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24 CAR § 10-613. Annuity options.

(a) Before the date the first benefit payment of an annuity becomes due, a member retiring with age or service may elect one (1) of the following annuity options:

(1) Option 1 – straight life annuity, which is a straight life annuity payable monthly for the life of the retiree; or

(2)(A) Option 2 – reduced straight life annuity with option beneficiaries, under which a retiree shall receive the actuarial equivalent of his or her straight life annuity in a reduced annuity payable for the retiree's lifetime.

(B) Under Option 2, at the time of his or her retirement, a member may designate one (1) or more beneficiaries to receive one (1) of the following annuity options:

(i)*(a)* Option A – one hundred percent (100%) survivor annuity.

(b) Upon the death of the retiree, the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.

(c) A member's eligible spouse, one (1) or more of the member's children who qualify as a dependent child, or both may be designated as an Option A beneficiary.

(d) If both a spouse and one (1) dependent child are designated as Option A beneficiaries, the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(e) If both a spouse and more than one (1) dependent child are designated as Option A beneficiaries, the spouse shall receive fifty percent (50%) of the retiree's reduced annuity and the remaining fifty percent (50%) shall be paid in equal shares to the dependent children.

(f) If more than one (1) dependent child is designated as an Option A beneficiary and a spouse is not designated as an Option A beneficiary, the retiree's reduced annuity shall be paid in equal shares to each dependent child.

(g) A dependent child's portion of the annuity shall not revert to the spouse or any other dependent children if the dependent child becomes ineligible to continue receiving annuity payments or predeceases the spouse or any other dependent children.

(h) A spouse's portion of the annuity shall not revert to any dependent child if the spouse becomes ineligible to continue receiving annuity payments or predeceases one (1) or more dependent children;

(ii)*(a)* Option B – fifty percent (50%) survivor annuity.

(b) Upon the death of the retiree, one-half (1/2) of the retiree's reduced annuity shall be continued and paid throughout the life of the retiree's designated beneficiary.

(c) A member's eligible spouse, one (1) or more of the member's children who qualify as a dependent child, or both may be designated as an Option B beneficiary.

(d) If both a spouse and one (1) dependent child are designated as Option B beneficiaries, one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the spouse and the dependent child.

(e) If both a spouse and more than one (1) dependent child are designated as Option B beneficiaries, the spouse shall receive fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity and the remaining fifty percent (50%) of one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to the dependent children.

(f) If more than one (1) dependent child is designated as an Option A beneficiary and a spouse is not designated as an Option B beneficiary, one-half (1/2) of the retiree's reduced annuity shall be paid in equal shares to each dependent child.

(g) A dependent child's portion of the annuity shall not revert to the spouse or any other dependent children if the dependent child becomes ineligible to continue receiving annuity payments or predeceases the spouse or any other dependent children.

(h) A spouse's portion of the annuity shall not revert to any dependent child if the spouse becomes ineligible to continue receiving annuity payments or predeceases one (1) or more dependent children; or

(iii)*(a)* Option C – annuity for ten (10) years certain and life thereafter.

(b) The retiree shall receive a reduced annuity payable throughout the retiree's life.

(c) If the retiree dies before receiving one hundred twenty (120) monthly annuity payments, the payments shall be continued for the remainder of the period of one hundred twenty (120) months and paid to one (1) or more of the retiree's designated beneficiaries in equal shares.

(d) A member may designate one (1) or more beneficiaries under Option C.

(b) The following persons are eligible to be designated as an Option A or Option B beneficiary:

(1) The retiree's spouse if the retiree and his or her spouse have been married to each other for at least one (1) year before the first annuity benefit payment to the retiree; and

(2) A retiree's dependent child who has been adjudged physically or mentally incapacitated by a court of competent jurisdiction, regardless of the age of the dependent child.

(c)(1) If an Option 1 retiree dies within one (1) year of retirement, and his or her spouse qualifies for Option A benefits, the spouse may elect to cancel the Option 1 annuity in effect and elect Option A, one hundred percent (100%) survivor annuity, ~~at that time~~ by the end of the fourth full calendar month following the retiree's death.

(2) The election shall be effective the first day of the month following receipt of the election form by the Arkansas Teacher Retirement System.

(3) If the spouse elects Option A benefits, the residue, if any, shall not be paid until the Option A beneficiary's death.

