

## 501 KAR 15:020. Filing and processing of death benefit claims.

RELATES TO: KRS 61.315

STATUTORY AUTHORITY: KRS 61.315(5), 196.035

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(5) requires the Department of Corrections to promulgate administrative regulations providing criteria and procedures applicable to filing and processing of death benefit claims, to ensure the proper administration of benefits legally required to be paid to the proper party or parties on the death of eligible corrections employees who have died in the line of duty.

Section 1. Submission of Claim by Proper Party. A death benefit claim shall be filed with the Office of the Commissioner at the Department of Corrections, PO Box 2400, Frankfort, Kentucky 40602-2400. The commissioner's office shall determine the proper party to submit a claim for death benefits in accordance with the following requirements:

(1) The claim shall be submitted and executed by the claimant or the claimant's legally designated representative upon submission of written proof of that designation.

(2) If the claimant is under a disability in terms of mental or physical incapacity or as a result of being a minor, then the claim shall be submitted and executed by the claimant's legally-appointed guardian, committee, trustee or other legal representative upon submission of written proof of the disability and proof of the legal authority of representation by means of an affidavit, certified court record, or other legal document.

Section 2. Proof of Relationship. In filing the claim for death benefits, the claimant or claimant's representative shall submit the following proof of relationship:

(1) If the claimant is a spouse of the eligible employee, the spouse shall submit:

(a) Proof of marriage in the form of a duly-issued and certified marriage license or certificate;

(b) Any other certified government or official report, or affidavit of the marriage officiant; or

(c) Affidavit of two (2) witnesses of the marriage. The documentation shall establish the names of parties married and the date and place of marriage. If the claimant spouse or eligible employee has previously been married, a certified divorce decree of any or each previous marriage shall be submitted.

(2) If the claimant is a child of the eligible employee, documentation of the relationship and age shall be provided in the form of:

(a) Certified official vital statistics records;

(b) An adoption decree;

(c) Birth certificate;

(d) Paternity decree;

(e) Other government agency record that reveals the age and relationship of the child with the deceased eligible employee; or

(f) If a document listed in paragraphs (a) to (e) of this subsection does not exist, the affidavits of two (2) disinterested credible witnesses or an affidavit of the eligible employee prior to death may provide proof of the eligible employee's recognition of the child as his natural or adopted child.

(3) If the claimant is a parent, proof of the relationship shall be provided in the form of:

(a) Certified vital statistics records;

(b) A birth certificate;

(c) Adoption decree;

(d) Other official government record revealing the parental relationship; or

(e) If a document listed in paragraphs (a) to (d) of this subsection does not exist, the affidavits of two (2) disinterested, credible witnesses may provide proof of the eligible employee's recognition of the claimant as his parent.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty. The claimant shall provide proof of death of the eligible employee as a direct result of an act in the line of duty by providing the following:

- (1) A certified copy of the employee's death certificate;
- (2) If requested by corrections:
  - (a) A certified autopsy report;
  - (b) A coroner's report or other formal investigative report, if made; or
  - (c) Other sworn medical evidence as to the cause of death; and
- (3) Any other relevant document deemed necessary by the Office of the Commissioner.

Section 4. Filing the Claim. (1) In order to file a claim for benefits payable on the death of an eligible employee, the claimant shall file each completed form provided by the Office of the Commissioner, including the survivor's claim for death benefits and the appropriate documentary proof as requested.

(2) The claim for death benefits shall be filed with the Office of the Commissioner within six (6) months from the date of the death of the eligible employee for which the claim is made, unless the commissioner extends the filing deadline for good cause shown by the claimant.

(3) The Office of the Commissioner may require, at any time during the pendency of the claim, additional evidence to be submitted with regard to:

- (a) Entitlement;
- (b) The right to receive payment;
- (c) The amount to be paid; or
- (d) Any other material issue.

(4) If a claimant submits no evidence or insufficient evidence of a material issue or fact, the Office of the Commissioner shall inform the claimant what evidence is required for a determination as to the issue or fact and shall request that the claimant submit the evidence within forty-five (45) days from the date of the request of the Office of the Commissioner.

(5) A claimant's failure to submit evidence on a material issue or fact as requested by the Office of the Commissioner shall be a basis for determining that the claimant fails to satisfy the conditions required to award death benefits to the claimant.

(6) After the claim has been filed and the Office of the Commissioner determines the claimant has submitted, or failed to submit, all reports, documents and evidence required to be submitted, the Office of the Commissioner shall render a decision on the claim within forty-five (45) days.

(7) A claim for benefits may be withdrawn at any time upon written notice to the commissioner signed by the claimant or claimant's representative.

(8) Upon making a finding of eligibility, the Office of the Commissioner shall, in writing, notify the claimant at claimant's last known address of its disposition of the claim. Payment shall be made to the claimant as soon thereafter as practicable, with corrections presenting the claim to the State Treasurer within five (5) working days.

(9) If the Office of the Commissioner finds the claimant ineligible for a death benefit, the Office of the Commissioner shall notify the claimant in writing at claimant's last known address of its disposition and shall set forth findings of fact and conclusions of law supporting the decision, as well as claimant's right to a hearing and review by the secretary.

Section 5. Priority and Amount of Claim Benefits. Upon final determination of eligibility for benefits, the benefits shall be paid pursuant to KRS 61.315(2). (27 Ky.R. 1119; Am. 1458; eff. 12-21-2000; Crt eff. 2-20-2020.)