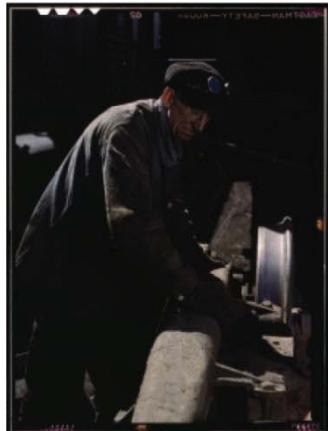




# HILDEBRAND McLEOD & NELSON LLP

Representing Injured Railroad Employees Since 1926



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# RAILROADER'S SURVIVOR'S GUIDE

# **WARNING**

The contents of this document are both personal and private. **To protect against identify theft; it should be kept in a safe and secure place at all times.** It contains account numbers as well as birth records and social security numbers.

**YOUR SPOUSE AND ADULT CHILDREN  
SHOULD KNOW WHERE TO FIND IT IN THE  
EVENT OF AN ACCIDENT OR INJURY.**

**This does not replace the need for a will or trust.**

This document is for informational purposes only. It is not legal advice, not disseminated by your union.

The phone numbers, amounts of coverage, terms of the various agreements between your union, the carrier, and the providers vary over time. Please check your current coverage.

Please consult an attorney if you have any questions.

# **SURVIVOR'S GUIDE**

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## **INSURANCE CLAIMS**

**1. The information below will assist you in filing Insurance Claims:**

In order to claim Death Benefits from an Insurance Company, Social Security Administration, Railroad Retirement Board, Veteran's Administration, Bank and Credit Union Accounts with Insurance coverage you must attach a copy of the Death Certificate. The Funeral Home will order these for you. Always order EXTRA copies, some agencies will require it, and you'll have extras for yourself. Always send the Claim Form with a copy of the Death Certificate and the Insurance Policy; CERTIFIED MAIL & RECEIPT REQUESTED

**2. The Social Security Administration:** 1-800-772-1213

There may be some benefits available depending on where you or your spouse worked before. The children may be entitled to Benefits depending on age. You will have to call to find out. Make sure that you have extra copies of Social Security Cards for each member of your immediate family with your important papers.

**3. The Railroad Retirement Board:** 1-877-772-5772

**4. Employees 401 (K) Retirement Plan:**

Contact your Local Chairperson or General Chairperson for your plan contact information:

Other retirement plan contact information:

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## **5. Health Care Insurance:**

### **The Railroad Employees National Health and Welfare Plan (formerly GA-2300)**

#### **Basic Health Care Benefit (BHCB)**

Highmark Blue Cross/Blue Shield	1-800-267-3320	
United Healthcare	1-800-842-9905	<a href="http://www.myuhc.com">www.myuhc.com</a>

#### **Care Coordination/Medical Management**

Aetna	1-800-821-5615	<a href="http://www.aetna.com">www.aetna.com</a>
Highmark Blue Cross/Blue Shield	1-800-267-3320	
United Healthcare	1-800-842-9905	<a href="http://www.myuhc.com">www.myuhc.com</a>
United Behavioral Health	1-866-850-6212	<a href="http://www.unitedbehavioralhealth.com">www.unitedbehavioralhealth.com</a>

#### **Comprehensive Health Care Benefit (CHCB)**

Highmark Blue Cross/Blue Shield	1-800-267-3320	
United Healthcare	1-800-842-9905	<a href="http://www.myuhc.com">www.myuhc.com</a>

#### **Managed Medical Care Program (MMCP)**

Aetna	1-800-842-4044	<a href="http://www.aetna.com">www.aetna.com</a>
Highmark Blue Cross/Blue Shield	1-800-267-3320	
United Healthcare	1-800-842-9905	<a href="http://www.myuhc.com">www.myuhc.com</a>

#### **Life Insurance and Accidental Death & Dismemberment**

Metropolitan Life Insurance Co.	1-800-310-7770	
American Income Life Insurance Co.	1-800-495-1213	<a href="http://www.ailife.com">www.ailife.com</a>

#### **Mental Health/Substance Abuse**

United Behavioral Health	1-866-850-6212	<a href="http://www.unitedbehavioralhealth.com">www.unitedbehavioralhealth.com</a>
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#### **Managed Pharmacy Services Benefit (MPSB)**

Medco Health Solutions, Inc.	1-800-842-0070	<a href="http://www.medco.com">www.medco.com</a>
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#### **Railroad Employees National Early Retirement Major Medical Benefit Plan [“ERMA”]**

#### **(Formerly GA-46000)**

United Healthcare	1-800-842-5252	<a href="http://www.myuhc.com">www.myuhc.com</a>
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#### **Managed Pharmacy Services Benefit (MPSB)**

Medco Health Solutions, Inc.	1800-842-0070	<a href="http://www.medco.com">www.medco.com</a>
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#### **Railroad Employees National Dental Plan**

Aetna	1-877-277-3368	<a href="http://www.aetna.com">www.aetna.com</a>
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#### **Railroad Employees National Vision Plan**

VSP	1-888-877-4782	<a href="http://www.aetna.com">www.aetna.com</a>
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**Supplemental Sickness Benefit Plans Covering Shop Craft, Signal, & Maintenance of Way Employees**

Aetna

1-800-205-7651

**Supplemental Sickness Benefit Plans Covering Yardmasters**

Trustmark

1-800-504-9052

**QUESTIONS TO ASK CLAIMS PERSONS:**

- A. Until what date will I and my family be covered?
- B. On what date will you send me a Qualifying Form for Right of Continuation?
- C. If I decide to stay With United Healthcare, will I be placed in a COBRA Policy. What is the length of the COBRA coverage? How much with the premiums be for me and my children per month?
- D. At the end of the COBRA period, you can apply for GA 23111. There will be no coverage for dependent children on this policy. Coverage under this policy continues until age 65. At age 65, this policy can be kept as a supplement to Medicare. Ask any questions you may have. Further information on this coverage can be obtained from the United Healthcare Utah office: (800) 842-9905.

