

# Survivor Benefits for Regular Members

Hired Prior to January 1, 2011 ([La. R.S. 11:471](#) and [LAC 58.I.1901 - 1909](#))

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(17) Photo by Wendy McGee (Please see pages 100-101)

As a Regular Member hired prior to January 1, 2011, survivor benefits may be payable at your death to your spouse and/or child(ren). If you die while in active state service or have at least 20 years of service, and are not retired, your spouse, minor children, and totally physically handicapped or mentally disabled children may be eligible to receive survivor benefits.

The maximum total benefit payable to all survivors is 75 percent of your average compensation if you have qualified surviving children; or 50 percent to your surviving spouse, if you have no qualified surviving children. If there is a benefit for a surviving spouse and qualified surviving children, the surviving spouse receives one-third of the total benefit payable, and the children receive two-thirds of the total benefit. If there is more than one surviving child, the surviving child portion is divided equally among all qualified children. Monthly benefits

will become effective the day after death. If your spouse and/or child(ren) are not eligible for survivor benefits, a refund of your employee contributions will be paid to the last named beneficiary on file with LASERS.

LASERS should be notified immediately of a member's death. LASERS may require survivors to provide proof annually or at other times that they are still legally entitled to survivor benefits. Survivor benefits are not subject to Louisiana inheritance taxes. Survivor benefits are not payable to survivors of retired members or survivors of participants in the DROP program (except for members in the Judicial Plan).

## Children Qualified to Receive a Survivor Benefit

In order for your child(ren) to be eligible for survivor benefits, the child must qualify as a minor child or a totally physically handicapped or mentally disabled child.

A minor child is an unmarried child under age 18 or an unmarried full-time student under age 23. A full-time student must be enrolled in a high school, vocational-technical school, GED program, college, or university. Students must attend at least 80 percent of enrolled classes to remain eligible for benefits. Full-time status must be certified at the beginning of the school semester and verified at the mid-way point.

A totally physically handicapped or mentally disabled child must have met this criterion at the time of death of the member and they must be dependent upon the surviving spouse or other legal guardian.

The qualified child must also meet one of the following criteria to be eligible for benefits:

- Child of a marriage of a member
- Biological child of a female member
- Child of a male member acknowledged under Louisiana law
- Legally adopted child of a member

LASERS will pay your qualified surviving children 75 percent of your average monthly compensation or \$300.00 per month, whichever is greater, if:

- You are in state service at time of your death, and accumulated at least five years service credit, at least two years of which were earned immediately prior to your death, or
- You accumulated 20 or more years service credit, whether or not you were in state service at time of your death.

Benefits for minors under age 18 are paid in care of their legal guardian under the minor's Social Security number. If your surviving spouse is entitled to a benefit, one-third of the benefit will be assigned to your spouse, and two-thirds will be designated to your minor children. Minor children over age 18 who are not disabled, if still eligible, will be paid directly.

## Spouse Qualified to Receive a Survivor Benefit

If you are married at the time of your death, your spouse may be eligible to receive a survivor benefit. A surviving spouse without minor children will receive 50 percent of your average monthly compensation or \$200.00 per month, whichever is greater, if:

- You accumulated at least 10 years service credit with two years being earned immediately prior to death, and you are in state service at time of death, or
- You accumulated at least 20 years service credit, whether or not you are in state service at time of death, and
- You and your surviving spouse were married for at least one year before your death.

This is a lifetime benefit regardless of whether your spouse remarries or has other income.

## Physically Handicapped or Mentally Disabled Children Qualified to Receive a Survivor Benefit

Your surviving physically handicapped or mentally disabled children may be eligible for a benefit not to exceed 75 percent of your average monthly compensation or \$300.00, whichever is greater. This benefit is payable, regardless of the child's age, if the child is incapacitated at the time of your death. The child must be dependent on your surviving spouse or other legal guardian. This benefit is payable for their lifetime. If there is more than one qualified surviving child, the benefit will be divided equally among all qualified children, including disabled children.

[Form MSD52: Certification for Disabled Survivor](#) must be submitted to LASERS annually.

## Survivor Benefits (killed in the line of duty by an intentional act of violence)

Additional survivor benefits may be available for eligible survivors of members in one of the hazardous duty positions listed below. If any such member dies in the line of duty or as a direct result of an injury sustained while in the line of duty on active duty status as the result of an intentional act of violence, LASERS may pay a benefit equal to 100% of your final average compensation to your surviving spouse and/or minor or handicapped or mentally incapacitated child or children. The benefit is shared equally. If a survivor is no longer eligible for benefits, the remaining beneficiaries will have their shares adjusted accordingly.

