

85.42 Conclusively presumed dependent.

The following shall be conclusively presumed to be wholly dependent upon the deceased employee:

1. The surviving spouse, with the following exceptions:

a. When it is shown that at the time of the injury the surviving spouse had willfully deserted the deceased without fault of the deceased, then the surviving spouse shall not be considered as dependent in any degree.

b. When the surviving spouse was not married to the deceased at the time of the injury.

2. A child or children under eighteen years of age, and over said age if physically or mentally incapacitated from earning, whether actually dependent for support or not upon the parent at the time of the parent's death. An adopted child or children shall be regarded the same as issue of the body. The terms "child" or "children", as used in [this subsection](#), shall also include any child or children conceived but not born at the time of the employee's injury, and any compensation payable on account of any such child or children shall be paid from the date of their birth. A stepchild or stepchildren shall be regarded the same as issue of the body only when the stepparent has actually provided the principal support for such child or children.

[S13, §2477-m16; C24, 27, 31, 35, 39, §1402; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §85.42]

[2020 Acts, ch 1062, §21](#); [2020 Acts, ch 1063, §43](#); [2023 Acts, ch 66, §15](#)

Referred to in [§85.43](#)

Subsection 2 amended