
HOUSE BILL 2216

State of Washington 52nd Legislature 1991 1st Special Session

By Representatives Jones, Lisk, Heavey and Vance

Read first time June 14, 1991. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to industrial insurance payments; and amending RCW
2 51.32.050.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 51.32.050 and 1991 c 88 s 2 are each amended to read
5 as follows:

6 (1) Where death results from the injury the expenses of burial not
7 to exceed two thousand dollars shall be paid.

8 (2) (a) Where death results from the injury, a surviving spouse of
9 a deceased worker eligible for benefits under this title shall receive
10 monthly for life or until remarriage payments according to the
11 following schedule:

12 (i) If there are no children of the deceased worker, sixty percent
13 of the wages of the deceased worker but not less than one hundred
14 eighty-five dollars;

1 (ii) If there is one child of the deceased worker and in the legal
2 custody of such spouse, sixty-two percent of the wages of the deceased
3 worker but not less than two hundred twenty-two dollars;

4 (iii) If there are two children of the deceased worker and in the
5 legal custody of such spouse, sixty-four percent of the wages of the
6 deceased worker but not less than two hundred fifty-three dollars;

7 (iv) If there are three children of the deceased worker and in the
8 legal custody of such spouse, sixty-six percent of the wages of the
9 deceased worker but not less than two hundred seventy-six dollars;

10 (v) If there are four children of the deceased worker and in the
11 legal custody of such spouse, sixty-eight percent of the wages of the
12 deceased worker but not less than two hundred ninety-nine dollars; or

13 (vi) If there are five or more children of the deceased worker and
14 in the legal custody of such spouse, seventy percent of the wages of
15 the deceased worker but not less than three hundred twenty-two dollars.

16 (b) Where the surviving spouse does not have legal custody of any
17 child or children of the deceased worker or where after the death of
18 the worker legal custody of such child or children passes from such
19 surviving spouse to another, any payment on account of such child or
20 children not in the legal custody of the surviving spouse shall be made
21 to the person or persons having legal custody of such child or
22 children. The amount of such payments shall be five percent of the
23 monthly benefits payable as a result of the worker's death for each
24 such child but such payments shall not exceed twenty-five percent.
25 Such payments on account of such child or children shall be subtracted
26 from the amount to which such surviving spouse would have been entitled
27 had such surviving spouse had legal custody of all of the children and
28 the surviving spouse shall receive the remainder after such payments on
29 account of such child or children have been subtracted. Such payments

1 on account of a child or children not in the legal custody of such
2 surviving spouse shall be apportioned equally among such children.

3 (c) Payments to the surviving spouse of the deceased worker shall
4 cease at the end of the month in which remarriage occurs: PROVIDED,
5 That a monthly payment shall be made to the child or children of the
6 deceased worker from the month following such remarriage in a sum equal
7 to five percent of the wages of the deceased worker for one child and
8 a sum equal to five percent for each additional child up to a maximum
9 of five such children. Payments to such child or children shall be
10 apportioned equally among such children. Such sum shall be in place of
11 any payments theretofore made for the benefit of or on account of any
12 such child or children. If the surviving spouse does not have legal
13 custody of any child or children of the deceased worker, or if after
14 the death of the worker, legal custody of such child or children passes
15 from such surviving spouse to another, any payment on account of such
16 child or children not in the legal custody of the surviving spouse
17 shall be made to the person or persons having legal custody of such
18 child or children.

19 (d) In no event shall the monthly payments provided in subsection
20 (2) of this section exceed one hundred percent of the average monthly
21 wage in the state as computed under RCW 51.08.018.

22 (e) In addition to the monthly payments provided for in (2)(a)
23 through (2)(c) of this section, a surviving spouse or child or children
24 of such worker if there is no surviving spouse, or dependent parent or
25 parents, if there is no surviving spouse or child or children of any
26 such deceased worker shall be forthwith paid the sum of one thousand
27 six hundred dollars, any such children, or parents to share and share
28 alike in said sum.

