202 KAR 7:810. Survivor benefits for death of emergency medical services personnel.

RELATES TO: KRS 61.315, 311A.010(3)
STATUTORY AUTHORITY: KRS 61.315
NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.315(6) requires the board to promulgate administrative regulations to authorize the payment of survivor benefits of $80,000 to the survivor of any paid or volunteer emergency medical services personnel who is employed directly by, or volunteering directly for, any county, city, fire protection district, or emergency ambulance service district created under KRS 108.080 to 108.180 to provide emergency medical services and who is killed in the line of duty after November 1, 2015. This administrative regulation establishes the procedures and criteria that shall be utilized to determine the eligibility of the emergency medical service personnel's survivor benefits.

Section 1. Definitions. (1) "AEMT" means an advanced emergency medical technician certified by the board.
(2) "Board" means the Kentucky Board of Emergency Medical Services as defined by KRS 311A.010(3).
(3) "Child or children" means a:
(a) Biological child or children, including a child or children born after the EMS provider's death;
(b) Stepchild or stepchildren; and
(c) Legally adopted child or children.
(4) "Death in the line of duty" means death that occurs as a direct result of an act or acts in the "performance of duty" as defined by subsection (11) of this section and shall include death that results from a heart or circulatory malfunction that is treated within forty-eight (48) hours after participation in the performance of these duties, or as the result of illness, sickness, or injury caused by the performance of these duties that result in death within twelve (12) months of the activities if the death is not caused by suicide or self-inflicted injury.
(5) "Emergency medical services" means the services utilized in providing care for the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury.
(6) "EMR" means an emergency medical responder certified by the board.
(7) "EMS provider" means an emergency medical responder (EMR), emergency medical technician (EMT), advanced emergency medical technician (AEMT), or paramedic.
(8) "EMT" means an emergency medical technician certified by the board.
(9) "Heart or circulatory malfunction" means myocardial infarction, angina pectoris, coronary thrombosis, cardiac arrest, or a cerebral vascular accident, the symptoms of which are first medically treated within forty-eight (48) hours after participation in the performance of the duties of an EMS provider as described in subsection (11) of this section.
(10) "Paramedic" mean a paramedic licensed by the board.
(11) "Performance of duty":
(a) Means an EMS provider engaging in the following activities if the activities are performed at the direction or with the knowledge of an officer of a licensed ambulance service, or when immediate action is required at the scene of an emergency not involving an ambulance service or other emergency organization:
1. Provision of emergency medical care;
2. Participation in EMS-related education or training;
3. Rescue or emergency activities for which the ambulance service is licensed;
4. Reparation or other work about or in the ambulance or building and grounds of the li-

censed ambulance service;

5. Answering an emergency call;

6. Riding in the ambulance that is owned or used by the licensed ambulance service;

7. Performance of other duties of the licensed ambulance service as authorized by the jurisdiction that the licensed agency serves; and

8. Travel to or from and attendance at meetings related to emergency medical services: and

(b) Does not mean participation in any sports or athletic event or contest for any purpose if the EMS provider is representing an organization related to the field of emergency medical services.

Section 2. Requirements for Eligibility. (1) Survivors. Benefits shall be paid to the surviving:

(a)1. Spouse;

2. Child or children; or

3. Spouse and child or children; or parents, as set forth in KRS 61.315(2).

(2) Heart or circulatory malfunction limitations. If an EMS provider becomes an active employee of a licensed ambulance service and has not been medically diagnosed or received any medication for a heart or circulatory malfunction within five (5) years prior to the date of employment, the EMS provider's eligible survivors shall receive the death benefits detailed in this administrative regulation if the EMS provider is killed in the line of duty.

(a) If an EMS provider has been medically diagnosed with or received medication for a heart or circulatory malfunction within five (5) years prior to becoming an active employee of a licensed ambulance service and presents a medical statement to the board from a licensed physician establishing that the individual has recovered or has been sufficiently medically rehabilitated to meet the physical demands of providing emergency medical services, the EMS provider's survivors shall be eligible to receive death benefits as outlined in this administrative regulation if the EMS provider dies in the line of duty.

(b) If an EMS provider employed by a licensed ambulance service is medically diagnosed with or is prescribed medication for a heart or circulatory malfunction and returns to active employment with a licensed ambulance service, the EMS provider's survivors shall not be eligible to receive death benefits as outlined in this administrative regulation if the EMS provider's death was caused by a heart or circulatory malfunction.

(3) If death occurs twelve (12) months or more after the performance of duty and is believed to be related to the provision of emergency medical services, the board may review the personnel's medical records to determine if the death qualifies as a death in the line of duty.

(4) Autopsy.

(a) The board shall reserve the right to request an autopsy of an EMS provider if sufficient cause is shown for this request.

(b) If an autopsy is performed for any reason, a copy of the report signed by the individual who performs the autopsy and a notary public shall be submitted to the board.

Section 3. Application. (1)(a) Upon the death in the line of duty of an EMS provider, the licensed ambulance service by which the EMS provider was employed at the time of death shall immediately notify the executive director of the board.

(b) Upon receipt of the notification, the executive director shall send Form KBEMS-01LDD to the notifying licensed ambulance service in care of the administrator and Form KBEMS-02LDD to the known survivors of the deceased EMS provider.

(2) Upon receipt of Forms KBEMS-01LDD and KBEMS-02LDD, the administrator of the licensed ambulance service and the EMS provider's survivors or their representative shall complete the forms and return them to the board in care of the executive director.

(3)(a) Upon receipt by the executive director of the completed forms, a committee of the board appointed by its chairman shall review the forms for compliance with KRS 61.315 and this administrative regulation and make recommendations to the board for determination of eligibility for death benefits under this administrative regulation.

(b) The committee and the executive director may seek clarification of the forms' content with the EMS provider's survivors and licensed ambulance service. The board shall make the final determination of eligibility for death benefits pursuant to KRS 61.315 and this administrative regulation.

Section 4. Certification of Payment of Benefits. Upon certification of survivorship rights to the EMS provider's death benefit, the sum of $80,000 shall be paid by check by the state treasurer from the general expenditure fund of the state treasury, as required by KRS 61.315(2), and the treasurer shall transmit the check to the board for payment to the eligible survivor or survivors.

Section 5. Appeals. (1) A decision of the board affecting the eligibility of a survivor to be a recipient of the fund shall not be final until the survivor shall have been afforded an opportunity to be heard on the matter.

(2) An appeal may be taken from a final decision of the board to withhold payment from the fund to any survivor.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Form KBEMS-01LDD, Report of the Death of Emergency Medical Personnel", November 2016; and

(b) "Form KBEMS-02LDD, Claim for Survivor Benefits", November 2016.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Board of Emergency Medical Services, 118 James Court, Suite 50, Lexington, Kentucky 40505, Monday through Friday, 8 a.m. to 4:30 p.m. (43 Ky.R. 1118, 1551; eff. 3-31-2017.)