

**Alberta WCB
Policies &
Information**

Chapter:

BENEFITS

Subject:

FATALITIES

Authorization:

BoD Resolution 2018/01/05

Date:

February 21, 2018

**APPLICATION 5: ACCIDENTS FROM JANUARY 1, 1982, TO AUGUST 31, 2018,
INCLUSIVE – DEPENDENT CHILDREN AND OTHER
DEPENDANTS**

1. *Who are considered dependent children under the WCA?*

Definitions of “child” and “dependent child” are in s.1 of the WCA. In addition to children of a current marriage, “child” also includes a child born out of wedlock, a grandchild, the child of a spouse by a former marriage, and any other child to whom the worker stood *in loco parentis* (in the place of a parent).

To be dependent, the child must have been wholly or partially dependent on the worker’s earnings at the time of the worker’s death. This includes, for example, a child who was not living with the worker but was legally entitled to support from the worker – even if the worker was not paying support at the time of death.

Dependent children are considered to be dependent only until they reach the age of 18.

2. *What benefits are dependent children eligible for?*

When the dependent children live with the worker’s dependent spouse or dependent adult interdependent partner, the pension paid to the dependent spouse or dependent adult interdependent partner is for the benefit of the dependent spouse or dependent adult interdependent partner and children. The dependent children are not eligible for additional benefits unless they are in necessitous circumstances because of illness (see Questions 8-11).

When dependent children are not living with a dependent spouse or dependent adult interdependent partner, the dependent children are eligible for benefits that are paid specifically for their care and maintenance. Questions 3-11 explain the benefits available.

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3. *What if a worker dies and leaves dependent children but no dependent spouse or dependent adult interdependent partner?*

If a worker dies due to a compensable accident and:

- leaves dependent children but no dependent spouse or dependent adult interdependent partner, or
- leaves a dependent spouse or a dependent adult interdependent partner and dependent children, but the dependent spouse or the dependent adult interdependent partner later dies,

the full pension payable under s.70(1) of the WCA is paid in trust to the Public Trustee or the person who holds letters of guardianship for the estate(s) of the dependent children.

The pension is divided equally according to the number of dependent children under the age of 18 and paid into separate trusts for each dependent child.

4. *What happens when the dependent children reach age 18?*

When a dependent child turns 18, he or she is no longer eligible to receive a proportion of the full pension. However, any funds remaining in the child’s trust when the child reaches age 18 are the child’s property.

As each child reaches age 18, the full pension payment is reallocated, beginning in the following month, and is divided equally between the remaining trusts for dependent children who are still under 18.

The full pension ends in the month the youngest dependent child reaches age 18. At this point, WCB pays a 5-year reducing term pension (see Application 4, Question 14) directly to the children.

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Dependent children reach age 18 (continued)

The 5-year term pension is divided equally between the surviving children who were under age 18 when the worker died. The pension may be paid periodically or as a lump sum (see Policy 04-04, *Permanent Disability*, Application 8).

5. *What if a dependent child dies before reaching age 18?*

If a dependent child dies before reaching age 18, any money in the child's trust fund at the time of the death is part of the child's estate.

If there are surviving dependent children who are not yet 18, the full pension is reallocated and divided equally between the remaining trusts, beginning in the month following the child's death.

6. *What if there is a dependent spouse or dependent adult interdependent partner and there are dependent children who do not live with the spouse or the adult interdependent partner?*

Dependent children not living with the dependent spouse or partner **at the time of the worker's death** may be paid compensation in addition to compensation paid to the spouse/partner. See Addendum B at the end of this policy for the maximum amount payable.

Dependent children living with the worker and spouse/partner **before the worker's death but not with the spouse/partner afterward** may receive some or all of a spouse's or partner's s.70 pension. The pension is apportioned at the discretion of WCB. Unless WCB has grounds to deviate, the apportionment is:

- if there is a spouse/partner and a child, two-thirds to the spouse/partner and one-third to the child
- if there is a spouse/partner and more than one child, one-half to the spouse/partner and one-half among the eligible children in equal shares

If there are dependent children, some living with the

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*Dependent children not
living with the dependent
spouse or dependent adult
interdependent partner
(continued)*

spouse/partner and some not, the apportionment is normally one-half to the spouse/partner and one half among the eligible children in equal shares. The shares of children living with the spouse/partner are normally paid to the spouse/partner.

