

CALCULATING SURVIVORS' BENEFITS

When Does This Information Apply?

Most of this information applies where the injury or disease resulting in the worker's death occurred on or after January 1, 1998. Please note the following exceptions:

- If the injury or disease resulting in the worker's death occurred before March 1, 2000, the information below may not apply to you if you are a same-sex partner of the worker. You should speak to a qualified representative.
- If you are a child over 19 years of age and enrolled in a WSIB approved educational program on or after January 1, 2005, you may be eligible for periodic payments (not the lump sum payment), regardless of the date of injury or disease that resulted in the worker's death.

For a full explanation of survivors' benefits, see OWA Fact Sheet 15 called "Survivors' Benefits".

How Much Is the Lump Sum Payment If There Is One Spouse?

If the worker died in 2002, a spouse (which now includes same-sex partners) who is 40 years old will receive a lump sum payment of \$61,032.03. In the case of a spouse who is more than 40 years, \$1,525.79 will be subtracted from this amount for every year of age that he or she is over 40. A spouse who is less than 40 years old will have \$1,525.79 added to this amount for every year of age that he or she is under 40. A spouse cannot receive a lump sum payment of more than \$91,841.01 or less than \$30,516.00.

How Much Is the Lump Sum Payment If There Are Children, But No Spouse?

If there are dependent children under 19 years of age, or who are between 19 and 30 and are attending school, they will receive a lump sum payment of \$61,032.03 to be shared equally. There is no age limit for children who are unable to earn wages.

How Much Are the Monthly Payments If There Is One Spouse, But No Children?

When there are no children, a surviving spouse (which now includes same-sex partners) who is 40 years old when the worker dies will receive 40 per cent of the worker's net average earnings (NAE). One per cent of the deceased worker's earnings is added for each year of age that a spouse is over 40. One per cent of the worker's earnings is subtracted for each year of age that a spouse is under 40.

How Much Are the Monthly Payments If There Is a Spouse With Children?

If the spouse (which now includes same-sex partners) is looking after the children, the benefits to the spouse are 85% of the worker's NAE until the youngest child turns 19. When the youngest child turns 19, the spouse starts to receive benefits as if he or she were a spouse with no children.

When a child turns 19 and is in an educational program approved by WSIB, then WSIB will pay 10% of the worker's NAE directly to the child. However, for work-related injuries resulting in death that occurred prior to January 1, 1998, the 10% payment in respect of the child is paid directly to the spouse.

When the child finishes school, or cannot show that (s)he is attending regularly, or stops attending, or turns 30, these payments return to the spouse as long as (s)he still has one or more children under the age of 19.

If a child is physically or mentally unable to earn wages, benefits will continue until his or her death. If someone else is looking after the children, WSIB will divide 85% of the worker's NAE among the spouse, the children, and whoever else is looking after the children.

How Much Are the Monthly Payments If There Are Children, But No Spouse?

If there is one dependent child under 19, that child will receive 30 per cent of the worker's NAE. If there are more children, an additional 10% of the worker's NAE will be added for each child after the first one, and the total amount will be divided among all of the children equally. If someone who is not a spouse (which now includes same-sex partners) of the worker is acting as a parent toward the worker's children, WSIB will pay that person the same amount as a spouse, instead of paying the children. Monthly payments stop when the children reach age 19.

When a child turns 19 and continues in an educational program approved by WSIB, then WSIB will pay 10% of the worker's NAE directly to the child, until the child finishes school or turns 30, as long as the child can show that he or she is attending school regularly. However, the total monthly payments to the children cannot be more than 85% of the worker's NAE.

What Are the Payments If There Is More Than One Spouse?

If there is more than one surviving spouse (which now includes same-sex partners), then WSIB will divide the benefits among the spouses. However, the total of the lump sum payments that they receive cannot be more than \$91,841.01, in 2002. The total monthly payments to all spouses cannot be more than 85% of the worker's NAE. If the total payable to all of them would come to more than that amount, WSIB will review each spouse's emotional and financial dependence on the deceased worker and divide the money accordingly.

What Are the Payments If There Are Dependants, But No Spouse or Children?

When there are no spouses (which now includes same-sex partners) or children, WSIB will pay monthly benefits to the other surviving dependants of the worker. The total of these payments cannot exceed 50% of the worker's NAE. WSIB will make these payments for as long as the worker would have supported the dependant. WSIB will not pay a lump sum to these other dependants.

IMPORTANT INFORMATION

There are time limits for appealing WSIB decisions. If you wish to appeal a decision, contact a qualified representative as soon as possible. For more information on time limits, see OWA Fact Sheets 24 and 25 called "Appealing to WSIB" and "Appealing to WSIAT".

This Fact Sheet contains general information only. It is not a legal document. To see what the law says, you should look at the Workplace Safety and Insurance Act and WSIB policies. If you require help and do not have a union to assist you, contact the Office of the Worker Adviser:

- Our toll free telephone number is 1-800-435-8980 (English) or 1-800-661-6365 (French)
- or visit our website at <http://www.owa.gov.on.ca>

Cette feuille-info est aussi disponible en français

