

**Operational
Policy**

Section
Benefits for Survivors

Subject
Spouse with One or More Children

Policy

Where a worker's death results from a work-related injury/disease and the deceased worker is survived by a spouse and one or more children, the spouse is entitled to

- a lump sum payment, and
- periodic (monthly) payments equal to 85 per cent of the deceased worker's net average earnings (NAE) at the time of the injury.

Purpose

The purpose of this policy is to outline how the WSIB determines the lump sum payment and periodic payments where the deceased worker is survived by a spouse and one or more children.

Guidelines

Lump sum payment

Lump sum payments are calculated in the same way for a spouse with children as for a spouse with no children, see 20-03-04, Spouse with No Children.

Periodic payments

Periodic payments of 85 per cent of the deceased worker's NAE are made to the spouse until the youngest of the deceased worker's children turns 19. To receive these payments, the spouse must have one or more of the deceased worker's children who

- are under the age of 19, and
- live with the spouse, or are in the spouse's custody or care and control.

If one or more of the deceased worker's children under the age of 19 are in the care and control of another person, the spouse is entitled to periodic payments according to 20-03-07, Spouse and Children Not Living Together.

NOTE

The deceased worker's earnings are subject to the statutory maximum and minimum, see 18-02-07, Calculating Net Average Earnings.

The minimum periodic payment payable to a spouse with children is the statutory minimum. The statutory minimum is indexed annually.

For information about when and how Canada Pension Plan (CPP) or Quebec Pension Plan (QPP) benefits impact periodic payments, see 20-03-03, Calculating CPP/QPP Offsets from Survivors' Benefits.

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Example

NAE of \$3,000 per month
One child who is a minor and is living with the spouse

$(85\% \times \text{NAE}) = \text{periodic payment}$

$(85\% \times \$3,000) = \$2,550 \text{ per month}$

Apportionment

If a child turns 19 and is continuing in school, generally that child is entitled to, and directly receives, periodic payments of 10 per cent of the deceased worker's NAE, see 20-03-12, Child 19 Years or Older Continuing in Education. The total periodic payments to the spouse and child must not exceed 85 per cent of the deceased worker's NAE. When the child is no longer entitled to these payments, and if the spouse has one or more additional children under the age of 19, the payments revert to the spouse.

If there is no other spouse (e.g., no separated spouse) and the spouse has the care and control of one or more children under the age of 19, the spouse's entitlement to the periodic payments should not be reduced below the amount of a spouse with no children, see 20-03-04, Spouse with No Children. In these cases, the WSIB apportions the remaining amount up to the maximum of 85 per cent of the NAE.

When the youngest child turns 19, the spouse generally is entitled to periodic payments the same as a spouse with no children, taking into account the age of the spouse when the youngest child turns 19, see 20-03-04, Spouse with No Children. For exceptional circumstances where this is not the case, see 20-03-13, Child Incapable of Earning Wages.

Annual indexing

On January 1 every year, the WSIB indexes ongoing periodic payments by the indexing factor, see 18-01-14, Annual Indexing for more information about annual indexing.

Application date

This policy applies to all decisions made for entitlement periods on or after January 1, 2018 if the injury or disease that resulted in the worker's death occurred on or after March 9, 2005.

The guidelines for annual indexing apply to all decisions made for entitlement periods on or after January 1, 2018 if the injury or disease that resulted in the worker's death occurred on or after January 1, 1998.

Document history

This policy replaces 20-03-06 dated April 6, 2009.

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This document was previously published as:
20-03-06 dated October 12, 2004
20-03-06 dated June 15, 1999
13.8 dated January 1, 1998.

References

Legislative authority

Workplace Safety and Insurance Act, 1997, as amended
Sections 2(1), 48(2), (4), (6), (19), (24), 49, 51, 52

Minute

Administrative
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