

NYS Workers' Compensation Board Affidavit for Death Benefits

How to Complete This Affidavit for Workers' Compensation Death Benefits

1. The person seeking workers' compensation death benefits should complete this affidavit. **All claimants must complete Section A, Section B, and Section 1.** Based on your relationship to the decedent, you must also complete the following sections:

- Spouses: Sec. 2 (and Sec. 3 if there are children).
- Parents or Guardians for Children: Sec. 3.
- Dependent Parents, Grandparents: Sec. 4.
- Dependent Grandchildren, Siblings: Sec. 5.
- Non-dependent Parents: Sec. 6.
- Legal Representative of Decedent's Estate: Sec. 7.

2. **You only need to complete the sections listed above that pertain to your relationship with the Decedent.** Strike out all sections or paragraphs that do not apply to you with an **X**.

3. Print legibly. Include decedent's Social Security number on each page, and the WCB Case Number on page 3, if you know it.

4. Answer as specifically as possible. Reread this affidavit after completion to ensure it is accurate because you are swearing to its truthfulness. Workers' compensation fraud is a felony punishable by fines and imprisonment.

5. **Notarize this affidavit.** Mail the completed and notarized affidavit, and all attachments, to the Workers' Compensation Board at the address listed below.

Workers' Compensation Death Benefits

1. The law provides up to \$12,500 for funeral expenses downstate, and \$10,500 upstate, depending on the county where the expenses are incurred.

2. The law also provides weekly benefits up to a maximum amount, based on the date of accident, for the following: (a) the legal surviving spouse until the spouse remarries, (b) Decedent's children up to age 18 (age 23 if they are attending an accredited educational institution as a full-time student), and (c) any dependent children of any age who are totally blind or totally and permanently disabled.

3. If there is no legal surviving spouse or dependent children, the law provides weekly benefits to grandchildren or siblings under age 18 who were dependent upon Decedent for support; or to parents or grandparents who were dependent upon Decedent for support when Decedent died.

4. If there are no individuals entitled to weekly death benefits, then \$50,000 may be paid to Decedent's parents, or to Decedent's estate if Decedent's parents are deceased.

5. If you receive money as a result of a wrongful death action, the law allows the insurer to have a lien or credit against that money. The insurer's lien and credit rights may affect your ability to receive workers' compensation benefits until the lien and/or credit is exhausted. It is important to advise the insurer of the status of a wrongful death action, and to obtain its consent prior to settlement.

For questions, call the Office of the Advocate for Injured Workers: 1-800-580-6665.

**NYS Workers' Compensation Board
Centralized Mailing
PO Box 5205
Binghamton, NY 13902-5205**

Section A: All Applicants

All applicants must complete this page and have this document notarized on the final page, Section B. Mail this affidavit and all attachments to the Workers' Compensation Board.

In the Matter of the Claim of	
_____	, Claimant
<i>(Your first and last name)</i>	
Regarding the death of	
_____	, Decedent
<i>(Decedent's first and last name)</i>	
v.	AFFIDAVIT
_____	WCB # _____
	WCL § 16
_____	, Employer
<i>(Name of Decedent's Employer at the time of Death)</i>	

<i>(Address of Employer)</i>	

State of _____
(State where you have this notarized)

County of _____
(County where you have this notarized)

I, being duly sworn, do hereby depose and say (answer following sections, as appropriate):

Decedent's Social Security Number: _____

Section 1: All Applicants

All applicants must complete this section. Attach the following if applicable. Check the box if included.

- Death certificate (required).
- Copies of documents the Board can use to determine the Decedent's total gross weekly earnings for all employment for one year prior to death (pay stubs, W-2 form, etc.).
- Copies of receipts or other documents pertaining to the payment of funeral expenses.
- Copy of the insurer's consent to settle a wrongful death action.

1. I am the claimant. I live at _____
(street, city, state, zip code)

My telephone number is _____
(area code, number)

My Social Security number is _____
(all nine digits)

I am the _____ of the Decedent.
(spouse, son, daughter, parent, grandparent, brother, sister, grandchild, estate representative)

2. The address of the employer named above is _____
(street, city, state, zip code)

3. The Decedent's date of birth is _____
(month, day, and year)

The Decedent's Social Security number is _____
(all nine digits)

The Decedent's date of death is _____
(month, day, and year)

On the date of death, the Decedent _____ employed by the employer named above.
(was or was not)

On _____, the Decedent was at _____
(date and time of death) (street, city, and state)

and was engaged in _____
(what Decedent was doing at the time of death)

and died as a result of _____
(explain how Decedent died).

4. The Decedent's gross wages (including **overtime** and **tips**) for this employment was \$ _____,
(amount)

and also \$ _____ for _____, paid on a _____ basis.
(amount) (housing, rent, meals, etc.) (weekly, biweekly, etc.)

