

## **105 KAR 1:310. Fred Capps Memorial Act.**

RELATES TO: KRS 16.505-16.652, 61.510-61.705, 78.510-78.852

STATUTORY AUTHORITY: KRS 61.645(9)(g)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.621, The Fred Capps Memorial Act, enables an employee of a state-administered retirement system who is killed or disabled from a duty-related injury to receive death or disability benefits equal to those received by hazardous employees under KRS 16.582. This administrative regulation establishes the application and appeal procedure for duty-related death or injury benefits for nonhazardous employees.

### **Section 1. Application for Duty-related Injury Death Benefits.**

(1)

(a) A written request for duty-related injury death benefits may be made by the surviving spouse, or dependent child, or parent or guardian of dependent child at the Frankfort office of the Kentucky Retirement Systems.

(b) A claim for duty-related injury death benefits shall be verified by the deceased employee's immediate supervisor and agency head on the "Form 6800, Application for Death Benefits Duty Related/In Line of Duty".

(2)

(a) The employer, surviving spouse, or dependent child shall submit the following documents:

1. A copy of the death certificate;
2. The employer death investigation report; and
3. An employee job description.

(b) The retirement system may request additional information or medical records, including hospital, emergency room, autopsy, or other related records, and police or other crime report, if necessary, from the employer, surviving spouse, or dependent child.

(3) The application for duty-related injury death benefits shall be reviewed by the board's medical examiners and administered in the same manner as provided in KRS 16.582 and 61.665.

### **Section 2. Application for Duty-related Injury Disability Benefits.**

(1)

(a) A claim for duty-related injury disability benefits shall be filed by the employee at the Frankfort office of the Kentucky Retirement Systems.

(b) An application for duty-related injury disability benefits shall be made by the employee on the "Form 6000, Notification of Retirement".

(2) The application for duty-related injury disability benefits shall be reviewed by the board's medical examiners and administered in the same manner as provided in KRS 16.582 and 61.665.

### **Section 3. Time Period for Filing.**

(1)

(a) The application or reapplication for duty-related injury death or duty-related injury disability benefits shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

(b) The filing period shall begin on the day after the last day of paid employment in a regular full-time position and shall end at close of business on the following 730th calendar day.

(c) If the last day of the filing period is a Saturday, Sunday, or a state or federal holiday, then the application shall be timely filed if received in the retirement office by

the close of the next business day following the weekend or holiday.

(2) If rejected, an employee's reapplication for duty-related injury disability benefits based on the same claim of incapacity shall be reconsidered for disability if accompanied by new objective medical evidence. The reapplication shall be filed at the retirement office within twenty-four (24) months from the employee's last day of paid employment in a regular full-time position.

#### Section 4.

(1) If the retirement systems requires an applicant to submit to a medical or psychological examination under KRS 61.665(2)(j) or (3)(c), the retirement systems shall reimburse the applicant for mileage from the applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. The applicant shall be reimbursed for the most direct and usually traveled routes.

(2) Mileage shall be based on the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas." The applicant shall complete and submit a Form 8846, Independent Examination Travel Voucher indicating the mileage the applicant traveled from the applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. The applicant shall use the most direct and usually traveled routes.

(3) The mileage certified by the applicant shall not be greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" for the most direct and usually traveled route from applicant's home address as it is on file at the retirement systems, to the place of the examination or evaluation, and returning to the applicant's home address on file at the retirement systems. If the mileage certified by the applicant is greater than the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas" the retirement systems shall pay the applicant the mileage indicated by the "Kentucky Official Highway Map", mileage software, or the most recent edition of the "Rand McNally Road Atlas."

(4) Reimbursement for use of a privately owned vehicle shall be made at the IRS established standard mileage rate which changes periodically; and shall not exceed the cost of commercial coach fare.

(5) Actual costs for parking shall be reimbursed upon submission of receipts. The applicant shall submit the originals of the parking receipts along with a written request for reimbursement.

