

FAMILY RESOURCE GUIDE



OUR CONDOLENCES



Dear Family Member,

At this time there is nothing anyone can say or do to ease the pain. The trauma involved in such an incident is beyond the grieving process. There are many out there that are in the same position as you. We know the devastation that takes place be it mind, body and/or soul. Your loved ones are not forgotten - they are in the hearts and minds of many. They still have a voice through you. Let them be heard!

It has been said, "One death is a tragedy; a million is a statistic". We mourn approximately 6,000 tragedies each year. These fallen workers should be foremost in our hearts, after all, they stand for the American family; the American dream. We are here to give you something we did not have — compassion, understanding, support, and the ability to verbalize in your time of need.

With a heavy yet hopeful heart,

Tammy Miser
Executive Director/Founder
United Support and Memorial for Workplace Fatalities (USMWF)



FAMILIES AND PROGRESS

Families of workplace tragedies need and deserve hope, answers, direction, support, and acknowledgment. Together USMWF, WNYCOSH, Coalitions for Occupational Safety and Health (COSH groups), unions, worker centers, caring families, and government agencies are changing the way family member victims are treated, and ensuring their needs are met by giving them the right to a fair and transparent investigative process.

INTRODUCTION

When a worker is killed or seriously injured in the workplace, there are often many challenges and questions for those family members and friends who are left behind.

The unexpected nature of the incident, the lack of public review in most workplaces, and the subsequent secrecy by agencies involved, often protects the employer and can add frustration to the normal grieving process.

We developed this Resource Guide because we know how complex the process can get.

We also understand that people grieve differently and at diverse times. This Resource Guide can be used by you at your convenience. You are welcome to contact anyone at WNYCOSH at anytime if you have further questions or concerns via phone (716-833-5416) or email (info@wnyworker.org).





Julia, seated next to her father, holds a portrait of her brother Mark who was crushed to death in a workplace accident while working under a hoisted forklift. Mark was a union steward in the warehouse where he worked in and complained to his employer many times about unsafe working conditions.

SUPPORT

Grieving family members deserve support to cope with the loss or the serious injury of loved ones. In addition to the customary support systems available, here are some additional suggestions in the case of workplace tragedies:



KNOW YOUR RIGHTS

You are entitled to information. ***Under the Freedom of Information Act, you are guaranteed access to certain documents.*** You can use the included FOIA sample letter to ask the government to send you that information. We can assist you in identifying the government agency and when to submit the FOIA



CONSIDER PROFESSIONAL HELP

The circumstances surrounding workplace tragedies are almost always catastrophic and often result in Post Traumatic Stress (PTS). Counselors can often be very helpful in assisting families in the aftermath of these tragedies. ***Contact WNYCOSH if you would like assistance in finding a counselor in your area.***



GET INVOLVED

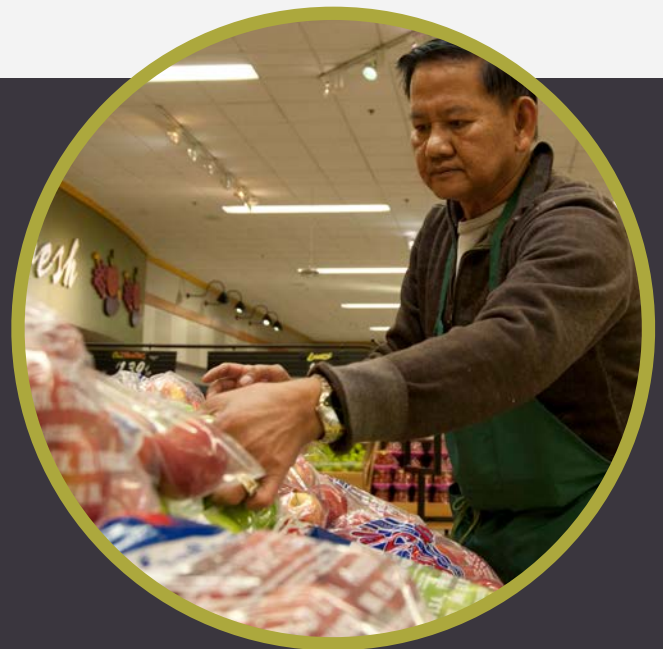
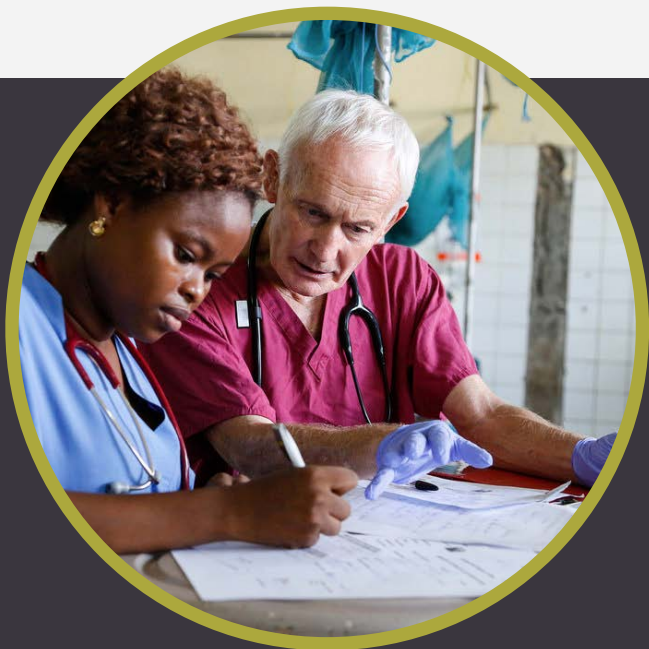
Family members are playing an increasing role and demanding justice on behalf of their loved ones. ***There are many steps along the way where active family members can play critical roles to benefit themselves and issues of workplace health and safety for all workers.***