5. The Decedent _____ other employment at the time of death, with
(had or did not have)

_____, located at _____
(name of other employer, if any) (street, city, state, and zip code)

The gross wages (including **overtime** and **tips**) earned for this other employment was \$ _____,
(amount)

and also \$ _____ for _____, paid on a _____ basis.
(amount) (housing, rent, meals, etc.) (weekly, biweekly, etc.)

Decedent's Social Security Number: _____

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6. Funeral expenses for Decedent of \$ _____ were paid. I request reimbursement from the employer and/or carrier.
(amount)

7. In relation to the Decedent's death, I _____
(am planning to pursue; have commenced; have settled)

a wrongful death action against _____.
(name of wrongful party)

I recovered \$ _____ in the wrongful death action, which was settled on _____.
(amount) (date)

Section 2: Spouses

Spouses seeking benefits should complete this section. Attach the following if applicable. Check the box if included.

- Copy of a marriage certificate (required).
- Documentation that your prior marriage, if any, was terminated.
- Documentation that Decedent's prior marriage, if any, was terminated.
- A copy of a Social Security award if you are receiving survivor's benefits.

8. I am Decedent's surviving spouse, and I am seeking benefits on behalf of myself.

9. My maiden name is _____
(give maiden name, if applicable)

10. My date of birth is _____
(month, day, year)

11. I married Decedent on _____ in _____
(month, day, year) (city and state)

12. I _____ married prior to marrying the Decedent.
(was or was not)

13. The Decedent _____ married prior to _____ marriage to me.
(was or was not) (his or her)

14. On the date of Decedent's death, I continued to be married to Decedent.

15. On the date of Decedent's death, we _____ live together, and there _____
(did or did not) (was or was not)

a separation proceeding pending to dissolve the marriage.

16. Since Decedent's death, I _____ remarried. My date of remarriage is _____
(have or have not) (month, day, year)

17. I _____ have children with the Decedent.
(did or did not)

18. The Decedent _____ have children with someone else.
(did or did not)

Decedent's Social Security Number: _____

Section 3: Children

Children seeking benefits should complete this section. Attach the following where applicable, and check the box if it is included.

- Copies of birth certificates or orders of adoption (required).
- Documents establishing you are legal guardian for any of Decedent's children, if you are not the parent.
- Documentation showing that any step- or out-of-wedlock children of the Decedent were dependent on Decedent for support.
- Certified documentation from an accredited educational institution showing that any child between the ages of 18 and 23 is enrolled and attending full time.
- Proof of disability or blindness.

19. I am seeking workers' compensation benefits for the following child(ren), who depended upon the Decedent for support at the time of Decedent's death.

20. As the parent or legal guardian of the child(ren) listed below, I request that I be found to be a person legally responsible for them and that any compensation awards to them be paid to me on their behalf.

21. If I am designated as the person legally responsible for such minor child(ren), I agree to file reports, annually or more frequently, as required by the Chair of the Workers' Compensation Board, regarding any expenditure of any minor beneficiary's award.

22. I am the parent or legal guardian of the child(ren) listed in Tables 1 and/or 2.

The following tables each pertain to a different relationship and living situation between the dependent children, you, and the Decedent. Please answer all questions in any table that pertain to your situation, and skip any table that does not. You may have to complete more than one table.

Table 1. Children Who Lived with Decedent and/or Me. Please answer all questions.

First and Last Name	Relationship to Decedent	Relationship to Claimant	Date of Birth	Is Child Totally Blind? (Y/N)	Is Child Totally, Permanently Disabled? (Y/N)	Child Lived with Me (Y/N)	Child Lived with Decedent (Y/N)

Decedent's Social Security Number: _____

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Table 2. Children Who Did Not Live with Decedent or Me. Please answer all questions.

First and Last Name	Relationship to Decedent	Address	Relationship to Claimant	Date of Birth

23. Table 3. I am **not the legal guardian** of the following child(ren), but upon information and belief, below are the names of all other children of Decedent:

First and Last Name	Relationship to Decedent	Address	Date of Birth

Section 4: Dependent Parents or Grandparents

This section should be completed by **dependent parents or grandparents** seeking benefits. Check the box indicating an item is included:

- Documents that establish the relationship between you and the Decedent (required).
- Documents (tax returns, checks, bank statements, etc.) showing Decedent supported you and paid your expenses (required).
- The court order or power of attorney if you are the legal representative of the dependent parent or dependent grandparent and are applying on his/her behalf (if applicable).

24. I affirm that at the time of death, the Decedent did not have a surviving spouse or dependent children under 18 (or under 23 if enrolled and attending an accredited educational institution as a full-time student), or any totally blind or totally and permanently disabled dependent children.

