

**§18553. Death before service retirement****(CONTAINS TEXT WITH VARYING EFFECTIVE DATES)**

Before July 1, 1993, if a qualifying member dies at any time before completing the age and service requirements for service retirement, the payment of ordinary death benefits is governed as follows. Beginning July 1, 1993, if a qualifying member dies before the member's service retirement benefit becomes effective, the payment of ordinary death benefits is governed as follows. In either case, the member's beneficiary may select only one of the death benefits. [PL 1991, c. 469, §5 (AMD).]

**1. (TEXT EFFECTIVE UNTIL CONTINGENCY: See PL 1991, c. 619, §18) Refund of contributions.** The amount of the qualifying member's accumulated contributions, as determined under section 18306-A, is paid:

- A. To the qualifying member's designated beneficiary, if any; [PL 1991, c. 469, §5 (AMD).]
- B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:
  - (1) Surviving spouse;
  - (2) Child or children, regardless of age, sharing equally among themselves; and
  - (3) The older parent; or [PL 1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [PL 1991, c. 469, §5 (AMD).]  
[PL 2007, c. 137, §24 (AMD).]

**1. (TEXT EFFECTIVE ON CONTINGENCY: See PL 1991, c. 619, §18) Refund of contributions.** The amount of the qualifying member's accumulated contributions is paid:

- A. To the qualifying member's designated beneficiary, if any; [PL 1991, c. 469, §5 (AMD).]
- B. If the qualifying member is not survived by a designated beneficiary, to the first listed of the following relatives, if any are alive at the qualifying member's death:
  - (1) Surviving spouse;
  - (2) Child or children, regardless of age, sharing equally among themselves; and
  - (3) The older parent; or [PL 1985, c. 801, §§5, 7 (NEW).]

C. To the qualifying member's estate. [PL 1991, c. 469, §5 (AMD).]  
[PL 1991, c. 469, §5 (AMD).]

**2. Survivor benefits.** Survivor benefits are governed as follows.

A. Instead of accepting the payment provided in subsection 1, the first listed of the following who are living at the death of the qualifying member may elect the benefits described in subsections 3 to 5-B:

- (1) The designated beneficiary, if any; or
- (2) If no beneficiary is designated, the surviving spouse, the dependent child or dependent children, or the parent or parents. [PL 1991, c. 469, §5 (AMD).]

B. If the surviving spouse elects a benefit under this subsection, the dependent child or dependent children are entitled to receive the benefit under subsection 4. [PL 1991, c. 469, §5 (AMD).]

C. A person entitled to receive benefits under this section may, before the beginning of benefit payments, elect to receive benefits under article 5.

- (1) In order to elect these survivor benefits, both the qualifying member and the beneficiary must comply with each requirement of article 5.

(2) If no election is made under this paragraph, benefits payable under this section are in lieu of any benefits payable under article 5. [PL 1991, c. 469, §5 (AMD).]  
[PL 1991, c. 469, §5 (AMD).]

**3. Amount of survivor benefit payment to surviving spouse.** If the surviving spouse of the qualifying member elects a benefit under subsection 2, paragraph A, only one of the following options may be paid at one time.

A. A surviving spouse of the qualifying member is paid a \$150 benefit each month beginning the first month after the death occurs and continuing during the surviving spouse's lifetime, if:

- (1) The deceased qualifying member had 10 years of creditable service at the time of death; or
- (2) The surviving spouse is certified by an independent health care provider or the medical review service provider to be permanently mentally incompetent or permanently physically incapacitated and is determined by the chief executive officer to be unable to engage in any substantially gainful employment.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [PL 2021, c. 277, §41 (AMD); PL 2021, c. 548, §45 (REV).]

B. A surviving spouse of the qualifying member who has the care of the dependent child or children of the deceased qualifying member and who is not eligible to receive a benefit under paragraph A is paid a \$150 minimum benefit each month, beginning the first month after the death of the qualifying member and continuing during the surviving spouse's lifetime until the end of the month in which the dependent child or children are no longer in the surviving spouse's care. [PL 1991, c. 469, §5 (AMD).]

C. A surviving spouse of the qualifying member who is not eligible to receive a benefit under paragraph A or B is paid a \$150 minimum benefit each month, beginning the first month after the surviving spouse reaches 60 years of age and continuing during the surviving spouse's lifetime.

A full month's benefit is paid to the estate of the surviving spouse for the month in which the surviving spouse dies. [PL 1991, c. 469, §5 (AMD).]

D. The \$150 benefit specified under paragraphs A, B and C is increased to \$225 on July 1, 1989 and \$300 on July 1, 1990. Starting July 1, 1991, a participating local district may increase the \$300 benefit by the cost of living, in accordance with the provisions of subsection 10. [PL 1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [PL 1991, c. 469, §5 (AMD).]  
[PL 2021, c. 277, §41 (AMD); PL 2021, c. 548, §45 (REV).]

