

## **SURVIVOR BENEFITS**

(A.C.A. § 24-7-710; § 24-7-711, as amended by Act 97 of 2007)

### **DEFINITIONS**

1. **Refund beneficiary** means a person(s) designated by the member in writing on file with ATRS to receive the member's accumulated contributions standing to his or her credit in the member's deposit account at the time of the member's death, together with regular interest thereon from the time of death to the time of payment.
2. **Residue beneficiary** means a person(s) designated by the member in writing on file with ATRS to receive the residue amount, if any, at the termination of the survivor benefit annuities payable on account of the member's death under § 24-7-711.
3. **Residue** means the amount of the member's accumulated contributions, including regular interest, standing to the member's credit in the members' deposit account at the time of his/her death

### **RULES**

If an active member with five (5) or more years of actual and reciprocal service, including credited service for the year immediately preceding his or her death, dies in employer service before retirement, survivor benefits as provided in A.C.A. § 24-7-710 shall be paid to the following qualifying dependents:

#### **1. SPOUSE**

- A. The member's surviving spouse, who was married to the member for at least the two (2) years immediately prior to the member's death, shall receive a surviving spouse annuity.
- B. If at the member's death there are no dependent children eligible to receive a dependent child annuity under § 24-7-710, a surviving spouse who qualifies to receive a surviving spouse annuity may file with the System a written waiver of any rights to the spouse annuity.

If the surviving spouse files a waiver of the spouse annuity, the deceased member's residue beneficiary(ies) will receive a single distribution of the member's residue amount, if any.

- C. The surviving spouse annuity shall commence when the spouse reaches age 62 and is payable until the spouse's remarries or dies.

- D. However, if the member, prior to his or her death, had:
- i. Satisfied the age and service requirements provided for in § 24-7-701 or had acquired twenty (20) years of credited service before his/her death, the spouse annuity shall be payable immediately and be payable for the spouse's life; or
  - ii. Acquired fifteen (15) years of credited service but had not attained age sixty (60) before his/her death, then the surviving spouse annuity shall commence at age 50 and be payable until the spouse remarries or dies.

E. Amount of Surviving Spouse Annuity

The surviving spouse annuity shall be calculated as if the member retired the date of his /her death under § 24-7-705 and elected Option A, nominating his/ her spouse as the Option A beneficiary.

However if the amount payable to the surviving spouse under Option A is less than the amount payable to dependent children as provided in this Policy, the greater of the two annuities shall be paid.

- F. If a surviving spouse does not otherwise qualify for a spouse annuity but has in his/her custody any of the deceased member's dependent children receiving a dependent child annuity under No. 2 below, a spouse annuity shall be paid to the spouse in the same amount payable to the dependent children under No. 2 below. The annuity paid to the custodial spouse will begin immediately and continue until all the dependent child annuities terminate or the spouse no longer has custody of the dependent children.

To be considered to have "custody" of a dependent child, the spouse must be the primary custodian of the dependent child(ren), having at least 50% custody.

**2. DEPENDENT CHILDREN**

An active member's dependent children shall each receive a surviving child annuity upon the member's death. The surviving child annuity shall be calculated according to the following:

- A
- i. If the member had only contributory credited service, the greater of ten percent (10%) of the member's salary for the fiscal year at the time of death or fifty dollars (\$50.00) monthly, plus the benefits applicable under § 24-7-713.
  - ii. If the member had only noncontributory credited service, the greater of six percent (6%) of the member's salary for the fiscal year at the time of

death or thirty-one dollars (\$31.00) monthly, plus the benefits applicable under § 24-7-713; or

