



## Pensions and Fatalities

### Self-Insurance Claims Adjudication Guidelines

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## Pensions

Pensions are a monthly payment made if a worker is permanently and totally disabled from a workplace injury or occupational disease. There are two pension categories: statutory and administrative.

### Statutory Pension

[RCW 51.08.160](#)

A statutory pension is defined as the loss of both legs or arms, one leg and one arm, total loss of eyesight, or total paralysis. These severe injuries qualify for placement on pension regardless of the ability to be gainfully employed. These pensioners may work for wages while receiving pension benefits.

### Administrative Pension

[RCW 51.08.160](#)

An administrative pension is defined as any condition that permanently incapacitates the worker from performing any work at any gainful occupation.

The Pension and Survivor Benefits ([F242-352-909](#)) brochure provides helpful information regarding the pension process.

## Pension Consideration

There must be a wage order on the claim before a pension can be considered. If a wage order has not been issued, the self-insured employer must send to the department a completed SIF-5A with the wage calculation and all required payroll documentation for a wage order.

The department will forward all pension requests from a worker or worker's representative to the self-insured employer for review. If the self-insurer:

- Agrees the claim is ready for a pension, they will send a completed [Pension Review Coversheet](#) and all the required documentation to the department requesting a pension.
- Disagrees the claim is ready for a pension, they will send documentation to the department supporting why the claim is not ready for pension. The SI Pension Adjudicator will review documentation from both parties and will issue an order either granting or denying pension.

If the self-insurer fails to respond to the department's notification of a worker-requested pension, the department will issue a decision based upon the facts presented.

## Second Injury Fund

[RCW 51.16.120](#)

Second Injury Fund relief is provided under law in cases of total permanent disability, which results from the combined effects of pre-existing disabling conditions and the effects of the industrial injury/occupational disease.

The employer pays into the Second Injury Fund only the amount of permanent partial disability resulting from the effects of the injury/occupational disease. The remainder of the cost for funding the pension is charged to the Second Injury Fund.

## Medical Coverage

[RCW 51.36.010](#)

### Limitation of Treatment

In cases of total permanent disability (TPD), pensions, treatment may not extend beyond the effective date the injured worker is placed on the permanent pension rolls. However, in some cases where the injured worker needs continued treatment of an accepted condition to protect their life (e.g. alleviating chronic pain), [RCW 51.36.010](#) provides discretionary authority for the supervisor of Industrial Insurance to allow continued medical coverage by means of a treatment order.

Treatment and/or medication are not payable in cases where no treatment order exists. In order to request a treatment order, complete the [Post Pension Medical Treatment Review Coversheet](#).

### Treatment Prior to Pension Order

If there is an interval of time between the effective date of pension and the mailing of the pension order, the department or self-insurer is responsible for the payment of medical bills for the accepted condition during this interval.

### Pension Claim Treatment Orders

A treatment order provides special allowance for medication and treatment for a specific condition, such as Dilantin for a severe head injury, urinary follow-up for a paraplegic, or alleviating chronic pain.

[RCW 51.36.010](#) gives discretionary authority to authorize treatment after total permanent partial disability when both of the following apply:

- Treatment is needed for condition(s) previously accepted by the department or self-insurer as a result of industrial injury, and

- Such treatment is deemed necessary to protect the worker's life.

Treatment orders issued at the time a worker is determined to be a pensioner will state what conditions are accepted and may also state what treatment is covered.

## Scheduled Drugs

[RCW 51.36.010](#), [WAC 296-20-03011](#)

Medical and therapeutic measures do not include payment for controlled substances that may be necessary to alleviate continuing pain.

## Petition for Treatment after Pension Order is Final

A treatment order may be granted at the time the worker is placed on pension. It may also be granted after the pension order is final. The worker, medical provider or other concerned party can request treatment by letter or by sending in a reopening application. When medical treatment is requested, the department must have a current medical report explaining the worker's current condition, its relationship to the claim and a treatment plan. Once a decision has been made by the department, regarding the treatment order, all parties will be notified by order.

## Removal of Treatment Order

Treatment orders are effective only during the period necessary for stabilization of the authorized treatment or procedure. When the worker has recovered from the acute episode, the self-insurer may refer the claim to the pension adjudicator to consider withdrawing the treatment order. If the treatment is necessary for life, the treatment order will be left on the claim.

