

TITLE 10 PUBLIC SAFETY AND LAW ENFORCEMENT
CHAPTER 25 STATE FIRE MARSHAL
PART 14 FIREFIGHTERS' SURVIVORS' SUPPLEMENTAL DEATH BENEFITS

10.25.14.1 ISSUING AGENCY: State Fire Marshal.
[10.25.14.1 NMAC – N, 4/7/2026]

10.25.14.2 SCOPE: This part applies to applicants for firefighters' survivors' supplemental death benefits who make applications to the firefighters' survivors supplemental death benefits committee.
[10.25.14.2 NMAC – N, 4/7/2026]

10.25.14.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to, Sections 10-11B-5 and 59A-52-1.1 NMSA 1978.
[10.25.14.3 NMAC – N, 4/7/2026]

10.25.14.4 DURATION: Permanent.
[10.25.14.4 NMAC – N, 4/7/2026]

10.25.14.5 EFFECTIVE DATE: April 7, 2026, unless a later date is cited at the end of a section.
[10.25.14.5 NMAC – N, 4/7/2026]

10.25.14.6 OBJECTIVE: The purpose of this rule is to establish the criteria by which the firefighters' survivors supplemental death benefits committee determines whether an eligible individual has been killed in the line of duty; to establish eligibility criteria; and to develop the application procedure.
[10.25.14.6 NMAC – N, 4/7/2026]

10.25.14.7 DEFINITIONS:

A. "adopted" means in reference to a child, includes cases in which persons are treated as adopted as well as those of legal adoption.

B. "Authorized commuting" means travel between a firefighter's residence and their place of duty or a designated duty-related location, in a vehicle and at a time approved by the employing entity, for the purpose of reporting for or returning from duty, training, or emergency response. Authorized commuting includes use of a department vehicle, a personal vehicle, or a rental vehicle when expressly or implicitly authorized by the employing entity. Commuting may also include travel to or from a scene of an emergency or assignment when the firefighter is responding directly at the request of the department. Evidence of authorization may include call records, dispatch logs, written departmental policies, or witness testimony.

C. "Child" means natural children, stepchildren, adopted children, posthumous children and acknowledged illegitimate children.

D. "Council" means the fire services council.

E. "Employing entity" means an officially-recognized fire department, including a volunteer fire department, of a county, tribal, municipal or other local government that is certified by the state fire marshal and qualified to receive funds from the fire protection fund, but does not include emergency management services that are not part of a certified fire department.

F. "Firefighter" means an individual who is an employee (or, for volunteer fire departments, a volunteer member) of an employing entity and is engaged in the provision of firefighting and other emergency services for that employing entity, or is a formal participant in a firefighter training academy.

G. "Firefighters' survivors supplemental death benefits review committee" means the committee established in Section 10-11B-5 NMSA 1978 and which is comprised of the fire services council and the attorney general or the attorney general's designee.

H. "Fund" means the firefighters' survivors fund created in Section 10-11B-4 NMSA 1978.

I. "Gross negligence" means great, heedless, wanton, indifferent, or reckless departure from reasonable care, prudence, diligence, or safe practice in the presence of serious risks that are known and obvious.

J. “**Natural child**” means a biological child of the firefighter, and the firefighter is alive at the time of his birth.

K. “**Spouse**” means an individual with whom the firefighter lawfully entered into marriage and includes a spouse living apart from the firefighter, other than pursuant to divorce, as of the date of the firefighter’s death.

L. “**Local assistance state team program (“LAST”) representative**” means the individual assigned to coordinate with the national fallen firefighters’ association and the U.S. department of justice to assist with the federal public safety officer’s benefits process.
[10.25.14.7 NMAC – N, 4/7/2026]

10.25.14.8 LINE OF DUTY DEATH:

A. Subject to the exceptions in 10.25.14.11 NMAC , in order for a survivor or survivors to qualify for supplemental benefits from the fund, a firefighters’ death must have been the result of a personal injury sustained in the line of duty. An injury causing death is considered to have occurred in the line of duty if:

(1) it was the result of the firefighter’s authorized activities while on duty, as determined by the department Fire Chief, or authorized designee, and validated by the department human resources director, or in department-authorized training,

(2) it occurred while the firefighter was responding to an emergency or request for assistance,

(3) it occurred during authorized commuting to or from duty in an authorized department or personal vehicle, including rental vehicles, or

(4) there is convincing evidence that the firefighter’s status as a firefighter was a substantial contributing factor to the injury causing death.

