



**COLORADO**  
Department of Public Safety

## **COLORADO DEPARTMENT OF PUBLIC SAFETY**

### **EXECUTIVE DIRECTOR'S OFFICE**

#### **8 CCR 1507-75**

### **FIRST RESPONDER DEATH BENEFIT**

#### **STATEMENT OF BASIS, STATUTORY AUTHORITY, AND PURPOSE**

Pursuant to Section 24-33.5-122 (6), C.R.S., the Executive Director of the Colorado Department of Public Safety shall adopt rules as necessary to implement and administer the payment awarded to eligible recipients from the First Responder Death Benefit Fund created in Section 24-33.5-122 (4)(e)(I), C.R.S.

The Colorado General Assembly enacted SB 25-310, implementing the voter approved Proposition 130 requiring the state to provide a \$1 million death benefit to the family of a first responder who dies as either the direct and proximate result of a personal injury sustained while performing official duties as a first responder or because of an occupational disease arising out of and in the course of the first responder's employment or service as a first responder on or after November 5, 2024. This act establishes the authority of the Executive Director of the Colorado Department of Public Safety to establish procedures to establish death benefit eligibility, to administer benefit payments from the First Responder Death Benefit Fund created in the act, and to establish rules that specify standards and establish procedures as necessary to determine whether Section 101(h) of the "Federal Internal Revenue Code of 1986," as amended, applies to a payment awarded pursuant to Section 24-33.5-122(4), C.R.S.

These rules are established as a matter of statewide concern and in accordance with voter approval. For the immediate preservation of peace, health, or safety, delay in the promulgation of these rules would be contrary to statutory mandate. The absence of implementing permanent rules to carry out the purpose of these statutes would be contrary to this declaration. For these reasons, it is imperative that the proposed rules be adopted.

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Stan Hilkey, Executive Director  
Colorado Department of Public Safety

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Date of Adoption

# DEPARTMENT OF PUBLIC SAFETY

## Executive Director's Office

### 8 CCR 1507-75 First Responder Death Benefit Fund

*[Editor's Notes follow the text of the rules at the end of this document.]*

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## Applicability

### Article 1 - Authority

- 1.1 The Executive Director of the Colorado Department of Public Safety is authorized by the provisions of Section 24-33.5-122 (4), Colorado Revised Statutes, to establish rules regarding the administration of the First Responder Death Benefit Fund created in Section 24-33.5-122 (4)(e)(I), C.R.S.
- 1.2 These rules are intended to be consistent with the requirements of the State Administrative Procedure Act, Section 24-4-101 et seq., C.R.S. (the "APA").

### Article 2 - Definitions

- 2.1 The definitions provided in Section 24-33.5-122 (1), C.R.S. apply to these rules. The following additional definitions also apply:
  - "**C.R.S.**" means the Colorado Revised Statutes.
  - "**Department**" means the Colorado Department of Public Safety.
  - "**Emergency Medical Service Provider**" means an individual who holds an emergency medical service provider certificate or license issued by the Department of Public Health and Environment.
  - "**Executive Director**" means the Executive Director of the Colorado Department of Public Safety.
  - "**First Responder Line of Duty Death**" means the death of a first responder as the direct and proximate result of a personal injury sustained while performing their official first responder job duties or because of an occupational disease arising out of and in the course of their employment of service as a first responder.

### Article 3 - Application Process

- 3.1 Applicants must submit a written request in the application developed by the Department and

available on the Department's public website at <https://publicsafety.colorado.gov>.

- 3.1.1 Applicants who need assistance with the application process or require accessibility support should contact the Community Services Program Manager via phone, email, or postal service at: Colorado Department of Public Safety, Executive Director's Compliance Office, First Responder Death Benefit Program Administrator at 700 Kipling St., Suite 4000, Lakewood, CO 80215.

