**16 DEPARTMENT OF PUBLIC SAFETY**

**163 BUREAU OF EMERGENCY MEDICAL SERVICES (MAINE EMS)**

**CHAPTER 16: DEATH BENEFITS FOR EMERGENCY MEDICAL SERVICES PERSONS WHO DIE IN THE LINE OF DUTY.**

**Summary:** This chapter outlines the procedures governing the award of death benefits to the child, spouse or parent of an emergency medical services person who dies while in the line of duty.

1. **Definitions**
	1. “Child” means any natural born or unborn child, legally adopted child, or stepchild of an emergency medical services person who, at the time of the emergency medical services person’s death, is:
2. Conceived or less than 19 years of age
3. 19 or more years of age, but less than 25 years of age, and accepted for admission or enrolled in a full-time postsecondary educational institution or
4. 19 or more years of age and is incapable of self-support because of a physical or mental disability.
	1. “Died while in the line of duty” means to cease to be alive or to sustain an injury or illness that results in death as a result of the performance of an emergency medical services person’s official duty.
	2. “Director” means the Director of Maine Emergency Medical Services as defined in 32 M.R.S. §83, sub-§10-A.
	3. “Emergency medical services person” has the same meaning as in 20-A M.R.S. Sec 12552, §1-C with 25 M.R.S. Sec 1611, §3.
	4. “Official duty” means an action that an emergency medical services person is authorized or obligated by law, rule, regulation or condition of employment or service to perform.
	5. “Parent” means the natural or adoptive mother or father, or the stepmother or stepfather, whose parental rights have not been terminated and who contributed significantly to the upbringing of an emergency medical services person.
	6. “Spouse” means a person who is legally married to an emergency medical services person at the time of the emergency medical services person’s death.
	7. “Under the influence” means under the influence of alcohol, a drug other than alcohol, a combination of drugs or a combination of alcohol and drugs or having a blood alcohol level of .08% or more.
5. **Death Benefit – Amount and Receipt**
	1. If the Director determines that an emergency medical services person died while in the line of duty, the State shall pay a benefit of such an amount as pursuant to M.R.S. 25 §1612 as follows:
6. If there is no surviving child of the emergency medical services person, to the surviving spouse;
7. If there is a surviving child or children and a surviving spouse of the emergency medical services person, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;
8. If there is no surviving spouse of the emergency medical services person, to the child or children in equal shares; or
9. If there is no surviving child or spouse, to the parent or parents of the emergency medical services person, in equal shares.
10. **Limitation on Benefit**
	1. Notwithstanding a determination by the Director that an emergency medical services person died while in the line of duty, a benefit may not be paid:
11. If the death or the injury or illness that resulted in the death was caused by the intentional misconduct of the emergency medical services person or by the emergency medical services person’s intention to bring about the death or the injury or illness that resulted in the death;
12. If the emergency medical services person was voluntarily under the influence at the time of the death or the injury or illness that resulted in the death and being under the influence was a substantial contributing factor in the death or the injury or illness that resulted in the death;
13. If the emergency medical services person was performing in a grossly negligent manner at the time of the death or the injury or illness that resulted in the death;
14. To any person who would otherwise be entitled to a benefit pursuant to 25 M.R.S. c. 195-A and this chapter, if the person’s actions were a substantial contributing factor to the death of the emergency medical services person; or
15. If the potentially eligible child, spouse, or parent dies prior to actual receipt of this death benefit.
16. **Filing Request for Benefit**
	1. A person who is potentially eligible to receive these benefits, or a person authorized to request benefits acting as an agent of a potentially eligible person, must forward a written request to the Director for a State of Maine Application for Line of Duty Death Benefit within 90 days of the emergency medical services person’s death. The 90-day period may be extended by the Director for good cause shown.
	2. Upon receipt of the written request for a State of Maine Application for Line of Duty Death Benefit, the Director shall provide an application package and questionnaire that must be completed and returned within 30 days of receipt by the applicant. The 30-day period may be extended by the Director for good cause shown.
17. **Determination of Eligibility for Benefit**
	1. Upon receipt of a completed State of Maine Application for Line of Duty Death Benefit, the Director shall appoint a review panel consisting of at least three, but not more than five, persons knowledgeable in the emergency medical services person’s official duties.
	2. The review panel shall convene to review the application, investigate the circumstances surrounding the death and make a written recommendation to approve or deny the application to the Director within 30 days. If the Director determines that further investigation is necessary, the Director may extend the review period.
	3. The Director, after review of the recommendation, shall make the determination to approve or deny the application in a timely manner. The Director’s determination is the final agency decision.
18. **Interim Benefits**

The Director may make interim benefits payments in accordance with and subject to the limitations outlined in 25 M.R.S. §1612.

1. **Appeal**

An appeal of the final agency decision may be filed in accordance with the *Administrative Procedure Act*, 5 M.R.S. Chapter 375 Subchapter VII.

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