[10.25.14.8 NMAC – N, 4/7/2026]

10.25.14.9 ELIGIBLE SURVIVORS AND ORDER OF BENEFICIARY:

A. A survivor of a firefighter whose death occurred in the line of duty as described in 10.25.14.8 NMAC is eligible for the payment of assistance from the fund if the survivor is:

(1) the surviving spouse of the firefighter;

(2) a surviving child of the firefighter, if there is no surviving spouse; or

(3) a surviving parent of the firefighter, if there is no surviving spouse or child.

B. The order of beneficiary and share of benefit is as follows:

(1) Surviving Spouse, regardless of whether there are children or not: one hundred percent of benefit.

(2) No surviving spouse, but eligible children: one hundred percent, divided pro rata (equally) among children.

(3) No surviving spouse or children: one hundred percent to surviving parents in equal shares.

[10.25.14.9 NMAC – N, 4/7/2026]

10.25.14.10 PRESUMPTION OF ELIGIBILITY FOR CERTAIN CONDITIONS: The death of a firefighter due to a heart attack, stroke, or vascular rupture shall be presumed to be a death from a personal injury sustained in the line of duty for the purposes of survivor’s benefits if:

A. the firefighter engaged in stressful or strenuous physical activity as part of an emergency response or training exercise, and

B. the condition began during the physical activity, while the firefighter remained on duty after the physical activity, or within 24 hours of the physical activity.

[10.25.14.10 NMAC – N, 4/7/2026]

10.25.14.11 EXCEPTION FOR DEATH RESULTING FROM GROSS NEGLIGENCE OR CRIMINAL ACTS: Death resulting from performance of duties in a grossly negligent or criminal manner is not considered a line of duty death. Performance of duties in a grossly negligent manner at the time of death means gross negligence, as of or near the date of the injury causing death, in the course of authorized commuting or performance of line of duty activity or a line of duty action, where such negligence is a substantial contributing factor in causing such death.

[10.25.14.11 NMAC – N, 4/7/2026]

10.25.14.12 PROCEDURE FOR CONSIDERATION AND DETERMINATION OF CLAIM:

A. Notification to state fire marshal. The firefighter's employing entity shall furnish to the state fire marshal proof of a death in writing no later than 30 calendar days after the death of the firefighter. The employing entity shall furnish the evidence and information required under this subsection regardless of whether the employing entity believes the individual's death satisfies the eligibility requirements established under 10.25.14.8 NMAC.

B. Notification to LAST representative. The state fire marshal must notify the LAST representative upon receipt of the notification from the employing entity.

C. LAST representative's responsibilities. The LAST representative will gather information from the respective department pertaining to the details of the death. The individual's employing entity must furnish to the LAST Representative proof of the death on the National Fallen Firefighters Data Sheet and with additional evidence and information required by the Public Safety Officers Benefit Program (PSOB).

D. If the LAST Representative has sufficient evidence that the death qualifies as a line of duty death, he or she shall start the reporting process. Once complete, the LAST Representative shall contact the state fire marshal to request that the firefighters' survivors supplemental death benefits review committee be convened.

E. The LAST Representative will present the facts surrounding the death and respond to any questions the committee may have, at the discretion of the committee chair.

F. The case will be turned over to the firefighters' survivors supplemental death benefits review committee. The firefighters' survivors supplemental death benefits review committee shall consider the proof, evidence, and information provided under Subsection A, and any additional information required by the rules adopted in accordance with 10.25.14.12 NMAC to determine, by majority vote of a quorum of members, whether the individual's death satisfies the eligibility requirements established under 10.25.14 NMAC and justifies the payment of assistance to the individual's eligible survivors under this chapter.

G. The outcome of the committee's vote will be placed in written form to the state fire marshal, who will notify the department of finance and administration to initiate payment to the beneficiary (or beneficiaries).
[10.25.14.12 NMAC – N, 4/7/2026]

HISTORY OF 10.25.14 NMAC: [RESERVED]