**6. Metropolitan Life Insurance Company:**

**METLIFE**

MetLife Record Keeping Center  
P.O. Box 6129  
Utica, NY 13504-6129

1-800-310-7770

This benefit is available to all Railroad employees and retirees under The Railroad Employees National Health and Welfare Plan. Former coverage was under The Travelers Insurance Company. The life insurance and accidental death and dismemberment insurance benefits under this plan are provided Insurance through Group Policy No. 1023000-G issued to the Trustees of the Plan by Metropolitan Life Company.

The Group Policy provides the following benefits:

Life Insurance	\$ 20,000
Accidental Death and Disbursement	up to \$ 36,000
Life Insurance for Retired Employees	\$ 2,000

**7. Disability Insurance:**

Some organizations have disability plans, contact your union officers for plan information.

**8. Veteran's Administration:** 1-800-352-0451

Survivors of Veterans of the U.S. Armed Forces may qualify for:

- A. G.I. or National Service Life Insurance, if policy is in force at the time of the Veterans death.
- B. Lump sum burial benefit of \$150.00 (through funeral director)
- C. Memorial plot and headstone.

**9. Any Additional Health Insurance/Life Insurance/Disability Insurance You May Have:**

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**10. Patient Protection and Affordable Care Act (ACA):**

Regardless of your personal views on this new law, if extenuating circumstances arise or dictate that you no longer have health insurance you should call the appropriate government agency for guidance.

## **THIS PART IS MAINLY FOR THE SURVIVING SPOUSE AND CHILDREN**

Annuities are payable to surviving widows and widowers, children and certain other dependents. Lump sum benefits are payable after the death of a railroad employee only if there are no qualified survivors of the employee immediately eligible for annuities. With the exception of a residual lump sum death benefit, eligibility for survivor benefits depends on whether or not the employee was "insured" under the Railroad Retirement Act at the time of death.

An employee is insured if he or she has at least 10 years of railroad service, or 5 years performed after 1995, and a "current connection" with the railroad industry as of the month of the annuity begins or the month of death, whichever occurs first.

If a deceased employee was not so insured, jurisdiction of any survivor benefits payable is transferred to the Social Security Administration and any survivor benefits are paid by that agency instead of the Board. Regardless of which agency has jurisdiction, the deceased employee's railroad retirement and social security credits will be combined for the purpose of benefit computation

### **TYPES OF SURVIVOR BENEFITS**

Annuities are payable to widows, widowers, and unmarried children; in certain cases, benefits are also payable to parents, remarried widow(er)s, grandchildren and surviving divorced spouses.

**WIDOWS' and WIDOWERS' ANNUITIES** are payable at:

**Age 60**: age reductions are applied to annuities awarded before full retirement age. The eligibility age for unreduced annuities is gradually rising from age 65 to age 67, depending on the year of birth.

**Ages 50-59 if the widow(er) is totally and permanently** disabled and unable to work in any regular employment. The disability must have begun within 7 years after the employee's death or within 7 years after the termination of any annuity based on caring for a child of the deceased employee. A 5-month waiting period is required after the onset of disability before a disability annuity can begin.

**Any age if the widow(er) is caring for an unmarried child** of the deceased employee under age 18 or a disabled child of any age who became disabled before age 22. The widow(er) must have been married to the employee for at least 9 months prior to death, unless she or he was the natural parent of their child, the employee's death was accidental or while on active duty in the U.S. Armed Forces, the widow(er) was potentially entitled to certain railroad retirement or social security benefits in the month before the month of death, or the marriage was postponed due to State restrictions on divorce due to mental incompetence or similar incapacity.

**SURVIVOR ANNUITIES** may also be payable to a surviving **divorced spouse, or remarried widow(er)**.

A surviving divorced spouse may qualify if she or he was married to the employee for at least 10 years, is unmarried or remarried under the conditions described in the next paragraph, and is age 60 or older (50 if disabled). A surviving divorced spouse who is unmarried can qualify at any age if caring for the employee's child and the child is under age 16 or disabled, in which case the 10-year marriage requirement does not apply.

The portion of a survivor annuity equivalent to a social security benefit may be paid to a widow(er) or surviving divorced spouse who remarries after age 60, or to a disabled widow(er) or disabled surviving divorced spouse who remarries after age 50; however, remarriage prior to age 60 (or age 50 if disabled) would not prevent eligibility if such remarriage ends. Such social security lever benefits may also be paid to a younger widow(er) or surviving divorced spouse caring for the employee's child who is under age 16 or disabled, if the remarriage is to a person receiving railroad retirement or social security benefits or the remarriage ends.

## **OTHER SURVIVOR ANNUITIES**

An unmarried child under age 18.

An unmarried child age 18 in full-time attendance at an elementary or secondary school or in approved home schooling, until the student attains age 19 or the end of the school term in progress when the student attains age 19. In most cases where a student attains age 19 during the school term, benefits are limited to the 2 months following the month age 19 is attained.

An unmarried disabled child over age 18 if the child became totally and permanently disabled before age 22.

An unmarried dependent grandchild meeting any of the requirements described above for a child, if both the grandchild's parents are deceased or disabled.

A parent at age 60 who was dependent on the employee for at least half of the parent's support. If the employee was also survived by a widow(er), surviving divorced spouse or child who could ever qualify for an annuity, the parent's annuity is limited to the amount that social security would pay.

