

CHAPTER 291
VOLUNTEER EMERGENCY SERVICES PROVIDER DEATH BENEFITS

[Prior to 1/5/05, see 661—Ch 59]

661—291.1(100B) Volunteer emergency services provider death benefit program. There is established within the fire marshal division a volunteer emergency services provider death benefit program with responsibility for administering the payment of death benefits to beneficiaries of volunteer emergency services providers who die in the line of duty, as provided in Iowa Code section 100B.11.

Information about the program may be obtained by mail from the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309, by telephone at (515)281-5821, or by electronic mail at fminfo@dps.state.ia.us.

661—291.2(100B) Eligibility. The beneficiary of a volunteer emergency services provider who is killed in the line of duty is eligible for a lump-sum payment of \$100,000 from the volunteer emergency services provider death benefit program, provided that application is made to the program in accordance with requirements established in this chapter and all eligibility criteria are satisfied.

291.2(1) Application. Application forms for the volunteer emergency services provider death benefit program may be obtained on request from the fire marshal division. The fire marshal may accept a legible copy of a completed application for the federal Public Safety Officers' Benefits Program as an application for payment of benefits from the volunteer emergency services provider death benefit program. Completed application forms shall be mailed or delivered to the Volunteer Emergency Services Provider Death Benefit Program, Fire Marshal Division, Department of Public Safety, 401 S.W. 7th Street, Suite N, Des Moines, Iowa 50309. A completed application form shall be accompanied by a letter from the chief or other responsible supervisory official of the department in which the volunteer emergency services provider was serving at the time of the line-of-duty death, certifying that the death of the volunteer was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. Any evidence or proof available to the chief or responsible supervisory official to support the claim shall accompany the letter.

291.2(2) Definitions. The following definitions apply to the volunteer emergency services provider death benefit program.

“Beneficiary” means the surviving spouse of the volunteer emergency services provider who died in the line of duty. If there is no surviving spouse, and there is a surviving child or surviving children of the volunteer emergency services provider, then “beneficiary” means the surviving child of the member. If there is more than one surviving child, the children are cobeneficiaries who shall share equally in the lump-sum payment of the death benefit. If there is no surviving spouse or child of the volunteer emergency services provider, “beneficiary” means the surviving father or mother of the volunteer emergency services provider if either or both survives at the time of the line-of-duty death of the volunteer emergency services provider. If both the mother and father of the volunteer emergency services provider survive at the time of the line-of-duty death of the volunteer emergency services provider, then the father and mother are cobeneficiaries who shall share equally in the lump-sum payment. If there is no surviving spouse, child, or parent at the time of the line-of-duty death of the volunteer emergency services provider, then “beneficiary” means the estate of the deceased volunteer emergency services provider.

“Line-of-duty death” means the death of a volunteer emergency services provider which was the direct and proximate result of a traumatic personal injury incurred in the line of duty as a volunteer. The death is not a line-of-duty death if any of the following apply:

1. The death resulted from stress, strain, occupational illness, or a chronic, progressive, or congenital illness including, but not limited to, a disease of the heart, lungs, or respiratory system, unless a traumatic personal injury was a substantial contributing factor to the volunteer emergency services provider's death.

However, if the death was the direct and proximate result of a heart attack or stroke, the volunteer emergency services provider shall be presumed to have died as a result of a traumatic personal injury if the provider engaged in a nonroutine stressful or strenuous physical activity within the scope of the provider's duties and the death resulted while engaging in that activity, while still on duty after engaging in that activity, or not later than 24 hours after engaging in that activity, and the presumption is not overcome by competent medical evidence to the contrary. For purposes of this paragraph, "nonroutine stressful or strenuous physical activity" includes, but is not limited to, nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, emergency response, and training exercise activities. "Nonroutine stressful or strenuous physical activity" does not include activities of a clerical, administrative, or nonmanual nature.

2. The death was caused by the intentional misconduct of the volunteer emergency services provider or by such provider's intent to cause the provider's own death.

3. The volunteer emergency services provider was voluntarily intoxicated at the time of death.

4. The volunteer emergency services provider was performing the provider's duties in a grossly negligent manner at the time of death.

5. A beneficiary who would otherwise be entitled to a benefit under this chapter was, through the beneficiary's actions, a substantial contributing factor to the volunteer emergency services provider's death.

661—291.3(100B) Determination. After receiving an application for benefits from the volunteer emergency services provider death benefit program, the fire marshal shall make a determination as to whether or not the application meets the requirements for payment of benefits. The fire marshal may require the beneficiary or the chief or responsible supervisory official who has certified that the death is a line-of-duty death to submit any additional information that the fire marshal deems material to making the determination. If the determination is that the requirements for payment of benefits have been met, the fire marshal shall so notify the beneficiary or cobeneficiaries and shall request that the department of revenue issue a warrant payable to the beneficiary in the amount of the lump-sum payment provided or, if there are cobeneficiaries, that the department of revenue issue warrants in equal shares of the lump-sum amount payable to each of the cobeneficiaries.

291.3(1) Denial and notification. If the fire marshal determines that the eligibility criteria have not been met, the fire marshal shall notify in writing the beneficiary or cobeneficiaries and the chief or responsible supervisory official who certified that the death occurred in the line of duty of the determination and of the reason or reasons for the denial.

291.3(2) Appeals. If an application for payment from the volunteer emergency services provider program is denied, the beneficiary or any cobeneficiary may appeal that decision to the commissioner of public safety by filing an appeal in writing to the commissioner of public safety within 30 days of the date of the denial of the application by the fire marshal. Appeals shall be processed in accordance with contested case procedures specified in 661—Chapter 10.

These rules are intended to implement Iowa Code section 100B.11 as amended by 2004 Iowa Acts, chapter 1063.

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