

COVID-19 Death Benefit

The novel coronavirus ("COVID-19") has shaken our entire world, and has taken a terrible toll on our city and our colleagues. On March 30, 2020, in recognition of the public servants we have lost to the pandemic, the New York State legislature and Governor passed Chapter 89 of the Laws of 2020 ("Chapter 89"), which creates an accidental death benefit in cases where COVID-19 caused or contributed to the death of a member or a recent retiree.

On March 15, 2021, this death benefit was renewed and extended by Chapter 78 of the Laws of 2021 ("Chapter 78"). The COVID-19 death benefit now covers active members who die on or before December 31, 2022.

Although the subject is a painful one, we encourage you to read this notice in its entirety, so that you can be aware of the circumstances under which your eligible beneficiary would be eligible for a COVID-19 death benefit, and the type and extent of coverage that your eligible beneficiary would receive.

When is this Benefit Payable?

For a member who dies in active service, the requirements for the COVID-19 death benefit are as follows:

1. The member must have reported to their usual work location or to an alternate work location (but not including working from home), on the orders of their employer, on or after 03/01/2020;
2. The member must have contracted COVID-19 within 45 days of reporting to work, as evidenced by either a positive laboratory test or as diagnosed by a licensed, certified, registered or authorized physician, nurse practitioner, or physician's assistant currently in good standing in any state or in the District of Columbia, or a physician, nurse practitioner, or physician's assistant authorized to practice in New York by executive order during the declared COVID-19 state of emergency;
3. The member must have died on or before 12/31/2022; and
4. COVID-19 must have caused or contributed to the member's death, as evidenced by either a death certificate showing the cause of death or as certified by a licensed, certified, registered or authorized physician, nurse practitioner, or physician's assistant currently in good standing in any state or in the District of Columbia, or a physician, nurse practitioner, or physician's assistant authorized to practice in New York by executive order during the declared COVID-19 state of emergency.

For a recently retired member, all the above requirements apply, and in addition:

1. The date of retirement must fall on or after 03/01/2020 and no later than 06/30/2020; and
2. The eligible beneficiary must apply within 90 days after the member's retirement to request the conversion of the service or disability retirement into a COVID-19 death benefit.

Documentation and forms will be needed to support the cause of death, the diagnosis of COVID-19, and the last date the deceased member reported to work. If at all possible, a death certificate showing the cause of death should be provided, as that is the simplest way to prove that COVID-19 caused or contributed to the member's death. BERS will provide any necessary forms to claimants.

How Is this Benefit Calculated and Paid?

The COVID-19 death benefit is paid in the form of an annuity, payable each month to the deceased member's eligible beneficiary. The benefit is calculated as 50% of the wages earned during the member's last year of service.

For retirees, the benefit will be calculated as though the member had died on the date of retirement.

The COVID-19 death benefit takes the place of any other QPP death benefit payable by BERS. If an eligible beneficiary is receiving the COVID-19 death benefit, no other QPP death benefits will be paid out, including post-retirement death benefits. However, if the member selected an option at retirement, the COVID-19 death benefit will first be reduced by the amount of the option.

Who Is Eligible for this Benefit?

The COVID-19 death benefit is an annuity, payable each month to the deceased member's eligible beneficiary. In some cases, this may not be the same person as the designated beneficiary. Under the law, the eligible beneficiary is defined as either:

1. A surviving spouse who has not renounced survivorship rights in a separation agreement, until remarriage; or, if there is none,
2. Surviving children until age twenty-five; or, if there are none,
3. Dependent parents; or, if there are none,
4. Any other person who qualified as a dependent on the decedent's last tax return filed in the year immediately preceding the year of death, until age twenty-one; or, if there are none,
5. The member's designated beneficiary/ies.

The annuity continues as long as there remains at least one person living eligible to receive the benefit. So, for example, if the deceased member's surviving spouse is receiving the annuity, and the surviving spouse passes away, but there are still surviving children under the age of twenty-five, then BERS will switch to paying the annuity to the surviving children.

What is the Deadline to Apply for this Benefit?

If the deceased member died in active service, the eligible beneficiary may apply for a COVID-19 death benefit at any time. However, if the application for the COVID-19 death benefit is not complete, including all supporting documentation, within 6 months of the notification of death, BERS will proceed to pay the ordinary death benefit to the designated beneficiary/ies. If the eligible beneficiary completes an application for a COVID-19 death benefit at any time after the ordinary death benefit has already been paid, then the COVID-19 death benefit will be reduced by an amount equivalent to the ordinary death benefit that has been paid.

If the deceased member was retired at the time of death, the eligible beneficiary must apply within 90 days after the member's retirement to request the conversion of the service or disability retirement into a COVID-19 death benefit.

What if the Eligible Beneficiary Doesn't Want this Benefit?

In some cases, the eligible beneficiary may not wish to claim the COVID-19 death benefit. This may happen in cases where the eligible beneficiary is also the designated beneficiary and would prefer to receive the ordinary death benefit (for instance, because the ordinary death benefit is paid in a single large lump sum). It may also happen in cases where the eligible beneficiary does not want the annuity and wishes for the next eligible beneficiary in line to receive the COVID-19 death benefit instead (for instance, a widower may wish for his children to be directly paid the annuity instead). In such cases, the eligible beneficiary may disclaim the COVID-19 death benefit.

In all cases where staff have been informed that the COVID-19 death benefit is applicable, the eligible beneficiary will be afforded the opportunity to claim or disclaim the COVID-19 death benefit. If the eligible beneficiary then wishes to disclaim this benefit, BERS will provide an appropriate disclaimer form.

If you have more questions, please do not hesitate to reach out to us. You may reach us by telephone at (929) 305-3800 or (800) 843-5575 (outside New York State), or by email at brespon@bers.nyc.gov.