(4) A spouse who is eligible to elect Option A benefits may elect to receive a lump-sum distribution of the retiree's residue in lieu of the spousal annuity if:

(A) The spouse waives his or her right to the spousal annuity; and

(B) The retiree did not designate one (1) or more dependent children as a beneficiary.

(d)(1) After his or her retirement, a retiree may designate his or her spouse as an Option A or Option B beneficiary if the retiree:

(A) Has been married to his or her spouse for one (1) year; and

(B) Either:

(i) Was married to his or her spouse for less than one (1) year upon his or her effective retirement date; or

(ii) Marries his or her spouse after his or her effective retirement date.

(2)(A) Upon meeting the one-year marriage requirement, the retiree shall have six (6) months to file a written nomination designating his or her spouse as either an Option A or Option B beneficiary.

(B) The designation shall be filed on a form approved by the system.

(e) After a retiree's effective retirement date, the retiree may designate an Option A or Option B dependent child beneficiary if the:

(1) Retiree previously designated his or her spouse as the Option A or Option B beneficiary;

(2) Spouse designated as the retiree's Option A or Option B beneficiary predeceases the retiree; and

(3) Dependent child has been adjudged physically or mentally incapacitated by a court of competent jurisdiction.

(f)(1) A member may request that the system remove an incapacitated child as his or her Option A or Option B beneficiary if:

(A) The member designated the incapacitated child as his or her Option A or Option B dependent child beneficiary; and

(B) One (1) of the following applies:

(i) A court finds that the incapacitated child is no longer incapacitated;

(ii) The incapacitated child is emancipated through marriage; or

(iii) The incapacitated child dies.

(2) The following forms of proof shall be submitted, as appropriate, with the member's request to remove an incapacitated child as his or her Option A or Option B:

(A) A file-marked copy of the court's order finding that the incapacitated child is no longer incapacitated;

(B) A copy of the incapacitated child's marriage license or equivalent, marriage license recording document, or other legally acceptable proof of the existence of the marriage; or

(C) A copy of the incapacitated child's death certificate.

(3) Once the proof required to remove an incapacitated child as the member's Option A or Option B beneficiary is submitted to the system, the member may:

(A) Elect to return to an Option 1; or

(B)(i) If the member is married, designate his or her spouse as the Option A or Option B beneficiary within six (6) months of the date on which the system receives the proof required under this section.

(ii) The member's election shall be effective on the first day of the month following the date on which the system receives the election form.

(g)(1) A member may designate any person as a residue beneficiary.

(2) A retiree's residue, if any, shall be paid to the retiree's residue beneficiary if the:

(A) Retiree dies before receiving annuity benefit payments equal to the residue amount; and

(B) Option beneficiary dies before receiving annuity benefit payments equal to the residue amount.

(3) If a residue beneficiary is not nominated or does not survive the death of the option beneficiary, the residue shall be paid to the retiree's estate.

(4)(A) If a residue beneficiary survives the death of the retiree and the option beneficiary, but dies before payment of the residue can be issued by the system, the residue shall be paid to the residue beneficiary's estate.

(B) If more than one (1) residue beneficiary survives the death of the retiree and option beneficiary, but all the residue beneficiaries die before payment of the residue can be issued by the system, the residue shall be paid to the estate of the most recently deceased residue beneficiary.

(C) If all residue beneficiaries predecease the retiree, the residue shall be paid to ~~either the retiree's estate or the estate of the most recently deceased designated beneficiary~~ the retiree's estate.

(h)(1) A member who designates a person or the parent or legal guardian of a person who is designated as a beneficiary of an annuity or benefit under Arkansas Code §§ 24-7-706, 24-7-709, 24-7-711, or 24-7-720 may elect to have the annuity or benefit paid to a special needs trust that meets the requirements of Arkansas Code § 24-7-739(a).

(2) The parent or legal guardian of a person who is eligible to receive an annuity under Arkansas Code §24-7-710 may elect to have the annuity paid to a special needs trust that meets the requirements of Arkansas Code § 24-7-739(b).

(3) The Arkansas Teacher Retirement System shall pay an annuity or benefit directly to a person if at the time that the person is entitled to receive an annuity or a benefit payment:

(A) A special needs trust that meets the requirements of Arkansas Code § 24-7-739(a) or Arkansas Code § 24-7-739(b) has not been established for the benefit of the person; or

(B) A special needs trust that meets the requirements of Arkansas Code § 24-7-739(a) or Arkansas Code § 24-7-739(b) that has been established for the benefit of the person cannot be identified by the system or has ceased to exist.