

**Operational  
Policy**Section  
Benefits for SurvivorsSubject  
**Child Incapable of Earning Wages****Law**Policy**s.48(18)**

A surviving dependent child who is physically or mentally incapable of earning wages is entitled to periodic payments until the child is able to earn wages, or until ~~his or her~~the death of the child.

**Purpose**

The purpose of this policy is to outline how the WSIB determines survivors' benefits for a deceased worker's dependent child who is incapable of earning wages.

**Guidelines****NOTE**

Survivors' benefit amounts in this document reflect those legislated in the *Workplace Safety and Insurance Act, 1997 (WSIA)* and are indexed annually. For more information, ~~see~~refer to 18-01-02, Benefit Dollar Amounts - Accidents from 1998.

**Definition**

For a definition of "dependent child", ~~see~~refer to 20-01-02, Definitions and Application Dates.

**No spouse**

If there is no surviving spouse and there are no other surviving children, the child incapable of earning wages receives periodic payments, equal to 30% of the deceased worker's net average earnings (NAE) at the time of the injury, and a lump sum payment, ~~see~~refer to 20-03-10, Children and No Spouse.

If the ~~incapable~~-child incapable of earning wages is cared for by a parent who does not qualify as a spouse, or by another person acting in the role of parent, the parent or other person receives periodic payments equal to 85% of the worker's NAE, ~~see~~refer to 20-03-11, Children Cared for by Parent or Other Person.

If the ~~incapable~~-child incapable of earning wages lives in an institution, and there are no other parents or people acting in the role of parent, the lump sum amount and periodic payments are paid on the child's behalf to the child's guardian, attorney, or to the Public Guardian and Trustee. The WSIB may also make payments to a person it considers to be acting in the child's best interest. These payments may be applied in a manner that the WSIB considers to be in the child's best interest.

If there is no spouse and there are one or more other children, the children are entitled as a group to share periodic payments equal to 30% of the worker's NAE, plus 10% for each child

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more than one (i.e., two children would share 40% NAE). The children are also entitled to share a lump sum payment, ~~see-refer to~~ [20-03-10, Children and No Spouse-](#).

**Not living with spouse**

If there is a surviving spouse who has custody of the surviving ~~incapable-child~~ [incapable of earning wages](#), and the spouse has other dependent children, but the ~~incapable-child~~ [incapable of earning wages](#) does not live with the spouse (i.e., the child is in the care and control of another person), the ongoing periodic payments are apportioned, ~~see-refer to~~ [20-03-09, Apportionment of Survivors' Benefits](#).

If there is a surviving spouse but no other surviving children, and if, due to the nature and severity of the ~~incapable-child's~~ medical condition [of the child incapable of earning wages](#), the child lives in an institution, the spouse is entitled to benefits as detailed in [20-03-04, Spouse with No Children](#). If the spouse makes regular payments for the institutional care of the ~~incapable-child~~ [incapable of earning wages](#), periodic payments are made as detailed in [20-03-06, Spouse with One or More Children](#).

**Eligibility**

A child may become incapable, and therefore entitled to compensation, anytime after the worker's death, as long as the incapacity occurs when the child is younger than 19 (or younger than 30 if the child is in an educational program).

A child who was incapable at the time of the worker's death is eligible for compensation, regardless of age.

**Medical condition and inability to earn wages**

The WSIB reviews the medical circumstances related to the physical and/or mental condition leading to the child's incapacity [to earn wages](#). Entitlement is considered under this policy if the child's incapacity to earn wages is expected to be greater than [six \(6\) months](#).

**Application date**

This policy applies [to all decisions made on or after December 5, 2024](#), if the injury or disease that resulted in the worker's death occurred on or after March 9, 2005.

**Document History**

This document replaces 20-03-13 dated ~~January 5, 2005~~ [April 6, 2009](#).

This document was previously published as:

[20-03-13 dated January 5, 2005](#)

20-03-13 dated October 12, 2004

20-03-13 dated June 15, 1999

13.13 dated January 1, 1998.

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## References

### Legislative Authority

*Workplace Safety and Insurance Act, 1997, ~~as amended~~*

Sections 2(1), 48(13), ~~(14)~~, ~~(15)~~, ~~(18)~~, ~~(19)~~, ~~(24)~~, 50, 60

### Minute Approval

Administrative

~~#12, March 2, 2009, Page 472~~