



TEXAS DEPARTMENT OF INSURANCE

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memo

To: Workers' Compensation System Participants
From: Nicholas Canaday, III, General Counsel, Division of Workers' Compensation
Date: December 10, 2018
RE: Adoption: Amended 28 Texas Administrative Code (TAC) §132.7

The Texas Department of Insurance, Division of Workers' Compensation (DWC) has adopted an amendment to 28 TAC §132.7, relating to duration of death benefits for an eligible spouse.

The amendment aligns §132.7 with Texas Labor Code §408.183, as amended by House Bill (HB) 2119 of the 85th Legislature. HB 2119 amended Labor Code §408.183 to allow eligible spouses of first responders to remain eligible for death benefits for life after remarrying, if the first responder died as a result of an injury in the course and scope of employment or while providing services as a volunteer, regardless of the date on which the death of the first responder occurred. The change to §408.183 applies only to eligible spouses who remarried on or after September 1, 2017.

Amended §132.7(f) deletes the words, "This subsection only applies to claims based on a compensable injury that occurs on or after September 1, 2015," and adds the following words and new language, "This subsection applies to: (1) eligible spouses who remarry on or after September 1, 2017; and (2) eligible spouses who remarried between September 1, 2015, and August 31, 2017, if the claim is based on a compensable injury that occurred on or after September 1, 2015."

The amendment does not alter the distribution of death benefits under §132.11 or the redistribution of death benefits under §132.12. If there is an eligible child or grandchild and an eligible spouse, death benefits continue to be divided between the beneficiaries, with half paid to the eligible spouse and half paid in equal shares to the eligible children.

The adoption will be published in the December 14, 2018, issue of the *Texas Register* and will be available at www.sos.state.tx.us/texreg/index.shtml once published. A courtesy copy will also be available on the TDI website at www.tdi.texas.gov/wc/rules/2018rules.html.