The widow(er) will have to check with the Railroad Retirement Board once a year to see if there have been any benefit changes.

There is a Lump Sum Death Benefit payable to you upon return of the RRB Claim Forms along with a Copy of the Death Certificate. The amount payable depends primarily on whether the deceased employee was credited with 10 years of service before January 1, 1975, in which case the average benefit payable is about \$900. In all other cases where a lump sum is payable, the benefit is \$255. It will take about 3 months to receive this money.

Do not forget to make a copy of all claim forms which you submit to life insurance companies **Railroad Retirement Board – Social Security Administration**.

**Do not sign any forms or statements that you have not completely read and understood. Read the fine print.**

**Check all the titles on your cars, trailers, motor homes and house to make sure the word “OR” is used between you and your spouse’s name.**

## **OTHER ITEMS TO CHECK:**

Bank loans and credit cards to see if there is insurance that will pay off the balance owed.

Are your cars, motor homes, trailers paid off? If not, are the loans covered by disability insurance in the event you or your spouse is off work due to an injury? Are loans covered by Life Insurance in the event of your Spouse's death?

### **THE MOST IMPORTANT ITEM TO CHECK, ON A REGULAR BASIS, IS THAT THE BENEFICIARIES ON ALL INSURANCE POLICIES AND ACCOUNTS ARE CURRENT AND CORRECT**

Attached you will find copies of "Parents Consent for Medical Care and Treatment for Children," "Directive to Physicians," and "Organ Donor Information."

### **THINGS TO BE DONE OR VERIFIED**

- Make certain you have a Will and be sure it says what you want it to say. If you already have a Will you may want to revise it.
- Have you discussed with your spouse who would take care of your Children should something happen to both of you while on a trip?
- Discuss your choices of Guardian or Guardians with the Children, some states allow only one Guardian to be named.
- Make certain the Guardian/Guardians have accepted the Responsibility.
- Make certain the Guardian/Guardians do not have to be financially responsible for the children. Review your Life Insurance needs and Income requirements for the surviving family.
- Know the Survivorship provisions of your Retirement Plan.
- Does the "Breadwinner" have a policy that will Guarantee an Income in the event of a long-term eligibility?
- Does everyone know where all the Important Documents are kept?
- Does everyone know where the keys to the safe deposit box are kept?
- Does everyone know where the keys/combination to the home safe are kept?
- Does everyone have access to important online login information (email passwords, online banking, online accounts, etc.)?
- Discuss debts and their repayment.
- You may want to consider a Living Trust.

## **SURVIVOR'S CHECKLIST AND GUIDE**

### **Immediate Steps to be Taken:**

1. Contact someone who can assist you – Relative, Friend, Executor, Union Officer, etc.
2. Review wishes of deceased regarding burial. See page 10.
3. Make Funeral and Burial Arrangements.
4. Notify Friends and Relatives.

### **Secondary Steps to be Taken:**

A few days after Funeral when all friends and relatives have left, and you can work in a quiet home.

#### **COLLECT AND ASSEMBLE THE FOLLOWING DOCUMENTS:**

- Last Will and Testament. Should be up to date.
- Obtain Death Certificates from Funeral Director. See page 1.
- Life Insurance Policies. See pages 12-14.
- Current Financial Statements.
- Bank Account Numbers. Checking and Savings. See pages 15.
- Marriage License.
- Birth Certificates. Both spouses and children.
- Social Security Cards. Both spouses and children.
- Veteran's Records. DD 214.
- Tax Returns. Last 3 years.

Contact your attorney regarding Estate Settlement.

Call banks and credit unions and verify status of checking and savings accounts.

Notify Security Broker to Re-Title Securities.

Notify your Insurance Agent to modify Auto and Home Owner's Policies.

## **SURVIVOR'S CHECKLIST AND GUIDE (CONTINUED)**

**Avoid major decisions regarding home sale, debt repayment, moving, etc. for the first few months.**

Union Officers who can assist you (write names and phone numbers – keep current):

President

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V. President

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Secretary/Treasurer

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Local Chairman

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V. Local Chairman

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V. Local Chairman

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Legislative Representative

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## **ARRANGEMENTS FOR DEATH AND BURIAL**

### **INITIAL those items which apply:**

I ask that my family be allowed to stay close to me in my last moments.

If I am in a hospital at the time of death, I do not want my family and friends sent from the room.

If there is no reasonable expectation of my recovery, I request that I be allowed to die, and not be kept alive by artificial means of heroic measures.

I request a burial service in my church when I die.

I would like to be placed in a simple wooden casket, covered with a pall.

If physical conditions are such that I have the option, I prefer not to be embalmed.

If my family concurs, my body may be given for scientific research. My preference would be:  
*(Check only one)*

Anatomical Study

Autopsy for determination of the cause of death and study of disease

Organ Donor (see page 18)

My preference of disposition is:

Burial (name of cemetery) \_\_\_\_\_

(Circle one) Cremation / Niche / Sea Burial / Release to survivors

Mausoleum Entombment

My preference regarding Memorial flowers or funds, recognizing the emotional needs of the giver, would be \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Special requests for the burial service (music, reading, etc.):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **LOCATION OF VALUABLE PAPERS AND ASSETS**

For \_\_\_\_\_ and \_\_\_\_\_

SOCIAL SECURITY NO.: \_\_\_\_\_

Member

Spouse

EMPLOYER: \_\_\_\_\_

### **MY VALUABLE PAPERS AND ASSETS ARE STORED IN THESE LOCATIONS**

#### **A. RESIDENCE:**

\_\_\_\_\_  
(Street) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

\_\_\_\_\_  
(Where to look)

