

CHAPTER 247. BENEFITS

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§ 247.1. Effect of return of total accumulated deductions.

A member who elected to receive only his accumulated deductions in lieu of any other benefit to which he would otherwise be entitled, shall, by such election, be deemed to have irrevocably waived entitlement to such benefits, except as otherwise provided in the event a member returns to service.

§ 247.2. Maximum single life annuity.

For purposes of determining the single life annuity benefits provided for in section 5702(a)(4) of the code (relating to maximum single life annuity), if any, the benefit shall only be attributable to regular member accumulated deductions, irrespective of any contributions which the member may have made on behalf of the employer as well as any accrued interest applicable thereto for creditable nonstate service.

Source

The provisions of this § 247.2 amended March 12, 1976, 6 Pa.B. 449. Immediately preceding text appears at serial page (18759).

§ 247.4. Disability annuities.

(a) *Social Security integration credits.* If a member, eligible for a disability annuity, is also eligible to receive a Social Security integration annuity, the total annuity shall be payable to the member unless he elects to receive his Social Security integration accumulated deductions in lieu of the additional benefit at the time his application for disability benefits is filed. If a member eligible to receive a disability annuity does not have sufficient Social Security integration credits to receive an annuity based thereon, as provided in the code, then the filing of the disability annuity application shall automatically entitle him to a return of his accumulated social security integration deductions, if any. In the event a disability annuitant returns to State service, he shall be eligible to reinstate Social Security integration credits previously earned for which the accumulated deductions have been withdrawn, as provided in this section, and he shall be eligible to accrue social security integration credits for subsequent service upon restoration of the withdrawn funds. Eligibility for reinstatement of the credits and restoration of the funds shall be available only at the time of return to State service and application therefor shall be made within 30 days of notification of eligibility by the Board.

(b) *Service connected disability annuities.* Eligibility for a service connected disability benefit shall be determined exclusively under the provisions of the Pennsylvania Workmen's Compensation Act (77 P.S. §§ 1—1023), and the Pennsylvania Occupational Disease Act (77 P.S. §§ 1201—1603), and other compensation statutes applicable to special classes of Commonwealth employees. A service-connected disability, shall total 70% of the final average salary, and includes within that annuity the benefit amounts awarded by the Social Security Administration and the agency or agencies having jurisdiction over the determination of the applicable State benefits. The benefit shall continue as long as the member is entitled to receive the State compensation benefits. The service-connected disability shall be discontinued if the State compensation authorities determine that the service-connected disability has ceased. In that event, a member shall be eligible for normal disability benefits, as provided in section 5704(a) of the code (relating to disability annuities) if the Board determines that the member remains disabled. The service-connected disability benefit shall be payable as of the effective date of the application for disability benefits filed with the Board, irrespective of the date the State compensation award was made.

Source

The provisions of this § 247.4 amended March 12, 1976, 6 Pa.B. 449. Immediately preceding text appears at serial page (18760).

Notes of Decisions

Receipt of benefits under the Workers' Compensation Act (77 P.S. §§ 1—1023) is a necessary precondition to a finding of service connected disability; thus, cessation of former state employee's workers' compensation benefits rendered her ineligible for service connected disability supplement under the State Employees' Retirement Code, 71 Pa.C.S. §§ 5101—5956. *Waters v. State Employees' Retirement Bd.*, 955 A.2d 466, 473-474 (Pa. Cmwlth. 2008).

The Board must treat a former employee's disability as nonservice connected absent receipt of benefits under the Workmen's Compensation Act or the Occupational Disease Act. *Daneker v. State Employees' Retirement Board*, 628 A.2d 491 (Pa. Cmwlth. 1993).

§ 247.5. Member's options.

Once a member has filed an application for benefits and chosen an option, including a single life annuity, the option shall be deemed to be irrevocable except as otherwise provided in section 5907(j) of the code (relating to rights and duties of State employees and members) or unless an annuitant returns to service for a period not less than 6 months and subsequently retires with recomputation of benefits.

Notes of Decisions

A survivor annuitant may not change a plan elected by the employe-member. *Marron v. State Employees' Retirement Board*, 544 A.2d 1095 (Pa. Cmwlth. 1988); appeal denied 562 A.2d 829 (Pa. 1989).

Selection of a retirement option is generally irrevocable under this section and the Board's finding that adequate counseling was provided to the retiring employe was supported by substantial evidence. *Buchan v. State Employees Retirement Board*, 470 A.2d 208 (Pa. Cmwlth. 1984).

§ 247.5a. Re-election of benefit option.

(a) A member who has filed an application for benefits and who has designated a survivor annuitant has the right to re-elect a benefit option and to nomi-

nate a beneficiary or a new survivor annuitant if, after filing the application, the designated survivor annuitant predeceases the member, the member is awarded a divorce or the member becomes married, provided the member files a timely application for option change with the Board.

(b) The member's right to re-elect a benefit option remains valid for 7 years from the date of the death, divorce or marriage that triggered the right or until the occurrence of a subsequent triggering event, whichever occurs first. Upon the occurrence of a subsequent triggering event, a superseding right to re-elect shall begin.

