

Benefits form issued by the requester's health insurance company.

Third-party payors of benefits for lost employment income include, but are not limited to, the requester's employer, disability insurance, and workers' compensation programs. In order to satisfy his or her obligations under § 102.61, a requester may need to submit documentation including his or her earnings and leave statements, information concerning the number of hours in the requester's standard work day, as well as documentation concerning any lost work benefits programs or payments.

Requesters seeking death benefits will have to submit different documentation concerning third-party payors depending on whether they are seeking death benefits under the standard calculation described in § 102.82(c) or are choosing a death benefit under the alternative calculation described in § 102.82(d). For example, survivors seeking a death benefit under the standard calculation must submit documentation concerning PSOB Program death and disability benefits. The legal guardian of survivors seeking a death benefit under the alternative calculation must submit documentation concerning a broader group of existing or potential third-party payors (described fully in the death benefits calculation section of this preamble and set forth in § 102.83(d)(3)(A)). Requesters seeking death benefits must submit other documentation described in § 102.62.

Before payments will be made, the representatives of requesters who are minors or legally incompetent adults must submit additional documentation described in § 102.63. Because some of this documentation may be time-consuming to obtain (e.g., obtaining a court decree establishing a guardianship of the estate for a legally incompetent adult), the requester can wait until a benefits calculation has been made, and a written approval has been issued, before submitting such documentation.

Determinations the Secretary Will Make (§ 102.70–§ 102.74)

When the Secretary receives a completed and signed Request Form or Request Package postmarked in the appropriate time frame, he will conduct two separate reviews, as described in § 102.70. First, he will determine whether the requester is eligible. Second, the Secretary will determine the type and amount of benefits that may be paid (if any).

If the Request Package does not include sufficient documentation to determine eligibility, the Secretary will

send written notice to the requester (or his or her representative) identifying the documentation that is needed, as provided for in § 102.71. The requester will be given 60 days to submit the required documentation. If, after reasonable efforts to obtain the documents, the documentation remains unavailable, the requester must submit a letter explaining the circumstances to the Secretary. The Secretary also has the discretion to accept a letter meeting the requirements set out in § 102.71 as a substitute for the unavailable documentation. Once the Secretary has sufficient documentation to make an eligibility determination, he will make that decision in a timely manner.

If the Secretary determines that a requester is not eligible for benefits under the program, he will inform the requester (or his or her representative) of the disapproval in writing. As described in § 102.72(a), the Secretary will provide information as to the options available to the requester, including the requester's right to seek reconsideration of the eligibility decision.

If the Secretary determines that a requester meets the eligibility requirements, he will notify the requester in writing of this decision, at which point the Secretary will review the Request Package in order to calculate the type and amount of the benefits. If the Request Package does not have sufficient documentation for the Secretary to calculate the amount of the benefits, the Secretary will notify the requester in writing of the documentation he requires to complete the calculation. As with the eligibility documentation, the requester will be given 60 days to submit the required documentation or provide a letter setting forth the circumstances that make the records unavailable. Again, the Secretary may accept a letter meeting the requirements set forth in § 102.71 as a substitute for the unavailable documentation. Once the Secretary has sufficient documentation to calculate a requester's benefits, the Secretary will complete this calculation in a timely manner.

As set out in § 102.73, once the Secretary has calculated the amount of the benefits and determined that payment is to be made, he will inform the requester of the approval in writing and then initiate payment. Under § 102.74, if the Secretary disapproves a request, which the Secretary may do at any time, he will so notify the requester (or his or her representative) in writing and provide information as to the options available to the requester, including the requester's right to seek

reconsideration of the Secretary's decision.

Payment of All Benefits Under the Program (§ 102.83)

The Secretary's options in paying all benefits under the program are described in § 102.83. If the Secretary determines that there is a reasonable likelihood that payments of medical benefits, benefits for lost employment income, or death benefits paid under the alternative calculation (described in § 102.82(d)) will be required for a period in excess of a year from the date the Secretary determines that the requester is eligible for such benefits, the Secretary may pay such benefits through a lump-sum payment, annuity or medical insurance policy, or appropriate structured settlement agreement, as long as the payment, annuity, policy, or agreement is actuarially determined to have a value equal to the present value of the projected total amount of such benefits that the requester is eligible to receive.

As described in § 102.83(b), lump sum payments will generally be made through electronic funds transfers to requesters' accounts. If a requester is a minor, the payment will be transferred to the account of the minor's legal guardian (generally, the minor's parent). The legal guardians of minor requesters under this program will be required to use the payments for the benefit of the minor. Such legal guardians are subject to applicable State law requirements concerning payments made on behalf of minors (e.g., become the guardian of the minor's estate or establish an account with State court supervision, if required by State law). In administering this program, consistent with the practice of the PSOB Program in paying death benefits on behalf of minors, the Secretary will not require proof that the legal guardian has taken such actions. Section 102.83(b) describes the requirements pertaining to lump sum payments made on behalf of adults considered legally incompetent.

As provided in § 102.83(c), the Secretary may choose to make interim payments of benefits under the program (in other words, issue a payment for a certain type or portion of program benefit prior to making the final benefits payment) in order to get certain benefits to a requester more quickly than would otherwise be possible. For example, the Secretary may pay medical benefits for past services or items to an eligible requester whose covered injury has resulted in substantial medical bills before making the final determination concerning the payment of future medical benefits. In certain cases, the