

Chapter 6. Member Death-In-Service Benefits

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Member Death-In-Service Benefits

If a *member* dies while actively employed in a VRS-covered position, death-in-service benefits are available to the member's *beneficiary*.¹ In addition to death-in-service benefits, *basic group life insurance* benefits are payable to the beneficiary of the member's life insurance policy if the *employer* participates in the VRS Group Life Insurance Program. *Optional life insurance* benefits are also payable if the member purchased optional coverage. The beneficiary of the member's life insurance benefits may or may not be the same person as the beneficiary of the member's retirement benefits.

DEATH-IN-SERVICE BENEFITS

Non Work-Related Death

If a member dies while in service with a VRS-covered employer and the death is not work-related, the member's beneficiary is eligible to receive a refund of the *member contribution account*. If the member was vested, a beneficiary who is the member's spouse, minor child, or parent may choose a monthly benefit instead of a refund. If the member was not vested, the beneficiary is only eligible for a refund of contributions and interest.

¹ The singular term beneficiary is used throughout this chapter; however, more than one person may receive benefits.

The monthly death-in-service benefit enables the beneficiary of a vested member to receive a monthly benefit equal to what the member would have received if:

- Retirement had been on the date of death,
- A 100% Survivor Option was selected, and
- The benefit was reduced by any *early retirement reduction factor* (ERF), if it applied.

The formula for calculating the amount of the monthly benefit uses the *average final compensation* (AFC), years of service credit, and a reduction factor based on the member's age and the beneficiary's age. If the Plan 1 member dies before age 55, the member is presumed to be exactly age 55 on the date of death and the beneficiary's age is adjusted using the difference between the member's age at death and the beneficiary's age.

Plan 1 members who die in service before age 55 are presumed to be 55.

- If the beneficiary of a monthly death-in-service benefit dies before receiving monthly benefits equal to the retirement contributions and interest credited to the member's account, the remaining amount is paid in a lump sum to the beneficiary's estate.
- If both parents who are receiving a monthly survivor benefit die before the retirement contributions and interest have been paid to them as a monthly benefit, the remaining contributions and interest are payable to the estate of the last living parent.

Plan 2: If a Plan 2 member dies in service prior to age 60, the member shall be presumed to be age 60 on the date of death and the beneficiary's age is adjusted using the difference between the member's age at death and the beneficiary's age.

The employer assists the beneficiary with submitting all required paperwork to VRS. When all required paperwork is submitted and processed, the beneficiary is added to the current monthly retirement payroll. A retroactive payment is also issued to the member's beneficiary, representing retroactive payments from the date of the member's death.

Note: If a member dies after a service or disability retirement application is received by VRS but before the effective date of retirement and the member has selected the Survivor Option, naming the spouse, minor child or parent as the contingent annuitant, the beneficiary is eligible for either the death-in-service benefit or the Survivor Option, whichever is greater.

If the member did not select the Survivor Option, the member's death is processed as a death-in-service; however, the beneficiary of a non-vested member is only eligible for a refund.

In addition, if a member who selected a Partial Lump-Sum Option Payment (PLOP) with intent to roll over the payment dies after submitting the retirement application, but before the benefit is paid, the beneficiary may roll over those funds on the member's behalf.

The following chart summarizes the types of payment selections available to certain beneficiaries. The IRS 402(f) – Special Tax Notice is available on the VRS Web site.

Beneficiary	Method of Payment	Conditions
Spouse	Refund	A spouse may select a refund. It is subject to a 20 percent mandatory federal tax withholding and a 4 percent state tax withholding if the spouse resides in Virginia. To defer the mandatory withholding, a spouse may roll over a refund. Refer to the IRS 402(f) – Special Tax Notice for rollover rules.
	-or-	
	Monthly Benefit	A spouse may select a monthly benefit if the member was vested. It is payable for the life of the spouse, even if the spouse remarries.
Minor Child(ren)	Refund	The guardian of a minor child may select a refund to be paid on behalf of the child. Refer to the IRS 402(f) – Special Tax Notice for rollover rules.
	-or-	
	Monthly Benefit	The guardian of a minor child may select a monthly benefit to be paid on behalf of the child if the member was vested. It is payable until the minor child reaches age 18. If paid to more than one minor child, each child receives an equal share. When a child reaches 18, his or her share reverts to the remaining child or children.
Parent(s)	Refund	A parent may select a refund. Refer to the IRS 402(f) – Special Tax Notice for rollover rules
	-or-	
	Monthly Benefit	A parent may select a monthly benefit if the member was vested. It is payable for the life of the parent. If paid to two parents, the benefit is calculated based on the age of the youngest parent, with each parent receiving an equal share. If one parent predeceases the other, that parent's share reverts to the living parent.