SUPPORT

- Family members can demand ***all the relevant facts of the circumstances surrounding workplace tragedies. Families can ask for the District Attorney to investigate.*** Don't hesitate to meet with the local OSHA area office or District Attorney to state your case.
- Participate in Worker's Memorial Day to honor your loved one and all of those that have senselessly lost their lives throughout the year. Every year, family members, union members, legislators and many other health and safety activists join together in ceremonies across the country to memorialize victims and bring awareness to workplace safety issues. The theme ***"Mourn for the Dead and Fight for the Living" is a powerful message that resonates throughout the day.***
- Become an advocate to fight for improved workplace health and safety in order to save lives. No one represents how important it is to prevent these tragedies more than you and your family. ***WNYCOSH is continually working*** on health and safety issues to raise awareness with government officials, organizations and families who are acting to promote positive change for workers and their families. ***If you would like to get involved or know what are the most recent developments in health and safety please contact WNYCOSH.***



NEW YORK WORKERS' COMPENSATION DEATH BENEFITS FACT SHEET



Workers' compensation is insurance that provides cash benefits if a work-related injury causes death under NY WCL §16. A death can be considered work-related if it is due to a specific injury or due to an occupational disease/condition.

Weekly cash benefits and medical care are paid by the employer's insurance carrier, as directed by the Workers' Compensation Board. The Workers' Compensation Board is a state agency that processes the claims. If Board intervention is necessary, it will determine whether that insurer will reimburse for cash benefits and/or medical care, and the amounts payable.

DEPENDENTS

- Dependents qualify for weekly cash benefits up to 2/3 the average weekly wage of the deceased worker a year prior to the accident
- The weekly compensation may not exceed the state statutory maximum which is currently \$864.32
- The employer is responsible for providing up to \$10,500 in funeral expenses
- If there are no surviving dependents, the parents or the estate of the deceased worker may be entitled to a \$50,000 payment

EXCEPTIONS

- The death of the worker must be more likely than not causally related to work in order for dependents to receive death benefits
- Death benefits and funeral expenses are not due if an injured worker is collecting either temporary disability benefits or permanency benefits but passes away due to an unrelated illness
- Unless they remarry, the surviving spouse receives benefits for the remainder of his or her life
- If the surviving spouse does remarry, he or she receives a lump-sum of two years of benefits

CHILDREN

- If there are minor children in addition to the surviving spouse, the benefit rate remains the same but is divided amongst the spouse and minor children
- When there is more than one surviving child, the surviving spouse receives 36.667% of the weekly benefit rate and the children share the remaining 30% up equally
- Surviving children's benefits end once they turn eighteen unless they are enrolled in college



WHAT IS THE FOIA?

The FOIA is a federal law that allows full or partial disclosure of government controlled documents requested by the public unless such documents are exempted for personal privacy, national security, or law enforcement use.



SAMPLE FOIA

Date

Freedom of Information Act Officer Name of Agency

Address of Agency

City, State, Zip Code

Freedom of Information Act Request

Dear _____:

This is a request under the Freedom of Information Act. I request that a copy of all documents, photos, and materials pertaining to case #__, regarding the fatality of _____ (Note here the case number and the name of your loved one), be provided to me.

I am seeking this information for personal use and not for a commercial use. I request a waiver of all fees because it is for my understanding of operations and activities of the government and to help me understand the circumstance of this fatality, learn of my loved one's last moments and, ultimately, help me with my grieving process. (NOTE: see below.)

Thank you for your consideration of this request. Sincerely,

Name

Address

City, State, Zip Code

Telephone

If you do not include all your information they will more than likely deny your request.

(NOTE: there may be disturbing photos or pieces of information you do not want to receive and you should note this in your request or possibly have the request go to a third party such as a lawyer who can help screen what you see.)

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WNYCOSH is a non profit advocacy and education organization dedicated to empowering thousands of workers including young workers, refugee and immigrant workers, low-wage workers and workers in high hazard industries through direct training to identify, evaluate and control hazards in the workplace.

Special Thanks to:



Mass**COSH**



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