## **Article 4 - Review of Eligibility**

- 4.1 The Executive Director shall make the determination of eligibility for benefit payment from the death benefit fund.
  - 4.1.1 Death benefit payment eligibility criteria is met minimally if a first responder has died on or after November 5, 2024, as a direct and proximate result of a personal injury sustained while performing their official duties or because of an occupational disease arising out of and in the course of their employment or service as a first responder as defined in these rules and in Section 24-33.5-122(1)(c).
    - a. In accordance with the eligibility criteria listed above, if the first responder has died after separation from service as a first responder, while on an authorized leave of absence as a first responder, or while performing qualified military service, as defined in 26 U.S.C. sec. 414 (u)(5), a benefit shall be paid to a payee in connection with that first responder in accordance with Article 5.2 of these rules.

## **Article 5 - Benefit Payment**

- 5.1 The Department shall pay a benefit of one million dollars from the death benefit fund if the indicated payee is living on the date on which the Executive Director makes the determination described in Section 24-33.5-122(4)(a)(I), C.R.S.
- 5.2 The payment of survivor benefits from the fund shall be made in accordance with statute as follows:
  - A. If there is no child who survived the first responder, to the surviving spouse of the first responder.
  - B. If there is at least one child who survived the first responder and a surviving spouse, fifty (50) percent to the surviving spouse and fifty (50) percent to the surviving child or children in equal shares.
  - C. If there is no surviving spouse of the first responder, to the surviving child or children in equal shares.
  - D. If there is no surviving spouse of the first responder and no surviving child, to the surviving individual or individuals designated by the first responder in the most recently executed designation of beneficiary on file at the time of death with the governing body

or state agency, apportioned in accordance with the designation of beneficiary or, if apportionment is not indicated, in equal shares.

- E. If there is no surviving spouse of the first responder, no surviving child of the eligible first responder, and no individual qualifying as a recently executed designated beneficiary on file at the time of death with the governing body or state agency, to the surviving beneficiaries under the most recently executed life insurance policy of the first responder on file at the time of death with the governing body or state agency, apportioned in accordance with the insurance policy or, if apportionment is not indicated, in equal shares.
  - F. If there is no individual qualifying under subsections 5.2 A-E of these rules, to the surviving parent or parents, in equal shares, of the first responder.
  - G. If the Executive Director is unable to identify an individual described in subsections 5.2 A-F of these rules, then no payment is made for that first responder pursuant to Section 24-33.5-122(4)(a)(I), C.R.S.
- 5.3 A benefit payment shall not be used to offset or reduce payments available from any other source, including a public disability plan or insurance plan, private disability plan or insurance plan, or benefits provided under Colorado's workers' compensation law.
- 5.4 If a conflict arises between the beneficiary or beneficiaries appointed in the decedent's designation of beneficiary on file at the time of death and those described in Section 24-33.5-122(4)(a)(I), C.R.S., the provisions of the statute will control.

## **Article 6 - Determination of Tax Liability**

- 6.1 An eligible payee who meets the requirements to file a Colorado income tax may qualify for federal income tax exemption for a death benefit payment in accordance with the federal Internal Revenue Code of 1986 (26 U.S. Code § 101(h).
- 6.1.1. In general, a payment under this Rule qualifies for line-of-duty status under Section 101(h) of the Federal "Internal Revenue Code of 1986" when the payment is a survivor annuity on account of the death of a public safety officer (as such term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968, as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013) killed in the line of duty:
    - a. If such annuity is provided, under a governmental plan which meets the requirements of section 401(a), to the spouse (or a former spouse) of the public safety officer or to a child of such officer; and
    - b. To the extent such annuity is attributable to such officer's service as a public safety officer.
  - 6.1.2. In general, Article 6.1.1 of these rules shall not apply with respect to the death of any public safety officer if, as determined in accordance with the provisions of the Omnibus

Crime Control and Safe Streets Act of 1968:

- a. The death was caused by the intentional misconduct of the officer or by such officer's intention to bring about such officer's death;
- b. The officer was voluntarily intoxicated (as defined in section 1204 of such Act) at the time of death;
- c. The officer was performing such officer's duties in a grossly negligent manner at the time of death; or
- d. The payment is to an individual whose actions were a substantial contributing factor to the death of the officer.

