



## TEXAS DEPARTMENT OF INSURANCE

### General Counsel Division - Legal Section (MS-4D)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4703 | F: (512) 804-4276 | (800) 372-7713 | TDI.texas.gov | @TexasTDI

# memo

To: Workers' Compensation System Participants

From: Nicholas Canaday, III, General Counsel

Date: October 10, 2018

RE: Proposal: Amended 28 Texas Administrative Code (TAC) §132.7

The Texas Department of Insurance, Division of Workers' Compensation (DWC) is accepting public comments on a proposed amendment to 28 TAC §132.7, relating to duration of death benefits for eligible spouse.

The proposed amendment implements House Bill (HB) 2119 of the 85th Legislature. HB 2119 amended Texas 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. Amended 28 TAC §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 amendments do not alter the distribution of death benefits under 28 TAC §132.11 or the redistribution of death benefits under 28 TAC §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 proposal will be published in the October 12, 2018, issue of the Texas Register and will be available at [www.sos.state.tx.us/texreg/index.shtml](http://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](http://www.tdi.texas.gov/wc/rules/2018rules.html).

If you want to comment on the proposal or request a public hearing, submit your written comments and or request by 5 p.m. Central time on November 12, 2018. Send written comments or hearing requests by email to [Rulecomments@tdi.texas.gov](mailto:Rulecomments@tdi.texas.gov) or by mail to:

Texas Department of Insurance, Division of Workers' Compensation  
Ashley Hyten  
Workers' Compensation Counsel MS – 4D  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1645

If a hearing is held, DWC will consider written comments and public testimony presented at the hearing.