



STATE OF DELAWARE

DEATH BENEFITS

To obtain certified copies of registered personal documents, contact Vital Statistics, P. O. Box 637, Dover, DE 19903, phone (302)736-4721.

STATE DEATH BENEFITS

LINE OF DUTY DEATH BENEFITS SEC. 6601

"Death in the line of duty" shall mean *any death of a covered person under this chapter, arising out of and in the course of that person's assigned duty, including all normal and special assignments as ordered by his or her superiors or assignments undertaken while acting as a law enforcement officer under rules, directions or regulations promulgated by the appropriate employing authority, within or outside of normal duty hours; provided, however, that death of a covered person occurring while that person is on active duty shall create a rebuttal presumption that such death was a death in the line of duty and that the burden of proof shall be on the employer to demonstrate by a preponderance of the evidence that such death was not a death in the line of duty.*

DEATH BENEFIT SEC. 8373

Upon the death of a member, inactive member, retired member or individual receiving a survivor's pension, there shall be paid to the designated beneficiary or beneficiaries or, in the absence of a designated beneficiary, to the estate of the member, inactive member, retired member or survivor, **a lump sum equal to the excess, if any, of the accumulated member contributions with interest over the aggregate of all pension payments made.**

INSURANCE CODE SEC. 6602.

Upon certification by the Insurance Commissioner that a claim under this chapter has been approved, the State Treasurer shall:

- (1) Pay to the beneficiary or beneficiaries as designated or determined



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pursuant to Section 6603(a) hereof of every covered person who dies in the line of duty, an amount **totaling \$100,000 payable in annual installments with the maximum amount payable in any one calendar year being \$20,000.** Installments shall terminate with the expiration of the beneficiary's eligibility;

- (2) Unless any payment has been made pursuant to subdivision (1) of this section, pay to the beneficiary or beneficiaries as designated or determined pursuant to section 6603(b) hereof of a covered person as defined in paragraph a., b. or f. of section 6601(1) of this title who dies in the line of duty an amount **totaling \$25,000 payable in annual installments with the maximum amount payable in any one calendar year being \$5,000.** Installments shall terminate with the death of the last surviving beneficiary as determined pursuant to section 6603(b).
- (3) Pay, if neither subdivision (1) nor subdivision (2) of this section apply to the estate of a covered person, as defined in paragraph a., b. or f. of section 6601(1) of this title, who dies in the line of duty an amount **not to exceed \$5,000** to be used solely for expenses related to burial of such covered person.

ELIGIBILITY OF DEPENDENTS

CRIMES AND CRIMINAL PROCEDURE SEC. 8325.

The widow or minor children or sole dependent parent of any member of the **State Police**, who shall have heretofore or shall hereafter die after having been retired or after having been eligible to retire under this subchapter, or who shall heretofore or shall hereafter lose his life in the performance of his duties, or when death results from injury received in the performance of his duties, shall receive **a pension equal to three fourths of the salary** of such member at the time of his death. Such pension to such widow shall be discontinued in the event that such widow shall remarry; and such pension to such minor children shall be discontinued when the youngest child shall arrive at the age of 18 years; provided, however, that anyone entitled to receive a pension under this section prior to January 1, 1972, shall as of that date receive an amount equal to three fourths of the monthly payment to which his descendent would have been entitled under this chapter had he died on or after January 1, 1972. Thereafter, pensions of those eligible under this section shall not be recomputed based on the salaries of active duty State Police; provided further, however, that as of July 1, 1974, the monthly amount payable to those eligible under this section shall increase reflects a change in excess of 2%. A cumulative percentage decrease in any calendar year shall not result in any reduction in the pension rates; however, before any increases shall become



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effective in subsequent years, the national consumer price index average must rise at least 2% in excess of its level at the time of the last previous increase in benefits.

TAX EXEMPTION FOR PAYMENTS

INSURANCE CODE 6609

Payments made under this chapter to a beneficiary shall **not be subject to Delaware income taxes or Delaware estate taxes.**

DEFINITIONS SEC. 8351

"Dependent" shall mean a dependent child or dependent parent. A dependent child is a person who is **unmarried and either:**

- a. Has not attained age 18; or
- b. Has attained age 18 but not age 22 and is attending school on a full-time basis; or
- c. Has attained age 18 and is permanently disabled as the result of a disability which began before age 18.

A dependent parent is the parent of a member who was receiving **at least one half of his support** from the member at the time of the member's death.

"Primary survivor" shall mean a person in the **following order of priority**, unless the priority is changed by the member on a form prescribed by the Board and filed with the Board at the time of the member's death:

- a. The surviving spouse; or
- b. If there is no eligible surviving spouse, a dependent child (or with the survivor's pension divided among them in equal shares, all such children, including any resulting from a pregnancy prior to the member's death);
- c. If there is no eligible surviving spouse, or eligible dependent child, a dependent parent (or, with the survivor's pension divided between them in equal shares, both such parents).