#### **B. SAFE-DEPOSIT BOX:**

\_\_\_\_\_  
(Bank) \_\_\_\_\_ (Location of Key) \_\_\_\_\_

\_\_\_\_\_  
(Bank Address) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip) \_\_\_\_\_

**C.** \_\_\_\_\_  
(Address)

\_\_\_\_\_  
(Where to look)

**D.** \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

**E.** \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_

**F.** \_\_\_\_\_  
\_\_\_\_\_

**LOCATION OF VALUABLE PAPERS AND ASSETS** (cont'd)

<u>ITEM</u>	<u>LOCATION</u>					
	A	B	C	D	E	F
MY WILL (ORIGINAL)						
CEMETERY PLOT DEED						
SPOUSE'S WILL (ORIGINAL)						
SPOUSE'S WILL (COPY)						
SPOUSE'S BURIAL INSTRUCTIONS						
DOCUMENT APPOINTING CHILDREN'S GUARDIAN						
LIST OF SPECIAL BEQUESTS						
SAFE COMBINATION OR KEYS, BUSINESS						
SAFE COMBINATION OR KEYS, HOME						
TRUST AGREEMENTS						
LIFE INSURANCE POLICIES						
PROPERTY AND CASUALTY INSURANCE POLICIES						
HEALTH INSURANCE POLICIES						
EMPLOYMENT CONTRACTS						
PARTNERSHIP AGREEMENTS						
LIST OF CHECKING/SAVINGS ACCOUNTS						
BANK STATEMENTS, CANCELED CHECKS						
LIST OF CREDIT CARDS						
LIST OF ONLINE ACCOUNTS AND LOGINS						
CERTIFICATE OF DEPOSITS						
CHECKBOOKS/SAVINGS PASSBOOKS						
STOCKS, BONDS, ETC.						
OTHER SECURITIES						
RETIREMENT PLAN PAPERS						
INCOME AND GIFT TAX RETURNS						
TITLE, DEEDS TO REAL ESTATE						
TITLE INSURANCE						
RENTAL PROPERTY RECORDS						
NOTES AND OTHER LOAN ARRANGEMENTS						
MORTGAGES						
BIRTH CERTIFICATES						
CITIZENSHIP PAPERS						
MILITARY DISCHARGE PAPERS						
MARRIAGE CERTIFICATE						
OTHER: _____						
_____						

**IMPORTANT NAMES, ADDRESSES, PHONE NUMBERS, EMAIL ADDRESSES, CELL PHONE  
NUMBERS, ATTORNEY, ACCOUNTANT, BANKER, INSURANCE AGENTS, INVESTMENT  
COUNSELOR, CHILD'S GUARDIAN, ETC.**













## INSURANCE

### LIFE INSURANCE:

Company	Amount	Type	Policy No.	Owner	Beneficiary

### SPOUSE'S INSURANCE:

Company	Amount	Type	Policy No.	Owner	Beneficiary

### CHILDREN'S INSURANCE:

Company	Amount	Type	Policy No.	Owner	Beneficiary

### HOSPITALIZATION INSURANCE:

Company	Amount	Type	Policy No.

### DISABILITY INCOME INSURANCE:

Company	Amount	Type	Policy No.

## BANK ACCOUNT

BANK	BRANCH	ACCOUNT NO.

## SECURITIES

COMPANY	NUMBER OF SHARES	CERTIFICATE NO.

## CREDIT CARDS

COMPANY	CARD NO.

## ONLINE ACCOUNTS AND LOGINS

*Remove and place with your Important Documents*

	NAME/DESCRIPTION	USER NAME	PASSWORD
Email			
Email			
Bank			
Bank			
Credit Card			
Credit Card			
Insurance			
Insurance			
Securities			
Securities			
Retirement			
Vehicle			
Vehicle			
Utilities			
Utilities			
Online Account			
Computer			
Phone			
Social Media			

*Use reverse side if necessary*

## ONLINE ACCOUNTS AND LOGINS

*Remove and place with your Important Documents*

**PARENTAL CONSENT FOR EMERGENCY MEDICAL CARE AND TREATMENT FOR  
CHILDREN**

I/We hereby authorize \_\_\_\_\_ to give consent for all medical and/or surgical treatment that may be required for our child/children during our absence, from \_\_\_\_\_ until \_\_\_\_\_ (consent expires one year from this date).

**Child's Name/Names:**

Birthdate: \_\_\_\_\_

Allergies: \_\_\_\_\_

Chronic illness: \_\_\_\_\_

Current Medication: \_\_\_\_\_

Blood type: \_\_\_\_\_

Date of last tetanus shot: \_\_\_\_\_

**Child's Physician:**

Physician's Phone number: \_\_\_\_\_

Parent/Guardian Address & Phone number: \_\_\_\_\_

Parent/Guardian Cellular number: \_\_\_\_\_

Emergency Contact Phone number: \_\_\_\_\_

Health Insurance Company: \_\_\_\_\_

Member & Group number: \_\_\_\_\_

Nearest Relative: \_\_\_\_\_

Telephone numbers: \_\_\_\_\_

Additional Relative: \_\_\_\_\_

Telephone numbers: \_\_\_\_\_

---

DATE

---

SIGNATURE OF PARENT/GUARDIAN

## ADVANCED DIRECTIVE TO PHYSICIANS

Directive made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

I, \_\_\_\_\_, being of sound mind, willfully and voluntarily make known my desire that my life shall not be artificially prolonged under the circumstances set forth below, and do hereby declare that:

- A. If at any time I should have an incurable injury, disease or illness certified to be a terminal condition by two physicians, and where the application of life sustaining procedures would serve only to artificially prolong the moment of my death and where my physician determines that my death is imminent whether or not life sustaining procedures are utilized, I direct that such procedures be withheld or withdrawn, and that I be permitted to die naturally.
- B. In the absence of my ability to give directions regarding the use of such life sustaining procedures, it is my intention that this directive shall be honored by my family and physician(s) as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences from such refusal.
- C. I understand the full impact of this directive and I am emotionally and mentally competent to make this directive.

