

What Are Workers' Compensation Death Benefits?

New York City workers' compensation lawyers explain how the system works

[Workers' compensation](#) death benefits can be a lifeline for family members dealing with the loss of a loved one due to a work-related death. Sometimes referred to as “survivor benefits,” workers' comp death benefits cover a wide range of expenses and financial losses. This is why it's important to understand how the workers' compensation system works in New York after such a traumatic event. That way, your family can receive the financial support you deserve now and in the future.

Fortunately, you're not alone. Our New York City workers' compensation attorneys at [Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP](#) can help. Our lawyers know what to do because we have been doing this work for years. As a result, we thoroughly understand how New York's workers' compensation system works. We also realize how overwhelming the loss of a loved one can be, especially if their death was due to a work-related injury or illness.

What are survivor benefits?

As briefly explained above, workers' compensation death benefits are the same thing as survivor benefits. The [New York Workers' Compensation Board](#) often refers to death benefits as survivor benefits on its website. So if you are considering filing a workers' compensation death claim, you should fully understand how survivor benefits work in New York in order to receive such financial compensation.

Who's eligible to receive workers' compensation death benefits?

In general, surviving family members are eligible to receive survivor benefits. In New York, surviving family members often include:

- Surviving spouse (husband or wife).
- Minor children under 18 years old.
- Dependent children of any age if they are blind or permanently disabled.
- Children up to 23 years old if they are a full-time student at an accredited educational institution.
- Dependent siblings.
- Dependent grandchildren.

If there are no surviving family members as defined by the New Yorker Workers' Compensation Board, other individuals may still qualify for workers' comp death benefits, including non-dependent parents and/or the deceased workers' estate.

If you are not sure about whether or not you qualify for survivor benefits in New York, a workers' compensation attorney at our law firm can answer your questions and review your potential case.

Who do surviving family members file a survivor benefit claim with in New York?

Even though workers' compensation is a form of insurance that most employers in New York are required to provide to all workers in the event of a work-related injury or illness, most surviving family members do not file a survivor benefit claim directly with their loved one's workers' compensation insurance provider.

Instead, surviving family members often start by filing a death benefit claim directly with the New York State Workers' Compensation Board. Several forms and documentation often need to be filed with the state depending on the circumstances of the person's death.

What documentation do I need to file a workers' compensation death claim?

In order to receive workers' compensation death benefits, the first form most surviving family members need to file with the New York State Workers' Compensation Board is Form C-62 (Claim for Compensation in a Death Case).

In addition, surviving family members often need to provide the following documentation in support of their Form C-62 application:

- Affidavit for Death Benefits (Form AFF-1), an 11-page form required by the New York Workers' Compensation Board for death benefits.
- Proof of Death by Physician Last in Attendance on Deceased (Form C-64), which is often filed by the doctor who last treated the deceased prior to their death. In this form, the physician explains how the person's death was caused by their work-related injury or illness.
- Proof of Burial and Funeral Expenses by Undertaker (Form C-65), which is filed by the funeral home that handled the deceased's burial or funeral services.

What is the deadline for filing for workers' compensation death benefits?

In New York, surviving family members seeking workers' compensation death benefits must file a claim within two (2) years of the worker's death. This involves submitting the appropriate documentation to the New York State Workers' Compensation Board, including the Claim for Compensation in Death Case form, known as Form C-62.

There are additional key deadlines to consider for filing workers' compensation claims, including:

- The deceased's employer needs to receive written notice within 30 days of the injury or death.
- When reporting an injury or illness, the New York Workers' Compensation Board must be informed within 18 days of the accident, or within 10 days after the employer becomes aware of a work-related fatal injury or illness.

What expenses do workers' comp death benefits cover?

Survivor benefits can pay for a wide range of expenses that often arise after the death of someone due to work-related illness or injury. Such expenses often include:

- Funeral expenses up to \$12,500.
- Medical bills prior to the deceased's death related to their work-related injury or illness.
- Wage replacement income for surviving family members.

How are workers' comp survivor wage replacement benefits calculated?

When determining wage replacement income, the New York Workers' Compensation Board takes into consideration the average weekly wage of the deceased for the previous year (52 weeks) prior to their work-related death or illness. The state then normally awards surviving family members two-thirds of the deceased worker's average weekly salary for the previous 52 weeks.

However, there is a limit to how much money the state Workers' Compensation Board pays eligible surviving family members. The maximum amount of money paid by the state to surviving family members is normally adjusted on July 1 each year by the New York Workers' Compensation Board.

How long can recipients receive workers' compensation survivor benefits?

In New York, how long a recipient can receive workers' compensation survivor benefits often depends on what type of relationship the benefit recipient had with the deceased worker. This includes:

- A surviving spouse can receive wage replacement benefits for life in most cases. The exception is if a surviving spouse remarries. In that situation, the surviving spouse often received a single lump sum payment equal to two years of wage replacement benefits.
- Minor children normally receive wage replacement benefits until they are 18 years old.
- Minor children who are full-time students can receive such benefits until they are 23 years old.

Other deadlines, rules and restrictions may apply depending on your relationship with the deceased and other factors. The best way to know for sure how long you can receive wage replacement income and other survivor benefits is to talk with a workers' compensation lawyer familiar with New York's workers' compensation system.

Can you appeal a denied workers' compensation survivor benefit claim?

The short answer? Yes. If any of your applications for workers' compensation death benefits are denied, you have the right to appeal your denied application. However, you need to act fast. In most cases, you only have 30 days to appeal your denied death benefit claim application.

You should file your appeal with the Workers' Compensation Board's Appellate Division, Third Department, Supreme Court of New York. An Appellate Division judge will then often either affirm, reverse or modify the Board's original decision.

If the Appellate Division judge affirms the original Worker's Compensation Board decision, you often still have one more option for appealing your case. Within 30 days of the Appellate Division decision, you can file an appeal with the New York Court of Appeals. However, the Court of Appeals will often only consider cases that deal with a distinct question of law.

Why should I hire a New York City workers' compensation attorney?

Don't underestimate the complexity or the urgency of your death benefit claim. The smallest mistake on your survivor benefit application could jeopardize your claim or slow down the process. And even if you believe you should receive such benefits, don't simply assume you will automatically get them.

This is why it's always best to talk with an attorney to make sure that you're receiving the maximum financial compensation you're legally entitled to obtain in New York. Our New York City workers' compensation lawyers at [Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP](#) have an in-depth understanding of the state's workers' compensation system. That's because we have been successfully handling such cases for years for families throughout the state.

Get the New York City law firm that fights for families. [Contact us](#) and schedule an appointment with a New York City workplace injury attorney focused on helping you obtain the support you need and deserve. We have 12 offices conveniently located in New York, including five offices in New York City.