

## **Diesel Exhaust Exposure & New York Death Benefits Cancer Claims**

- Did your loved one die from cancer caused by diesel exhaust exposure in New York?
- Did their occupational death occur more than two years ago?
- Wondering whether you're eligible for workers' compensation survivor benefits?

You may be entitled to receive death benefits in New York, even if your loved one died many years ago due to cancer caused by occupational exposure to diesel exhaust fumes. This is due to new workers' compensation legislation recently signed into law in New York.

However, you need to act fast so you don't miss the deadline to apply for such benefits. That's why it's critical that you consult with an experienced New York [workers' compensation](#) attorney as soon as possible to learn more about your legal rights.

In October 2021, New York Gov. Kathy Hochul recently signed legislation into law granting families a one-time, one-year extension to apply for death benefits in the state in cases involving cancer caused by work-related diesel exhaust fumes. Introduced by New York State Sen. James Sanders Jr. and New York State Assembly Member Rodneyse Bichotte Hermelyn, the law can be found in [New York Workers' Compensation Law, Chapter 67, Article 2, Section 16A \(Death Benefits Due To Diesel Exposure\)](#)

### **Types of cancer linked to diesel exhaust exposure**

Prolonged work-related, occupational exposure to diesel fumes has been linked to several different forms of cancer, according to the [American Cancer Society \(ACS\)](#). **Lung cancer** is the most common form of cancer linked to diesel fume exposure. Scientific studies have also found "possible links between diesel exhaust and other cancers," according to the ACS, including:

- Bladder cancer, Esophageal cancer, Larynx (voice box) cancer, Pancreatic cancer, Lymphoma (lymphatic cancer of the lymph nodes), Leukemia (blood cancer), Stomach cancer.

In addition, certain professions "have been found to have higher lung cancer death rates than unexposed workers," according to the ACS. These professions include:

- Auto mechanics, Commercial truck drivers, Heavy equipment operators, Miners, Transportation and railroad workers

These are just some of the high-risk professions linked to cancer caused by prolonged diesel fume exposure. Whatever the nature of your loved one's work, your family may be eligible to receive workers' compensation death benefits in New York. That's why it's important to consult with an attorney right away to get a clear understanding of your legal options.

### **Deadline for diesel exhaust death benefit claims in New York**

Normally, surviving family members have two years from the date of the death of a loved one to apply for workers' compensation death benefits in New York.

As a result, many families who lost a loved one more than two years ago due to exposure to diesel fumes at work could not apply for death benefits under New York Workers' Compensation law.

But thanks to the new law, families now have an additional 12 months (from the effective date of the bill) to apply for death benefits, even if the death occurred more than two years ago.

## **Who's eligible to receive death benefits in New York?**

The following surviving family members may be eligible to receive workers' compensation death benefits in New York, in certain circumstances. Such family members include:

- Surviving spouse
- Surviving children
- Surviving grandchildren (in certain circumstances)
- Surviving parents (in certain circumstances)
- Surviving grandparents (in certain circumstances)
- Surviving sibling (in certain circumstances)
- The deceased's estate

Strict rules and regulations apply to those who can seek death benefits in New York. Such laws can be confusing. This is why you should talk with an experienced New York workers' compensation lawyer right away who understands how the legal system works and what options you have available to you.

## **What death benefits are available to families?**

Eligible surviving family members can receive several different forms of financial compensation if they qualify for workers' compensation death benefits in New York. Such compensation includes money for:

- Funeral expenses up to \$12,500 in certain circumstances. (Amount varies depending on which county the family lives in New York.)
- Replacement income for the surviving family member. Normally, the surviving spouse receives two-thirds of the deceased person's salary up to a maximum statutory rate of compensation. The maximum amount can be found on Board Form C-500, Disability Benefits, Rates and Awards.
- Additional financial compensation if the surviving spouse has children.
- A lump-sum payment of \$50,000 to the survivor's estate or parents if there is no surviving spouse, children, or dependents.

These are just some of the workers' compensation death benefits available to families in New York. Other benefits are available in certain circumstances.

## **How much are death benefit claims worth?**

Determining how much your death benefit claim is worth can be extremely complicated. Somewhat similar claims can be worth very different amounts depending on a wide range of factors, including:

- The age of the person when they died.
- When their death occurred.
- Their occupation.
- Cause of death.

As a result, the value of a workers' compensation death benefit claim in New York could be worth thousands of dollars or significantly more over the course of a surviving family member's lifetime.

Retroactive death benefits dating back to when the person died may be available in certain circumstances and could significantly increase how much money surviving family members receive, especially in cases involving cancerous death that can be linked to occupational exposure to diesel fumes.

### **Can families file a wrongful death lawsuit?**

In general, surviving family members who receive workers' compensation death benefits in New York cannot file a wrongful death lawsuit against their employer seeking additional financial compensation.

However, there are certain circumstances in which you may be able to file a lawsuit against the at-fault party in New York. This is especially true if the person or company responsible for your loved one's occupational death worked for another company or another company caused their work-related death. In such circumstances, certain immediate family members may be able to file a third-party claim or wrongful death lawsuit against the at-fault party.

However, immediate family members often cannot directly file a wrongful death lawsuit under New York State law. Instead, the executor (also known as a personal representative) of the deceased person's estate must file the wrongful death lawsuit under New York law.

New York has strict rules and regulations governing wrongful death lawsuits and third-party claims.

Again, only certain family members in specific situations can take such legal action. This is why it's critical that you consult with an experienced attorney familiar with New York's complex laws and legal system.

### **Why should I hire a New York workers' comp attorney?**

Obtaining workers' compensation death benefits in cases involving cancer-related deaths due to occupational exposure to diesel exhaust fumes can be extremely complicated, especially in light of the adoption of this new law.

There's also a strict deadline for filing for benefits.

That's why you should have a legal team on your side who can hit the ground running and get right to work on your case. Otherwise, you might miss out on your opportunity to recover the compensation you deserve.

The experienced New York workers' compensation lawyers at [Pasternack Tilker Ziegler Walsh Stanton & Romano, LLP](#) can help you every step of the way. We have an in-depth understanding of how the state's workers' compensation system works based on decades of successfully handling such legal cases in New York. Our law firm has a long history of obtaining benefits and other financial compensation for surviving family members in the event of a work-related occupational death.

Don't take chances with your family's future. Make sure you have a lawyer who knows the law and understands how to handle your claim. [Contact us](#) today for a free consultation. We have 12 offices conveniently located throughout New York, including five offices in New York City.