



The City of New York

Financial Information Services Agency

Office of Payroll Administration

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Beneficiary Services FAQs

NOTE: *The purpose of this guide is to help you settle the affairs of the deceased employee and to inform you of the benefits to which you are entitled. The following is not legal advice, but merely a guide in the process of completing your deceased beneficiary packet. The below provisions are guided by New York Surrogate's Court Procedure Act (SCPA) §1310, which governs "Payment of certain debts without administration." If you have any questions regarding the forms or your right to obtain benefits, please consult an attorney.*

1. What kind of benefits may I be entitled to as the next of kin of a deceased City employee?

Answer: If the deceased employee was due pay for work performed or had accrued and unused annual or sick leave or compensatory time at the time of death, you may be entitled to salary and/or time and leave.

2. What documents will I need to submit to the Office of Payroll Administration (OPA) to receive benefits to which I am entitled?

Answer: Depending on your relationship to the decedent you may need to provide some or all of the following:

- Original or certified copy of the Death Certificate
- Original or certified copy of the Marriage License (Domestic Partners- see question 18)
- Birth Certificate of Decedent's child(ren)
- Birth Certificate of Decedent's sibling(s)
- Affidavit pursuant to section 1310 of the New York Surrogate's Court Procedure Act ("SCPA")
- IRS W-9 form
- IRS W8-BEN form
- Guardianship papers in the event the beneficiary is a minor (Note: Guardianship papers only permit time and leave payments to be made to a minor. Salary payments will be held until the minor reaches the age of 18).

3. Where do I obtain a copy of the Death Certificate?

Answer: From the District Office of the Department of Health in the state or country where the death occurred.

4. What if the deceased left a will?

Answer: Surrogate's Court may issue Letters Testamentary to the person authorized to administer the estate of the decedent, which should be submitted to OPA for collection of benefits.

5. What if I choose not to have the will probated?

Answer: Consult with an attorney to assist you in making this decision.

6. What if the deceased left no will?

Answer: If there is no will, an Administrator may be appointed by the Surrogate's Court. In that case, Letters of Administration would be issued to the Administrator (who may or may not be the Decedent's next of kin), which should be submitted to OPA for collection of benefits. If there is no Executor or Administrator, then SCPA § 1310 may apply for family members or creditors. OPA will send out an affidavit to the appropriate qualifying person based on the provisions of § 1310 and on the information given to OPA. The affidavit will be used to collect payment in accordance with the provisions of § 1310. (See #s 11-14 below).

7. What if there is an Administrator or Executor of the Estate?

Answer: If a fiduciary (i.e. an Administrator or Executor) has qualified or been appointed to administer the Decedent's estate, then SCPA § 1310 does not apply, and cannot be used to collect payment. Letters of Administration (LOA) or Letters Testamentary (LOT) would be issued by the Surrogate's Court, which must be submitted to OPA for payment. If an LOA or LOT will be submitted to OPA, please make sure the document is an original with a raised seal, has been issued within six (6) months, and that there are no restrictions precluding OPA from making full payment (i.e. the LOA/LOT limits payment to a certain dollar amount, which is less than what is owed to the Decedent). If the LOA/LOT is expired, obtain an updated LOA/LOT from the Surrogate's Court that issued the document, and submit the updated LOA/LOT to OPA for payment. If the payment due from OPA exceeds any monetary limitations in the LOA/LOT, then, without further court order, OPA will only be able to pay up to the limit specified in the LOA/LOT.

8. Where do I need to apply for Letters of Administration?

Answer: Letters of Administration must be obtained from the Surrogate's Court in the county of the Decedent's residence. For your convenience, below is a listing of the addresses and phone numbers of the Surrogate's Court in all five boroughs of NYC and several surrounding counties. If you live in NYC or the surrounding counties listed below, it is necessary that you personally appear in Court to file your Letters of Administration request. If you live outside of NYC, you have the option to call the Court or electronically file your Letters of Administration request.

Surrogate's Courts

Surrogate, New York County

31 Chambers Street
New York, NY 10007
(646) 386-5000

Surrogate, Richmond County

18 Richmond Terrace
Staten Island, NY 10301
(718) 675-850

Surrogate, Putnam County

44 Gleneida Avenue
Carmel, NY 10512
(845) 208-7800

Surrogate, Bronx County

851 Grand Concourse
Bronx, NY 10451
(718) 618-2300

Surrogate, Suffolk County

320 Center Drive
Riverhead, NY 11901
(631) 852-1745

Surrogate, Rockland County

1 South Main Street
New City, NY 10956
(845) 483-8300

Surrogate, Queens County

88-11 Sutphin Blvd.
Jamaica, NY 11435
(718) 298-0500

Surrogate, Westchester County

111 Martin Luther King Blvd., 19th Fl.
White Plains, NY 10601
(914) 824-5656

Surrogate, Orange County

30 Park Place
Goshen, NY 10924
(845) 476-3500

Surrogate, Kings County

2 Johnson Street
Brooklyn, NY 11201
(347) 404-9700

Surrogate, Nassau County

262 Old Country Road
Mineola, NY 11501
(516) 493-3800

9. For what purpose is the SCPA §1310 Affidavit Used?

Answer: The affidavit is used to collect payment of a Decedent's accrued and unpaid earnings when no Executor

or Administrator of the decedent's estate has been appointed, or for a Decedent's earned time and leave payment where the Decedent did not elect a designated beneficiary, or if the designated beneficiary predeceased the Decedent.