Compensation paid to eligible children who are not living with a dependent spouse/partner is paid in trust to the Public Trustee or the person who holds letters of guardianship for the estate of the dependent child.

7. What other payments may WCB make to dependent children?

WCB may pay additional amounts to dependent children for their maintenance and support in the following circumstances:

- there is no dependent spouse or dependent adult interdependent partner,
- the surviving spouse or adult interdependent partner subsequently dies, or
- the surviving spouse or adult interdependent partner is confined to an institution, prison, or correctional institution.

The compensation is paid in trust to the Public Trustee or the person who holds letters of guardianship for the estate of the dependent child.

The maximum amounts are set out in Addendum B at the end of this policy.

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8. *What if a dependent child is in necessitous circumstances because of illness?*

If a dependent child is in necessitous circumstances because of illness, WCB may pay any additional amount it considers appropriate (s.73 of the WCA).

Note: See Application 4, Questions 24-27 for information regarding dependent spouses or adult interdependent partners in necessitous circumstances.

9. *What is meant by “necessitous circumstances”?*

WCB uses a similar definition to that generally applied by the courts when determining whether an individual is in necessitous circumstances. For WCB’s purposes it means that the person is unable to afford basic necessities such as food, clothing, shelter, and additional things necessary for the maintenance of an individual left without support. A person is not in necessitous circumstances simply because of an inability to maintain a particular lifestyle that the person is accustomed to.

10. *When will WCB consider paying benefits under s.73?*

WCB must first determine whether the conditions of s.73 are met:

- Confirmation is required that the dependent child is, in fact, in necessitous circumstances. This will usually require a review of the finances and expenditures of the child and/or the child’s family, and
- If the dependent child is in necessitous circumstances, WCB must also confirm that the circumstances are due to illness.

Once the above determination is made, WCB will consider each case on its own merits and determine benefits on a case-by-case basis. As any benefit paid under s.73 is over and above usual entitlements under the WCA, WCB will also consider the child’s eligibility for

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*Benefits under s.73
(continued)*

non-WCB services. The provisions of s.73 are not intended to substitute WCB funding for services already available in the community.

11. For how long will WCB pay benefits under s.73?

A dependent child’s eligibility for benefits under s.73 will end when the child:

- recovers from the illness, or
- although still suffering from the illness, is no longer in necessitous circumstances, or
- reaches age 18,

whichever is first.

WCB will periodically review the claim to determine whether the child’s circumstances have changed.

12. When does WCB pay compensation to other dependants?

Compensation to other dependants is payable only if there is no dependent spouse or dependent adult interdependent partner or dependent children.

WCB pays the dependant compensation in an amount it considers reasonable, proportionate to the monetary loss caused by the worker’s death.

13. Who is considered an “other dependant”?

To be considered an “other dependant”, the person must be a family member as defined in s.1(1)(q) of the WCA (excluding a dependent spouse, dependent adult interdependent partner, and dependent children) who:

- a) was wholly or partially dependent on the worker’s earnings when the worker died, or
- b) would have been dependent on the worker’s earnings

*“Other dependant”
(continued)*

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if not for the worker's death or disability due to the accident.

A person is considered partially dependent only when he or she is partially dependent on contributions from the worker for the ordinary necessities of life, such as food, shelter and clothing.

14. *When is this policy application effective?*

This policy application (Application 5 – Accidents From January 1, 1982, to August 31, 2018, Inclusive – Dependent Children and Other Dependants) is effective September 1, 2018, and applies to all decisions made on or after that date, except when noted otherwise in a specific policy section(s).

[Document History](#)**Previous versions**

- [Policy 0408 Part II, Application 3 - April 2018](#)
- [Policy 0408 Part II, Application 3 - July 2014](#)
- [Policy 0408 Part II, Application 3 - August 2009](#)
- [Policy 0408 Part II, Application 3 - December 2008](#)
- [Policy 0408 Part II, Application 3 - July 2004](#)
- [Policy 0408 Part II, Application 3 - January 2004](#)
- [Policy 0408 Part II, Application 3 - June 2003](#)
- [Policy 0408 Part II, Application 3 - February 2002](#)
- [Policy 0408 Part II, Application 3 \(consolidated manual 1st Issue\) - February 1997](#)