

LEGISLATIVE RESEARCH SERVICES

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Workers' Compensation Death Benefits Provided to Estates

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You asked about workers' compensation death benefits payable to estates when no family member survives the deceased worker. Specifically, you wished to know if other states provide this benefit and the costs associated with death benefits to employees with no dependents.

Generally, death benefits are paid to dependents of a deceased worker to replace a portion of family income lost due to a workplace fatality. Some states provide monetary compensation to a worker's estate and/or nondependent parents or children when a worker dies with no eligible dependents. No state allows an employee to choose his or her own beneficiary to receive death benefits.¹

Death benefits are designed to provide monetary support for those people who will suffer most from a worker's death. Typically, these benefits are comprised of two components: funeral and burial expenses, and monetary benefits to dependent family members to compensate for lost income.² The majority of states, including Alaska, do not pay death benefits other than burial or medical expenses, unless the deceased worker has an eligible dependent. In Alaska, the insurer is required to pay up to \$10,000 for funeral expenses, and monetary compensation to the worker's dependents based on a percentage of his or her earnings, as well as a \$5,000 one-time death benefit. Dependents include the widow or widower; children; and if there is no widow, widower, or children, other family members such as parents and siblings if they were financially dependent upon the deceased at the time of death (AS 23.30.215). Additionally, if an employee with no dependents dies due to a workplace injury, the employer or insurer must pay \$10,000 to the Second Injury Fund (AS 23.30.040[c]).³

Nonetheless, some states do pay some, or all, of any remaining permanent disability benefits and/or death benefits to *nondependent* parents or children, or the worker's estate. One reason given for such provisions is that workers with no statutory dependents may still have remaining financial obligations when they die unexpectedly; therefore, some compensation to a deceased worker's nondependent parents or estate is reasonable.

In Table 1 we provide examples from 13 states that offer monetary compensation when a worker who has no eligible dependents dies from a work-related injury or illness. You will note that Alabama, Minnesota, and Tennessee provide a lump sum payment to the deceased workers' estate. In New York, if the deceased worker has no surviving parents, his or her estate receives a \$50,000 payment. Laws in Hawaii, South Carolina, Texas, and Wisconsin allow the deceased worker's nondependent children or parents to receive a portion of death benefits, and any remaining benefits are transferred to a state fund. Six states—Colorado, Hawaii, Idaho, New Mexico, New York, and Oregon—provide that if a worker with no statutory

¹ While death benefits may function as a form of life insurance, an employee covered by workers' compensation does not designate a beneficiary in the same way a person does when he or she obtains or purchases a life insurance policy.

² The majority of states provide some amount of reimbursement for burial costs to the person who paid the bill or directly to the funeral home. Some states pay a lump sum amount to help cover the expenses. In addition, many states require employers to pay any medical costs associated with a work-related death.

³ The Second Injury Fund provides reimbursements to employers for certain injured employees.

dependents dies before his or her permanent partial disability benefit is paid in full, the insurer must pay the full amount of the remaining award to the worker's estate.