## Benefits

### Options for Claims Filed on or after July 1, 1986

[RCW 51.32.050](#), [RCW 51.32.067](#)

If a claim was filed on or after July 1, 1986, the worker is required to select a pension option. The pension option selected determines the benefit amount payable to the worker and their designated beneficiary upon death of the worker, **if death is not related to the injury or occupational disease.**

The option selection is final 60 days after L&I sends written confirmation of the choice made.

- **Pension Option I:** The worker elects pension at the full rate; the pension ceases upon death of the worker.

- **Pension Option II:** The worker elects to receive the pension at an actuarially reduced monthly award; the designated beneficiary would continue to receive payment at the same rate after the worker's death.
- **Pension Option III:** The worker elects to receive the pension at an actuarially reduced monthly award; the designated beneficiary would continue to receive 50 percent of that reduced benefit after the worker's death.

## Payment of Pension Benefits

### First Payment

The following documents are needed before the first payment of pension benefits can be made:

- Marriage certificate/Declaration of Registered Domestic Partnership.
- Information regarding birth dates for worker and spouse/registered domestic partner.
- Birth certificates for any minor children.
- Verification of full-time school enrollment for dependent children ages 18 through 22.
- A copy of the divorce decree awarding custody of minor children, if applicable.

The first payment will include the period from the effective date of the pension through the 15<sup>th</sup> of the month it is being paid. Thereafter, pension payments should be paid to the claimant on or about the 15<sup>th</sup> of the month.

### Social Security Offset

[RCW 51.32.220](#), [RCW 51.32.225](#), [RCW 51.32.230](#)

If a worker receiving pension benefits also begins receiving Social Security benefits, the worker or self-insurer should immediately notify the Pension Benefits Section. Future benefits may be reduced depending upon the effective date of the pension and the worker's highest year's wages. The total amount from both agencies will not be less than the worker would be entitled to receive from L&I alone.

Department Pension Benefit Specialists determine and may apply reductions to monthly pension amounts when pensioners are also receiving Social Security benefits.

### Direct Deposit

[RCW 51.32.045](#)

A worker can elect to receive their pension benefits via direct deposit to a financial institution. The worker must live in the continental United States, and the financial institution must be a member of the Automated Clearing House.

## **Claim for Pension by Spouse/Registered Domestic Partner or Children**

[RCW 51.32.040](#)

The pension paid to the worker ends with their date of death. It is the responsibility of the spouse/registered domestic partner or family member to notify the department of the worker's death. The self-insured employer and department will then assist the spouse, registered domestic partner and/or dependent(s)/guardian in applying for further benefits under their own entitlement, as appropriate.

To be considered for payment, the spouse, registered domestic partner and/or dependent(s) need to submit an application for benefits within one year of the worker's death (two years from a physician's written notice of the right to file if death was due to an occupational disease) together with appropriate documentation.

If death is due to the covered injury or occupational disease, with an application, pension benefits continue to the spouse/registered domestic partner's death and/or eligible dependent children (under 18, or up to 23 while a full time student).

If death is due to a cause unrelated to the covered injury or occupational disease, and the claim was filed on or after 7-1-86, the spouse/registered domestic partner and/or eligible beneficiary may be entitled to benefits, depending on which option was selected at the time the worker began receiving their pension.

## **Fatalities**

Fatal claims constitute an umbrella of claims where a worker either dies while on the job or dies later from a condition contended as related to an industrial injury or occupational disease. Whether eventually allowed or not, deaths under those circumstances are adjudicated as fatal claims.

## **Notification of a Fatality**

[WAC 296-27-031](#)

Employers must report any incident that causes a fatality to the nearest L&I office or call the Department of Occupational Safety and Health (DOSH) at 1-800-423-7233, within 8 hours.

A fatality memo will be completed by the Department of Occupational Safety and Health (DOSH).

## Autopsy

[RCW 68.50.103](#)

If there is any question as to cause of death, the self-insured employer or pension adjudicator will order an autopsy. The self-insured employer is responsible for payment of the autopsy.

