

WORKERS COMPENSATION SURVIVOR BENEFITS IN ARKANSAS

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Wesley A. Cottrell



If an employee suffers an injury at work, which results in his or her death, the employee's surviving family members may be entitled to certain Workers Compensation

benefits. Every state has its own Workers Compensation laws that govern the type and amount of benefits that are available, including Arkansas. Those rules also establish who is entitled to survivor benefits after the death of an eligible employee.

When are Workers Compensation Survivor Benefits Available in Arkansas?

Generally, there are three situations where the survivor of an eligible employee may be entitled to death or survivor benefits under Arkansas' Workers Compensation laws. The most obvious is when an employee dies as a direct result of a workplace or work-related injury. Survivors may also be entitled to death benefits when the employee's death is unrelated to his or her employment.

For instance, if an employee suffers an injury that results in permanent, partial disability, and that injury is compensable under Workers Comp, but subsequently dies, survivor benefits may be available. The same is true if an employee suffers permanent, total disability, as a result of a work-related injury, but later dies.

Who is entitled to survivor benefits in Arkansas?



Anyone who is considered a “total dependent,” as that term is legally defined, is eligible for survivor benefits. That would include the surviving spouse and any dependent children. In Arkansas, dependents can also include brothers, sisters,

parents, grandchildren, and grandparents. Eligible dependents share the weekly benefit, and when one dependent is no longer eligible for benefits, the shares that remain are adjusted accordingly.

What types of survivor benefits are available?

When an eligible employee dies as the result of a work-related injury or accident, his or her survivors are entitled to weekly benefits, that equal a certain percentage of the employee's average weekly wage, based on the number dependents and who they are.

A funeral benefit of up to \$6,000, is also paid.

On the other hand, if the employee dies from a cause that is wholly unrelated to a work-related injury, the survivors are only entitled to the total accrued benefits to which the deceased would have been entitled.



Who is responsible for paying the benefits?

In Arkansas, employees are required to report their injuries to their employer "immediately." The employer will not be held responsible for any benefits

accrued prior to receiving notice of the injury. An exception is made if the injury rendered the employee physically or mentally incapable of giving notice. As with standard Worker's Compensation benefits, the employer and its Worker's Compensation insurance carrier are ultimately responsible for paying survivor benefits.

How long do survivor benefits last?

The surviving spouse is entitled to the weekly benefit for life, unless he or she remarries. If the surviving spouse remarries, he or she will receive a lump sum equal to two years of benefits.



A dependent child, only receives benefits until age 18, unless the dependent child is physically or mentally incapacitated. In

that case, the weekly benefit may continue for life, unless their incapacity resolves itself.

How to make a claim for survivor benefits

In most cases, the employer of will contact the family and begin paying benefits automatically. However, if that is not the case, and you feel you are entitled to survivor benefits, you can contact the employer or the employer's Worker's Compensation insurance carrier to ask about possible benefits. You can also file a Workers' Compensation Claim for Compensation, which your Workers' Compensation attorney can assist you in filing.

Can survivor benefits be denied or reduced?

The same rules that make an employee eligible for Workers' Compensation benefits, apply in the case of a work-related injury that results in death. First, the employer must actually be subject to Arkansas' Workers' Compensation laws. The accident or injury causing the death must be compensable under the law.



This means that there must be proof that the work-related injury was the primary reason for the death. If this cannot be proven, the claim for survivor benefits could possibly be denied.

Also, there may be a dispute regarding other aspects of the claim, such as the accurate amount of the employee's average weekly wage or the identity of the eligible dependents. If any of these disputes arise, they will likely need to be



resolved through an evidentiary hearing, presided over by an administrative law judge.

If you have questions regarding death benefits, or

any other workers' compensation issues, call the Cottrell Law Office at (800) 364-8305.

About the Author



Wesley A. Cottrell

Wesley A. Cottrell has been successfully practicing law for over 29 years. Born in Springdale, Arkansas and raised in Baxter Springs, Kansas, Wes is licensed to practice law in Arkansas, Kansas, Missouri, and Oklahoma.

Wes earned his B.A. from Pittsburg State University in 1981 and his J.D. from the Washburn University School of Law in Topeka, Kansas in 1985. He was admitted to practice law in Kansas in 1986, in Missouri in 1987, in Arkansas in 1989, and Oklahoma in 1993.

He is licensed to practice law in the United States District Court for the District of Kansas, eastern Arkansas, western Arkansas, and western Missouri. He was Deputy Prosecuting Attorney in Crawford County, Kansas from 1987-1989.

Wes lives in Rogers, Arkansas with his wife, Shelly, and their two daughters, Kennedy and Gabby. He is active in his community, and is regularly asked to teach courses to other attorney on personal injury and workers' compensation litigation.

Memberships and Associations:

National Organization of Social Security Representatives
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Kansas Bar Association
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