



## Statement of Position Survivor Benefits for Firefighters

Minnesota's fire relief associations may authorize in their bylaws payment of survivor benefits to surviving spouses, surviving children, and designated beneficiaries of deceased firefighters. If payment is authorized, the relief association's bylaws must define how the benefits will be calculated and describe the payment methods. If a relief association chooses to pay survivor benefits, however, there is little or no flexibility in the amount they must pay.

### Survivor Benefit Calculations

Minnesota law requires that survivor benefits paid on behalf of an active member be calculated in a specific manner but, in certain instances, the law provides limited flexibility to pay lesser amounts for benefits paid on behalf of a deferred or retired member.

- For a defined-contribution plan, survivor benefits paid on behalf of an active relief association member must equal the vested and nonvested amount of the deceased member's individual account.<sup>1</sup> By contrast, survivor benefits paid on behalf of a deferred member must equal only the vested amount of the deceased member's individual account.<sup>2</sup> If the bylaws permit and as the bylaws define, a survivor benefit may be paid on behalf of a member who was not active or deferred.<sup>3</sup>
- For a defined-benefit lump-sum plan, a monthly plan, or a monthly/lump-sum combination plan, survivor benefits paid on behalf of an active relief association member must be equal to the member's completed years (and months, if applicable) of active service, multiplied by the benefit level in effect on the date of the member's death.<sup>4</sup> Survivor benefits paid on behalf of a deferred member can be calculated in the same manner as for active-member survivor benefits, or can be a lesser amount.<sup>5</sup> Many relief associations, for example, pay a deferred member's accrued benefit (*i.e.*, the member's vested benefit) as the survivor benefit. In addition, a relief association's bylaws may provide for the payment of a minimum survivor benefit for active members in an amount not to exceed five times the annual service pension amount. Bylaws that

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<sup>1</sup> Minn. Stat. § 424A.016, subd. 7(a).

<sup>2</sup> Minn. Stat. § 424A.016, subd. 7(b).

<sup>3</sup> Minn. Stat. § 424A.016, subd. 7(c).

<sup>4</sup> Minn. Stat. § 424A.02, subd. 9(2)

<sup>5</sup> Minn. Stat. § 424A.02, subd. 9(2) (No survivor benefit paid may exceed "in amount the total earned service pension of the member or former member.").

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This Statement of Position is not legal advice and is subject to revision.

authorize a monthly survivor benefit may also limit the total survivor benefit amount payable to a designated beneficiary.<sup>6</sup>

Survivor benefits are not payable following the death of a retired member if the retired member had already begun to receive a lump-sum service pension. Survivor benefits may be paid, however, following the death of a relief association member who had been collecting a monthly retirement benefit.<sup>7</sup>

### **Order of Eligibility for Collecting a Survivor Benefit**

If a relief association chooses to offer survivor benefits, the order of eligibility for the benefits is defined by State law. The order of eligibility cannot be changed in the bylaws. The order is as follows:

- For a defined-contribution plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate if the deceased firefighter was active or deferred.<sup>8</sup>
- For a defined-benefit lump-sum plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate of the active or deferred deceased firefighter.<sup>9</sup>
- For a defined-benefit monthly or monthly/lump-sum combination plan, the survivor benefit must be paid to the surviving spouse of the deceased firefighter. If there is no surviving spouse, the benefit must be paid to the surviving children. If there is no surviving spouse and there are no surviving children, the survivor benefit must be paid to the designated beneficiary and, if no beneficiary was designated, the benefit must be paid as a death benefit to the estate of the active or deferred deceased firefighter.<sup>10</sup>

For all plans discussed above, if a firefighter has no surviving children, the firefighter's surviving spouse may waive, wholly or partially, the spouse's entitlement to a survivor benefit. The waiver must be in writing. A surviving spouse is allowed to waive the spouse's entitlement in order to provide flexibility to address an individual situation. One possible example of where a waiver might be used is where a family member with a chronic medical condition is in financial need and the surviving spouse, in writing, waives their entitlement to survivor benefits so that the benefits go directly to the family member in need.

Finally, for members of a defined-contribution plan, or a defined-benefit lump-sum, or monthly/lump-sum combination plan where the member has elected a lump-sum benefit, a trust created under Minnesota Statutes, Chapter 501B, may be a designated beneficiary.<sup>11</sup> If a firefighter creates a trust to

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<sup>6</sup> Minn. Stat. § 424A.02, subd. 9(4). Bylaws for monthly and monthly/lump-sum combination plans can limit the total survivor benefit amount payable.

<sup>7</sup> Minn. Stat. § 424A.02, subd. 9(1) and (4).

<sup>8</sup> Minn. Stat. § 424A.016, subd. 7(d).

<sup>9</sup> Minn. Stat. § 424A.02, subd. 9(3).

<sup>10</sup> Minn. Stat. § 424A.02, subd. 9(4).

<sup>11</sup> Minn. Stat. § 424A.016, subd. 7(e); and § 424A.02, subd. 9(5).

care for the firefighter's surviving children and there is no surviving spouse, the survivor benefit may be paid directly to the trust. Allowing a trust to be a designated beneficiary allows a firefighter to use standard legal tools for estate planning.

### **Survivor Supplemental Benefits**

Supplemental benefits are provided in place of a state income tax exclusion for lump-sum distribution of benefits. State law requires relief associations to pay a supplemental benefit to retiring firefighters and to recipients of survivor benefits who receive defined-contribution or defined-benefit lump-sum distributions.<sup>12</sup>

Survivors are eligible to collect the 20 percent (up to \$2,000) supplemental benefit (not the regular 10 percent, up to \$1,000, supplemental benefit that is available to service pension recipients).<sup>13</sup>

Supplemental benefits for survivors may be paid to the surviving spouse or to the surviving child or children of an active or deferred member. If there is no surviving spouse and there are no surviving children, the supplemental survivor benefit is paid to the designated beneficiary and, if no beneficiary was designated, the benefit is paid to the estate.<sup>14</sup>

### **Payment Options**

If the relief association's bylaws allow for it, the recipient of a survivor benefit may choose the manner of payment of the survivor benefit. Payment options include a single lump-sum payment (subject to current income tax withholding requirements) and installment payments.<sup>15</sup>

Minnesota law also allows a relief association 1) that is a qualified plan; and 2) that pays a single-payment service pension, to directly transfer on an institution-to-institution basis the lump-sum survivor benefit to the surviving spouse's Individual Retirement Account (IRA). The transfer can be made at the written request of the surviving spouse following the death of an active member.<sup>16</sup>

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<sup>12</sup> Survivor supplemental benefits are reimbursed by the State of Minnesota. Reimbursement for any survivor supplemental benefits paid during the preceding year can be sought by completing an online Supplemental Benefit Reimbursement Form with the [Minnesota Department of Revenue](#).

<sup>13</sup> Minn. Stat. § 424A.10, subd. 2(b).

<sup>14</sup> Minn. Stat. § 424A.10, subd. 10, subd. 1(2). The authority to pay supplemental survivor benefits to designated beneficiaries and to estates went into effect on January 1, 2020, and applies to supplemental benefits paid by a relief association in 2019 and thereafter for the death of an active or deferred volunteer firefighter that occurred on or after January 1, 2019.

<sup>15</sup> Minn. Stat. §§ 424A.016, subd. 5; 424A.02, subd. 8.

<sup>16</sup> Minn. Stat. § 424A.015, subd. 4 (allowing defined contribution and defined benefit plans to "roll over" accounts).