**4. Amount of survivor benefit to dependent children.** If the dependent child or children or surviving spouse of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits to the dependent child or children is governed as follows.

A. The amount of the survivor benefit is determined as follows.

(1) Until January 1, 1989:

- (a) One dependent child is paid \$150 each month;
- (b) Two dependent children are paid \$225 each month which must be divided equally between them; and
- (c) Three or more dependent children are paid \$300 each month which must be divided equally among them.

(2) Starting January 1, 1989, each dependent child receives a benefit of \$150 a month.

- (3) Starting July 1, 1989, each dependent child receives a benefit of \$175 a month.
- (4) Starting July 1, 1990, each dependent child receives a benefit of \$200 a month.
- (5) Starting July 1, 1991, each dependent child receives a benefit of \$225 a month.
- (6) Starting July 1, 1992, each dependent child receives a benefit of \$250 a month.
- (7) Starting July 1, 1993, a participating local district may increase the \$250 benefit under subparagraph (6) by the cost of living in accordance with the provisions of subsection 10. [PL 1991, c. 469, §5 (AMD).]

B. The benefits begin the first month after the death of the qualifying member and are payable to each dependent child, in accordance with Title 18-C, Article 5, until the end of the month in which the child no longer meets the definition of "dependent child" in section 17001, subsection 12. [PL 2017, c. 402, Pt. C, §16 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. When any dependent child becomes ineligible to receive benefits under this subsection, the other dependent children, if any, continue to receive benefits in accordance with this subsection. [PL 1991, c. 469, §5 (AMD).]

D. The combined benefits under subsection 3 and this subsection may not exceed 80% of the deceased qualifying member's average final compensation adjusted annually at the same time and at the same percentage as adjustments under subsection 10. [PL 1987, c. 529, §3 (NEW).]  
[PL 2017, c. 402, Pt. C, §16 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

**5. Amount of survivor benefit to parents.** If the parent of the deceased qualifying member elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. The amount of the benefit is determined as follows.

- (1) A parent who is alive at the time of the death of the qualifying member is paid \$150 a month if the parent is at least 60 years of age or, if not, upon reaching that age.
- (2) If both parents are eligible for benefits under this article and the older parent elects benefits under this subsection, the older parent is paid \$150 a month and the younger parent is paid \$105 a month upon reaching 60 years of age.
- (3) Upon the death of either parent, the surviving parent receives \$150 a month. [PL 1991, c. 469, §5 (AMD).]

B. The payment of benefits to any parent begins the first month after the death of the qualifying member and continues until the death of the parent. [PL 1991, c. 469, §5 (AMD).]

C. Benefits are payable under this subsection only if no other benefits have been paid under subsection 3 or 4. [PL 1985, c. 801, §§5, 7 (NEW).]

D. Starting July 1, 1991, a participating local district may increase the \$150 benefit under paragraph A by the cost of living in accordance with the provisions of subsection 10. [PL 1991, c. 469, §5 (AMD).]

E. No more than 2 beneficiaries of a qualifying member may be entitled to receive the benefit under this subsection. [PL 1989, c. 658, §7 (NEW).]  
[PL 1991, c. 469, §5 (AMD).]

**5-A. Amount of survivor benefit to designated beneficiary.** If a designated beneficiary, other than the surviving spouse, dependent child, dependent children or the parent or parents of a deceased qualifying member, elects a benefit under subsection 2, paragraph A, the payment of benefits is governed as follows.

A. A designated beneficiary who is alive at the time of the death of the qualifying member is paid \$150 per month beginning the first month after the death occurs and continuing until the date of

the designated beneficiary's death, if the designated beneficiary is certified by an independent health care provider or the medical review service provider to be permanently mentally incompetent or permanently physically incapacitated and is determined by the chief executive officer to be unable to engage in any substantially gainful employment. [PL 2021, c. 277, §42 (AMD); PL 2021, c. 548, §45 (REV).]

B. A designated beneficiary who is alive at the time of the death of the qualifying member and is a person under 18 years of age, or under 22 years of age if the person is a full-time student, is paid \$150 per month beginning the first month after the death occurs and continuing until the person no longer meets the age criteria of this paragraph. [PL 1991, c. 469, §5 (AMD).]

C. A designated beneficiary of the qualifying member who has the care of the dependent child or children of the deceased qualifying member, and who is not eligible to receive a benefit under paragraph A, has the option:

(1) To be paid \$150 per month, beginning the first month after the death of the qualifying member and continuing during the designated beneficiary's lifetime for as long as the dependent child or children are in the designated beneficiary's care;

(2) To transfer the right to receive a benefit to the children of the deceased qualifying member under subsection 4; or

(3) To elect a benefit under paragraph D. [PL 1991, c. 469, §5 (AMD).]

