

Wage Payment & Collection (WPCA) Wages of Deceased Employees

West Virginia Division of Labor

Wage & Hour Section

WPCA Fact Sheet 9 – §21-5-8

(July 2016)

PROCEDURES FOR PAYING A DECEASED EMPLOYEE'S FINAL WAGES

In the event of the death of an employee, up to eight hundred dollars of final wages may be paid directly to the decedent's next-of-kin outside of probate proceedings. The amount of wages paid to the decedent's next-of-kin shall release and discharge the employer as to that amount of wages owed to the decedent.

The order of preference in regard to the decedent's next-of-kin is as follows:

- 1.) Surviving Spouse.
- 2.) Children eighteen years of age and over in equal shares.
- 3.) Father and mother, or survivor.
- 4.) Sisters and brothers.
- 5.) The person who pays the funeral expenses.

Wages Owed in Excess of \$800.00

The West Virginia Wage Payment and Collect Act only addresses the direct payment of final wages to a decedent's next-of-kin up to the amount of \$800.00. Any wages owed in excess of that amount are to be paid to the decedent's estate.

Any questions relating to an employer's responsibilities concerning the payment of a deceased employee's wages in excess of \$800.00 should be addressed to an attorney or the office of the county fiduciary.