

PART SIX

Death/Bereavement – Chapter 3 of Regulation 883/04

OUTLINE:

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- 3. ADMINISTRATIVE PROCEDURES**

1. Introduction

The payment of a Death Grant (Bereavement Grant in Ireland) is subject to the Regulation, Articles 42-43

2. Qualification and Calculation

A person's entitlement to a Death Grant within the context of Regulation 883/04 is relatively straightforward. In general, the competent institution is responsible for payment of Death Grant.

i. Aggregation of Periods of Insurance or Residence

The institution of a competent Member State in which the payment of a Death Grant is subject to the completion of periods of insurance or residence must take account, if required, of the completion of periods of insurance or residence in any other Member State.

ii. Right to Death Grant

For the purpose of awarding a Death Grant, the competent State will not differentiate between deaths that occur within its territory and those that occur within the territory of another Member State.

iii. Payment of Death Grant

The competent State is obliged to pay the Death Grant even if the recipient resides in another Member State.

Point's i-iii shall also apply when the death is the result of an accident at work or an occupational disease – Article 42 (3)

iv. Payment of Death Grant upon the death of a Pensioner – Article 43

In the event of the death of a person who was entitled to a pension under the legislation of one member state, or to pensions under the legislations of two or more member States, when that pensioner was residing in a Member State other than that of the institution responsible for the cost of benefits in kind provided under Articles 24 and 25, the death grants payable under the legislation administered by that institution shall be provided at its own expense as though the pensioner had been residing at the time of his death in the member state in which that institution is situated.

In other words, the Member State paying cash benefits will be responsible for the provision of Death Grant in a situation where the pensioner is living in a Member State in which he is not entitled to benefits in kind. If the pensioner is receiving a pension from more than one Member State then the cost will be borne by the competent institution of the Member State in which the pensioner has been subject for the longest period of time.

Should this result in the several institutions being responsible for the cost of benefits (i.e. where the pensioner was insured for exactly the same length of time in two or more Member States) then the cost shall be borne by the state whose legislation the pensioner was last subject to.

Example 1

Having worked all his life in Ireland, X retires to southern Spain, where he lives for a period and draws his pension from the Irish State. Upon the death of X, his wife/Civil Partner (or family) is entitled to the Bereavement Grant payable under Irish legislation, even if she (or they) lives outside of Ireland.

Example 2

Y worked in Ireland for 20 years, then moved to southern Spain where he worked for 16 years before deciding to move to Italy to retire. He would not be entitled to benefits in kind from Italy as he has never been insured there. He receives a portion of a pension from both Ireland and Spain. After a year of retirement Y then dies. Responsibility for paying death grant would fall on the country in which Y was insured the longest. In this scenario that would appear to be Ireland.

Should these periods of insurance be equal, the responsibility will fall on the last State under whose legislation Y was subject.

Example 3

If the situation was the same as in example 2, but Y had been insured under both Ireland and Spain for the exact same period, i.e. 20 years each, then Spain would incur the cost of Death Grant for Y, as that is the state to whose legislation Y was last subject.

3. Administrative Procedures – Article 42 of the Implementing Regulation

The claim for Death Grants shall be sent either to the competent institution or to the institution of the claimant's place of residence, which shall send it to the competent institution via Electronic Data Exchange. The claim shall contain the information required under the legislation applied by the competent institution.