

JUSTICE AND PUBLIC SAFETY CABINET
(New Administrative Regulation)

500 KAR 1:021. Filing and processing of death benefit claims.

RELATES TO: KRS 61.315, 83A.087, 87A.088, Chapter 183, 446.010

STATUTORY AUTHORITY: KRS 61.315(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(2) authorizes payment to the surviving spouse and surviving children or parents of a police officer who dies in the line of duty. KRS 61.315(4) authorizes the Justice and Public Safety Cabinet to promulgate administrative regulations establishing criteria and procedures for these payments concerning deceased police officers as defined in KRS 61.315(1)(a), including defining when one has died in the line of duty. This administrative regulation provides criteria and procedures applicable to filing and processing of death benefit claims.

Section 1. Submission of Claim.

(1) A claim for benefits pursuant to KRS 61.315(2) for the death of a police officer resulting from an act in the line of duty shall be made for an eligible claimant by filing with the claim administrator at the address indicated on the form:

- (a) A complete Form 1 incorporated by reference in this administrative regulation;
- (b) All supporting documents or proof required in this administrative regulation; and
- (c) A Form 2 incorporated by reference in this administrative regulation completed by the police officer's employing public safety agency, organization, or unit with required documentary proof.

(2) Form 1 shall be executed by the claimant or the claimant's legally designated representative with written proof of such designation.

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

(4) The claimant shall establish with evidence:

- (a) That the police officer died as a result of an act in the line of duty as set out in Section 3 of this administrative regulation;
- (b) That the claimant is the spouse, child, or parent of the police officer as required by KRS 61.315(2); and
- (c) The existence or nonexistence other eligible claimants to establish priority and payment amounts pursuant to the claim.

(5) The claim for death benefits shall be filed within three (3) years of the date of the death of the police officer for which the claim is made, unless the secretary extends the filing deadline for good cause shown by the claimant.

(6) The claim administrator may require a claimant to submit additional information or evidence concerning the criteria for benefit eligibility, the correct survivor to receive the benefit, the amount of the benefit, or any other issue deemed material for the claim by the claim administrator.

(a) If information or evidence to support a condition required for eligibility is not submitted, the claim administrator shall inform the claimant of the required information or evidence. The claimant shall submit the evidence within ninety (90) days of the request for evidence unless the claim administrator extends the filing deadline for good cause shown by the claimant.

(b) The claimant's failure to submit evidence as requested by the claim administrator shall be a basis for determining that the claimant has failed to satisfy the conditions

required to be eligible for death benefits.

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

Section 2. Proof of Relationship.

(1) Spouse.

(a) If the claimant is a spouse of the police officer, the spouse shall submit documentary proof of marriage in the form of:

1. A duly issued and certified marriage license or certificate;
2. Any certified government or official report of the marriage;
3. An affidavit of the marriage officiant; or
4. An affidavit of two (2) witnesses of the marriage.

(b) The documentary proof submitted shall establish the:

1. Names of parties married;
2. Date of marriage; and
3. Place of marriage.

(c) If the police officer was previously married, a certified divorce decree of each previous marriage for the police officer shall be submitted.

(d) If the spouse of the police officer was previously married, a certified divorce decree of each previous marriage for the spouse shall be submitted.

(2) Child.

(a) If the claimant is a child of the police officer, documentary evidence of the relationship and age of the child shall be provided in the form of a certified official copy of a:

1. Birth certificate;
2. Adoption decree;
3. Paternity decree; or
4. Other government agency record that reveals the age and relationship of the child with the deceased police officer; or
5. Other record admissible in family court to determine the child's relationship to the officer including genetic test results; or

(b) If none of the documents listed in paragraph (a) of this subsection exist, affidavits of two (2) credible witnesses who are not beneficiaries of the benefit payment or an affidavit of the police officer executed prior to death establishing the police officer's recognition of the child as his or her natural or adopted child.

(3) Parent. If the claimant is a parent of the police officer, proof of the relationship shall be provided in the form of a certified official copy of:

- (a) Birth certificate;
- (b) Adoption decree;
- (c) Paternity decree;
- (d) Other government agency record that reveals the parental relationship with the deceased police officer;
- (e) Other record admissible in family court to determine the claimant's relationship to the officer including genetic test results; or
- (f) If none of the documents listed in paragraphs (a) through (e) of this subsection exist, affidavits of two (2) credible witnesses who are not beneficiaries of the benefit payment establishing the police officer's recognition of the claimant as his or her parent.

(4) If the claimant is claiming through an auxiliary police officer appointed pursuant to KRS 95.445, the claimant shall:

- (a) Provide the ordinance establishing the auxiliary police force;

- (b) Provide official records showing the police officer was appointed by the appropriate officials;
 - (c) State whether the appointment was for a third, fourth, fifth or sixth class city or urban-county government; and
 - (d) State whether a first-class city is within the county wherein the auxiliary police officer was appointed.
- (5) Unavailability of certified copies of records.
- (a) If a certified copy of any record required in this section cannot be obtained through diligent effort, the claimant may submit an uncertified copy and explain the reason that the record is unavailable.
 - (b) The claim administrator shall notify the claimant or representative whether the explanation for unavailability is sufficient and the copy will be accepted.

