

FINANCE AND ADMINISTRATION CABINET

Kentucky Public Pensions Authority

(Amended at ARRS Committee)

105 KAR 1:457. In-line-of-duty survivor benefits.

RELATES TO: KRS 13B.010-13B.170, ~~16.505-16.582/16.578~~, 16.601, 61.505, ~~61.592~~, 61.615, 61.640, 61.665, 61.691, ~~78.510-78.852/78.545~~, ~~78.5518~~, ~~78.5528~~, ~~78.5532~~, ~~78.5534~~

STATUTORY AUTHORITY: KRS 61.505(1)(g), ~~(3)(d)~~

CERTIFICATION STATEMENT:

NECESSITY, FUNCTION, AND CONFORMITY: KRS 61.505(1)(g) authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS 16.505 to 16.652, ~~61.505~~, 61.510 to 61.705, and 78.510 to 78.852. KRS 16.601 and 78.5534 establish survivor benefits for certain eligible beneficiaries in the event of a hazardous position employee's death resulting from an act in-line-of-duty. This administrative regulation establishes the procedures for filing and administering an application for in-line-of-duty survivor benefits, and the appeal procedures if denied.

Section 1. Definitions.

- (1) "Contingent eligible beneficiary" means a person that meets the requirements to be an eligible beneficiary, except that he or she is superseded by a different eligible beneficiary.
- (2) "Eligible beneficiary" means a person who meets the eligibility qualifications for in-line-of-duty survivor benefits as provided by KRS 16.601(1)-(3) and 78.5534(1)-(3).
- (3) "Submit" means the required form, documentation, report, or payment has been received by the retirement office via mail, fax, electronic mail, the Employer Self Service Web site, or other mode specifically detailed in this administrative regulation.

Section 2. Use of Third-party Vendors.

- (1) ~~KRS 61.505(3)(d) authorizes~~ the agency ~~to~~~~may~~ contract with third-party vendors to act on its behalf throughout the in-line-of-duty survivor benefit application and review process.
- (2) The agency may utilize independent, licensed physicians provided by third-party vendors to serve as medical examiners pursuant to KRS 61.665 and 78.545. Third-party vendors may provide additional persons to fulfill non-physician roles throughout the in-line-of-duty survivor benefit application process.
- (3) Third-party vendors may act on behalf of the agency and the systems with all the rights and responsibilities therein.

Section 3. Requesting In-line-of-duty Survivor Benefits.

- (1)
 - (a) In-line-of-duty survivor benefits pursuant to KRS 16.601 and 78.5534 may be requested for an eligible beneficiary by filing a written request that shall include:
 1. Member's name and date of birth or other identifying number;
 2. Member's date of death;
 3. Employer's name and circumstance surrounding the member's death; and
 4. Name, relationship, and contact information for the person making the request.
 - (b) If the agency becomes aware of a hazardous position employee's death potentially resulting from an act in-line-of-duty, the agency or the agency's third-party vendor may notify an eligible beneficiary, or his or her parent or legal guardian, of his or her ability to file a written request for in-line-of-duty survivor benefits.

(2) If the agency becomes aware of a hazardous position employee's death potentially resulting from an act in-line-of-duty, the agency or the agency's third-party vendor shall notify the member's employer of the following requirements that shall be completed and submitted to the agency or the agency's third-party vendor:

- (a) A copy of the deceased member's death certificate;
- (b) The employer's death investigation report;
- (c) A detailed position description or a valid Form 8030, Employer Job Description; and
- (d) A valid Form 6800, Application for Duty Related/In-Line-of-Duty Survivor Benefits, certified by the deceased member's immediate supervisor and agency head.

(3) If requested by the agency or the agency's third-party vendor, the eligible beneficiary or his or her parent or legal guardian, or the employer, shall respectively file or submit any additional information including additional medical information, autopsy or other medical records, information about the member's job duties and accommodations, documentation relating to workers' compensation claims, and police or other crime reports.

Section 4. Determining Eligibility for In-line-of-duty Survivor Benefits.

(1) Once all forms and documentation required by Section 3 of this administrative regulation are on file, the agency or the agency's third-party ~~vendor~~vendor shall evaluate and make a determination regarding in-line-of-duty survivor benefits pursuant to KRS 16.601 and 78.5534. The agency or the agency's third-party vendor shall notify the eligible beneficiary, or his or her parent or legal guardian, of the findings.

