

Chapter 663

(House Bill 421)

AN ACT concerning

Workers' Compensation – Death Benefits – Determination of Benefits

FOR the purpose of altering the calculation of workers' compensation death benefits for a dependent of a deceased covered employee who died due to an occupational disease; and generally relating to workers' compensation death benefits for dependents of covered employees.

BY repealing and reenacting, with amendments,
Article – Labor and Employment
Section 9–683.3
Annotated Code of Maryland
(2008 Replacement Volume and 2011 Supplement)

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

Article – Labor and Employment

9–683.3.

(a) This section does not apply to a covered employee of a municipal corporation or a county who is subject to § 9–503 of this title and the dependents of those covered employees, unless the municipal corporation or county has made an election under § 9–683.6 of this subtitle.

(b) If there are individuals who were dependent on a deceased covered employee at the time of death resulting from an accidental personal injury or occupational disease, the employer or its insurer shall pay death benefits in accordance with this section.

(c) (1) Beginning on the date of death of a deceased covered employee and continuing for a period of 144 months, the employer or its insurer shall pay death benefits, as calculated in this section, to the dependents of the deceased covered employee.

(2) Except as otherwise provided in this subsection, death benefits shall be paid at the rate of two-thirds of the deceased covered employee's average weekly wage at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of [disablement from] **THE**

LAST INJURIOUS EXPOSURE OF THE COVERED EMPLOYEE TO THE HAZARDS OF the occupational disease that caused the death of the covered employee, not to exceed the State average weekly wage.

(3) The average weekly wage of all dependents and the deceased covered employee's average weekly wage shall be combined to determine the family income.

(4) The deceased covered employee's income shall be divided by the family income to determine the percent of the family income earned by the deceased covered employee.

(5) The percent of the family income earned by the deceased covered employee shall be multiplied by the death benefit, as calculated in paragraph (2) of this subsection, to determine the amount payable, collectively, to all dependents.

(6) If the average weekly wage of the deceased covered employee was less than \$100 at the time of the occurrence of the accidental personal injury that caused the death of the covered employee or on the date of disablement from the occupational disease that caused the death of the covered employee, the weekly death benefit paid under this section shall equal the average weekly wage of the deceased covered employee up to \$100 per week.

(d) (1) Death benefits shall be paid for a minimum of 5 years after the covered employee's death.

(2) Subject to subsections (e) through (i) of this section, provided that a minimum of 5 years of death benefits has been paid, death benefits shall terminate on the date that would have been the deceased covered employee's 70th birthday.

(e) Notwithstanding the time limitations under subsections (c) and (d) of this section, if a dependent spouse or dependent child is incapable of self-support because of a mental or physical disability that preexisted the covered employee's death, death benefits shall continue for the duration of the dependent's disability.

(f) If a dependent spouse remarries, death benefits shall terminate 2 years after the date of remarriage.

(g) The employer or its insurer shall continue to make payments to or for the benefit of a dependent child until the child reaches 18 years of age.

(h) The employer or its insurer shall continue to make payments to, or for the benefit of, a dependent child for up to 5 years after the child reaches 18 years of age if:

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

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

(i) (1) Except as provided in paragraph (2) of this subsection, all dependents who are neither a dependent spouse nor a dependent child shall be entitled to no more than a total of \$65,000, collectively, as their portion of the total death benefits payable in accordance with subsection (c) of this section.

(2) Beginning on January 1, 2012, the benefit limit under paragraph (1) of this subsection shall be adjusted annually by the same percent applicable to the adjustment of the State average weekly wage.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.