Section 3. Proof of Death as a Direct Result of an Act in the Line of Duty.

- (1) To establish the death of the police officer was the direct result of an act in the line of duty, the claimant shall provide a certified copy of the following:
- (a) Police officer's death certificate;
 - (b) Employment records substantiating the police officer's paid status as required by KRS 61.315(1)(a);
 - (c) Autopsy report, if performed;
 - (d) Toxicology report, if performed;
 - (e) Uniform incident report;
 - (f) Report of incident by investigating agency, if made;
 - (g) Investigative report prepared by the employing public safety agency, organization, or unit regarding the circumstances leading to the death; and
 - (h) Other documents to support eligibility as required by the claim administrator.
- (2) A death of a police officer shall be presumed to be a direct result of an act in the line of duty if evidence establishes:
- (a) The police officer's status as a police officer;
 - (b) The death results from the hostile action of an individual that knew of the officer's status as a police officer; and
 - (c) Nothing else motivated the individual's hostile action toward the police officer to so great a degree as either:
 - 1. The police officer's status as a police officer; or
 - 2. Retaliation for an act in the line of duty performed by a police officer.
- (3) Death resulting from a heart attack, stroke, or vascular rupture suffered by a police officer shall be presumed to be a direct result of an act in the line of duty, if evidence establishes:
- (a) The police officer, while on duty:
 - 1. Engaged in a situation involving a nonroutine stressful or strenuous physical activity; or
 - 2. Participated in a training exercise involving nonroutine stressful or strenuous physical activity; and
 - (b) The heart attack, stroke, or vascular rupture commenced:
 - 1. While the police officer was engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section;
 - 2. While the police officer remained on duty after being engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section; or
 - 3. Not later than twenty-four (24) hours after the police officer was engaged or participating as described in subparagraphs 1. and 2. in paragraph (a) of subsection (3) of this section; and

(c) The heart attack, stroke, or vascular rupture was a substantial factor in the death of the police officer, unless competent medical evidence establishes that the heart attack, stroke, or vascular rupture was unrelated to the engagement or participation or was directly and proximately caused by something other than the mere presence of cardiovascular-disease risk factors.

(4) The death of a police officer from COVID-19 shall be presumed to be a direct result of an act in the line of duty, if evidence establishes:

(a) The police officer engaged in an act in the line of duty between January 1, 2020, and March 21, 2022;

(b) The police officer was diagnosed with COVID-19, or evidence indicates that the police officer had COVID-19, during the 45-day period beginning with the last day of the officer's duty within the parameters set forth in paragraph (a) of this subsection; and

(c) The police officer had COVID-19 or complications from COVID-19 at the time of his or her death, unless competent medical evidence exists to show that the police officer's death was directly and proximately caused by something other than COVID-19.

Section 4. Benefit Disqualification. If an act or omission of an eligible survivor was a substantial factor in the death of the police officer, benefits shall be precluded as to that eligible survivor only.

Section 5. Claim Decision.

(1) A claim is considered filed when the claim administrator receives Form 1.

(2) A claim is considered complete when:

(a) All required forms, reports, documents, and evidence, including any requested information and evidence, are submitted to the claim administrator; or

(b) The time allowed to provide the required forms, reports, documents, and evidence has elapsed.

(3) The claim administrator shall provide written notice to the claimant or claimant's representative when the claim administrator considers the claim complete.

(4) The claim administrator shall make an eligibility determination on the claim within 120 days of the claim being considered complete.

(5) If a claimant is determined to be eligible for a benefit, the claim administrator shall:

(a) Notify the claimant in writing at the claimant's last known address of the determination; and

(b) Present the claim to the State Treasurer within forty (40) working days.

(6) If the claimant is determined not eligible for a benefit, the claim administrator shall:

(a) Notify the claimant in writing at claimant's last known address of the determination;

(b) Provide an explanation of the criteria that was not met; and

(c) State the appeal rights for the claim.

Section 6. Priority and Amount of Claim Benefits. The priority and amount of benefits paid shall comply with KRS 61.315.

Section 7. Rights to Appeal. An appeal shall follow 500 KAR 1:030.

Section 8. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Form 1", 2024 edition; and

(b) "Form 2", 2024 edition.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Justice and Public Safety Cabinet, Line of Duty Death Benefits, 125 Holmes

Street, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. This material is also available on the agency Web site at <https://justice.ky.gov/Departments-Agencies/ols/Pages/lodd.aspx>.

KEITH JACKSON, Secretary

APPROVED BY AGENCY: September 9, 2024

FILED WITH LRC: September 13, 2024 at 11:35 a.m.

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on Tuesday, November 26, 2024, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through November 30, 2024. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegContact@ky.gov.