



# Did you know: death benefits are available to Oregon workers who are PTD

By Kelly J. Niemeyer • May 12 2015

Permanent total disability benefits (PTD) allow for the maximum benefits available to a worker under the workers' compensation system.<sup>1</sup> In addition to the benefits for life available to a worker deemed PTD, workers who die while still PTD (from any cause!), additional "death benefits"<sup>2</sup> are available to his or her beneficiaries (spouses and dependents), just as if the worker had died from the work-related injury himself. Subsidies for burial benefits<sup>3</sup> are also available to a worker who dies while PTD.<sup>4</sup>

Recently, the Oregon Department of Consumer and Business Services released fatality statistics. During first quarter 2015, nine workers died while on the job, while in all of 2014, 10 workers lost their lives on the job. NAICS categories of those who died in 2015 included logging (6), construction (2) and manufacturing (1).<sup>5</sup> Time will tell if this is an upward trend.

Within the Oregon Administrative Rules, "Death During Permanent Total Disability" provides the essential outline of those benefits available to the spouse or beneficiary of the deceased.

## **Death During Permanent Total Disability<sup>6</sup>**

- (1) If the injured worker dies during the period of permanent total disability, death benefits shall be paid to eligible beneficiaries pursuant to ORS 656.208 and ORS 656.204, and the Retroactive Program benefit schedules.
- (2) Permanent total disability benefits shall be paid to the date of death, at which time death benefits will commence. Where death benefits are not due, permanent total disability benefits shall be paid through the date of death.
- (3) Social Security benefit for injuries occurring between July 1, 1973 and April 1, 1974 will be applied as set forth in 436-075-0020(3).
- (4) Benefit amounts payable for a partial month shall be calculated as set forth in 436-075-0020(4).
- (5) Burial benefits shall be paid in accordance with ORS 656.208 (1) and 656.204(1) and the Retroactive Program benefit schedules; however if the injury date is prior to July 1, 1973, burial benefits are due only if death results from the accidental injury causing the permanent total disability.

***In addition to the benefits for life available to a worker deemed PTD, additional "death benefits" are available to his or her beneficiaries***

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## Death benefits for Oregon PTD workers (continued)

Our clients often ask us to research topics, especially those issues that arise infrequently. Please don't hesitate to call to ask even the question you think you should already know—we're happy to offer you our knowledge (without judgement!) Please feel free to contact this author or any of the Oregon practice attorneys at Reinisch Wilson Weier PC. ■

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<sup>1</sup> PTD benefits are discussed in ORS 656.206

<sup>2</sup> Death benefits are outlined in ORS 656.204

<sup>3</sup> OAR 436-075-0040

<sup>4</sup> For PTD workers with a date of injury preceding July 1, 1973 burial benefits are due only if death results from the accidental injury causing the permanent total disability.

<sup>5</sup> Oregon Division of Consumer and Business Services, *The Quarterly Fatality Report for the first quarter of 2015*. (See [http://www.cbs.state.or.us/external/imd/rasums/ra\\_pdf/wc/fatal/1st\\_qrt\\_rpt\\_15.pdf](http://www.cbs.state.or.us/external/imd/rasums/ra_pdf/wc/fatal/1st_qrt_rpt_15.pdf))

<sup>6</sup> OAR 436-075-0040

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