

Fact Sheet: Workers' Compensation Pays Benefits in Wake of September 11th Attacks

More than 2,200 Claims Involve the Death of a Worker

Not Just A Program for Injured Workers

While workers' compensation is best known as a program for injured workers, it also pays benefits to widowed spouses and children when a worker is killed on the job. State laws require employers to provide workers' compensation coverage to their employees. The programs began early in the 20th century as a substitute for law suits brought by injured workers against their employers.

Under the compromise that remains today, workers' compensation pays for injuries or deaths that occur on the job, regardless of whether the employer is at fault in any way. In return, workers forego any legal claim against their employer.

Nationally, 5,915 workers were killed on the job in 2000, according to the U.S. Department of Labor. In New York state in an average year, about 500 workers' compensation claims are based on the death of a worker. For 2001, the number of deaths at work, both nationally and in New York, will be higher because many of the people killed in the terrorist attacks were at work.

By early March, 2002, just over 5,600 workers' compensation claims relating to the September 11th attacks had been reported to the New York Workers' Compensation Board. They include:

- ▶ over 2,200 claims involving the death of a worker; and
- ▶ about 3,400 claims for disability benefits and/or medical care for workers harmed in the attacks.

By early March, 2002, about 2,365 claimants were receiving wage-replacement benefits from workers' compensation or "full wage-continuation" benefits from their employers, according to

reports to the New York Workers' Compensation Board. They include:

- ▶ 910 cases in which benefits were allowed;
- ▶ 661 that were being paid while a formal decision was being processed; and
- ▶ 794 claims where it was reported that employer was paying full wage-continuation benefits.

Claims in New York State involving a workers' death in the terrorist attacks are already *more than four times the yearly average for the state.*

Benefit Examples for Survivors

Families can receive benefits from workers' compensation and other programs such as Social Security at the same time. While Social Security is best known for retirement benefits, it also pays benefits in the event of disability or death. (see National Academy of Social Insurance fact sheet on "Social Security Pays Benefits in Wake of September 11th Attacks.")

Chart 1 illustrates combined yearly benefits that a widowed spouse with one child could receive from Social Security and workers' compensation in selected states. While Social Security benefit rules are the same throughout the nation, workers' compensation rules vary from state to state. In New York, workers' compensation benefits range from \$11,660 if the worker had earned \$24,000, to \$14,050 if the worker earned \$48,000. At higher earnings, of \$90,000, workers' compensation would pay about \$12,300, after reducing the widowed spouses benefit because she or he receives Social Security. Combined benefits from the two programs range from \$29,010 for the family of a worker who earned \$24,000 to

\$46,120 for the family of one who had earned \$90,000.

The chart also illustrates combined benefits in other states. In New Jersey, workers' compensation benefits are somewhat higher than in New York, in part because New Jersey has a higher cap on the maximum benefits it will pay (\$591 a week in 2001). Connecticut benefits are higher than in New York or New Jersey, because it pays a larger fraction of the deceased worker's past earnings and has a higher cap on the maximum benefit it pays (\$838 a week in 2001).

Determining which state's rules apply for workers' compensation claims can be complex. In most cases, claims can be filed in the state where the injury or death occurred. Some states allow a claim to be filed in a different state if the worker was hired in that state or the work was principally located there. Some claimants may have a choice

to apply in more than one state and then receive benefits under the rules that provide the best benefits in their situation. Regardless of which state's rules apply, the deceased worker's employer, or its insurer, is responsible for paying the family's claim.

Conclusion

In normal times, survivor benefits through workers' compensation get little notice. The vast majority of workers' compensation cases deal with disabilities, both temporary and permanent. However, workers' compensation provides important income support for survivors when unexpected catastrophes hit the nation's workers.

The full report, *Social Insurance for Survivors: Family Benefits from Social Security and Workers' Compensation*, is available free-of-charge from the Academy's website at www.nasi.org or by calling (202) 452-8097.

For more information on workers' compensation benefits in the wake of the September 11th terrorist attacks:

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Social Security and Workers' Compensation for Widowed Spouse and One Child

Examples for Deceased Workers at Different Earnings Levels