25. Decedent is my _____
(son, daughter, grandson or granddaughter)

26. I _____ with the Decedent at the time of his/her death.
(lived or did not live)

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27. I was _____ dependent on Decedent because
(wholly or partly)

(explain why you were dependent)

28. At the time of Decedent's death, I had and currently have the following sources of income:

Income Source (e.g., Employment, Social Security, etc.)	Amount Received	Frequency

29. At the time of Decedent's death, I had the following expenses per month:

Nature of Expense	Amount of Expense

30. The Decedent paid these expenses of mine directly.

Nature of Expense	Person Legally Responsible for Expense	Amount of Expense	How Decedent Paid Expense

Decedent's Social Security Number: _____

Section 5: Dependent Siblings or Grandchildren

This section should be completed by **dependent siblings or grandchildren** seeking benefits. Attach the following when applicable to your claim, and check the box if it is included:

- Birth certificates for all dependents (required).
- Court orders of adoption if the dependent was adopted by the Decedent's children or parents.
- Documents such as tax returns, checks from the Decedent, bank statements, etc. showing the Decedent supported the dependents.
- Documents establishing you are the dependent's legal guardian (if you are not the parent).

31. I affirm that at the time of death, the Decedent did not have a surviving spouse or dependent children under 18 (or under 23 if a full-time student enrolled and attending an accredited educational institution), or any totally blind or totally and permanently disabled dependent children.

32. I am the _____ of the following persons, who were dependent on the Decedent:
(father, mother, legal guardian)

Dependent First & Last Name	Relationship to Decedent	Relationship to Claimant	Date of Birth	Name, Address of Person with Whom Dependent Now Lives

33. The dependent _____ lived with
(grandchild, grandchildren, brother, brothers, sister, sisters)

_____ at the time of Decedent's death at this address:
(Decedent or name of person if not Decedent)

(street, city, state, zip code)

34. The dependent _____ was/were dependent on Decedent because
(grandchildren, siblings)

(explain why they were dependent)

35. I request I be designated the legally responsible person in order to receive the payable benefits, on behalf of the dependent grandchildren or siblings listed above.

36. If so designated as the person legally responsible for dependent grandchildren and/or siblings, I agree to file reports, annually or more frequently, as required by the Chair of the Workers' Compensation Board regarding any expenditure of the minor beneficiary's awards.

Decedent's Social Security Number: _____

Section 6: Non-dependent Parents

This section should be completed by **non-dependent parents**. Attach the Decedent's birth certificate. *Note: The death benefit for non-dependent parents is \$50,000 if they are married to each other or \$50,000 if only one is alive. If the parents are not married to each other, the benefit is \$25,000 to each, and each must file his or her own affidavit.*

37. I affirm that Decedent at the time of his/her death was not married; did not have any child(ren) under the age of 23; any dependent blind or physically disabled child(ren); any dependent grandchild(ren), brother(s), or sister(s) under the age of 23; nor any dependent blind or physically disabled grandchild(ren), brother(s), or sister(s).

38. As the living and not dependent _____ of the Decedent at the
(mother, father, or mother and father)

time of his/her death, _____ request that the sum of _____ be paid to
(we or I) (\$25,000 or \$50,000)

_____ as listed below.
(us or me)

(first and last name(s))

(street, city, state, and zip code where you are living)

(telephone number including area code)

Decedent's Social Security Number: _____

Section 7: Legal Representative of Decedent's Estate

The **legal representative** of the Decedent's Estate should complete this section. Attach the following if applicable, and check the box if it is included:

- Documents showing authority for the position of representation of Decedent's Estate, such as Letters Testamentary or Letters of Administration (required).
- Copies of the death certificates of Decedent's parents.
- Documents such as tax returns, checks, bank statements, etc. showing that Decedent supported you and paid expenses incurred by you.
- Decedent's birth certificate.

39. I affirm that at the time of death, the decedent was not married; did not have any children under 23, any dependent blind or physically disabled children; any dependent grandchildren, siblings under 23; any living parents; nor any dependent blind or physically disabled grandchildren or siblings.

I am the legal representative of Decedent's Estate.

Decedent at the time of his/her death was not married; did not have any child(ren) under the age of 23; any dependent blind or physically disabled child(ren); any dependent grandchild(ren), brother(s), or sister(s) under the age of 23; nor any dependent blind or physically disabled grandchild(ren), brother(s), or sister(s).

40. Decedent's mother was _____ who died on _____
(first and last name) (month, day, and year)

41. Decedent's father was _____ who died on _____
(first and last name) (month, day, and year)

42. My name is _____. My address is _____
(first and last name) (street, city, state, and zip code)

(street, city, state, and zip code)

and my telephone number is _____
(telephone number including area code)

43. I hereby request that the sum of \$50,000 be paid to the Decedent's Estate in care of my name as listed above.

Decedent's Social Security Number: _____

Section B: All Applicants

All applicants must complete this page and have this document notarized. Mail this affidavit and all attachments to the Workers' Compensation Board.

By signing my name below, I hereby swear the statements made herein are true, and I make this affidavit under the penalties of perjury. I further swear that I understand that the law prescribes penalties for perjury for willfully making false statement in connection with an insurance claim.

Signature (ink only – use blue ballpoint pen, if possible)

Sworn to before me this _____

Day of _____, 20 _____

Notary Public

Decedent's Social Security Number: _____