D. A designated beneficiary who is not eligible to receive a benefit under paragraph A, B or C is paid \$150 per month, beginning the first month after the designated beneficiary reaches 60 years of age and continuing until the date of the beneficiary's death. [PL 1991, c. 469, §5 (AMD).]

E. Only one beneficiary of a qualifying member is entitled to receive the benefit under this subsection. [PL 1991, c. 469, §5 (AMD).]

[PL 2021, c. 277, §42 (AMD); PL 2021, c. 548, §45 (REV).]

**5-B. Reduced retirement benefits.** Beginning July 1, 1993, instead of accepting the benefits under subsection 1 or 2, the first listed person under paragraph A living at the time of death of the qualifying member may elect the benefits in this subsection.

A. The persons eligible to make the election under this subsection are the qualifying member's:

(1) Designated beneficiary;

(2) Surviving spouse;

(3) Child or children; or

(4) Parent or parents. [PL 1991, c. 469, §5 (NEW).]

B. Benefits under this subsection are paid as follows, notwithstanding that the qualified member may not be eligible to retire under section 18452, subsection 3.

(1) The benefit is computed in accordance with section 18452, subsection 3, if applicable, as if the service retirement of the qualifying member had taken place on the date of the member's death.

(2) The beneficiary is paid beginning on the first day of the month after the death of the qualifying member and continuing until the last day of the month in which the beneficiary's death occurs.

(3) Benefits under this subsection are paid in accordance with section 18404, subsection 3. [PL 2001, c. 118, §12 (AMD).]

C. If the monthly benefit payable under this subsection is \$10 or less, in lieu of those payments a lump sum that is the actuarial equivalent of the benefit to which the beneficiary is entitled must be

paid on the date the first monthly payment would otherwise be paid. A beneficiary who receives a lump sum payment under this subsection does not forfeit any other benefit to which the member would be entitled if the member were receiving a monthly benefit payment. [PL 1991, c. 469, §5 (NEW).]

[PL 2001, c. 118, §12 (AMD).]

**6. Transfer of funds.** If benefits are paid under subsections 3 to 5-B, the amount of the deceased qualifying member's accumulated contributions in the Members' Contribution Fund is transferred to the Retirement Allowance Fund.

[PL 2007, c. 249, §33 (AMD).]

**7. Death of beneficiary before payment.** If any person becomes entitled to the payment of benefits under this article and dies before either the refund check or the initial survivor benefit check is endorsed and presented to a holder in due course, the person is considered to have predeceased the qualifying member.

[PL 1991, c. 469, §5 (AMD).]

**8. Change of choice of payment option.** Any beneficiary under this article may change the choice of payment at any time up to the point of endorsement and presentation to a holder in due course of either the refund check or the initial survivor benefit payment.

[PL 1991, c. 469, §5 (AMD).]

**9. Defeat of survivor's option.** A qualifying member may specify that the refund of the member's accumulated contributions be paid to a designated beneficiary or to the qualifying member's estate in lieu of any payment to survivors under subsections 3 to 5-B by filing an affidavit expressing that intent with the chief executive officer.

[PL 1991, c. 469, §5 (AMD); PL 2021, c. 548, §45 (REV).]

**10. Cost-of-living adjustment.** A participating local district may provide an adjustment to survivor benefits in accordance with section 18407 by:

A. Applying to the board; and [PL 1985, c. 801, §§5, 7 (NEW).]

B. Supplying to the board a certified copy of its action together with a statement of agreement to pay costs of the adjustments. [PL 1985, c. 801, §§5, 7 (NEW).]

[PL 1985, c. 801, §§5, 7 (NEW).]

**11. Special options.** Instead of accepting the payment provided in subsection 1, 2, 5-A or 5-B, a beneficiary may elect to receive benefits under article 5.

A. To elect these benefits, both the qualifying member and the beneficiary must comply with each requirement of those provisions. [PL 1991, c. 469, §5 (NEW).]

B. If an election is not made under this subsection, benefits payable under this section are in lieu of any benefits payable under article 5. [PL 1991, c. 469, §5 (NEW).]

[PL 1991, c. 469, §5 (NEW).]

#### SECTION HISTORY

PL 1985, c. 801, §§5,7 (NEW). PL 1987, c. 529, §§3,4 (AMD). PL 1987, c. 769, §A31 (AMD). PL 1987, c. 823, §§9-11 (AMD). PL 1989, c. 658, §§6-8 (AMD). PL 1991, c. 469, §5 (AMD). PL 1991, c. 619, §17 (AMD). PL 2001, c. 118, §12 (AMD). PL 2007, c. 137, §24 (AMD). PL 2007, c. 249, §33 (AMD). PL 2017, c. 402, Pt. C, §16 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 277, §§41, 42 (AMD). PL 2021, c. 548, §45 (REV).

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