

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation Programs
Division of Longshore and Harbor Workers' Compensation

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No. 39

NOTICE TO INSURANCE CARRIERS AND SELF-INSURED EMPLOYERS
UNDER THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION
ACT, AS AMENDED

Subject: Annual Increases in Compensation Payments
Provided by Section 10(f) of the Longshore
and Harbor Workers' Compensation Act Not
Limited by Maximum Stated in Section 9(e)

This notice is to provide an informal interpretation of
Section 9(e) of the Longshoremen's and Harbor Workers'
Compensation Act, which was amended in 1972 to read as
follows:

"In computing death benefits the average
weekly wages of the deceased shall be
considered to have been not less than the
applicable national average weekly wage
as prescribed in Section 6(b) but the total
weekly benefits shall not exceed the average
weekly wages of the deceased."

The last clause of Section 9(e) of the Act provides for a
minimum level of compensation in death cases similar to the
provisions of Section 6(b)(2) for disability cases. If the
stated minimum would result in initial payment of more than
the deceased worker's average weekly wage, the benefits are
limited to the actual average weekly wage. Thus the clause
in Section 9(e) is intended only as a limitation on the
initial minimum benefit level. Its purpose does not extend
to cases that have been or are subject to adjustment under
Section 10(f).

Therefore, Section 10(f) should be applied irrespective of
the fact that in some cases the resulting adjusted benefits
exceed the worker's average weekly wage at the time of the
injury.

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