SIGNED: \_\_\_\_\_

City State

### County of Residence

The declarer is personally known to me and I believe that him/her to be of sound mind.

WITNESS:

**WITNESS:**

## ORGAN DONOR INFORMATION

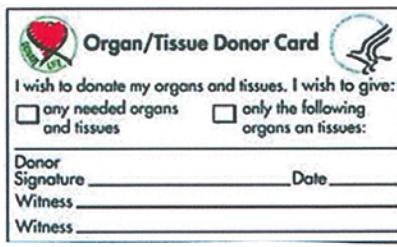
### **To Become an Organ Donor:**

There are two organizations that can provide assistance and registration for Organ Donation:

#### **1. U.S. Department of Health and Human Services:**

Be an Organ and Tissue Donor. [www.organdonor.gov](http://www.organdonor.gov)

1. Register with your state donor registry, if available.
2. Designate your decision on your drivers license.
3. Sign a donor car (see below) and carry it with you.
4. Talk to your Family. To help your family understand and carry out your wishes, sit down with your loved ones and tell them about your decision to be an organ and tissue donor. They can serve as your advocate and may be asked to give consent for donation or provide information to the transplant team.

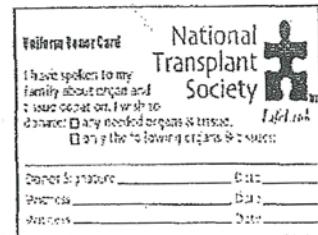


[www.donatelifear.org](http://www.donatelifear.org)



#### **2. National Transplant Society**

For more information: [www.organdonor.org](http://www.organdonor.org)



**Medical Insurance Information &  
Revocation of Health Information Release to Employer**

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**I. Insurance Coverage Not Through Workers' Compensation**

To Whom It May Concern:

I, \_\_\_\_\_, am an employee with \_\_\_\_\_ Railway Company.

As a railroad employee, I am **NOT covered by workers' compensation**; rather on-duty injuries for railroad employees are governed by the Federal Employer's Liability Act ("FELA") under 45 U.S.C. §§ 51, *et seq.*

My **medical bills** are paid through my employee **group health insurance policy**; there is no workers' compensation coverage.

You are not required to get my employer's authorization for my medical treatment.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Print name: \_\_\_\_\_

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**II. I Do Not Authorize the Release of My Health Information to My Employer**

To Whom It May Concern:

I, \_\_\_\_\_, **do not authorize** my health care provider, \_\_\_\_\_, to release any of my health information to my employer, \_\_\_\_\_ Railway Company. In other words, I **affirmatively instruct** my above-named health care provider **not to release** any of my health information to my employer.

I hereby **revoke any past authorizations** for the release of my health information to my employer.

I also instruct my health care provider to contact me immediately if any person affiliated with my employer requests my health information.

These instructions remain in effect indefinitely, unless I authorize a release of records to my employer in writing and pursuant to HIPPA under 45 CFR Parts 160 and 164.

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

Print name: \_\_\_\_\_

## WHAT EVERY RAILROAD FAMILY SHOULD KNOW

Even with the latest innovations, railroading is still a hazardous occupation. All too frequently a family receives a phone call telling them of an accident resulting in the injury or death of their loved one who is a railroad employee.

If this unfortunate situation should arise in your family, your union knows that the family should have service and assistance available, which will insure that the family secures every benefit to which they are entitled. All too often a family forgets a traumatic experience such as this will have an impact on them for many years to come. Federal laws provide that railroad workers and their families are entitled to compensation for injury or death suffered on the job. These laws entitle survivors and dependent children to recover for the loss of support.

If, and when, a situation like this arises, the family is in a highly emotional state. In order to safeguard the rights of employees and their families, the following are points you should keep in mind:

1. Contact an officer of the Union. They will be more than happy to assist in setting up and appointment or consultation with one of the Union Designated Legal Counsels. They will advise you of your legal rights under FELA, the law congress passed to protect you. Consultation provided by designated legal counsel and the union is at no cost to an injured member of to his/her family.
2. No one should give any statement or sign any agreements or other documents, which the railroad representative may present to you unless such material has been first, reviewed by the counsel of your choice.
3. Do not discuss this matter with a representative of the railroad. Remember this is a highly emotional time and often things are said which at some later time are hard to overcome. An early misstatement can have serious long term consequences.
4. Keep in mind no one is automatically entitled to any compensation from the railroad by reason of the spouse's death or injury. This is where designated legal counsel comes in. Consultation is always free of charge.
5. In the event a claim must be progresses against the railroad or any company, designated legal counsel will charge an agreed to reasonable fee for handling.

Should any other assistance be needed insofar as handling you Insurance benefits, as well as for benefits from the union. Officers of the union and designated legal counsel will assist in filing out the claims. Keep in mind these people are on the family's side and are there to help in these trying times.

Attorneys who are chosen as Designated Legal Counsel have reputations for honesty and integrity and are specialists in handling of Railroad related matters and cases under the Federal Employers Liability Act. Always ask counsel if they are Designated for your Union.

## **FOR THE SPOUSES OF RAILROAD EMPLOYEES:**

The men and women working on the railroad are continually exposed to hazardous conditions. Because railroading is a dangerous business, it is vitally important that husbands and wives know what to do in the event of an on the job injury. **IT IS CRITICAL THAT SPOUSES HAVE THE PHONE NUMBERS OF THEIR LOCAL UNION REPRESENTATIVES ALONG WITH DESIGNATED LEGAL COUNSEL'S PHONE NUMBERS.** Please print or request our tri-fold cards so you are prepared in the event of an injury.