- iii. If the member had a mixture of credited service, the amounts payable shall be prorated between the member's contributory and noncontributory credited service and his/ her total credited service monthly, plus the benefits applicable under § 24-7-713.
- B. If there are three (3) or more dependent children, each dependent child shall receive an annuity in the amount of :
- i. If the member had only contributory credited service, the greater of twenty-five percent (25%) of the member's salary for the fiscal year at the time of his/her death or one hundred twenty-five dollars (\$125) monthly, plus the benefits applicable under § 24-7-713.
  - ii. If the member had only noncontributory credited service, the greater of 16% of the member's salary for the fiscal year at the time of his/her death or \$79.00 monthly, plus the benefits applicable under § 24-7-713.
  - iii. If the member had a mixture of credited service, the amount payable shall be prorated between the contributory credited service and the noncontributory service and his/her total credited service, plus the benefits applicable under § 24-7-713.
- C. A "child" of a member is defined in A.C.A. § 24-7-202(9) as:
- i. A natural child of the member;
  - ii. A child that has been made a child of the member by adoption or other court action prior to the time of the death of the member; or
  - iii. A child under the permanent care of the member at the time of death of the member, which permanent care status shall be determined under Rule 2D of this policy.
- D. To be a "dependent child" under these rules, the child must:
- i. Meet requirements and qualify for survivor benefits under Social Security;
  - ii. Have been claimed as a dependent by the deceased member on his federal income tax for the immediately preceding calendar year; and

- iii. Have lived in the same household for at least two (2) years immediately preceding death of the member, unless the child is under two years of age.
- E. A child identified as a dependent will remain eligible to receive a survivor annuity until he/she is no longer a dependent. A child is no longer dependent if he/she reaches the age of 18 or becomes legally married.
- F. A deceased member's child will continue to be eligible for a child survivor annuity after reaching age 18 if the child continues consecutively, without interruption, as a full-time student at an accredited secondary or postsecondary school (vocational technical school) or college or university. In any event, a dependent child annuity will terminate when the child reaches age 23.
- i. A full-time student is defined as one carrying 12 semester or 8 trimester hours in college or four (4) hours per day in a secondary or postsecondary school.
  - ii. If a child who is receiving a dependent child annuity is age 18 or older but becomes temporarily physically or mentally incapacitated, the Board may continue paying benefits upon receipt of a doctor's certification that the child is not competent to attend school for the period of one semester or term. At the beginning of the next semester or term, if the child does not reenter school full-time, the annuity payable to a dependent child under A.C.A. §24-7-710 (c) will terminate.
  - iii. Certification of attendance in an accredited school may be made by the dependent child in the absence of a parent or legal guardian after the dependent child reaches age 18.
- G. A deceased member's dependent child who is dependent due to having been adjudged physically or mentally incapacitated by a court or legal tribunal continues to be eligible to receive a dependent child annuity as long as the incapacity exists, regardless of age.
- H. When a child ceases to be a dependent child, his/her annuity shall terminate, and there shall be a recalculation of the annuities due to the remaining, dependent children.
- I. A dependent child annuity will be paid as separate payments to each child monthly, rather than one lump-sum check payable to the spouse or custodian. Deposit accounts designated to receive survivor annuity payments to a child under age 18 must qualify as custodial accounts in accordance with the Uniform Transfers to Minors Act.

### **3. DEPENDENT PARENT**

If at the time of an active member's death, there is no a surviving spouse or dependent child eligible to receive a survivor annuity, each dependent parent shall receive a dependent parent annuity in the amount payable to dependent children under No. 2 of this policy.

A parent is dependent upon the member if he/she is dependent for at least fifty percent (50%) of his or her financial support from the member.

A parent is considered 50% dependent for financial support on the deceased member if the parent's annual income was not greater than the amount contributed by the deceased member for his or her support.

### **4. COMMENCEMENT OF ANNUITIES**

Annuities payable under the provisions of this rule shall commence the calendar month following the date the survivor becomes eligible to receive the survivor annuity under § 24-7-710.

### **5. REPAYMENT OF AMOUNTS DUE FROM DECEASED MEMBER**

In the event a deceased member received benefits from the System which he/she was not due and had failed to repay the amount prior to his/her death, the amount still payable to the System shall be withheld from the survivor annuities payable until the amount owed to the System is repaid in full..