10. Who may collect payment under the §1310 Affidavit?

Answer: The persons entitled to payment under § 1310 are determined under the law by their qualifying relationship to the Decedent. Individuals who may be entitled to make a claim under § 1310 include the surviving spouse, one or more of the children eighteen years of age or older, the father or mother, the brother or sister, the niece or nephew of the Decedent, preference being given in the order named if request for payment shall have been made by more than one such person, and a creditor of the Decedent or a person who has paid or incurred the funeral expense of the Decedent, upon the request of the surviving spouse or of one of such relatives. Different rules apply depending upon how much time has elapsed between the date of death and the time a claim is made under SCPA § 1310.

11. What if the person(s) higher than me in the order of preference does not exist?

Answer: The person collecting payment must submit proof to OPA that the person(s) above them in the order of preference is (or are) deceased or no longer qualify. For example, if a child 18 years or older is completing the affidavit, then the child must submit proof that the Decedent's spouse is no longer alive (i.e. submit the Decedent's spouse's death certificate) or that the Decedent was divorced (submit divorce decree). Other exceptions may apply.

12. I have other siblings, can we all collect payment?

Answer: In the event that more than one person qualifies for payment, for example if Decedent has multiple children over 18 years old, then each child is entitled to equal shares of the benefit. Upon request, OPA will send out claim forms to each recipient, and make equal payments to each qualified person.

13. I have other siblings, but one of them does not want to accept payment, what happens to their share?

Answer: In the event that more than one person qualifies for payment, for example multiple children, and one (or more) of the qualified persons does not want payment, then such person(s) must complete and sign the Release in Part D of the §1310 Affidavit and consent to the payment of their share to the remaining qualified persons. In this event, the releaser's share will be paid out equally to the remaining qualified persons.

14. I am a Creditor or Person who has incurred or paid the Decedent's funeral expenses, do I need to submit anything with the Affidavit?

Answer: If a Creditor or Person who has incurred or paid Decedent's funeral expenses is completing the Affidavit then they must also submit proof that the Decedent owes a debt to the Creditor or proof of Decedent's paid funeral expenses.

15. How soon may I collect payments under SCPA §1310?

Answer: Under the law, only the surviving spouse may immediately collect payment under § 1310. Otherwise, if you are a Child 18 years or older, Father or Mother, Brother or Sister, Niece or Nephew of the Decedent, then you can collect payment after at least 30 days have passed since Decedent's death. If you are a creditor or person who has paid or incurred the Decedent's funeral expenses, then you can collect payment after at least 6 (six) months have passed since Decedent's death. Note that there are dollar limits as well.

16. Why do I need to complete the W-9 Form, Request for Taxpayer Identification Number and Certification?

Answer: The City of New York is an employer required to file an information return with the Internal Revenue Service and must obtain your correct taxpayer identification number (TIN) to report to the IRS. We will not process a payment without this form. Under certain circumstances, the City will withhold employment taxes from the payment. If you have questions regarding taxes, please consult a professional tax advisor.

17. How long will it take to receive the payments due to me?

Answer: A number of factors affect the length of time for a payment to be issued. Before any payments can be made, OPA is required to obtain a properly completed and notarized Affidavit and other required documents.

18. Is a Domestic Partner treated as a spouse under SCPA § 1310?

Answer: No, domestic partners have no rights to salary payments under the SCPA. If the domestic partner is an appointed administrator or executor of the Decedent's estate, or a designated beneficiary, then OPA will make payment to the domestic partner accordingly. In this event the § 1310 Affidavit does not apply. (See number 10 above.)

19. Why is the Designation of Beneficiary Form used?

Answer: The Designation of Beneficiary Form is a City of New York form, which a City employee may complete and submit to his/her agency to designate who should receive his/her accumulated leave benefits in case of death.

20. What if the Decedent did not designate a beneficiary for time and leave benefits or the designated beneficiary died before the Decedent died?

Answer: Then the benefits are payable to the estate. If an Administrator or Executor has been appointed to settle the Decedent's estate, then see #7 above and submit the LOA/LOT for payment. If there is no Administrator or Executor of the estate, and none will be appointed, then the benefits will be distributed according to § 1310, where a qualifying family member or creditor is entitled to receive payment. OPA will send out an affidavit to the appropriate qualifying person based on the provisions of § 1310 and on the information given to OPA. The affidavit will be used to collect payment in accordance with the provisions of § 1310 (See #s 11-14).

21. What if the Designation of Beneficiary Form names a minor?

Answer: If leave payments are designated to a minor, the legal parent or guardian must provide court guardianship papers before funds can be released.

22. I am a beneficiary, but I do not live in the United States. Am I still eligible to collect payments due to me under SCPA §1310 or a Designation of Beneficiary Form?

Answer: Yes. However, as part of your deceased beneficiary packet, you will also be required to submit a W-8BEN to OPA for tax purposes. (Note: W-8 BEN is only required when there is no social security number (SSN)). If you have a United States SSN, complete the W-9, even if your address is foreign.)