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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972



ENROLLED

HOUSE BILL No. 839

(By Mr. Derry & Mr. Cookman)



PASSED March 10 1972

In Effect 90 days from Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLED, IV
SECRETARY OF STATE

THIS DATE 3-28-72

839

ENROLLED

House Bill No. 839

(By MR. PERRY and MR. COOKMAN)

[Passed March 10, 1972; in effect ninety days from passage.]

AN ACT to amend and reenact sections ten and fifteen-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to awarding workmen's compensation benefits to nonresident beneficiaries.

Be it enacted by the Legislature of West Virginia:

That sections ten and fifteen-a, article four, chapter twenty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 4. DISABILITY AND DEATH BENEFITS.

§23-4-10. Classification of death benefits; "dependent" defined.

1 In case a personal injury other than occupational pneu-
2 moconiosis or other occupational disease, suffered by an
3 employee in the course of and resulting from his employ-
4 ment, causes death within the period of ten years and dis-
5 ability is continuous from date of such injury until date
6 of death, or if death results from occupational pneu-
7 moconiosis or from any other occupational disease within
8 ten years from the date of the last exposure to the haz-
9 ards of occupational pneumoconiosis or to the other par-
10 ticular occupational hazard involved, as the case may be,
11 the benefits shall be in the amounts and to the persons as
12 follows:

13 (a) If there be no dependents, the disbursements shall
14 be limited to the expense provided for in sections three
15 and four of this article.

16 (b) If the deceased employee leaves a dependent
17 widow or invalid widower, the payment shall be one
18 hundred sixty dollars a month until death or remarriage
19 of such widow or widower, and in addition fifty dollars
20 a month for each child under eighteen years of age, to
21 be paid until such child reaches such age, or where such
22 child after reaching eighteen years of age continues as
23 a full-time student in an accredited high school, college,
24 university, business or trade school, to be paid until such
25 child reaches the age of twenty-two years, or if an in-
26 valid child, fifty dollars a month, to continue as long as
27 such child remains an invalid to be increased to one hun-
28 dred sixty dollars per month upon the death of the sur-
29 viving dependent parent: *Provided*, That if such widow
30 or invalid widower shall remarry within ten years from
31 the date of the death of such employee, such widow or
32 widower shall be paid at the time of remarriage twenty
33 percent of the amount that would be due for the period
34 remaining between the date of such remarriage and the
35 end of ten years from the date of death of such employee,
36 and such widow or widower shall be advised in writing
37 by the commissioner of his or her rights under this proviso
38 at the time of making the original award: *Provided, how-*
39 *ever*, That if upon investigation and hearing, as provided
40 in article five of this chapter, it shall be ascertained that
41 such widow or widower is living with a man or woman,
42 as the case may be, as man and wife and not married, or
43 that the widow is living a life of prostitution, the com-
44 missioner shall stop payment of the benefits herein pro-
45 vided to such widow or widower.

46 If the deceased employee be a widow or widower and
47 leaves a child or children under the age of eighteen years,
48 the payments shall be one hundred dollars a month to
49 each child until he or she reaches the age of eighteen
50 years, or where such child after reaching eighteen years
51 of age continues as a full-time student in an accredited
52 high school, college, university, business or trade school
53 to be paid until such child reaches the age of twenty-two
54 years.

55 In all awards of compensation to children, unless other-
56 wise provided herein, the award shall be until they reach
57 the age of eighteen years or until their death prior there-
58 to.

59 (c) If the deceased employee leaves no dependent
60 widow or widower and leaves a wholly dependent father
61 or mother, he or she shall be paid the sum of eighty dol-
62 lars a month, payments to continue until death, and if
63 there be no widow or widower and both the father and
64 mother are wholly dependent, then a joint award shall
65 be made to the father and mother in the sum of eighty
66 dollars a month until death.

67 Upon the death of either the father or mother in any
68 case in which a joint award has been made to them, the
69 full award of eighty dollars a month shall be paid to the
70 survivor until his or her death.

71 (d) If the deceased employee leaves no dependent
72 widow or widower or wholly dependent father or mother
73 but there are other wholly dependent persons, as defined
74 in subdivision (f) of this section, the payment shall be
75 sixty-five dollars a month, to continue for six years after
76 the death of the deceased, except as otherwise provided
77 herein.

78 (e) If the deceased employee leaves no dependent
79 widow or widower, child under eighteen years of age,
80 or wholly dependent person, but there are partially de-
81 pendent persons at the time of death, the payment shall
82 be thirty-five dollars a month, to continue for such por-
83 tion of the period of six years after the death, as the com-
84 missioner may determine, but no such partially depen-
85 dent person shall receive compensation payments as a re-
86 sult of the death of more than one employee.

87 Compensation under subdivisions (b), (c), (d) and (e)
88 hereof shall, except as may be specifically provided to
89 the contrary therein, cease upon the death of the depen-
90 dent, and the right thereto shall not vest in his or her
91 estate.

92 (f) Dependent, as used in this chapter, shall mean a
93 widow, invalid widower, child under eighteen years of
94 age, or under twenty-two years of age when a full-time
95 student as provided herein, invalid child or posthumous
96 child, who, at the time of the injury causing death, is de-

97 pendent in whole or in part for his or her support upon
98 the earnings of the employee, stepchild under eighteen
99 years of age, or under twenty-two years of age when a
100 full-time student as provided herein, child under eighteen
101 years of age legally adopted prior to the injury causing
102 death, or under twenty-two years of age when a full-time
103 student as provided herein, father, mother, grandfather
104 or grandmother, who at the time of the injury causing
105 death, is dependent in whole or in part for his or her sup-
106 port upon the earnings of the employee; and invalid
107 brother or sister wholly dependent for his or her support
108 upon the earnings of the employee at the time of the in-
109 jury causing death.

§23-4-15a. Nonresident alien beneficiaries.

1 Notwithstanding any other provisions of this chapter,
2 nonresident alien beneficiaries shall be entitled to the
3 same benefits as citizens of the United States: *Provided,*
4 *however,* That the commissioner in his discretion may
5 make, and such beneficiary shall be required to accept,
6 commutation of such benefits into a lump sum settlement
7 and payment. Nonresident alien beneficiaries within the
8 meaning hereof shall mean persons not citizens of the
9 United States residing outside of the territorial limits of
10 the United States at the time of the injury with respect to
11 which benefits are awarded.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell G. Bease
Chairman Senate Committee

Phyllis J. Rutledge
Chairman House Committee

Originated in the House.

In effect ninety days from passage.

Howard Roberson
Clerk of the Senate

W. A. Blankenship
Clerk of the House of Delegates

George Boutwell
President of the Senate

Leah J. Mann
Speaker House of Delegates

The within approved this the 27th
March day of _____, 1972.

Mike A. Mann, Jr.
Governor



PROCESSED BY THE

3/17/12

1:00 p.m.