### **6. DISPOSITION OF RESIDUE AFTER SURVIVOR ANNUITIES TERMINATE [(A.C.A. § 24-7-710(e))]**

A. If upon the member's death, no survivor annuity becomes payable under § 24-7-710, then the residue amount, if any, shall be paid to according to No.7 of this policy.

B. If a survivor annuity is payable under § 24-7-710, but the survivor annuities terminate before there has been paid to the survivor annuitants, an amount equal to the residue amount, the remaining residue, if any, shall be paid to the member's designated residue beneficiaries.

C. After June 30, 2006, if there are no designated residue beneficiaries surviving an active member at his/her death, the residue shall be payable to the member's estate.

D. If the designated residue beneficiary survives both the member and the recipient of the survivor benefit annuities but dies prior to receiving the residue, the residue shall be payable to the last eligible, eligible survivor annuitant's estate.

## **7. DISPOSITION OF RESIDUE CONTRIBUTIONS**

- A. In the event a member dies and no survivor annuity becomes payable by the System upon the member's death, the residue, if any, shall be paid to the member's designated residue beneficiaries.
- B. If there are no designated residue beneficiaries surviving the member, the residue remaining, if any, shall be paid to the member's estate.
- C. If at the time of an active member's death, a surviving spouse is listed on the death certificate, the System will search for the surviving spouse for up to one year. If after one year, ATRS has not located or been contacted by the surviving spouse, ATRS will refund the member's residue amount, if any, to the member's remaining residue beneficiaries surviving the member.

## **8. SURVIVOR BENEFITS UPON DEATH OF DISABILITY APPLICANT**

If an active member dies after applying for disability retirement, the following will apply:

- A. If the member dies before receipt of the first disability retirement check but after receiving final approval for disability retirement, the benefits will be paid under the disability retirement option selected by the member.
- B. If the member dies after the disability application is received by the System but before disability retirement is approved, then the System shall consider the member to have died in "active" service and survivor benefits under § 24-7-710 shall be paid.

## **9. MEMBER'S SALARY USED IN CALCULATING SURVIVOR ANNUITIES**

For the purposes of determining survivor benefits, the member's salary shall be the salary that the member would have received in the fiscal year in which he/she died had the member lived through the end of the fiscal year.

## **10. INCLUSION OF POST-DEATH PAYMENTS AS SALARY AND DAYS OF SERVICE**

Salary payments made after the death of a member that were earned prior to death are subject to System deductions and shall be reported in total salary and days of service in the employer's quarterly report. Payments made by an employer after the death of an active member that are made as a mere gratuity and were not earned by the member shall not be included in the member's salary reported to the System and are not subject to deductions.

**11. CONTINUATION OF ACTIVE MEMBERSHIP STATUS**

For purposes of survivor benefits, a member will be considered active or an additional fiscal year following the last fiscal year that actual service was rendered to a covered employer.

**12. DEATH BENEFITS PAYABLE BY MORE THAN ONE RECIPROCAL SYSTEM**

If survivor benefits are payable by more than one reciprocal system to eligible survivors of a deceased member, the survivors shall not receive more as a percentage of the deceased member's final pay or as a minimum dollar amount than the largest amount payable by a single, reciprocal system. The System will prorate minimum benefits payable with any other reciprocal systems that have a minimum benefit provision in its plan. Each reciprocal system shall pay only its proportionate share of the minimum amount based on the ratio of service in its system to the total service in all reciprocal systems.

**13. ACT 793 TRANSFERS**

When the member elects to transfer from ATRS to APERS under the provisions of Act 793 of 1977, APERS' law governs the survivors' eligibility for a payment of residue or survivor benefits upon the member's death.

