

## **RULE 11-1**

### **SURVIVOR BENEFITS**

A.C.A. §§ 24-7-710, 713

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#### **I. GENERAL: See A.C.A § 24-7-710 for Survivor Benefit Rules.**

A. Benefits may be provided to dependents of qualifying members after the death of the member. To qualify, a member must have five (5) years of actual service and be an active member at the time of death.

B. ATRS considers a member to be active for the purpose of qualifying for survivor benefits under A.C.A. § 24-7-710~~(g)~~ and if:

- i. The member has at least ten (10) days of service credit in each prior quarter of the fiscal year from the time the fiscal year began or the member was employed by an ATRS employer, whichever occurs last, provided however, the member must have at least one quarter with ten (10) days of service; or
- ii. The member has at least ten (10) days of service in the quarter of the member's death, or, ten (10) working days have not elapsed in the quarter of the member's death.

#### **II. SPOUSAL BENEFITS**

A. The benefits provided for in A.C.A. § 24-7-710, plus the monthly stipend under A.C.A. § 24-7-713 shall be paid to the spouse of the qualifying member if the spouse survives the member and was married to the member for at least two (2) years immediately prior to the member's death.

B.

- i. If at the time of the member's death there are no dependent children eligible to receive a dependent child annuity, a surviving spouse who qualifies to receive a surviving spouse annuity may file with ATRS a waiver of any rights to the spousal annuity.
- ii. If the surviving spouse files a waiver of the spousal annuity, then the deceased member's residue beneficiary(ies) will receive a single distribution of the member's residue amount, if any.

C.

- i. The spousal annuity is payable for the spouse's lifetime, regardless of remarriage, pursuant to A.C.A. § 24-7-710(b).
- ii. The spouse may defer receipt of the annuity, if applicable, under the deferred retirements provisions of A.C.A. § 24-7-707.

### III. DEPENDENT CHILDREN BENEFITS

A. Surviving dependent children of the member shall receive an annuity under A.C.A. § 24-7-710 and a cost of living adjustment, as may be designated by the Board.

B. There are certain additional limitations on the amount of annuity payable to a dependent child if the member has multiple dependents. A.C.A. § 24-7-710(e).

- i. "Child" is defined under A.C.A. § 24-7-202(9), and for purposes of receiving an annuity from ATRS, the child must be a dependent child in accordance with § 24-7-710. While a surviving dependent child's benefits normally cease once the child reaches eighteen (18) years of age, there are circumstances where the child may continue to receive benefits. These include:
  - a. A full-time student. A full-time student is defined as one carrying 12 semester hours or 8 trimester hours in college, four (4) hours per day in a secondary or postsecondary school, or other verifiable indices from an accredited institution that the dependent child is engaged in full time curriculum or field of study. Certification of attendance in an accredited school may be reported by the dependent child in the absence of a parent or legal guardian after the dependent child reaches age 18.
  - b. For a child receiving a dependent child annuity is age 18 or older who is temporarily physically or mentally incapacitated, the Board may continue paying benefits upon receipt of a doctor's certification that the child is temporarily physically or mentally incapacitated, and is unable 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 dependent child annuity will terminate.

C. A child who is adjudged physically or mentally incapacitated by a court of competent jurisdiction. Such a child continues to be eligible to receive a dependent child annuity as long as the incapacity exists, regardless of age. A.C.A. § 24-7-710(e).

D. A dependent child annuity remains at its initial monthly amount, adjusted only by a COLA increase, and is not readjusted when the member's other dependent child or children's annuities terminate.

E. A dependent child annuity is paid as a separate payment 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 shall conform with the Arkansas Uniform Transfers to Minors Act or court order in a guardianship.

#### **IV. GENERAL RULES REGARDING SURVIVOR ANNUITIES**

A. Survivors are required to produce sufficient proof of eligibility under these provisions prior to receiving benefit payments.

B. ATRS will notify survivors who may be eligible for a survivor's benefit at the last address on file at ATRS. (See also ATRS Rule 11-5 Lost Payees).

C. 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.

D. If the member dies after the disability application is received by ATRS but before disability retirement is approved, then ATRS shall consider the member to have died in "active" service and survivor benefits under A.C.A. § 24-7-710 shall be paid.

E. For the purposes of determining child 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, if the member's high salary occurred in the year the member died.

F. Salary payments made after the death of a member that were earned prior to death are subject to ATRS 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 ATRS and are not subject to contributions.

G. 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. ATRS 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.

H. 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

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