(c) Upon the member's timely filing of an application for option change, the member's annuity will be recomputed to be actuarially equivalent to the annuity in effect immediately prior to the recomputation.

Source

The provisions of this § 247.5a adopted August 19, 2016, effective August 20, 2016, 46 Pa.B. 5082.

§ 247.6. Termination of annuities.

The requirement that the subsequent annuity of a member who returns to active service, having once been on retirement, be reduced on the basis of benefits received prior to superannuation age, does not apply to a member who returns to active State service from a disability annuity.

Authority

The provisions of this § 247.6 amended under 71 Pa.C.S. §§ 5706 and 5906, unless otherwise noted.

Source

The provisions of this § 247.6 amended March 12, 1976, 6 Pa.B. 449; amended February 19, 2010, effective February 20, 2010, 40 Pa.B. 972. Immediately preceding text appears at serial page (336099).

Cross References

This section cited in 4 Pa. Code § 249.4 (relating to reports to the Public School Employees' Retirement Board).

§ 247.7. Death benefits.

(a) *Manner of payments.* In the event the member does not designate a beneficiary before death or the designation is not valid for any reason or no validly designated beneficiary survives the member by 30 days under 71 Pa.C.S. § 5709(c) (relating to the payment of benefits) to receive any of the death benefits provided in the code, the benefits shall be payable to the estate of the member.

(1) If the estate of the member is entitled to receive the member's death benefits but does not file a claim for the benefits within 60 days of the date the System mails notice of the benefits to the estate of the member, the entire amount of the death benefit shall be payable in the following sequential priority:

- (i) To the appointed executor or administrator of the deceased member.
- (ii) To the surviving spouse of the member.

- (iii) To any child of the member.
- (iv) To the father or mother of the member.
- (v) To any sister or brother of the member.

(2) Payments made under paragraph (1)(iii), (iv) or (v) shall be made to only one person and not divided among members of the classes identified in those subparagraphs. Upon payment of a death benefit pursuant to this section, the System shall be discharged from any further liability for the payment of the death benefits to any other person. Any person to whom payment is made under this paragraph shall be answerable therefore to anyone prejudiced by the payment.

(b) *Single life annuity.* If a single life annuitant dies before receiving in monthly annuity payments the total amount of accumulated deductions, the balance of the total accumulated deductions shall be paid to the designated beneficiary without regard to the actual proportion the State share represents to the total monthly annuity payments actually received before death.

Authority

The provisions of this § 247.7 amended under 71 Pa.C.S. § 5902(h), unless otherwise noted.

Source

The provisions of this § 247.7 amended February 19, 2010, effective February 20, 2010, 40 Pa.B. 973; corrected November 18, 2011, effective February 20, 2010, 41 Pa.B. 6217. Immediately preceding text appears at serial pages (351737) to (351738).

§ 247.9. Effect of payment of benefits to beneficiaries.

As in the case of members, an election by a beneficiary under the provisions of Option 1 or any of the other options offered to him shall be deemed to be irrevocable.

§ 247.11. Priority of forfeitures, attachments and assignments of funds.

(a) The right of a person to any benefit or right accrued or accruing under the code, as amended from time to time, and the moneys in the fund are subject to prior payment or forfeiture of rights, as set forth in section 5953 of the code (relating to taxation, attachment and assignment of funds), in the following sequential priority to the extent the forfeitures and competing claims exist at the time the distribution is made as determined by the Board consistent with applicable law:

(1) For pension forfeitures, fines and restitution as provided under the Public Employee Pension Forfeiture Act (43 P.S. §§ 1311—1315), as amended from time to time, or under Pa.Const. Art. V, § 16(b).

(2) To the employer after certification by the head of the employer of the amount that the member is obligated to pay, and after review and approval by the employer's legal representative or upon receipt of an assignment from the member in the amount so certified.

(3) To an alternate payee or attaching authority as set forth in an approved domestic relations order, order for support, or order for the enforcement of arrearages as described in section 5953.1 of the code (relating to approval of domestic relations orders).

(4) To the member directly or to an eligible retirement plan by way of an eligible rollover distribution.

(b) Payments from a member's retirement benefits under subsection (a)(2) shall first be made from the entire accumulated deductions then standing to the credit of the member upon entering pay status. The remaining balance, if any, of payments due under subsection (a)(2) and payments due under subsection (a)(3) for orders for support or orders for the enforcement of arrearages, or both, shall be paid out of the monthly annuity payable to or on behalf of the member at the rate of up to 50% (as determined by the System consistent with applicable law) of the gross monthly annuity until paid in full. The amount payable under subsection (a)(3) pursuant to an approved domestic relations order may be paid out of the monthly annuity paid to or on behalf of the member at the rate of up to 100% (as determined by the System consistent with applicable law) of the member's remaining monthly annuity until paid in full. Unpaid amounts remaining after termination of an annuity paid to or on behalf of the member or, after the death of the member prior to receiving an annuity, shall be paid out of the remaining initial present value then standing to the credit of the member, if any.

Authority

The provisions of this § 247.11 adopted under 71 Pa.C.S. §§ 5902(h) and 5953.

Source

The provisions of this § 247.11 issued August 27, 2010, effective August 28, 2010, 40 Pa.B. 4926.

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