This benefit may be available to members in the following positions:

- Arson investigators employed by the Office of the State Fire Marshall who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office;
- Park rangers employed by the Department of Culture, Recreation & Tourism, Office of State Parks, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission from such office;
- Campus police officers employed by any institution of postsecondary education, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission as required for employment as such officers;
- Hospital security officers employed by Louisiana State University, Health Sciences Center, who are P.O.S.T.-certified, who have the power to arrest, and who hold a commission as required for employment as such officers;
- Investigators of the Department of Justice who are employed in positions required to be P.O.S.T.-certified;
- Investigators of the office of state inspector general who are employed in positions required to be P.O.S.T.-certified;

- Department of Agriculture and Forestry employees who respond to wildfires and who qualify as Firefighter Type 2 or higher according to the National Wildfire Coordinating Group.
- All personnel employed in a position required to be P.O.S.T.-certified, who have the power to arrest, and who hold a commission as required for employment in such positions, who are otherwise members of LASERS and are not members of any other retirement system.

## Alternate Distribution of Benefits for Surviving Spouse and Adult Children

There are two options for an alternate distribution of survivor benefits available if you have adult children and a surviving spouse. One of these options may be chosen even if you have minor children at the time of the election, but it shall not become effective until there are no longer any children of your current or prior marriage who are qualified to receive survivor benefits. The benefit established is based on the age and mortality of your surviving spouse and will terminate upon the death of your surviving spouse. The benefit is payable to the children and surviving spouse only for the lifetime of your surviving spouse.

The first option is available under the following circumstances:

- You have no minor children from either current marriage or prior marriage,
- You have adult children from a prior marriage, and
- You have adult children from your current marriage.

If the above conditions are met, you and your spouse can submit a written agreement to direct LASERS to divide what would normally be your spouse's benefit in any agreed proportion to your children and your spouse. The written agreement must clearly set forth the agreed proportionate amounts. The agreement is automatically revoked if you and your spouse divorce. Also, either you or your spouse can revoke the agreement by written notice to LASERS prior to your death.

The second option is available under the following circumstances:

- You have no minor children from either current marriage or prior marriage,
- You have adult children of a prior marriage, and
- You have no adult children from your current marriage.

If the above conditions are met, you may direct, in writing, the benefit be split between your spouse and adult children of your prior marriage. The split is proportional, with your surviving spouse receiving a share based on the ratio of the length of your current marriage while in state service to your total state service.

**Example:** If you were in state service 18 years and were married to your current spouse nine years, the ratio would be nine-eighteenths (9/18)--or one-half (1/2). Your surviving spouse would receive one-half (1/2) of the benefit and the adult children of your prior marriage would share one-half (1/2) of the benefit.

## Trust for Minor Children

Any benefit due the qualified surviving children may be paid to a trust created under Louisiana law for each child.

## Lump-sum Payment to a Beneficiary

If you have less than five years service credit, or have no surviving spouse or qualified surviving children, your survivors are not entitled to monthly benefits. In this case, your last named beneficiary or your estate will receive a lump-sum payment of your total employee contributions. Funds received by a beneficiary are not subject to Louisiana inheritance taxes. However, if the funds become part of your estate, they then become subject to state inheritance taxes.

## Application Process

To apply for survivor benefits, your beneficiary(ies) must submit the following to LASERS:

- [Form 03-01: Application for Survivor Benefits](#)
- Copy of the death certificate for the member
- Copies of Social Security cards and birth certificates for all survivors and the member
- Certified Copy of a Judgment of Divorce and/or copy of the death certificate of the member's former spouse (if applicable)
- Copy of Marriage Certificates of all survivor applicants
- [Form MSD64: Student School Certification and Release](#) for all student survivor applicants
- [Form MSD52: Certification for Disabled Survivor](#) for any physically handicapped or mentally disabled child applicants
- [Form 04-05: Authorization for Direct Deposit](#) (required for the spouse of the deceased member)
- [Form 06-02: Insurance Premium Deduction Authorization](#) (if applicable)
- [Form W-4P: Withholding Certificate for Pension or Annuity Payments](#). This form is not required. If the form is not submitted to LASERS, your federal tax withholding will be set as "Married with three exemptions."