

#### **21.420 Death benefits -- Designation of beneficiary.**

- (1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection (3) of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.
- (2)
  - (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.
  - (b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.
- (3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection (3) of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.
- (4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.
- (5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.
- (6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

- (7) A member may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:
- (a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.
  - (b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

**Effective:** July 15, 1998

**History:** Amended 1998 Ky. Acts ch. 389, sec. 1, effective July 15, 1998. -- Amended 1994 Ky. Acts ch. 266, sec. 4, effective July 15, 1994. -- Amended 1974 Ky. Acts ch. 386, sec. 3. -- Created 1960 Ky. Acts ch. 84, Art. III, sec. 8.

**2010-2012 Budget Reference.** See Judicial Branch Budget, 2010 Ky. Acts ch. 154, Pt. I, 2, (1) at 2117.

**2010-2012 Budget Reference.** See Legislative Branch Budget, 2010 StateKy. Acts ch. 156, Pt. I, 1, (1) at 2123.