Please see our listing of important questions below. Finding the answers to them as soon as possible will be of great benefit to you and your children in protecting your rights. In the months and years to come, there will be strong efforts by the railroads in our country to abolish the Federal Employers' Liability Act. The reason the railroad will be working so hard in Washington to abolish the Act is that they know that it is of great benefit to railroad workers who are injured or to the families of railroad workers who are killed. Elimination of this Act would save the railroads untold amounts of monies, but would work hardship on railroad workers and their families, by deleting hard-earned rights and remedies. Only by understanding the Federal Employers' Liability Act and pursuing the rights and remedies contained in the Act can railroad workers protect themselves.

### **What if my husband died and a claims agent for the railroad offers to settle and wants me to sign a release. Do I?**

Before you do anything after a tragedy, you must be sure that you have fully recovered from the shock and grief the event will bring before you take any action. Frequently, a claims agent and some attorney's representatives will want you to make decisions which will affect the rest of your and your children's lives before you have had an opportunity to step back and look at what has happened. Until you are sure that you have your wits about you, you should not talk to the claims agent.

### **Can a member of my husband's union help?**

Absolutely. Most railroad workers have insurance policies and other provisions in their union contract which will assist the spouse and children in the event of catastrophic injury or death. Your local Union officers can help you apply for these monies and work to protect your rights..

### **When should I see an attorney?**

You should see an attorney who is experienced with the Federal Employers' Liability Act, the law which is designed to protect railroad workers when they are injured or killed on the job, as soon as you feel that you can make wise rational choices. It is important that you retain an attorney who is experienced with the Federal Employers Liability Act as the attorney will know where to go and how to preserve the evidence which will be necessary to protect your and your children's rights. It will benefit you and your children to retain an attorney as soon after the catastrophic event as possible, as the attorney knows that the danger in losing valuable and important evidence grows greater as time passes. It is important that the attorney you select has knowledge of how the railroad works and the duties assigned to railroad employees. Your spouse's union has approved and designated certain law firms as having the knowledge and experience necessary to protect your rights.

**I have children and need money as soon as possible to pay for my house and living expenses. The claims agent offers me advances. Should I accept the advances and not go to a lawyer?**

Frequently, claims agents will tell injured railroad workers or the spouses of deceased railroad workers that they would love to help them out, but can only do so if they have not hired an attorney and if they will give a recorded statement. THIS IS NOT TRUE. The railroad, if it wants to help out any employee who is injured or the family of an employee who has been killed. Furthermore, there is no requirement that an injured employee provide a statement other than an accident report. These are means by which the claims agent tries to get evidence for the railroad to defeat your claim. It is the claim agent's job to minimize the railroads liability. The railroad will make an advance if it is a good business decision—just as when they furlough people. Although having money quickly from the claims agent can help in the short run, the potential of losing important facts and evidence in your case is great. The railroad advances money to minimize their liability and also allow evidence to be lost and witnesses' memories to fade. You and your families will need that evidence and those witnesses to protect your rights. Do not, for any reason, give a statement, either taped, oral or written, about the accident to the claims agent. Furthermore, never discuss family matters or problems with the railroad. If the claims agent approaches you about these subjects, contact an attorney.

**I know I am entitled to a certain amount from the company in the event of death. If they pay, can I still sue?**

The monies to which you are entitled are the result of insurance policies, the collective bargaining agreement or the Railroad Retirement Board. These monies are earned through employment and do not come from the railroad. This means that you may still collect those monies and sue the railroad. However, if you accept money directly from the railroad and you sign a release, it will prevent you from suing. It is important to understand the difference.

**I have signed a release with the claims agent while under stress. Can I get out of this release?**

The answer to this question depends on the facts involved in your signing the release. If it can be shown that you did not understand the circumstances surrounding the injury or death, did not understand the significance of the injuries (if there is no death), or signed because of false or concealed statements by the claims agents or doctors, a good attorney should be able to get you out of the release. This, however, is very difficult. Of course, the best procedure is to not sign in the first place until you have fully recovered your emotional and mental faculties and had an opportunity to consult with a lawyer.

**My husband was in accident while away from home. I have to travel out of state to be with him at the hospital. Will the railroad pay for the cost of my going to the accident scene to be near my husband?**

The railroad is not obligated to pay these costs. Sometimes the claims agent will offer to "put you up" and, in so doing, will try to control you and your claim. Again, this is a ploy to prevent early investigation of the accident scene and to procure necessary witness statements. The money which you are out of pocket can eventually become an element of damage in your lawsuit and can be recovered through trial. If you need money in the event your husband is involved in an accident away from home, first look to family and friends for support. If there are problems, contact an attorney.

## **What am I entitled to?**

This is a difficult question and cannot be answered at the time of a catastrophe. Any claims agent or attorney who tells you what your case is worth or what he can get for you immediately after the time of the catastrophe is not giving you a straight answer. A case may only be fully evaluated after all of the facts and circumstances surrounding the event have been discovered, medical records have been evaluated, and the present value of future losses is ascertained.

Under the Federal Employers Liability Act, negligence must be proven. This means that there must be facts sufficient to support a claim that the railroad or one of its agents or employees did something wrong, or failed to do something that should have been done. Included in this area are unsafe tools, equipment and property as well as the failure to institute and oversee proper safety procedures. Then it must be shown that the act or omission played any part, even the smallest, in bringing about the injuries or death. Also, the actions of the injured or deceased railroad worker have to be evaluated to determine whether he or she was responsible in any way for the injury or death.

