

**Operational
Policy**

Section
Reporting an Injury/Disease

Subject
Survivors' Requirement to Claim for Benefits

Law

~~A survivor who is entitled to benefits as a result of a worker's death, must file a claim within six months of the death.~~

~~The WSIB may extend the six month deadline, or waive the requirement altogether if, in the WSIB's opinion, it is just to do so.~~

~~The survivor must give a copy of the claim for benefits to the worker's employer or, in the case of occupational diseases, to the employer who most recently employed the worker in the employment to which the disease is associated.~~

~~In some cases, survivors may ask the Workplace Safety and Insurance Appeals Tribunal (WSIAT) to determine whether they have the right to pursue a legal action under the *Workplace Safety and Insurance Act, 1997* (the Act). If WSIAT rules that the survivor does not have the right to pursue an action, the deadline to file a claim for benefits is six months following WSIAT's decision.~~

Policy

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If the survivor is entitled to periodic payments under the insurance plan, the WSIB makes the first payment, even if the claim for benefits is not yet on file. However, the WSIB does not provide further benefits until it receives the claim for benefits.

The WSIB does not issue any lump sum payments until the survivor's claim for benefits is on file.

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[The purpose of this policy is to outline how survivors can meet the requirements for claiming benefits, and to identify when the WSIB may extend the timeline to claim survivor's benefits.](#)

Guidelines**Definitions**

Survivor - for a definition of "survivor", [see-refer to 20-01-02, Definitions and Application Dates](#).

Spouse - for a definition of "spouse", [see-refer to 20-01-02, Definitions and Application Dates](#).

How survivors claim

Survivors must complete the [D](#)ependency [C](#)laim form to file the claim. At the same time, survivors must provide official documents to establish their relationship to the deceased worker.

NOTE

The WSIB is responsible for returning all official documents by registered mail.

Concurrent entitlement

Survivors who are entitled to benefits in Ontario may also be entitled to benefits in another jurisdiction, or to take legal action against a third party. If so, survivors who wish to claim benefits under the insurance plan in Ontario, must first make an election to do so.

In either situation, the WSIB asks the survivor to complete an election form and the [D](#)ependency [C](#)laim form. Because the law requires the survivor to complete an election form within three months of the injury, the WSIB expects survivors to complete the [D](#)ependency [C](#)laim form at the same time.

For more on entitlement in Ontario and other jurisdictions, [see-refer to 15-01-09, Entitlement in Ontario and Other Jurisdictions](#). For more on third parties, [see-refer to 15-01-05, Third Party Rights of Action](#).

Claiming after the 6-month deadline

Unless the WSIB agrees to extend the deadline, no claims are accepted beyond the six-month deadline.

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Extending the 6-month deadline

Unaware of rights

On occasion, the WSIB deals with survivors who come forward more than six months after the worker's death to claim benefits because:

- when entitlement for the work-related death was established, the WSIB was not aware of the survivor
- when the worker died, the survivor was unaware of ~~his/her~~ their rights under the WSIB's insurance plan, e.g., when a worker dies of a heart attack at work and the employer does not submit an accident report to the WSIB, ~~or~~
- the survivor did not learn that the death was work-related until long after the worker's death - this is especially common in occupational disease cases, or
- the survivor was unable to understand the time limit requirements and the consequences of not meeting them (~~were e.g., language barrier difficulties a factor?~~).

In such cases, the WSIB sends the survivor the Dependency Claim form to complete. Once the form is returned to the WSIB, and entitlement to benefits and services is established, the WSIB issues the proper benefit payments.

Changes in law or policy

If changes in law or policy expand new areas of entitlement for claims which may have been previously denied, survivors may subsequently file a claim for benefits.

Incorrect election

On rare occasions, survivors may elect to claim benefits in another jurisdiction only to discover that the claim can only be pursued in Ontario. If this happens:

- **before the six-month deadline** to file a claim for benefits has expired, survivors are given the balance of the six months, or thirty calendar days from the date they discover they can only file in Ontario for benefits - whichever is greater, or
- **after the six-month deadline** has expired, survivors are given thirty calendar days from the date they discover they can only file in Ontario, to notify the WSIB that they wish to file a claim for benefits under the insurance plan. Upon receiving a Dependency Claim form from the WSIB, survivors are then given a further thirty calendar days to complete and return the form to the WSIB.

Exceptional circumstances

If a survivor fails to file a claim by the respective deadline, the WSIB allows the claim to be filed at a later date, if the survivor can show that exceptional circumstances existed at the deadline. Exceptional circumstances can include:

- compelling personal reasons, such as serious health problems or accident (experienced by the party or the party's immediate family), or
- the party having to leave the province/country due to ill health or death of a family member.

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It is not necessary for the survivor to file a claim for benefits to receive only burial or transportation expenses. ~~(see refer to 20-03-02, Burial Expenses).~~

Incapable of filing

If the survivor is mentally incapable of filing the claim for benefits, the survivor's:

- spouse
 - child
 - guardian
 - attorney, or
 - Public Guardian and Trustee, as the case may be,
- may file the claim for benefits on behalf of the survivor. ~~(see refer to 15-01-07, Guardians for Workers/Survivors).~~

Claim by a minor

If the survivor is less than eighteen years of age, the survivor's:

- spouse (if the person is not a minor)
 - guardian, or
 - Children's Lawyer, as the case may be,
- may file the claim for benefits.

Application date

This policy applies to all decisions made on or after ~~March 9, 2005~~ [December 5, 2024](#), for all accidents/deaths on or after January 1, 1998.

Document History

This document replaces 15-01-04, dated ~~October 12, 2004~~ [January 3, 2007](#).

Previously, this document was published as:

[15-01-04 dated October 12, 2004](#)

15-01-04 dated August 1, 2001

15-01-04 dated June 15, 1999

3.3 dated January 1, 1998.

References**Legislative Authority**

Workplace Safety and Insurance Act, 1997, ~~as amended~~
Sections 2(1) 20, 22, 30, 31

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MinuteApproval

Administrative

~~#10, November 15, 2006, Page 430~~