Table 1: Payment of Death Benefits under Workers' Compensation Laws in Selected States When the Deceased Has No Statutory Dependents		
State	Citation	Summary of Benefits
Alabama	Code of Ala. § 25-5-60	Pays a lump sum of \$7,500 to the deceased worker's estate.
Colorado	C.R.S § 8-42-115	Pays remaining permanent disability benefits to the estate.
Hawaii	HRS §§ 386-34 and 386-41	Pays 25 percent of 312 times the effective maximum weekly death benefit rate to the nondependent parents. If there are no such parent(s), this amount is deposited in the special compensation fund.
Idaho	Idaho Code § 72-431	Pays remaining disability benefits to the personal representative.
Louisiana	La. R.S. § 23:1231	Pays a lump sum of \$75,000 to be divided among any surviving nondependent children; if there are no surviving nondependent children, each surviving parent receives \$75,000.
Minnesota	Minn. Stat. § 176.111(22)	Pays a lump sum of \$60,000 to the estate.
New Mexico	N.M. Stat. Ann. § 52-1-46	Pays remaining permanent disability benefits to the estate.
New York	NY CLS Work Comp § 16 and § 236	Pays \$50,000 to the parents or to the decedent's estate, if there are no surviving parents. Any remaining permanent disability benefits are paid to the worker's estate.
Oregon	ORS § 656.208	Any remaining permanent partial disability benefits are paid to the estate, as well as any unpaid balance from the burial and funeral account.
South Carolina	S.C. Code Ann. § 42-9-140	Benefits first go to any surviving nondependent children. If the deceased worker leaves no children, then benefits are paid to his or her parents. If the workers leaves no dependents, nondependent children, or parents, the personal representative for the estate will receive probate administration and burial expenses. The remaining amount of death benefits is deposited in the South Carolina Injury Fund.
Tennessee	Tenn. Code Ann. § 50-6-209	Pays a lump sum of \$20,000 to the estate.
Texas	Tex. Labor Code § 408.182	Up to 104 weeks of death benefits are paid to the deceased worker's parents; if his or her parents are no longer alive, the remaining benefits are deposited in the Subsequent Injury Fund.
Wisconsin	Wis. Stat. §§ 102.48 and 102.49(5)(b)	Pays a lump sum of \$6,500 to unestranged nondependent parents. Any remaining amount of death benefits is deposited into the Work Injury Supplemental Benefits Fund.
Notes: This table provides examples of state laws offering some form of death benefits to workers with no statutory dependents and is not meant to be exhaustive of all such laws. Source: LexisNexis.		

Costs of Implementing Death Benefits Paid to Estates

In 2009, Oregon enacted legislation (SB 110) that allowed any remaining permanent partial disability benefits, as well as any unpaid balance from the burial and funeral account, to be paid to the deceased worker's estate if he or she had no statutory dependents. In a report to the Oregon Legislature in 2009, the Workers' Compensation Management-Labor Advisory Committee estimated such a change in benefits would not "materially affect" workers' compensation premium rates, due to

the small number of compensable deaths each year.⁴ Karen Howard, Oregon Department of Consumer and Business Services, Workers' Compensation Division, confirmed that the extension of benefits to a deceased workers' estate has not impacted premium rates or led to any appreciable costs.⁵ She credited this to the small number of compensable fatalities each year and the even smaller subset of workers with no dependents (maybe one or two, annually).⁶ In 2015, Oregon's Workers' Compensation Division received notification of 27 compensable fatalities, which was lower than the 10-year average of 31.2 fatalities. In New Mexico, in 2015, benefits were paid in response to 12 fatalities, of which, benefits paid to a workers' estate comprised only a small number, if any, in that year.⁷ By comparison, 22 fatalities were reported to the Alaska Workers' Compensation Division in 2015.⁸

As discussed above, in Alaska, when an employee with no dependents dies due to a workplace injury, the employer or insurer must pay \$10,000 to the Second Injury Fund. We note that in the past the Alaska Workers' Compensation Division has suggested that if the \$10,000 that is currently deposited in the Second Injury were repealed, that money could be used by the employer to mitigate the cost of providing death benefits to a worker's estate, should Alaska enact such a law.

We hope this is helpful. If you have questions or need additional information, please let us know.

⁴ Oregon workers' Compensation Management-Labor Advisory Committee, "Death Benefit Study Report," January 2009, p. 5. The document can be accessed at <http://library.state.or.us/repository/2009/200903240944472/>.

⁵ Ms. Howard can be reached at 503-947-7364.

⁶ Ms. Howard notes that it is difficult to tease out the exact amount of benefits paid to estates, because data are compiled under death benefits and do not distinguish between a worker's dependents and a worker's estate.

⁷ *New Mexico Workers' Compensation Administration 2015 Annual Report*, http://www.workerscomp.state.nm.us/research/ar15/wca_annual2015.pdf.

⁸ Department of Labor and Workforce Development, *State of Alaska Division of Workers' Compensation 2015 Annual Report*, at <http://labor.alaska.gov/wc/forms/2015AR.pdf>.