## **What do I do now?**

Only after the questions are answered can a thorough evaluation of the value of the case be made.

There are special laws which apply if your spouse was injured or killed as a result of a defect of an engine or a defect in the train's safety appliances. These laws the Locomotive Inspection Act and Safety Appliance Act must be thoroughly evaluated. There are some things which you must know in order to make good decisions. As soon as possible, find out the answers to the questions listed below:

1. Where did the accident happen?
2. What time did the accident happen?
3. Who was with my husband at the time the accident happened?
4. Did anyone else see the accident?
5. What happened?

These are important questions and finding the answers to them as soon as possible will be of great benefit to you and your children in protecting your rights.

## **TO THE INJURED RAILROAD WORKER:**

**If you become injured at work, there several things that should be done after the injury.**

- Remember- The FELA is fault based and the railroad will want to argue that this injury is your fault.
- Make mental and written notes of the location and/or equipment involved in the injury, and take photographs if possible.
- Have coworkers take notes of the accident scene, i.e. location, equipment involved, witnesses, and the area surrounding the accident scene. What work was being performed at the time of the injury? What repairs or cleanup was done after the accident?
- Immediately contact your Local Union Representative and the Hildebrand Law Firm.
- Limit speaking to any company official.
- Do not give any written or taped statements to any company official as you are not required to do so under any rule or law.
- Do not allow company officials in the examination room to talk with you, your family, or your doctor.
- You must fill out an accident report for the company, but not until you are mentally and physically able. It should not be done in the examination room, while under medication, or the stress of being injured. Wait until you can reflect on what happened and why it happened.
- Have your Local Union Representative or The Hildebrand Law Firm help you fill out the accident report when you have recovered enough to think clearly and can accurately answer all of the questions on the accident report.
- The Hildebrand Law Firm will protect the rights you have under the FELA. You are not covered under any state workers compensation.

# **WHISTLEBLOWER VIOLATIONS**

Pursuant to **49 U.S.C. Section 20109**, the railroad commits a whistleblower violation when it engages in any **adverse action** against a railroad worker because that worker performed a **protected activity**.

## **Common Protected Activities:**

- Notifying the railroad of **work-related injuries and medical conditions**
- Reporting **hazardous safety or security conditions**
- Accurately reporting **hours of service**
- **Filing or assisting with an OSHA Complaint**
- The railroad **cannot delay, deny, or interfere** with your **medical treatment**

## **Common Adverse Actions :**

- Discipline
- Firing
- Harassment
- Probation or adverse “points” assessments
- Retaliation
- Intimidation
- Threats
- Reduced pay, hours, or choice of jobs
- Blacklisting

## **Examples of Potential Violations:**

- 1) Termination, discipline, or harassment for reporting an on-duty injury or hazardous safety condition
- 2) Delaying or denying an employee’s request for hospital or medical care
- 3) Railroad nurse or railroad doctor interfering with or delaying medical care
- 4) Intimidation/Harassment: Threatening investigation or discipline if an injury is reported

## **HOW TO PROTECT YOURSELF**

### **1) Ask questions and get advice before and after reporting an injury**

- Contact your union reps and experienced attorneys at Hildebrand McLeod & Nelson LLP

### **2) Explicitly request medical treatment**

- Your **maximum protection** is when you **request hospital/ER** care immediately after an injury
- If you ask for the **hospital**, the railroad **must** promptly arrange transport to the **nearest hospital**
- With or without a request, the railroad still cannot delay, deny, or interfere with your treatment

### **3) Keep detailed notes**

- Write down all key events, dates, times, witnesses, and conversations with railroad managers

### **4) Timely file a whistleblower complaint with OSHA**

- **Timing: You must file your complaint no later than 180 days after an adverse action**
- Potential remedies: Punitive damages up to \$250,000, back pay and other economic damages, emotional damages, reinstatement and clearing of personnel record, attorney fees, and other relief afforded by the law

# **OFF TRACK VEHICLE BENEFITS**

## **HILDEBRAND, McLEOD & NELSON RECOMMENDS:**

- Talk to your insurance agent.
  - Explain that your job requires you to drive and/or be a passenger in vehicles while at work. Ensure that you have adequate coverage because often the person at fault will have inadequate insurance coverage. If more than one person is injured in the accident, and the negligent party has inadequate insurance, you may get little or nothing.
- Make sure that **you** have a significant amount of coverage for both UNDERINSURED and UNINSURED claims.
- **Avoid driving** your own vehicle or company vehicles if at all possible. Of course, driving is a necessary part of some jobs and sometimes unavoidable.
- Most importantly, **talk to your union representative and DLC** to make sure you are protected.

## **OFF TRACK VEHICLE SUMMARY:**

1. **Who can claim** these benefits:
  - A employee who is injured “riding in, boarding, or alighting from off-track vehicles authorized by the carrier” and are “deadheading or being transported at the carrier expense.”
2. The **disability requirements** for the benefits:
  - An employee who is immediately and continuously disabled for 30 days from the date of the accident.
  - Example: If John Doe goes back to work one day during the first 30 days after the accident, then he cannot get the benefits.
3. The **duration** of the benefits:
  - An injured employee can continue to receive off track benefits up to 156 weeks, so long as he remains disabled, even after RRB benefits have stopped. If RRB benefits stop, the off track benefits should be recalculated.
4. The **value** of the benefits:
  - The employee is entitled to 80% of his wages with a set maximum that varies by union contract, presently a maximum of \$1,000 per week. Example: John Doe earns \$1,500 per week. 80% of \$1,500 is \$1,200, but he will only get \$1,000 per week because of the set maximum.
  - If the employee is also collecting RRB benefits, those will be deducted from the amount paid by the off track policy. Example: John Doe would get \$1,000 from the off track policy. John Doe gets \$350 a week in RRB. So he can only get \$650 per week in off track benefits.
  - The employee is also entitled to a lump sum benefit based on the severity of the injury (for example, death, loss of limbs, loss of vision, etc.). Different unions have negotiated different amounts.
5. The **contact person** for benefits:

The employee should make the claim through the carrier's claims agent.

