

CHAPTER 616

(Senate Bill 863)

AN ACT concerning

Workers' Compensation - Death Benefits for Partially Dependent Individuals - Payment

FOR the purpose of ~~requiring an employer or insurer to continue certain payments under certain circumstances to certain individuals who were partially dependent at the time of the covered employee's death or who were wholly dependent at the time of the covered employee's death and became partially self-supporting~~; altering the total amount of compensation payable to an individual who was partially dependent at the time of the covered employee's death or became self-supporting after the covered employee's death; ~~authorizing the Workers' Compensation Commission to recalculate certain weekly death benefit payments~~; requiring the Workers' Compensation Commission to conduct a certain study; requiring the Commission to establish a certain workgroup comprised of certain stakeholders; requiring the Commission to report its findings and recommendations by a certain date to certain committees; providing for the application of this Act; and generally relating to death benefits under workers' compensation law for partially dependent individuals.

BY repealing and reenacting, without amendments,
Article - Labor and Employment
Section 9-101(d) and 9-681(e) and (j)
Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,
Article - Labor and Employment
Section ~~9-681(j)~~ and 9-682
Annotated Code of Maryland
(2008 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article - Labor and Employment

9-101.

(d) "Commission" means the State Workers' Compensation Commission.

9-681.

(e) (1) If a surviving spouse who is wholly dependent at the time of death becomes wholly self-supporting before \$45,000 has been paid, the employer or its insurer shall continue to pay death benefits until \$45,000 has been paid.

(2) If a surviving spouse who is wholly dependent at the time of death becomes partly self-supporting, the employer or its insurer shall continue to make payments to the surviving spouse in accordance with § 9-682 of this subtitle.

(j) The Commission has continuing jurisdiction to:

(1) determine whether a surviving spouse or child has become wholly or partly self-supporting;

(2) suspend or terminate payments of compensation; ~~and~~

(3) reinstate payments of compensation that have been suspended or terminated; ~~AND~~

~~(4) RECALCULATE THE WEEKLY DEATH BENEFIT PAYABLE TO A PARTIALLY DEPENDENT INDIVIDUAL.~~

9-682.

(a) The employer or its insurer shall pay a death benefit in accordance with this section if:

(1) there are no individuals who were wholly dependent on the deceased covered employee at the time of death, but there are individuals who were partly dependent; or

(2) a surviving spouse who was wholly dependent on the deceased covered employee at the time of death becomes partly self-supporting.

(b) (1) The maximum weekly death benefit payable under this section shall equal two-thirds of the average weekly wage of the deceased covered employee, but may not exceed two-thirds of the State average weekly wage.

(2) The weekly death benefit payable under this section shall be the percentage of the maximum weekly death benefit under paragraph (1) of this subsection that:

(i) the weekly earnings of the deceased covered employee bears to the combined weekly earnings of the deceased covered employee and the partly dependent individuals; and

(ii) does not exceed the maximum weekly death benefit.

(c) Except as otherwise provided in this section, the employer or its insurer shall pay the weekly death benefit:

(1) for the period of partial dependency; or

(2) until [\$60,000] ~~\$45,000~~ \$75,000 has been paid, including any payments made during a period of total dependency under § 9-681 of this subtitle.

(d) (1) Subject to paragraph (2) of this subsection, if a surviving spouse who is partly dependent remarries and does not have dependent children at the time of the remarriage, the employer or its insurer shall make payments to the surviving spouse for 2 years after the date of the remarriage.

(2) The total of the payments made before the remarriage may not exceed ~~\$60,000~~ \$75,000.

~~(E) (1) IF A SURVIVING SPOUSE WHO WAS PARTIALLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH CONTINUES TO BE PARTIALLY DEPENDENT AFTER \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(2) IF A SURVIVING SPOUSE WHO WAS WHOLLY DEPENDENT ON THE DECEASED COVERED EMPLOYEE AT THE TIME OF DEATH BECOMES PARTIALLY SELF-SUPPORTING AND CONTINUES TO BE PARTIALLY SELF-SUPPORTING AFTER \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS TO THE SURVIVING SPOUSE IN ACCORDANCE WITH SUBSECTION (B) OF THIS SECTION.~~

~~(3) IF A SURVIVING SPOUSE WHO IS PARTIALLY DEPENDENT AT THE TIME OF DEATH BECOMES WHOLLY SELF-SUPPORTING BEFORE \$45,000 HAS BEEN PAID, THE EMPLOYER OR ITS INSURER SHALL CONTINUE TO MAKE PAYMENTS UNTIL \$45,000 HAS BEEN PAID.~~

~~{(e)}~~ ~~(F)~~ (1) Except as provided in paragraphs (2) and (3) of this subsection, the employer or its insurer shall continue to make payments to, or for the benefit of, a surviving child until the child reaches 18 years of age.

(2) If a child who is 18 years old or older remains partly dependent on the deceased covered employee, the employer or its insurer shall continue to make payments in accordance with subsections (b) and (c) of this section.

(3) The employer or its insurer shall continue to make payments to, or for the benefit of, a child who is 18 years old or older for up to 5 years after reaching the age of 18 if:

(i) the child is attending school on a full-time basis; and

(ii) the school offers an educational program or a vocational training program and the program is accredited or approved by the Maryland State Department of Education.

SECTION 2. AND BE IT FURTHER ENACTED, That:

(a) (1) The Workers' Compensation Commission shall conduct a study on the death benefit provisions in §§ 9-678 through 9-686 of the Labor and Employment Article.

(2) The study shall determine legislative changes that would:

(i) provide fair and equitable benefits to wholly dependent individuals and partially dependent individuals; and

(ii) provide for coordination among all of the death benefit provisions.

(b) In conducting its study, the Commission shall establish a workgroup that is comprised of representatives of the various stakeholders, including representatives of:

(1) the Commission;

(2) labor;

(3) defense counsel;

(4) counsel for claimants;

(5) employers, including a representative of small business;

(6) workers' compensation insurance companies, including a representative of the Injured Workers' Insurance Fund;

(7) local governments; and

(8) any other person that the Commission considers appropriate.

(c) On or before December 1, 2009, the Commission shall report, in accordance with § 2-1246 of the State Government Article, its findings and recommendations, including draft legislation to the Senate Finance Committee and the House Economic Matters Committee.

SECTION ~~2~~ 3. AND BE IT FURTHER ENACTED, That this Act shall be applied to and interpreted to affect compensation arising from claims for death benefits filed on or after September 1, 2007.

SECTION ~~3~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take effect ~~October 1, 2009~~ July 1, 2009.

Approved by the Governor, May 19, 2009.