

CHAPTER 116

AN ACT concerning workers' compensation and amending P.L.2019, c.387 and R.S.34:15-13.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.2019, c.387 is amended to read as follows:

2. P.L.2019, c.387 shall take effect immediately, and shall apply to all pending traumatic accident claims or occupational disease or injury cases which have not yet been adjudicated by a Judge of Workers Compensation or approved for settlement under R.S.34:15-22 on or after the date of enactment of P.L.2019, c.387. P.L.2019, c.387 shall not be applicable to cases which have been reopened by an Application to Modify a Formal Award pursuant to R.S.34:15-27.

2. R.S. 34:15-13 is amended to read as follows:

Death benefits, burial expenses; computation and distribution.

34:15-13. Except as hereinafter provided, in case of death, compensation shall be computed, but not distributed, on the following basis:

- a. For one or more dependents, 70% of wages.
- b. (Deleted by amendment, P.L.2003, c.253).
- c. (Deleted by amendment, P.L.2003, c.253).
- d. (Deleted by amendment, P.L.2003, c.253).
- e. (Deleted by amendment, P.L.2003, c.253).

f. The term "dependents" shall apply to and include any or all of the following who are dependent upon the deceased at the time of accident or the occurrence of occupational disease, or at the time of death, namely: husband, wife, parent, stepparents, grandparents, children, stepchildren, grandchildren, child in esse, posthumous child, illegitimate children, brothers, sisters, half brothers, half sisters, niece, nephew. Legally adopted children shall, in every particular, be considered as natural children. Dependency shall be conclusively presumed as to the decedent's spouse and to any natural child of a decedent under 18 years of age or, if enrolled as a full-time student, under 23 years of age, who was actually a part of the decedent's household at the time of the decedent's death. Every provision of this article applying to one class shall be equally applicable to the other, except for the surviving spouses of members of the State Police or members of fire or police departments or forces who die in line of duty. Should any dependent of a deceased employee die during the period covered by such weekly payments the right of such dependent to compensation under this section shall cease, but should the surviving spouse of a deceased employee, other than the surviving spouse of a deceased member of the State Police or member of a fire or police department or force who died in line of duty, remarry during such period and before the total compensation is paid, the spouse shall be entitled to receive the remainder of the compensation which would have been due the spouse had the spouse not remarried, or 100 times the amount of weekly compensation paid immediately preceding the remarriage, whichever is the lesser. If the deceased was a member of the State Police or member of a fire or police department or force who died in the line of duty, the compensation shall be paid to the surviving spouse during the entire period of survivorship, even if the surviving spouse remarries, but the surviving spouse shall not receive a lump sum payment pursuant to this subsection. The foregoing schedule applies only to persons wholly dependent, and in the case of persons only partially dependent, except in the case of the surviving spouse and children who were actually a part of the decedent's household at the time of death, the compensation shall be such proportion of the scheduled percentage as the amounts actually

contributed to them by the deceased for their support constituted of his total wages and the provision as to a minimum of 20% of the average weekly wage as set forth in subsection a. of R.S.34:15-12 shall not apply to such compensation. In determining the number of dependents, where the deceased employee was a minor, the number of persons dependent upon the deceased employee shall be determined in the same way as if the deceased employee were an adult, notwithstanding any rule of law as to the person entitled to a minor's wages. Nothing in this subsection pertaining to the surviving spouse of a member of the State Police or member of a fire or police department or force who died in the line of duty shall be construed to entitle the surviving spouse to resumed payments of compensation if that surviving spouse received a lump sum payment pursuant to this subsection or remarried prior to the effective date of P.L.2013, c.62.

g. Compensation shall be computed upon the foregoing basis. Distribution shall be made among dependents, if more than one, according to the order of the Division of Workers' Compensation, which shall, when applied to for that purpose, determine, upon the facts being presented to it, the proportion to be paid to or on behalf of each dependent according to the relative-dependency. Payment on behalf of infants shall be made to the surviving parent, if any, or to the statutory or testamentary guardian.

h. If death results from the accident or occupational disease, whether there be dependents or not, expenses of the last sickness of the deceased employee shall be paid in accordance with the provisions for medical and hospital service as set forth in R.S.34:15-15. In addition, the cost of burial and of a funeral, not to exceed \$5,000, shall be paid to the dependent or other person having paid the costs of burial and the funeral. In the event that the dependent or other person has paid less than \$5,000 for the costs of burial and the funeral, the dependent or other person shall be reimbursed in the amount paid and, if the costs of burial and the funeral exceed the amount so paid, the difference between the said amount and \$5,000 or so much thereof as may be necessary to pay the cost of burial and the funeral, shall be paid to the undertaker or embalmer or the dependent or other person having paid the costs of burial and the funeral. In the event that no part of the costs of burial and the funeral have been paid, the amount of such cost of burial and the funeral, not to exceed \$5,000, shall be paid to the undertaker or embalmer or the dependent or other person who is to pay the costs of burial and the funeral.

i. In computing compensation to those named in this section, except husband, wife, parents and stepparents, and except as otherwise provided in this section, only those under 18 or over 40 years of age shall be included and then only for that period in which they are under 18 or over 40; provided, however, that payments to such physically or mentally deficient persons as are for such reason dependent shall be made during the full compensation period of 450 weeks.

j. The maximum compensation in case of death shall be subject to the maximum compensation as stated in subsection a. of R.S.34:15-12 and a minimum of 20% of average weekly wages per week as set forth in subsection a. of R.S.34:15-12, except in the case of partial dependency as provided in this section. This compensation shall be paid, in the case of a surviving spouse, other than a surviving spouse of a member of the State Police or member of a fire or police department or force who died in the line of duty, during the entire period of survivorship or until such surviving spouse shall remarry and, in the case of other dependents, during 450 weeks and if at the expiration of 450 weeks there shall be one or more dependents under 18 years of age, compensation shall be continued for such dependents until they reach 18 years of age, or 23 years of age while enrolled as a full-time student, at the schedule provided under subsection a. of this section. If the deceased was a member of

the State Police or member of a fire or police department or force who died in the line of duty, the compensation shall be paid to the surviving spouse during the entire period of survivorship, even if the surviving spouse remarries, but the surviving spouse shall not receive a lump sum payment pursuant to subsection f. of this section.

3. This act shall take effect immediately.

Approved October 30, 2020.