

RCW 51.32.072 Additional payments for prior pensioners—Children

—Remarriage—Attendant. (1) Notwithstanding any other provision of law, every surviving spouse and every permanently totally disabled worker or temporarily totally disabled worker, if such worker was unmarried at the time of the worker's injury or was then married but the marriage was later terminated by judicial action, receiving a pension or compensation for temporary total disability under this title pursuant to compensation schedules in effect prior to July 1, 1971, shall after July 1, 1975, through June 30, 2011, be paid fifty percent of the average monthly wage in the state as computed under RCW 51.08.018 per month and an amount equal to five percent of such average monthly wage per month to such totally disabled worker if married at the time of the worker's injury and the marriage was not later terminated by judicial action, and an additional two percent of such average monthly wage for each child of such totally disabled worker at the time of injury in the legal custody of such totally disabled worker or such surviving spouse up to a maximum of five such children. The monthly payments such surviving spouse or totally disabled worker are receiving pursuant to compensation schedules in effect prior to July 1, 1971 shall be deducted from the monthly payments above specified.

Where such a surviving spouse has remarried, or where any such child of such worker, whether living or deceased, is not in the legal custody of such worker or such surviving spouse there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under compensation schedules in effect prior to July 1, 1971 for the benefit of and on account of each such child. In the case of any child or children of a deceased worker not leaving a surviving spouse or where the surviving spouse has later died, there shall be paid for the benefit of and on account of each such child a sum equal to two percent of such average monthly wage up to a maximum of five such children in addition to any payments theretofore paid under such schedules for the benefit of and on account of each such child.

If the character of the injury or occupational disease is such as to render the worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues but such payments shall not obtain or be operative while the worker is receiving care under or pursuant to the provisions of this title except for care granted at the discretion of the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments shall not be considered compensation nor shall they be subject to any limitation upon total compensation payments.

No part of such additional payments shall be payable from the accident fund.

The director shall pay monthly from the supplemental pension fund such an amount as will, when added to the compensation theretofore paid under compensation schedules in effect prior to July 1, 1971, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve.

(2) In addition to the adjustment under subsection (1) of this section, further adjustments shall be made beginning July 1, 2012, and on each July 1st thereafter. The adjustment shall be the percentage change in the average monthly wage in the state under RCW 51.08.018 for the preceding calendar year, rounded to the nearest whole cent.

(3) Compensation due for July 1, 2011, through June 30, 2012, must be paid based on the average monthly wage in the state as computed under RCW 51.08.018 on July 1, 2010. [2011 1st sp.s. c 37 s 201; 1987 c 185 s 34; 1975 1st ex.s. c 224 s 12.]

Finding—Effective date—2011 1st sp.s. c 37: See notes following RCW 51.32.090.

Intent—Severability—1987 c 185: See notes following RCW 51.12.130.

Effective date—1975 1st ex.s. c 224: See note following RCW 51.04.110.