## **OFF TRACK VEHICLE BENEFITS (cont.)**

### **FREQUENTLY ASKED QUESTIONS:**

1. **Will I be covered by the FELA?**
  - Maybe. The FELA is a fault-based compensation system. If there is no carrier fault, there is no FELA coverage.
2. **Will my own car insurance policy cover me in an accident?**
  - Maybe. You need to have adequate uninsured/underinsured motorist insurance (“UIM”) coverage on your policy. This will cover you when there is an accident which is the fault of another (non-contract) vehicle whose driver does not have insurance (or has inadequate insurance).
3. **Will my homeowner’s policy cover me in an accident?**
  - Maybe. You should review the terms of the policy and contact your agent to explain it, as some homeowner’s policies cover these accidents, sometimes these accidents are excluded. You must confirm any representation made by your agent in writing.
4. **What if I’m driving my own vehicle and I’m in an accident?**
  - If you are at fault, the other driver could sue you and the railroad. The railroad can look towards your insurance as the primary source to cover the damages.
  - If the other driver is at fault, the other driver and/or his insurer is responsible. If the other driver lacks adequate insurance, UIM could cover the damages.
5. **What if I’m driving a company vehicle and I’m in an accident?**
  - If you are at fault, the railroad will be responsible for injuries to others and has an obligation to defend you. Your personal insurance will likely also be involved. If you are injured, your damages may be lessened by the extent that you were at fault.
  - If the other driver is at fault, the other driver and/or his insurer is responsible. If the other driver lacks adequate insurance, UIM could cover the damages.
6. **If I’m in an accident on duty driving a company vehicle or my own vehicle, will my insurance premiums rise?**
  - Probably yes. It is up to the insurance company, but often accidents – sometimes no matter who is at fault – will trigger an increase in premiums.
7. **Do I have to pay back the money?**
  - Yes. You need to repay the off track benefits in the event you recover against the railroad or a third party bad driver. This is called a “lien.”
8. **What if I’m commuting to or from work?**
  - You are not covered while commuting.

## **OFF TRACK VEHICLE BENEFITS (cont.)**

### **FREQUENTLY ASKED QUESTIONS (cont.):**

#### **9. Will I be covered by the FELA?**

- Maybe. The FELA is a fault-based compensation system. If there is no carrier fault, there is no FELA coverage.

#### **10. Will my own car insurance policy cover me in an accident?**

- Maybe. You need to have adequate uninsured/underinsured motorist insurance (“UIM”) coverage on your policy. This will cover you when there is an accident which is the fault of another (non-contract) vehicle whose driver does not have insurance (or has inadequate insurance).

#### **11. Will my homeowner's policy cover me in an accident?**

- Maybe. You should review the terms of the policy and contact your agent to explain it, as some homeowner's policies cover these accidents, sometimes these accidents are excluded. You must confirm any representation made by your agent in writing.

#### **12. What if I'm driving my own vehicle and I'm in an accident?**

- If you are at fault, the other driver could sue you and the railroad. The railroad can look towards your insurance as the primary source to cover the damages.
- If the other driver is at fault, the other driver and/or his insurer is responsible. If the other driver lacks adequate insurance, UIM could cover the damages.

#### **13. What if I'm driving a company vehicle and I'm in an accident?**

- If you are at fault, the railroad will be responsible for injuries to others and has an obligation to defend you. Your personal insurance will likely also be involved. If you are injured, your damages may be lessened by the extent that you were at fault.
- If the other driver is at fault, the other driver and/or his insurer is responsible. If the other driver lacks adequate insurance, UIM could cover the damages.

#### **14. If I'm in an accident on duty driving a company vehicle or my own vehicle, will my insurance premiums rise?**

- Probably yes. It is up to the insurance company, but often accidents – sometimes no matter who is at fault – will trigger an increase in premiums.

#### **15. Do I have to pay back the money?**

- Yes. You need to repay the off track benefits in the event you recover against the railroad or a third party bad driver. This is called a “lien.”

#### **16. What if I'm commuting to or from work?**

You are not covered while commuting.

# The Importance of Life and Disability Insurance

## Life Insurance:

No amount of money can ever replace the loss of a loved one, which is why it is essential to have a plan to provide for you, your family and loved ones in the event the unforeseen happens. Life insurance can ensure financial security to those who mean the most to you, such as your spouse, children and dependent parents. A carefully executed life insurance policy can help prepare for life's uncertainties and give peace of mind knowing that the future of those who rely on you is secure.

## Disability Income Insurance:

Most people pay very little attention to how they might handle their family's living expenses should their income suddenly cease because of an unexpected illness or injury. Perhaps this is because most people feel an injury or illness will never happen to them. Disability income insurance protects your most valuable asset; your ability to earn an income. In closing, if you are unfortunately injured while working on the railroad, having disability insurance may be very important to you with respect to not being controlled by a claim agent, (as we have all seen in the past with no personal income coming in a claim agent will seek to gain control of all aspects of your on-duty injury).

**Life and Disability insurance are not simple products.** It's wise to talk to an expert who can walk you through the pros and cons of available plans and help choose coverage that works best for your individual situation, now and in the future. Most organizations / union representatives can help you with an expert referral.

## ADDITIONAL NOTES

# **HILDEBRAND McLEOD & NELSON LLP**

## **RAILROADER'S SURVIVOR GUIDE**

**1-800-447-7500**