All others	Refund	All other beneficiaries will receive a refund. A non-spouse beneficiary may roll over a refund to an IRA.
	Monthly Benefit	A monthly benefit is not provided.

Work-Related Death

Spouses of members who die from a cause under the Virginia Workers' Compensation Act receive a benefit for life.

The spouse of a member who dies while in service from a cause compensable under the *Virginia Workers' Compensation Act* is paid a monthly benefit for life. If there is no surviving spouse, the monthly benefit is paid to the member's minor child until age 18. If there is no minor child, the monthly retirement benefit is paid to the member's parent until death.

The member's spouse, minor child, or parent receives 50 percent of the member's AFC if that person does not qualify for Social Security survivor benefits or 33 1/3 percent of the member's AFC if that person qualifies for Social Security survivor benefits. If the spouse, minor child, or parent is also entitled to Workers' Compensation benefits, the VRS benefit is reduced by the amount of the Workers' Compensation award. A letter of approval or denial from the Social Security Administration and a copy of the Workers' Compensation award letter are required to process VRS *work-related death* benefits.

Work-related death benefits are payable for the life of the beneficiary when the beneficiary is the member's spouse or parent. The monthly benefit continues even if the surviving spouse remarries. The monthly benefit ceases upon the death of the spouse unless the member's surviving child has not reached 18 years of age. If the member's surviving child has not reached 18 at the time of the spouse's death, the monthly retirement benefit is paid until the child reaches 18 years of age.

In addition to the monthly benefit described above, a refund of the member contribution account is paid to the designated beneficiary of the member's retirement benefits. If no designation has been made, or if the death of the designated beneficiary occurs prior to the death of the member and another

designation has not been made, the retirement contributions and interest credited to the member's account are refunded to the beneficiary as determined by the *order of precedence*. See "Payment to Beneficiaries" in this chapter for more information.

Note: A member may die after a service or disability retirement application is received by VRS but before the effective date of retirement. In this case and if the member selected the Survivor Option naming the spouse, minor child or parent as the contingent annuitant, the beneficiary is eligible for either the death-in-service benefit or the Survivor Option, whichever is greater. If the member did not select a survivor option, the member's death is processed as a death-in-service.

In addition, if a member, who selected a Partial Lump-Sum Option Payment (PLOP) with intent to roll over the payment, dies after submitting the retirement application but before the benefit is paid, the beneficiary may roll over those funds on the member's behalf.

CALCULATING NON WORK-RELATED DEATH-IN-SERVICE BENEFITS

The age difference between the member and the beneficiary determines which survivor option factor is used.

If the vested member's beneficiary chooses to receive a monthly death-in-service benefit and the member was age 55 or over, the difference between the member's age at death and the beneficiary's age at the time of the member's death determines the survivor option factor which is used to calculate the death-in-service benefit.

A member who dies in service prior to age 55 is presumed to be age 55 on the date of death for purposes of calculating the monthly death-in-service benefit.

<p>Plan 2: A Plan 2 member who dies in service prior to age 60 is presumed to be age 60 on the date of death for purposes of calculating the monthly death-in-service benefit.</p>

Adjusting the age upward brings the member closer to normal retirement age, which results in a higher monthly benefit for the member's beneficiary.

The member's beneficiary is adjusted as follows:

- If the beneficiary is younger than the member, the actual age difference between the member and the beneficiary is subtracted from the presumed age to arrive at the beneficiary's adjusted age.
- If the beneficiary is older than the member, the actual age difference between the member and the beneficiary is added to the presumed age to arrive at the beneficiary's adjusted age. The member is again presumed to be exactly age 55 for Plan 1 and age 60 for Plan 2 on the date of death.

Use this example to calculate non work-related death-in-service benefits.

The formula for calculating non work-related death-in-service benefits is as follows:

- 1.7% of average final compensation (AFC)
- Multiplied by number of years of service credit
- Actuarially reduced using an early retirement reduction factor (ERF) (found in the Appendix to this manual) for members who are not eligible for an unreduced retirement benefit
- Actuarially reduced using a 100% Survivor Factor Option factor (found in the Appendix to this manual)

Example: This example shows the benefit calculation for a Plan 1 member who died in service at the age of 37. The Plan 1 member is assumed to be age 55 on the date of death because the member died before reaching age 55. The beneficiary, with an age of 44 at the time of the member's death, is assumed to be age 62. The member had 10 years of service credit and an AFC of \$46,000 at death.

