

34A-2-403 Dependents -- Presumption.

- (1)
- (a) The following persons are presumed to be wholly dependent for support upon a deceased employee:
 - (i) a child under 18 years of age, subject to the conditions of Subsections (1)(b) and (2)(b);
 - (ii) a child who is 18 years of age or older:
 - (A) if the child is:
 - (I) physically or mentally incapacitated; and
 - (II) dependent upon the parent who is the deceased employee; and
 - (B) subject to the conditions of Subsections (1)(b) and (2)(b); and
 - (iii) for purposes of a payment to be made under Subsection 34A-2-702(5)(b)(i), a surviving spouse with whom the deceased employee lived at the time of the employee's death.
 - (b) Subsections (1)(a)(i) and (ii) require that:
 - (i) the deceased employee be the parent of the child; or
 - (ii)
 - (A) the deceased employee be legally bound to support the child; and
 - (B) the child be living with the deceased employee at the time of the death of the employee.
- (2)
- (a) In a case not provided for in Subsection (1), the question of dependency, in whole or in part, shall be determined in accordance with the facts in each particular case existing at the time of the injury or death of an employee:
 - (i) except for purposes of a dependency review under Subsection 34A-2-702(5)(b)(iv); and
 - (ii) subject to the other provisions of this section.
 - (b) A person may not be considered a dependent unless that person is:
 - (i) a member of the family of the deceased employee;
 - (ii) the spouse of the deceased employee;
 - (iii) a lineal descendant or ancestor of the deceased employee; or
 - (iv) a brother or sister of the deceased employee.

Amended by Chapter 27, 2008 General Session
Amended by Chapter 90, 2008 General Session