6.1.3 The Executive Director shall issue an opinion as to whether a payment made pursuant to Section 24-33.5-122(4), C.R.S. and to these rules qualifies for line-of-duty status under Section 101(h) of the Federal "Internal Revenue Code of 1986" and whether any of the exceptions specified in Section 101(h)(2) of the Federal "Internal Revenue Code of 1986" are applicable.

- a. The Executive Director shall inform the taxpayer who receives the payment and the Department of Revenue of the Executive Director's decision.

6.2 If the Executive Director issues an opinion stating that a payment made under this subsection does not qualify for a federal tax exemption under Section 101(h), the Executive Director shall provide the Department of Revenue and the beneficiary of the payment any information deemed necessary by the Department of Revenue necessary under Section 39-22-104(4)(ee).

6.3 For income tax years commencing on or after January 1, 2026, for a taxpayer who receives a payment pursuant to Section 24-33.5-122(4) that does not qualify for the federal income tax exemption described in Section 101(h) of the Federal "Internal Revenue Code of 1986," including a payment that does not qualify as a result of the exceptions described in Section 101(h)(2) of the Federal "Internal Revenue Code of 1986," Section 39-22-104(ee). C.R.S. shall apply.

## **Article 7 - Appeal of Eligibility**

7.1 Appeals regarding death benefit payment eligibility, including eligible beneficiaries and share distribution, may be submitted to the Executive Director in writing within (30) calendar days of receipt of the eligibility determination notification in accordance with the appeals process found on the Department's public website at <https://publicsafety.colorado.gov>.

7.1.1 The notice of appeal must contain the factual basis explaining why the determination is incorrect and should include any relevant supporting documentation.

7.2 The Executive Director shall hold a hearing to review such appeals and take final action in accordance with Section 24-4-105, C.R.S. Final agency action shall be subject to judicial review pursuant to Section 24-4-106, C.R.S.

- 7.3 The Executive Director will issue a final written decision within forty-five (45) of the receipt of the appeal.

## **Article 8 - Severability**

- 8.1 If any provision of application of these rules is held invalid, all other provisions and applications of these rules will remain in effect.

## **Article 9 - Materials Incorporated by Reference**

- 9.1 The following material is hereby incorporated by reference into 8 CCR 1507-75 First Responder Death Benefit Administration, pursuant to Section 24-4-103(12.5), C.R.S., and do not include any later amendments.
- A. Federal Internal Revenue Code of 1986, 26 U.S Code Sections 101(h)(1) and 101(h)(2); this code section is incorporated by reference into these rules and available online at <https://www.govinfo.gov/content/pkg/USCODE-2023-title26/pdf/USCODE-2023-title26-subtitleA-chap1-subchapB-partIII-sec101.pdf>.
  - B. Omnibus Crime Control and Safe Streets Act of 1968 is Pub. L. 90–351, June 19, 1968, 82 Stat. 197. Section 1204 of the Act is classified to section 10284 of Title 34, Crime Control and Law Enforcement. Section 1204 of the Act, as in effect immediately before the enactment of the National Defense Authorization Act for Fiscal Year 2013, means section 1204 prior to its amendment by Pub. L. 112–239, div. A, title X, §1086(b)(1)(E), Jan. 2, 2013, 126 Stat. 1967; this public law is incorporated by reference into these rules and available online at <https://www.govinfo.gov/content/pkg/COMPS-1696/pdf/COMPS-1696.pdf>.
- 9.2 The Colorado Department of Public Safety will maintain copies of the material incorporated by reference into these rules, which are available for public inspection during regular business hours. Interested parties may inspect the referenced incorporated materials and/or obtain copies at no cost from the Colorado Department of Public Safety, Executive Director’s Compliance Office at 700 Kipling St., Suite 4000, Lakewood, CO 80215 or the Colorado State Publications Depository Libraries at <https://www.cde.state.co.us/stateinfo/sldepsit>.

## **Article 10 - Inquiries**

- 10.1 All questions or requests for accessibility support, application assistance, and/or interpretation of these rules should be submitted in writing to the Colorado Department of Public Safety, Executive Director’s Compliance Office, Community Services Program Manager at 700 Kipling St., Suite 4000, Lakewood, CO 80215.