(6) Actual bridge and highway toll charges shall be reimbursed if the bridge or highway is on the most direct and usually traveled route. The applicant shall submit the originals of the bridge and highway toll receipts along with a written request for reimbursement.

(7) The applicant shall file at the retirement office a completed Form 8846, Independent Examination Travel Voucher, within fifteen (15) days of the date of the examination or evaluation in order to receive reimbursement for travel expenses.

#### Section 5. Benefit Payment Procedures.

(1) If the employee's application for duty-related injury disability benefits is approved, the employee's disability benefit shall be paid retroactive to the month following the month of the employee's last day of paid employment in a regular full-time position.

(2) If the employee did not receive early retirement benefits or disability retirement benefits under KRS 61.600, upon the employee's selection of a payment option, the retirement office shall pay the employee the total monthly retirement allowances owed.

(3)

- (a) If the employee did receive early retirement benefits or disability retirement benefits under KRS 61.600, the retirement office shall calculate and pay to the employee the difference between the early retirement benefit or disability retirement benefit which was paid to the employee and the duty-related disability benefit.
- (b) The employee shall not change his payment option.
- (4) If benefits are payable to a dependent child, the child's parent or guardian shall submit the following documents:
  - (a) A "Form 6456, Designation of Dependent Child";
  - (b) If the child is age eighteen (18) or over, verification of full-time student status;
  - (c) A copy of the birth certificate of each dependent child; and
  - (d) If a dependent child is a minor, a "Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor". If the minor has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor, the guardian or conservator shall submit a copy of the court order appointing the guardian or conservator;
  - (e) The parent or guardian shall:
    - 1. Notify the retirement system of the death or marriage of a dependent child or if the dependent child ceases to be a full-time student; and
    - 2. Submit a copy of the dependent child's verification of full-time student status with the retirement system for each semester of study within thirty (30) days following the start and within thirty (30) days following the end of each semester.
- (5) Any increases provided to recipients under KRS 61.691 shall be applied to the employee's disability benefit and payments to a dependent child in determining the total retroactive payments owed to the employee and dependent child.
- (6) If upon review in accordance with KRS 61.610 or other applicable statute, the board determines that an employee receiving duty-related injury disability benefits no longer meets eligibility requirements, then the board shall determine if the employee is eligible for disability benefits under KRS 61.600.

#### Section 6.

- (1) A recipient shall complete a "Form 6130, Authorization for Deposit of Retirement Payment", to have the monthly retirement allowance deposited to an account in a financial institution.
- (2) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution.
- (3)
  - (a) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new "Form 6130, Authorization for Deposit of Retirement Payment", and filing the form at the retirement office in Frankfort.
  - (b) The last "Form 6130, Authorization for Deposit of Retirement Payment", on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.
- (4) The recipient may complete a "Form 6135, Request for Payment by Check".
- (5) The retirement office shall not process the retirement allowance until the recipient has filed a completed "Form 6130, Authorization for Deposit of Retirement Payment", or filed a completed "Form 6135, Request for Payment by Check".

#### Section 7. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) Form 6800, "Application for Death Benefits Duty Related/In Line of Duty", April 2003;

- (b) Form 6000, "Notification of Retirement", July 2004;
  - (c) Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor", May 2003;
  - (d) Form 6456, "Designation of Dependent Child", July 2004;
  - (e) Form 6130, "Authorization for Deposit of Retirement Payment," May 2008; and
  - (f) Form 6135, "Request for Payment by Check", February 2002.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Retirement Systems, Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
- (28 Ky.R. 1002; eff. 12-19-2001; 29 Ky.R. 778; 1255; eff. 11-12-2002; 32 Ky.R. 393; eff. 11-5-2004; 35 Ky.R. 121; Am. 542; eff. 10-3-2008; Certified to be amended, filing deadline 7-29-2021.)