## Application for Benefits

[RCW 51.32.040](#)

A surviving spouse/registered domestic partner and/or dependent(s) must submit an application for benefits within one year from the date of the worker's death due to injury, or within two years of receiving written notice from a physician that death was due to an occupational disease and that a claim may be filed.

Upon notification of a potentially work-related death, the self-insured employer will:

- Assign an SIF-2 for the beneficiary application and will mail to the worker's last known address, and/or beneficiary address, the Self-Insurer Beneficiary Application (F207-236-000) letter (or a substantially similar letter) informing any beneficiary of their right to file an application for benefits. This should be done within 15 calendar days of notification of death.
- Notify the department of their action by submitting a copy of the letter with the SIF-2 to the department within 5 business days of mailing the letter.

If no information (SIF-2, beneficiary notification, request for claim determination) is received from the self-insured employer within 60 calendar days from notice of the worker's death, the pension adjudicator will mail a letter to the worker's last known address or beneficiary address notifying them of their rights and providing a beneficiary application. Additionally, the pension adjudicator will determine if referral for penalty should be made.

## Contacting Survivors

If there is a surviving spouse/registered domestic partner and/or dependent(s), contact is made to explain details of the benefits available through worker's compensation and to obtain a completed [Beneficiary Application for Claim Benefits](#). The following documents must be provided along with the claim:

- A copy of the marriage certificate/declaration of registered domestic partnership.
- A copy of the death certificate.
- Birth certificate(s) for the dependent child(ren).
- Letters of guardianship or custody order.

- Proof of full-time enrollment in accredited school of child(ren) ages 18 through 22.

## Death Benefits

[RCW 51.32.050](#)

If a worker dies, while their claim remains open, complete the [Death on Open Claim Coversheet](#).

### Immediate Payment for Death Related to Industrial Injury

A one-time immediate payment is payable when a death is related to an industrial injury or occupational disease **if** there is a spouse/registered domestic partner, child, or dependent. The amount of the immediate payment is 100 percent of the average monthly wage in the state. (See the [Death and Burial Rates](#) Chart.)

### Burial Benefits for Death Related to Industrial Injury

A burial benefit is payable when a death is related to the industrial injury or occupational disease. The amount paid is up to 200 percent of the average monthly wage in the state. (See [Death and Burial Rates](#) Chart for amounts, and Policy 15.70 for burial expense reimbursements.)

### Monthly Survivor Benefits

The amount of a monthly survivor benefit varies depending upon whether there is a surviving spouse/registered domestic partner, children, or other dependents. The variations are:

- **Surviving Spouse/Registered Domestic Partner.** For recent injuries, a surviving spouse/registered domestic partner receives 60 percent of the wages at the time of injury up to the maximum level allowed by law. If the worker had minor children, an additional 2 percent per child is paid, up to an additional maximum of 10 percent.
- **Children's Benefits (where there is no eligible spouse/registered domestic partner).** A monthly benefit of 35 percent of the worker's wage is paid to the guardian of a minor dependent. Another 15 percent of the wage is paid for each additional child up to a maximum benefit equal to 65 percent of the wage at the time of injury. If there is more than one child, benefits are divided equally among them.
- **Other Dependents.** Qualified dependents can receive payments if they were dependent on the worker's earnings. Dependents can include such relatives as a father, mother, grandparents, grandchildren, brothers, sisters, nieces and nephews.

The benefit is equal to half of the average monthly support received by the dependent during the year preceding the injury. The benefit limit is 65 percent of the worker's wage or maximum benefit level, whichever is less, for all dependents.

The payments end when the necessity that created the dependency would have ended had the injury not occurred. Benefits also end for minor dependents when they reach age 18



(up to 23 if they are full-time students in an accredited school). Children over 18 may qualify for benefits if they are a dependent as a result of a disability.

## **Remarriage**

If a surviving spouse or registered domestic partner remarries or enters into another registered domestic partnership, their monthly pension does not continue. The spouse is given the option of:

- A lump sum settlement of 24 times the monthly compensation, or 50% of the remaining annuity value of the pension, whichever is less; or
- Declining the settlement and maintaining their right to reinstate pension benefits if the marriage or registered domestic partnership ends because of death, divorce, or termination of the domestic partnership.