(2) If in-line-of-duty survivor benefits are approved, the eligible beneficiary, or his or her parent or legal guardian, shall complete all requirements in Sections 6 to 8 of this administrative regulation prior to any benefits beginning.

(3)
(a) If in-line-of-duty survivor benefits are denied, the eligible beneficiary, or his or her parent or legal guardian, shall have until the end of day ~~one hundred eighty (180)~~ calendar days from the date the notice of denial is mailed to complete one (1) of the following:

- 1. Submit additional supporting information in accordance with Section 5 of this administrative regulation; or
- 2. Request a formal hearing to appeal the decision in accordance with Section 10 of this administrative regulation.

(b) Denial of in-line-of-duty survivor benefits shall not affect any other benefits to which an eligible beneficiary may be entitled.

Section 5. Additional Supporting Information After Denial.

(1) If the eligible beneficiary, or his or her parent or legal guardian, files additional supporting information including additional medical information, autopsy or other medical records, information about the member's job duties and accommodations, documentation relating to Workers' Compensation claims, police or other crime reports, or other required documentation by the end of day 180 calendar days from the date of a denial of in-line-of-duty survivor benefits, the agency or the agency's third-party vendor shall review and evaluate the additional supporting information.

(2) Once the agency or the agency's third-party vendor completes the evaluation of the additional supporting information provided in accordance with subsection (1) of this section, the agency or the agency's third-party vendor shall make a determination and notify the eligible beneficiary of the findings.

(a) If the application for in-line-of-duty survivor benefits is approved, the eligible beneficiary, or his or her parent or legal guardian, shall complete all requirements in Sections 6 to 8 of this administrative regulation prior to any benefits beginning.

(b) If the findings indicate the additional supporting information filed failed to provide enough evidence to approve in-line-of-duty survivor benefits, the in-line-of-duty survivor benefits shall be denied, and the eligible beneficiary, or his or her parent or legal guardian, shall have 180 calendar days from the date the notification of denial is mailed to request a formal hearing to appeal the findings in accordance with Section 10 of this administrative regulation.

Section 6. Election of Benefits.

(1) An eligible beneficiary who has been approved for in-line-of-duty survivor benefits in accordance with Section 4 or 5 of this administrative regulation shall have the option to select either in-line-of-duty survivor benefits pursuant to KRS 16.601(1)-(3) and 78.5534(1)-(3) or any other type of benefit under the provisions of KRS 16.505-16.582 and 78.510-78.852.

(2) If the deceased member's accumulated account balance has been withdrawn by his or her beneficiary pursuant to KRS 16.578, 61.592(4), and 78.5532, ~~if not~~ beneficiary shall not be eligible for in-line-of-duty survivor benefits.

(3) While an application for in-line-of-duty survivor benefits is pending, but not approved, a potential eligible beneficiary may elect to receive benefits under KRS 16.578(2)(a) or (b), 61.592(4), or 78.5532(2)(a) or (b). If the potential eligible beneficiary is approved for in-line-of-duty survivor benefits, the agency shall determine what is owed to the eligible beneficiary in accordance with KRS 16.601(6) and 78.5534(6).

Section 7. Requirements to Receive In-line-of-duty Survivor Benefits.

(1) The agency shall provide the eligible beneficiary, or his or her parent or legal guardian, with a Form 6810, Certification of Beneficiary. The eligible beneficiary, or his or her parent or legal guardian, shall complete and file a valid Form 6810.

(2) The agency shall provide the eligible beneficiary, or his or her parent or legal guardian, the monthly payment options available on the Form 6010, Estimated Retirement Allowance. The eligible beneficiary, or his or her parent or legal guardian, shall complete and file a valid Form 6010.

(3)
(a) If the eligible beneficiary, or his or her parent or legal guardian, elects the in-line-of-duty survivor benefit option that includes the one-time payment of \$10,000, the eligible beneficiary, or his or her parent or legal guardian, shall be given the option to receive the payment as either a direct rollover or as a direct payment. The eligible beneficiary, or his or her parent or guardian, shall complete and file a valid Form 6025, Direct Rollover/Direct Payment Election Form for a Member, ~~for a Spouse~~ Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution, indicating the payment option elected.