**Amended:** June 15, 2004  
February 7, 2006  
April 26, 2007

## **LUMP-SUM DEATH BENEFIT**

(Act 1022 of 1997, Act 312 of 1999, Act 359 of 2001, Act 494 of 2005, Act 296 of 2007)

(A.C.A. § 24-7-720)

### **DEFINITIONS**

1. **Statutory succession** means the order in which benefits are paid if there are no designated beneficiaries surviving the member or retirant who dies on or before June 30, 2006: spouse; then children; then parents; then estate.
2. **Designated lump-sum death beneficiary** means a person(s) or entity(s) a member or retiree has designated in writing on file with ATRS to receive the lump-sum death benefit payable under A.C.A. § 24-7-720.
3. **Person** includes a corporation, partnership or other legal entity.

### **RULES**

Effective July 1, 1997, Act 1022 of 1997; provides a lump-sum death benefit for certain active and retired members.

1. A. If prior to July 1, 2007, an active member of the Arkansas Teacher Retirement System with five (5) or more years of actual service, including service for the year immediately preceding the member's death, dies while in employer service before retirement, then a lump sum shall be paid to the member's designated lump-sum death beneficiary(ies).
- B. If on or after July 1, 2007, an active member of the Arkansas Teacher Retirement System with ten (10) or more years of actual service, including service for the year immediately preceding the member's death, dies while in employer service before retirement, then a lump sum shall be paid to the member's designated lump-sum death beneficiary(ies).
- C. Effective for members dying on or before June 30, 2006, if there are no such designated beneficiaries surviving the member, the lump sum shall be paid in the order of statutory succession. Effective for members dying after June 30, 2006, if there are no such designated beneficiaries surviving the member, the lump sum shall be paid to the retirant's estate.
- D. i. If the member had only contributory service, then the lump sum payable shall be ten thousand dollars (\$10,000.00);  
ii. If the member had only noncontributory service, then the lump sum payable shall be six thousand six hundred and sixty-seven dollars (\$6,667.00).



- iii. If the member had a combination of actual service, both contributory and noncontributory, the lump sum will be prorated according to the ratio of the member's contributory and noncontributory service.
  - 2. A. If prior to July 1, 2007, a retirant whose annuity is paid by the Arkansas Teacher Retirement System dies, a lump sum shall be paid to any designated lump-sum death beneficiary.
  - B. If on or after July 1, 2007, a retirant with ten (10) or more years of actual service whose annuity is paid by the Arkansas Teacher Retirement System dies, then a lump sum shall be paid to the member's designated lump-sum death beneficiary(ies).
  - C. Effective for retirants dying on or before June 30, 2006, if there are no such designated beneficiaries surviving the retirant, the lump sum shall be paid in the order of statutory succession. Effective for retirants dying after June 30, 2006, if there are no such designated beneficiaries surviving the retirant, the lump sum shall be paid to the retirant's estate.
  - D.
    - i. If the retirant had only contributory service, then the lump sum payable; shall be ten thousand dollars (\$10,000.00);
    - ii. If the retirant had only noncontributory service, then the lump sum payable shall be six thousand six hundred and sixty-seven dollars (\$6,667.00).
    - iii. If the retirant had a combination of credited service, both contributory and noncontributory, the lump sum will be prorated according to the ratio of the retirant's contributory and noncontributory service.
3. The Board of Trustees sets the exact amount of the lump-sum payments up to the statutory limits as it determines is actuarially appropriate for the System.
4. The Board of Trustees is authorized to set the level of the lump-sum benefit to the current members and retirants where the ratio between the contributory and noncontributory benefits are maintained at a three-to-two (3:2) ratio and to a level to match the benefits that the Board finds are appropriate for the actuarial soundness of the System.
5. The lump-sum payments shall be directly payable from the System upon receipt and acceptance of the lump-sum death benefit application, member or retirant's original death certificate, copy of the recipient's Social Security card or Form W-9, and such other documentation required by ATRS.

6, The Arkansas Teacher Retirement System shall honor any and all federal and state income tax laws regarding the payment of lump-sum death benefits.

**Amended:** June 15, 2004  
February 7, 2006  
April 26, 2007