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COMPENSATION LAWYERS



Workers' compensation death benefit claims in Queensland

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Losing a loved one due to a work-related incident is devastating. While no amount of money can replace the person, Queensland's workers' compensation system does provide financial support for dependants following a work-related death. These are known as death benefit claims and come within the scheme controlled by the *Workers' Compensation and Rehabilitation Act 2003* (Qld).

In this article, we explain who can make a death benefit claim, what support is available, and how the process works in Queensland.

What is a workers' compensation death benefit claim?

A death benefit claim is a type of workers' compensation claim that provides financial assistance to the dependants of a worker who has died as a result of a work-related injury or illness.

In Queensland, these claims are managed by WorkCover Queensland or a self-insured employer.

What is considered a work-related death?

A death may be considered work-related if it results from:

- a physical injury sustained at work (e.g. fall, machinery accident);
- a psychological injury leading to death, in limited circumstances (nearly exclusively in respect of suicide);

a work-related disease (e.g. mesothelioma, silicosis);

a traffic accident while travelling to and from work (‘journey claims’), or when in the course of performing work duties.

For non-journey claims, to qualify for death benefits, the death must arise out of, or in the course of, employment, and the employment must be a significant contributing factor to the injury or illness that led to death. For journey claims, it is only necessary that the worker died as a result of an accident whilst travelling to or home from work (without significant deviation during the journey)

Who can make a death benefit claim in Queensland?

Under Queensland law, the following people may be eligible for death benefits:

Dependants

Spouse or de facto partner;

Children (including stepchildren, adopted children, or other financially dependent children).

A person must have been wholly or partially dependent on the worker’s earnings at the time of death.

Legal personal representative

If there are no eligible dependants, the deceased worker’s legal personal representative (e.g. executor of their estate) may still apply for certain limited benefits, such as payment/reimbursement of funeral costs.

What compensation is available under a death benefit claim?

If the claim is accepted, the following workers' compensation entitlements may be paid.

Lump sum payments

A set statutory amount is paid to all eligible dependants;

The total amount is to be apportioned between multiple dependants, based on dependency levels;

The maximum statutory amount payable is indexed and reviewed regularly.

Weekly payments

Ongoing weekly support may be provided to dependent children until a certain age (a number of conditions apply, depending on the child's age and/or educational needs, etc).

Funeral expenses

Reimbursement of reasonable funeral expenses up to a specified amount.

Counselling support

Access to grief and trauma counselling for family members.

The precise amounts and eligibility criteria can vary, so it's important to check current figures on the WorkCover Queensland website or speak with a compensation lawyer.

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How to make a workers' compensation death benefit claim in Queensland

Here are the key steps to making a death benefit claim.

Notify WorkCover Queensland

Report the worker's death to WorkCover Queensland or the relevant self-insurer as soon as possible. This can be done online, by phone, or through a legal representative.

Gather documentation

You will need:

the worker's death certificate;

evidence of dependant status (e.g. marriage or birth certificates);

sufficient proof the death was work-related (e.g. medical reports, incident details) or confirmation that the worker died whilst travelling to or home from work (without significant deviation).

Lodge the claim

Submit the completed death benefit claim form, along with all supporting documentation.

Assessment and decision

WorkCover or the self-insurer will assess:

whether the death was work-related;

who qualifies as a dependant;

what entitlements will apply.

Time limits to claim death benefits

Under Queensland law, a death benefit claim needs to be made within six months of the worker's death. However, extensions may be granted in certain circumstances, particularly if there is a reasonable explanation for the delay.

But, it's best to act promptly, even if you are unsure whether the death benefit claim will be accepted by WorkCover/self-insurer. It doesn't cost anything to lodge a claim, so it's always best to act as soon as possible to ensure the claim is lodged within the 6-month time frame.

What if the claim is disputed or denied?

If WorkCover Queensland denies the claim or the dependants disagree with the amount of the lump sum and/or weekly benefits (if applicable) have been calculated, you have the following options.

You can request a review of the decision through the Workers' Compensation Regulator.

If still unresolved, the dispute can proceed to the Queensland Industrial Relations Commission (QIRC). This is often a complex process, so it's strongly recommended to seek legal advice if a dispute arises.

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Common issues with workers' compensation death benefit claims

Some of the common challenges in workers' compensation death claims include:

- proving the death was work-related, especially in cases involving disease or suicide;
- disputes between multiple dependants (e.g. current partner vs ex-partner with children);
- lack of documentation or uncertainty about dependency;
- delay in notifying or lodging the claim.

Having accurate records, legal advice, and the necessary medical and other evidence will help with having the application for death benefits accepted in the first instance.

Tax and superannuation considerations

Death benefits paid under workers' compensation are generally not taxable. However, they may affect any Centrelink entitlements dependents are receiving.

They are separate from superannuation death benefits, which may also be available via the deceased's super fund in addition to any workers' compensation death benefit payable.

It's always a good idea to consult both a compensation lawyer and, if successful with the claim, a financial adviser to understand your rights and the full financial implications in the event benefits are paid.

Do I need a lawyer to make a death benefit claim?

While it is possible to make a claim without legal help, many families choose to engage a workers' compensation lawyer, especially when:

- there is disagreement about dependency;
- the cause of death is disputed;
- a common law claim (for negligence) may also be considered.

Get help from a workers’ compensation lawyer

The sudden and unexpected death of a worker can leave a family not only grieving but also facing financial uncertainty. Queensland’s workers' compensation system provides support to help families cope during such a difficult time.

If you believe your loved one’s death was work-related, you may be entitled to lump sum compensation, funeral expenses, and other support. Don’t delay in seeking advice, as knowing your rights can help protect your family’s future.

This article is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.