
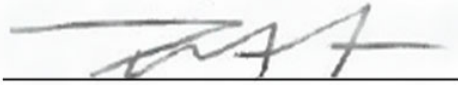


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POLICY NUMBER: 3.32		
CHAPTER 3: PERSONNEL		
 <p>STATE of MAINE DEPARTMENT of CORRECTIONS</p> <p>Approved by Commissioner:</p> 		
EFFECTIVE DATE: May 18, 2022	LATEST REVISION:	CHECK ONLY IF APA [X]

I. AUTHORITY

The Commissioner of Corrections adopts this policy pursuant to the authority contained in 34-A M.R.S.A. § 1403 and 25 M.R.S.A. § 1612.

II. APPLICABILITY

Entire Maine Department of Corrections and Maine Jails

III. POLICY

This policy outlines the procedures governing the award of a death benefit to the child, spouse, or parent of a corrections officer who dies while in the line of duty.

IV. DEFINITIONS

1. Child - any natural born or unborn child, legally adopted child or stepchild of a corrections officer.
2. Consumer Price Index - the Consumer Price Index for All Urban Consumers, CPI-U, as compiled by the United States Department of Labor, Bureau of Labor Statistics.
3. Corrections officer - a person who is responsible for the custody or direct supervision of a person confined in a jail or state correctional facility pursuant to an order of a court or as a result of an arrest and who possesses a current and valid certificate issued by the Board of Trustees of the Maine Criminal Justice Academy pursuant to 25 M.R.S.A. § 2803-A.
4. Died while in the line of duty – died during the performance of a corrections officer’s official duty or sustained an injury or illness during the performance of a corrections officer’s official duty if the injury or illness resulted in death in that it was a substantial contributing factor in the death of the officer.
5. Official duty - an action that a corrections officer is authorized or obligated to perform by law, rule, regulation or condition of employment or service.

6. Parent - the natural or adoptive mother or father, or stepmother or stepfather, whose parental rights have not been terminated.
7. Spouse - a person who is legally married to a corrections officer at the time of the corrections officer's death.

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VI. ATTACHMENTS

- Attachment A: Line of Duty Death Benefit for Corrections Officer Application

VII. PROCEDURES

Procedure A: General

1. The Commissioner hereby adopts this policy as the rule governing the award of a death benefit to the child, spouse or parent of a corrections officer who dies while in the line of duty in accordance with [25 M.R.S.A. §§ 1611 & 1612](#).
2. This policy does not pertain to the Department's law enforcement officers (facility detectives, probation officers, and juvenile community corrections officers) as a death benefit for a law enforcement officer is governed by the Maine State Police rule on this matter.
3. This policy pertains to corrections officers employed by:
 - a. the Maine Department of Corrections; and
 - b. Maine Jails.
4. Eligibility for an award of a death benefit under this policy is not affected by whether or not there is an award of a death benefit under federal rules.

Procedure B: Death Benefit – Amount and Receipt

1. If the Commissioner, or designee, determines that a corrections officer died while in the line of duty, the State shall pay a benefit of \$100,000 (plus the Consumer Price Index whenever there is a percentage increase in the Consumer Price Index from July 1st to June 30th of the previous year as indexed immediately prior to that corrections officer's death), as follows:

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- a. if there is no surviving child of the corrections officer, to the surviving spouse;
- b. if there is a surviving child or children and a surviving spouse of the corrections officer, 1/2 to the surviving child or children in equal shares and 1/2 to the surviving spouse;
- c. if there is no surviving spouse of the corrections officer, to the child or children in equal shares; or
- d. if there is no surviving child or spouse, to the parent or parents of the corrections officer in equal shares.

Procedure C: Limitation on Benefit

1. Notwithstanding a determination by the Commissioner, or designee, that a corrections officer died while in the line of duty, a benefit may not be paid:
 - a. if the death or the injury or illness that resulted in the death was caused by the intentional misconduct of the corrections officer or by the corrections officer's intention to bring about the death or the injury or illness that resulted in the death;
 - b. if the corrections officer was voluntarily under the influence of alcohol, illegal drugs, or abused or misused prescription drugs at the time of the death or the injury or contracting of the 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;
 - c. if the corrections officer was performing in a grossly negligent manner at the time of the death or the injury or contracting of the illness that resulted in the death;
 - d. to any person who would otherwise be entitled to a benefit pursuant to 25 M.R.S.A. §§ 1611 & 1612 and this policy, if the person's actions were a substantial contributing factor in the death of the corrections officer; or
 - e. if the potentially eligible child, spouse or parent dies prior to actual receipt of the death benefit.

Procedure D: Filing Request for Benefit

1. A person who is potentially eligible to receive a death benefit, or a person authorized to request a benefit acting as an agent of a potentially eligible person, must forward a written request to the Department of Corrections Commissioner, or designee, for a Line of Duty Death Benefit for Corrections Officer Application within ninety (90) days of the corrections officer's death. The ninety (90) day period may be extended by the Commissioner, or designee, for good cause shown.
2. Upon receipt of the written request for Line of Duty Death Benefit for Corrections Officer Application, the Commissioner, or designee, shall provide an application that must be completed and returned within thirty (30) days of receipt by the applicant. The thirty (30) day period may be extended by the Commissioner, or designee, for good cause shown.

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Procedure E: Determination of Eligibility for Benefit

1. Upon receipt of a completed Line of Duty Death Benefit for Corrections Officer Application, the Commissioner, or designee, shall appoint a review panel consisting of at least three, but not more than five, persons knowledgeable in corrections officer 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 Commissioner, or designee, within thirty (30) days. If the Commissioner, or designee, determines that further investigation is necessary, the Commissioner, or designee, may extend the review period.
3. The Commissioner, or designee, after reviewing the recommendation, shall make the determination to approve or deny the application in a timely manner. The Commissioner's, or designee's, determination is the final agency decision.

Procedure F: Interim Benefit

1. When the Commissioner, or designee, determines upon showing of need and prior to final action that the death of a corrections officer is a death for which a benefit will probably be paid, the Commissioner, or designee, may make an interim benefit payment not exceeding \$3,000 to the individual or individuals entitled to receive a benefit as set out as above.
2. The Commissioner, or designee, shall deduct the amount of an interim payment made from the amount of any final benefit paid to the individual or individuals entitled to receive such benefit.
3. If a final benefit is not paid, the recipient or recipients of any interim payment are liable for repayment of the amount received. The Commissioner, or designee, may waive all or part of the repayment if that official determines that undue hardship would result from that repayment.

Procedure G: Appeal

1. An appeal of the final agency decision may be filed in accordance with the Administrative Procedure Act, 5 M.R.S.A. c. 375, sub-c. VII.

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