(b) If the eligible beneficiary, or his or her parent or legal guardian, intends to have the funds rolled over directly into an IRA or other qualified plan, the eligible beneficiary, or his or her parent or legal guardian, shall have the trustee or institution relevant to the IRA or other qualified plan complete the applicable section of the Form 6025 certifying that the rollover will be accepted.

(4) If an eligible beneficiary is a spouse, he or she shall file the following documents:

(a) A copy of his or her certificate of marriage to the member; and

(b) Proof of his or her date of birth by filing one (1) of the following:

1. Age record of the Social Security Administration;
2. Immigration and naturalization service records;
3. Birth certificate;
4. Military discharge;
5. U.S. passport;
6. Driver's license issued by the Commonwealth of Kentucky; or

7. Other reliable proof of date of birth that may be used by the courts to verify date of birth.

(5) If an eligible beneficiary is a dependent child, each dependent child, or his or her parent or legal guardian, shall file the following documents:

(a) A valid Form 6458, Designation of Dependent Child for In Line of Duty/Duty-Related;

(b) If a dependent child is under the age of eighteen (18), a valid Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor. If the dependent child has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, the guardian or conservator shall file a copy of the court order appointing the guardian or conservator.

(c) If the dependent child is age eighteen (18) or over and a full-time student, verification of full-time student status;

(d) If the dependent child is age eighteen (18) or over and receives federal Social Security disability benefits, a copy of the most recent statement issued by the Social Security Administration indicating the dependent child is disabled; or if the dependent child is being claimed as a qualifying child for tax purposes due to the dependent child's total and permanent disability, a copy of the deceased member's most recent tax return showing the dependent child was totally and permanently disabled for tax purposes, or duly appointed order of the court specifying the dependent child is a disabled dependent child of the deceased member; and

(e)

1. A copy of the dependent child's birth certificate; or

2. A final order or decree of adoption which shall include his or her date of birth or other reliable proof of date of birth that may be used by the courts to verify date of birth.

(6) If an eligible beneficiary is a dependent as provided by KRS 16.601(3) and 78.5534(3), each dependent, or each dependent's parent or legal guardian, shall file the following:

(a) A copy of the deceased member's most recent tax return showing the dependent was the deceased member's qualifying dependent for tax purposes, or duly appointed order of the court specifying the dependent is a dependent of the deceased member.

(b) If the dependent is under the age of eighteen (18), a valid Form 6110, Affidavit of Authorization to Receive Funds on Behalf of Minor. If the dependent has a court appointed guardian or conservator and the court appointed guardian or conservator completed the Form 6110, the guardian or conservator shall file a copy of the court order appointing the guardian or conservator; and

(c) Proof of his or her date of birth by filing one (1) of the following:

1. Age record of the Social Security Administration;

2. Immigration and naturalization service records;

3. Birth certificate;

4. Military discharge;

5. U.S. passport;

6. Driver's license issued by the Commonwealth of Kentucky; or

7. Other reliable proof of date of birth that may be used by the courts to verify date of birth.

(7) A contingent eligible beneficiary shall ~~be required to~~ provide proof that he or she is the eligible beneficiary. The agency shall not process benefits for a contingent eligible beneficiary unless the following requirements are met:

(a) If the agency identified eligible beneficiary is deceased, a copy of his or her death certificate shall be on file; or

(b) If the agency identified eligible beneficiary was divorced from the deceased member, a copy of the divorce decree shall be on file.

Section 8. Distribution of Payments.

(1) The agency shall not disburse payment for in-line-of-duty survivor benefits until the eligible beneficiary, or his or her parent or legal guardian, has completed the requirements of either subsection (2) or (3) of this section.

(2)

(a) To receive in-line-of-duty survivor benefits the eligible beneficiary, or his or her parent or legal guardian, shall authorize direct deposit to an account in a financial institution ~~by~~, in the following way:

1. Filing ~~File~~ a valid Form 6130, Authorization for Deposit of Retirement Payment; and

2. Providing ~~Provide~~ the information and authorizations required for the electronic transfer of funds from the State Treasurer's Office to the designated financial institution, including any authorizations or information needed from the financial institution.

(b) At any time while receiving a monthly benefit, the eligible beneficiary, or his or her parent or legal guardian, may change the designated institution by completing and filing a new valid Form 6130, Authorization for Deposit of Retirement Payment, or by updating the authorization for deposit of retirement payments on the Member Self-Service Web site maintained by the agency.