SURVIVOR'S PENSION SEC. 8372

- (a) Upon the death of a member in service, a monthly survivor's pension shall be payable to his primary survivor equal to **one half of the member's compensation.**



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- (b) Upon the death of a **retired member**, a monthly survivor's pension shall be payable to his primary survivor and surviving dependents equal to one half of such service or disability pension. If the primary survivor is the surviving spouse, such person must have been married to the deceased member:
 - (1) Prior to retirement; or
 - (2) For at least one year before the date of death, **unless the death was the result of an accident.**
- (c) A survivor's pension shall begin **with the month following the month in which the member or retired member dies.** If payable to a surviving spouse who dies or marries, it shall become payable in the following month to the next primary survivor as defined in section 8351 of this title. It shall become payable in the following month to a dependent parent or cease with that month in the absence of eligible parents. If payable to a parent, it shall cease with the month in which the parent dies.

APPLICATION FOR BENEFITS SEC. 8376

- (a) A service pension, disability pension, survivor's pension, death benefit or withdrawal benefit shall be paid only upon the filing of an application in a form prescribed by the Board. A monthly benefit **shall not be payable for any month earlier than the second month** preceding the date on which the application for such benefit is filed.
- (b) The Board may require any member, inactive member, retired member or eligible survivor **to furnish such information** as may be required for the determination of benefits under this subchapter, or to authorize the Board to procure such information. The Board may withhold payment of any pension under this subchapter, whenever the determination of such pension is dependent upon such information and the member, inactive member, retired member or eligible survivor does not cooperate in the furnishing or procuring thereof.

Contact: Office of Pensions, Thomas Collins Building, P. O. Box 1401, Dover, DE 19903.

Cities and municipalities within the state may have pensions available for members. Check with your local Benefits Assistance Officer.



EDUCATION BENEFITS

Upon certification by the Insurance Commissioner that a claim under this chapter has been approved, the State Treasurer shall:

Pay, for no more than 4 years, directly to the institution involved, the **amount of the tuition of each dependent child** of such covered person who dies in the line of duty so long as such child is enrolled in a degree or certificate program at a college or university. The term "tuition" means any amount required for enrollment or attendance of a student. Such term **does not include** any amount paid directly or indirectly for meals, lodging, transportation, extracurricular activities, supplies, equipment, clothing or personal or family expenses.

Contact the Commissioner of Insurance, Rodney Building, 841 Silver Lake Boulevard, Dover, DE 19901, telephone (302) 739-5280.

HEALTH BENEFITS

Varied depending upon police department benefits. **Contact your Benefits Assistance Officer.**

As of July, 2005, Delaware provides a survivor of a state trooper killed in the line of duty with health insurance coverage. Coverage is handled through the Pension office.

WORKERS' COMPENSATION

Workers' Compensation coverage is compulsory for employers in Delaware.

A spouse can receive **66 2/3%** of the employee's wage and a spouse and child(ren) will receive **80%** of the employee's wage, with a **minimum weekly benefit of \$113.10 and a maximum weekly benefit of \$339.29 to \$407.15.** There is also a **maximum burial allowance of \$700.** Burial expenses in excess of maximum are payable if approved by the Industrial Accident Board if there are no dependents.

Widow(er) receives a **two-year lump sum upon remarriage** and weekly benefits cease. Children receive benefits until age 18 or until age 25 if full-time students.

To receive workers' compensation benefits the surviving spouse **must take the initiative and file a workers' compensation claim through a workers' compensation attorney to receive**



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any compensation. The determination as to whether the claim will be paid will be determined by the Workers' Compensation Appeals Board.

Contact the Industrial Accident Board, Division of Industrial Affairs, Department of Labor, Office of the Secretary, 6th Floor Carvel Building, 820 N. French Street, Wilmington, DE 19801, telephone (302) 577-2880.

PERSONAL LIFE POLICY - INTESTATE

Descent and Distribution - Entire intestate estate if there be no surviving spouse, or excess over share of such spouse, descends and is distributed:

- (a) To issue of decedent per stirpes;
- (b) If there is no surviving issue, to decedent's parent or parent's equally;
- (c) If there is no surviving issue or parent, to brothers and sisters and issue of each deceased brother or sister, per stirpes;
- (d) If there is no surviving issue, parent or issue of a parent, then to next of kin of decedent, and to issue of deceased next of kin, per stirpes
- (e) Property passes to two or more such persons as tenants in common. (12-503).

Surviving Spouse - Intestate share of surviving spouse is: **(1)** If there is no surviving issue or parents of decedent, entire estate; **(2)** if there is no surviving issue but decedent is survived by parent or parents, first \$50,000 of intestate personal estate, plus one-half of balance of intestate personal estate, plus life estate in intestate real estate; **(3)** if there are surviving issue all of whom are issue of surviving spouse also, first \$50,000, plus one-half of balance of intestate personal estate, plus life estate in intestate real estate; **(4)** if there are surviving issue, one or more of whom are not issue of surviving spouse, one-half of intestate personal estate, plus life estate in intestate real estate (12-502).

PEER SUPPORT ORGANIZATION

Established in 1984, **Concerns of Police Survivors, Inc., (COPS)**, is a national, non-profit organization that works with law enforcement agencies, police organizations, mental health professional, and local peer-support organizations to provide assistance to surviving families of law enforcement officers killed in the line of duty. COPS has become a "lifeline" to police survivors nationwide. **Contact the COPS National Office or visit www.nationalcops.org/chap.htm for information on a chapter in your area.**