Step 1. Determine AFC for Plan 1 members by dividing the sum of the 36 consecutive months of highest salary by 3.*	\$41,000 \$45,000 <u>\$52,000</u> \$138,000 ÷ 3 \$46,000	1. _____ _____ + _____ _____ ÷ _____ _____
Step 2. Determine the Benefit Per Year of Service (BPYS) by multiplying the member's AFC (line 1) by 0.017.	\$46,000 X 0.017 \$782.00	2. _____ X _____ _____
Step 3. Calculate the annual unreduced benefit by multiplying the BPYS (line 2) by the number of years of service credit.	\$782.00 X 10 \$7,820.00	3. _____ X _____ _____

Step 4.	Determine the monthly benefit by dividing the annual benefit (line 3) by 12.	\$7,820.00 ÷ <u>12</u> \$651.67	4. _____ ÷ _____ _____
Step 5.	Determine the monthly reduced benefit by multiplying by the ERF.	\$651.67 X <u>0.4600</u> \$299.77	5. _____ X _____ _____
Step 6.	Calculate the survivor benefit by applying the appropriate survivor factor from the Appendix to this manual. If the member was born before July 1, 1945, compare the factors from the long and short charts and apply the higher factor.	\$299.77 X <u>0.791</u> \$237.12	6. _____ X _____ _____

*For Plan 2 members, divide the sum of the 60 consecutive months of highest salary by 5.

DEATH OF MEMBER WHILE ON LEAVE

Member Dies While on Leave

Members on leave are eligible for death-in-service benefits.

A member on leave, with or without pay, is eligible for death-in-service benefits. If the member dies while on *leave with pay*, including leave with partial pay, the same death-in-service benefits are available to the member's beneficiary that are available to beneficiaries of active members. If a member dies while on *leave without pay*, including military leave and Family and Medical Leave Act, the death-in-service benefits available to the member's beneficiary are the same as if the member died while in an active status as an employee. A member who is on military leave is eligible for death-in-service benefits even if the leave without pay period exceeds 24 months.

The vested member's beneficiary is eligible to receive either a refund of the member contribution account or a monthly benefit. Only the member's spouse, minor child, or parent may select the monthly benefit. If a member is on leave without pay when a salary increase would normally be effective and dies before returning to work, the death benefit is paid on the prior salary because the member had not actually worked under the higher

salary. A member on leave without pay who returns to work in a VRS-covered position may take additional periods of leave and remain eligible for death-in-service benefits.

Death Benefits and VSDP

If a member dies while receiving either VSDP *short-term disability* benefits or *long-term disability* benefits, death-in-service benefits are payable to the member's beneficiary. If the member's death is not work-related, the member's beneficiary is eligible to receive a refund of the member's retirement contributions, plus interest accrued to the date of death. If the member was vested and the beneficiary is the member's spouse, minor child, or parent, the beneficiary may choose a refund or a monthly benefit. If the member's death is work-related, the member's spouse, minor child, or parent receives a monthly benefit, offset by any benefits received from Social Security and Workers' Compensation. In addition, the beneficiary of the member's retirement benefits receives a refund of the member contribution account.

Educator Dies While on Summer Break

An employee of a school division or institution of higher education who is contracted for less than 12 months remains a VRS-covered employee while on summer break. If a teacher or *educator* dies during the summer months when not actively at work, the member's beneficiary remains eligible for the same death-in-service benefits that would have been available had the member died during the school year while actively at work and under contract.

PAYMENT TO BENEFICIARIES

A member is not required to designate a beneficiary. If no designation has been made, death-in-service benefits are paid by law to the person surviving at the death of the member in the following order of precedence:²

The order of precedence determines how benefits are paid if the member has not designated a beneficiary.

² Code of Virginia § 51.1-162 establishes an order of precedence for paying retirement benefits when no beneficiary has been designated. See also Code of Virginia § 51.1-511.

- To the current spouse;
- If no surviving spouse, to the children and descendants of deceased children;
- If none of the above, to the parents equally or to the surviving parent;
- If none of the above, to the duly appointed executor or administrator of the estate;
- If none of the above, to other next of kin entitled under the law of the state in which the member resides at the time of death.

In the order of precedence, “children” means natural born or adopted children. To designate a stepchild as a beneficiary, the member must complete a Designation of Beneficiary (VRS-2).