(3) If the eligible beneficiary, or his or her parent or legal guardian, does not currently have an account with a financial institution, or his or her financial institution does not participate in the electronic funds transfer program, the eligible beneficiary, or his or her parent or guardian, may receive in-line-of-duty survivor benefits by check. For the eligible beneficiary to receive payment by check, the eligible beneficiary, or his or her parent or legal guardian, shall complete and file a valid Form 6135, Request for Payment by Check.

(4) The most recently filed valid Form 6130, Authorization for Deposit of Retirement Payment, authorization for deposit of retirement payments on the Member Self-Service Web site ~~Website~~, or valid Form 6135, Request for Payment by Check, shall control the payment or electronic transfer designation of the eligible beneficiary's in-line-of-duty survivor benefits.

(5)

(a) Once an eligible beneficiary is approved for in-line-of-duty survivor benefits and has completed and filed all forms and documentation required by Sections 3 to ~~7/8~~ of this administrative regulation and this section, in-line-of-duty survivor benefits shall be paid retroactive to the month following the month of the member's date of death.

(b) Any increases provided under KRS 61.691 and 78.5518 shall be applied in determining the ongoing monthly payments and total retroactive payments owed to the eligible beneficiaries.

Section 9. Requirements for Dependent Children After In-line-of-duty Survivor Benefits Begin.

(1) Once an eligible dependent child begins receiving in-line-of-duty survivor benefits, each dependent child, or his or her parent or legal guardian, shall ~~be required to~~:

(a) Notify the agency of the death or marriage of the dependent child;

(b) If applicable, notify the agency if the dependent child ceases to be a full-time student;

(c) If applicable, notify the agency if the dependent child's disability status changes; and

(d) If applicable, file a copy of the dependent child's verification of full-time student status with the agency for each semester of study within thirty (30) calendar days following the start, and within thirty (30) calendar days following the end of each semester.

(2) Each dependent child, or his or her parent or legal guardian, shall be responsible for repaying any benefits overpaid to the dependent child, or his or her parent or legal guardian, due to the failure of the dependent child, or his or her parent or legal guardian, to provide the information required by this section.

Section 10. Right to Appeal.

(1) A request for a formal hearing to appeal a denial of in-line-of-duty survivor benefits may be made by an eligible beneficiary, or his or her parent or legal guardian, in accordance with KRS 61.665 and 78.545. The request shall be made by filing a written request containing a short and plain statement of the issues being appealed.

(2) The hearing shall be conducted in accordance with KRS Chapter 13B.010-13B.170.

(3) The hearing officer presiding over an administrative hearing shall review the administrative record and any records introduced at the administrative hearing.

(a) The determination of other state and federal agencies' approval of benefits, including the Kentucky Department of Workers' Claims and the Social Security Administration, may support a final determination if accompanied by underlying objective medical evidence or vocational evidence.

(b) Written statements from medical providers within the administrative record shall not themselves be objective medical evidence, but may be relied upon if accompanied by, and reviewed in concert with, other supporting objective medical evidence.

(4) The final determination shall not be bound by factual or legal findings of other state or federal agencies. The final determination shall be based on objective medical evidence and vocational records, including objective medical evidence and vocational records contained within or that accompany a determination by another state or federal agency.

(5) Once a final determination is issued, the person who filed the appeal shall be notified of the final order of the Administrative Appeals Committee (AAC) in accordance with KRS 61.615(3)(g) and 78.5528(3)(g).

Section 11. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) Form 6010, "Estimated Retirement Allowance", updated April 2021;

(b) Form 6025, "Direct Rollover/Direct Payment Election Form for a Member, Beneficiary, or Alternate Payee Regarding an Eligible Rollover Distribution", updated June 2023;

(c) Form 6110, "Affidavit of Authorization to Receive Funds on Behalf of Minor", updated June 2023;

(d) Form 6130, "Authorization for Deposit of Retirement Payment", updated June 2023;

(e) Form 6135, "Request for Payment by Check", updated June 2023;

(f) Form 6458, "Designation of Dependent Child for In Line of Duty/Duty-Related", updated June 2023;

(g) Form 6800, "Application for Duty Related/In Line of Duty Survivor Benefits", updated June 2023;

(h) Form 6810, "Certification of Beneficiary", updated April 2021; and

(i) Form 8030, "Employer Job Description", updated June 2023.

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