Establishing Survivorship Under Part B and Part E

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Lesson Objectives

• Explain general survivorship criteria under the EEOICPA.

• Part B vs. Part E similarities and differences in the benefits and eligibility criteria for survivorship.

• Interpret eligibility criteria for survivorship under RECA.
Survivorship Introduction

• If an eligible employee is deceased, one or more of his or her eligible survivors may be entitled to benefits under the Act.

• Survivorship entitlement and eligibility criteria differ depending on which Part of the Act is being adjudicated.
General Survivorship Criteria

• A claim for survivor benefits must be in writing, utilizing Claim for Survivor Benefits Form EE-2.

• Employee’s death must be established by a death certificate.

• Survivors must provide proof of their relationship to the employee.
Survivorship – Spouse: Part(s) B and E

- Marriage certificate (not license) and employee’s death certificate, establishing at least one year of marriage prior to, and at the time of the employee’s death.
- Common Law Marriage (as defined by the specific state).
Survivorship - Children: Part(s) B and E

- Part B: Birth/adoption certificates are sufficient, but other records (generally for step-children) can include:
  - School Transcripts
  - Obituaries
  - Affidavits
  - Tax Records
  - Photographs
  - Death certificates of employee and spouse

- Part E: Same evidence as Part B, but criteria can be different.
Awards and Compensation: Part(s) B and E

• Compensation is based on covered employee and does not include medical benefits unless the employee filed for the compensable condition before death:
  
  • Part B is $150,000.00
  • Part E typically entitles the eligible survivor to $125,000.00 in compensation, plus wage loss (if applicable)
  • Maximum aggregate compensation per covered employee (excluding medical) is $400,000.00

($150,000.00 under Part B + $250,000.00 under Part E)
Apportionment of Awards

• In multiple survivor claims, if one potentially eligible survivor does not file a claim, his or her portion of compensation will be held in abeyance.

• The compensation will **not** be distributed among the remaining eligible survivors until the non-filing survivor’s eligibility is determined.
Survivorship Criteria: Part B

• Cause of death **does not** need to be related to the employees accepted condition.

• Eligible survivors (in order of precedence):
  • Covered spouse
  • Children
  • Parents
  • Grandchildren
  • Grandparents
Survivorship Criteria: Part E

• Cause of death **must** be related to the accepted condition.

• Eligible survivors include covered spouse and covered children living at the time of the employee’s death.

• Covered children must be:
  • Under the age of 18 years
  • Under the age of 23 years and a continuous full-time student or any age and incapable of self-support
Order of Precedence: Part E

• If there is a covered spouse, the compensation shall be paid to the spouse.

• If there is no covered spouse, the compensation shall be paid in equal shares to all covered children of the deceased covered employee.
Non-spousal Child

If there is a covered spouse and
• at least one child of the deceased covered Part B employee who is a minor at the time of payment, or
• at least one covered child of the deceased covered Part E employee who is not a recognized natural child or adopted child of the covered spouse:

Then:
• Half of the compensation shall be paid to the spouse.

• The other half of the compensation shall be paid in equal shares to each eligible child of the deceased covered employee regardless of whether the child is a spousal/non-spousal child.
Other Remedies: Part E

• Election of benefits can apply when an employee has previously filed a claim, and his/her death is not the result of a covered illness, eligible survivor(s) may elect to receive what the employee would have received.
Evidence must establish that an occupational exposure to a toxic substance was *at least as likely as not* a significant factor in *causing, contributing to,* or *aggravating* the death of the employee.
Awards and Compensation: RECA

- DOJ Acceptance - Part B benefits awarded if covered employee (or survivor) received DOJ award under Section 5.
  - DEEOIC awards survivor a supplemental lump sum of $50,000.00.
  - Part B acceptance equals Part E acceptance if the condition contributed to the employee’s death.

- DOJ Denial – No Part B benefits are available;
  - However, can file for Part E benefits.
Questions

Questions can also be submitted to DEEOIC-Outreach@dol.gov

Thank you very much for attending the DEEOIC Webinar