A member who does not want retirement benefits paid out under the order of precedence **must** complete a VRS-2. This designation applies until the member names a new beneficiary or reverts to the order of precedence by submitting a new VRS-2. If a member has more than one VRS-2 on file, the one with the most recent date is used.

If the vested member names a spouse, minor child(ren), or parent(s) as a beneficiary, or they are deemed the beneficiary due to the order established by law, that person may receive a monthly benefit or may elect a refund of the retirement contributions and accrued interest in the account to the exclusion of any other named beneficiary. The spouse will take precedence over a minor child, a minor child will take precedence over a parent.

For non-vested members, the persons named on the form are entitled to their portion of the refund if there is a VRS-2 on file. Any primary beneficiary named is not excluded. If a VRS-2 is not on file, then the first person qualifying under the order of precedence is entitled to a refund only and not a monthly benefit.

In addition, if a member who selected a Partial Lump-Sum Option Payment (PLOP) with intent to roll over the payment dies after submitting the retirement application, but before the benefit is paid, the beneficiary may roll over those funds on the member’s behalf.

If a member has designated a *primary beneficiary*, but the primary beneficiary dies before the member, the member contribution account is paid to the *contingent beneficiary*. The contingent beneficiary is the individual or entity named to receive the benefit if the primary beneficiary is not living. If the member has not named a contingent beneficiary, or if all named primary and contingent beneficiaries have predeceased the member, benefits are paid according to the order of precedence.

The following conditions apply to a monthly benefit paid to a minor child:

Beneficiaries who are minor children must have an appointed guardian.

- A minor child must have a guardian or conservator appointed to oversee the estate of the child. The guardian or conservator has the right to choose the type of benefit that is received on behalf of the child, and may select either a refund of the member contribution account or a monthly benefit in the case of a non work-related death.
- A monthly benefit paid to a minor child ceases when the child reaches 18 years of age.
- If more than one child receives a monthly benefit, each child receives an equal share and the benefit is based upon the age of the youngest child and the age of the member at the time of the member's death. When one child reaches age 18, that child's share of the benefit is equally redistributed among the remaining minor children. Monthly benefits cease entirely when all children reach age 18.
- If retirement contributions and interest remain in the member contribution account after all children who were receiving a monthly benefit reach age 18, a refund of the contributions and interest is divided equally among all the children who received a monthly benefit.
- A minor child beneficiary takes precedence over a parent of the member.
- A minor child beneficiary takes precedence over an adult child beneficiary. If more than one child is designated or qualifies under the order of precedence as the beneficiary of the member's retirement benefits, benefits are payable only to the children who are under 18 years of age.

Example: Susie, Joe, and John are all listed as primary beneficiaries. Susie and Joe are over age 18; John is 12 years old. Because John is the only minor child, he receives the entire retirement benefit.

If a monthly death-in-service benefit is payable from VRS, benefit payments begin the month following the member's date of death. Processing the first

payment may take up to two months; however, the contingent annuitant will be paid retroactively for all benefits.

Divorced Beneficiaries

A member divorced before July 1, 1993, whose former spouse is designated as a beneficiary, must file a new VRS-2 to change this beneficiary designation. If the member's divorce became effective July 1, 1993 or later, and the former spouse is named as the beneficiary, the designation is void unless:

- VRS is presented with legal documentation showing that there is a specific requirement in a divorce decree or *Approved Domestic Relations Order (ADRO)* entered by a court on or after July 1, 1993 requiring the former spouse be named for these benefits, or
- The member has submitted a new Designation of Beneficiary (VRS-2) after the date of the divorce naming the former spouse as beneficiary.

A former spouse is only eligible to receive a refund of the member contribution account and is not eligible to receive a monthly death-in-service benefit.

Beginning July 1, 2012, all annulment or divorce decrees must contain the following notice in conspicuous, bold print:

Beneficiary designations for any death benefit, as defined in subsection B of §20-111.1 of the Code of Virginia, made payable to a former spouse may or may not be automatically revoked by operation of law upon the entry of a final decree of annulment or divorce. If a party intends to revoke any beneficiary designation made payable to a former spouse following the annulment or divorce, the party is responsible for following any and all instructions to change such beneficiary designation given by the provider of the death benefit. Otherwise, existing beneficiary designations may remain in full force and effect after the entry of a final decree of annulment or divorce.

DEATH OF A MEMBER IN DEFERRED STATUS

A member who terminates VRS-covered employment may leave the balance of the member contribution account in the system to maintain VRS membership or may elect to receive a refund. A member who leaves the balance of the member contribution account in the system becomes a

member in deferred status until taking a refund, making a rollover of the funds, applying for retirement or dying.