29 (f) Upon remarriage of a surviving spouse the monthly payments for
30 the child or children shall continue as provided in this section, but

1 the monthly payments to such surviving spouse shall cease at the end of
2 the month during which remarriage occurs. However, after September 8,
3 1975, an otherwise eligible surviving spouse of a worker who died at
4 any time prior to or after September 8, 1975, shall have an option of:

5 (i) Receiving, once and for all, a lump sum of twenty-four times
6 the monthly compensation rate in effect on the date of remarriage
7 allocable to the spouse for himself or herself pursuant to (2)(a)(i) of
8 this section and subject to any modifications specified under (2)(d) of
9 this section and RCW 51.32.075(3) or fifty percent of the then
10 remaining annuity value of his or her pension, whichever is the lesser:
11 PROVIDED, That if the ((injury)) remarriage occurred prior to July
12 ((28)) 1, 1991, the remarriage benefit lump sum available shall be as
13 provided in the remarriage benefit schedules then in effect; or

14 (ii) If a surviving spouse does not choose the option specified in
15 (2)(f)(i) of this section to accept the lump sum payment, the
16 remarriage of the surviving spouse of a worker shall not bar him or her
17 from claiming the lump sum payment authorized in (2)(f)(i) of this
18 section during the life of the remarriage, or shall not prevent
19 subsequent monthly payments to him or to her if the remarriage has been
20 terminated by death or has been dissolved or annulled by valid court
21 decree provided he or she has not previously accepted the lump sum
22 payment.

23 (g) If the surviving spouse during the remarriage should die
24 without having previously received the lump sum payment provided in
25 (2)(f)(i) of this section, his or her estate shall be entitled to
26 receive the sum specified under subsection (2)(f)(i) of this section or
27 fifty percent of the then remaining annuity value of his or her pension
28 whichever is the lesser.

29 (h) The effective date of resumption of payments under (2)(f)(ii)
30 of this section to a surviving spouse based upon termination of a

1 remarriage by death, annulment, or dissolution shall be the date of the
2 death or the date the judicial decree of annulment or dissolution
3 becomes final and when application for the payments has been received.

4 (i) If it should be necessary to increase the reserves in the
5 reserve fund or to create a new pension reserve fund as a result of the
6 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of
7 such increase in pension reserve in any such case shall be transferred
8 to the reserve fund from the supplemental pension fund.

9 (3) If there is a child or children and no surviving spouse of the
10 deceased worker or the surviving spouse is not eligible for benefits
11 under this title, a sum equal to thirty-five percent of the wages of
12 the deceased worker shall be paid monthly for one child and a sum
13 equivalent to fifteen percent of such wage shall be paid monthly for
14 each additional child, the total of such sum to be divided among such
15 children, share and share alike: PROVIDED, That benefits under this
16 subsection or subsection (4) shall not exceed sixty-five percent of the
17 wages of the deceased worker at the time of his or her death or one
18 hundred percent of the average monthly wage in the state as defined in
19 RCW 51.08.018, whichever is the lesser of the two sums.

20 (4) In the event a surviving spouse receiving monthly payments
21 dies, the child or children of the deceased worker shall receive the
22 same payment as provided in subsection (3) of this section.

23 (5) If the worker leaves no surviving spouse or child, but leaves
24 a dependent or dependents, a monthly payment shall be made to each
25 dependent equal to fifty percent of the average monthly support
26 actually received by such dependent from the worker during the twelve
27 months next preceding the occurrence of the injury, but the total
28 payment to all dependents in any case shall not exceed sixty-five
29 percent of the wages of the deceased worker at the time of the death or
30 one hundred percent of the average monthly wage in the state as defined

1 in RCW 51.08.018, whichever is the lesser of the two sums. If any
2 dependent is under the age of eighteen years at the time of the
3 occurrence of the injury, the payment to such dependent shall cease
4 when such dependent reaches the age of eighteen years except such
5 payments shall continue until the dependent reaches age twenty-three
6 while permanently enrolled at a full time course in an accredited
7 school. The payment to any dependent shall cease if and when, under
8 the same circumstances, the necessity creating the dependency would
9 have ceased if the injury had not happened.

10 (6) For claims filed prior to July 1, 1986, if the injured worker
11 dies during the period of permanent total disability, whatever the
12 cause of death, leaving a surviving spouse, or child, or children, the
13 surviving spouse or child or children shall receive benefits as if
14 death resulted from the injury as provided in subsections (2) through
15 (4) of this section. Upon remarriage or death of such surviving
16 spouse, the payments to such child or children shall be made as
17 provided in subsection (2) of this section when the surviving spouse of
18 a deceased worker remarries.

19 (7) For claims filed on or after July 1, 1986, every worker who
20 becomes eligible for permanent total disability benefits shall elect an
21 option as provided in RCW 51.32.067.