabitant and the injured worker were unmarried, but cohabited prior to the worker's injury such that the relationship would be subject to ORS 107.105 to 107.136 (Dissolution, Annulment, and Separation) and 107.700 to 107.735 (Family Abuse Prevention Act), the cohabitant is eligible for benefits the same as if they were legally married to the injured worker.
 - If the surviving spouse cohabits with another person such that the relationship would be subject to provisions of ORS 107.105 to 107.136 (Dissolution, Annulment, and Separation) and 107.700 to 107.735 (Family Abuse Prevention Act), the spouse's benefits can end.

- The definition of dependent is broadened to include:
 - A parent, a parent’s spouse or domestic partner,
 - A grandparent, a grandparent’s spouse or domestic partner,
 - A grandchild, a grandchild’s spouse or domestic partner,
 - Siblings and stepsiblings,
 - A sibling’s or stepsibling’s spouse or domestic partner, and
 - Any individual related by blood or affinity whose close association with a worker is the equivalent of a family relationship.

- The bill removes two exceptions to who qualifies as a beneficiary. Dependents who are noncitizens that reside outside of the United States and spouses who are “living in a state of abandonment” are no longer excluded from being beneficiaries.

Insurers and self-insured employers are responsible for determining whether an individual is eligible for benefits based on the law in effect on the date of injury. Parties with questions regarding whether an individual is eligible for death benefits under the new law may want to consult with legal counsel.

In addition to changes to death benefits eligibility, House Bill 4086 also expands discrimination protections for workers who apply for workers’ compensation benefits. If you have questions regarding changes to discrimination protections, please consult legal counsel or the Bureau of Labor and Industries (BOLI) at BOLI_Help@boli.oregon.gov or 971-245-3844. Laws relating to employment discrimination are enforced by BOLI.

If you have questions about this notice, contact the division at 1-800-452-0288 (toll free) or email workcomp.questions@dcbs.oregon.gov.

Sincerely,

A handwritten signature in blue ink that reads "Sally Coen". The signature is written in a cursive, flowing style.

Sally Coen, Administrator
Workers’ Compensation Division

Distribution: GovDelivery