If a member in deferred status dies more than 30 days after the date of termination of employment and money remains in the member contribution account, the member's beneficiary receives a refund of the account balance. If the named beneficiary has predeceased the member, a refund of the member contribution account is paid to the member's contingent beneficiary. If no contingent beneficiary has been named or if the contingent beneficiary has also predeceased the member, the refund is paid according to the order of precedence. For additional information, see "Payment to Beneficiaries" in this chapter.

If a member dies before the end of the month of termination, the member is considered an active employee and the death-in-service provisions apply.

A refund paid to the surviving spouse of a member may be rolled over in the same manner as the payment to the member. If the surviving spouse elects to receive a direct payment, VRS withholds 20 percent federal tax. In addition, a 4 percent state tax withholding is applied to the refund if the spouse is a resident of Virginia at the time of payment. These withholding regulations apply only to the portion of the refund that represents taxable contributions and interest.

Refunds paid to spouses are subject to 20% federal tax and 4% Virginia tax withholding.

Even if the refund is paid to the spouse, the spouse may still roll over all or part of the payment to a traditional IRA or to an eligible employer plan that accepts rollovers within 60 days of receipt. (See Chapter 7 "Refunds" in this manual or the IRS 402(f) – Special Tax Notice for more information.)

A refund paid to a member's beneficiary who is not the surviving spouse may also be rolled over. Refer to the IRS 402(f) – Special Tax Notice for additional information.

LIFE INSURANCE

Most VRS members are covered for basic group life insurance coverage from the first day of employment. Basic group life insurance provides two types of insurance during active employment—basic life insurance and accidental death and dismemberment insurance. The amount of basic group life insurance is equal to the member’s annual salary rounded to the next highest thousand and then doubled. For accidental deaths, the amount is doubled again. (See Chapter 5, “Group Life Insurance” for additional information.)

HEALTH INSURANCE

Upon the death of a member employed by a state agency, an eligible spouse or dependent may obtain coverage in the State Retiree Health Benefits program provided the spouse or dependent was covered at the time of death. If the spouse of a deceased state employee receives a monthly annuity and the deceased employee was covered under the State Health Benefits program at the time of death, the spouse may obtain coverage in the State Retiree Health Benefits program even though the spouse was not covered at the time of the employee’s death.

Health coverage for the deceased state employee’s spouse and dependents may continue in the active group for at least 30 days after the death of the employee. To continue or select health coverage, the spouse or eligible dependent must complete a State Health Benefits Program Enrollment Form For Retirees, Survivors And VSDP/LTD Participants (T-20530) (“Enrollment/Waiver form”) within 60 days of the employee’s death.

See the Department of Human Resource Management’s Web site at www.dhrm.state.va.us/hbenefits/retirees/factsheet.html for more information.

ASSISTING THE BENEFICIARY WITH A DEATH CLAIM

When a VRS-covered employee dies while in service with a VRS-participating employer, assist the beneficiary with all aspects of the following claims process.

1. Contact Minnesota Life Insurance Company, the insurance carrier for both the VRS basic and optional group life insurance plans, to report the death. Even if you do not participate in the VRS Group Life Insurance Program, report the death directly to Minnesota Life. This initiates both life insurance and retirement benefits. Contact Minnesota Life at:

**Minnesota Life Insurance Company
Richmond Branch Office
P.O. Box 1193
Richmond, VA 23218-1193
1/800/441-2258
Joseph.Chang@securian.com**

2. Contact and assist the beneficiary in completing a Beneficiary Statement and Notice of Claim. The Beneficiary Statement and Notice of Claim can be obtained directly from Minnesota Life and are available on the Minnesota Life forms link accessible from the VRS Web site.

In addition, instruct the beneficiary to obtain a certified copy of the public death record. For deaths that occur in Virginia, a certified copy of the public death record may be obtained from the Virginia State Office of Vital Records for a fee. Death records are available to immediate family members only.

To request a death certificate, call or write:

**Virginia Department of Health
Office of Vital Records
P.O. Box 1000
Richmond, VA 23218-1000
804/662-6200**

3. Provide the beneficiary with information regarding the various options for receiving death-in-service retirement benefits. (For example, the beneficiary may be able to choose between a refund of the member's contribution account and a monthly benefit.) VRS has two publications that may be useful for the beneficiary - the "Handbook for Members" and the brochure "Making the Future Secure After the Loss of a Loved One: A Guide to Virginia Retirement System Benefits." These publications can be printed directly from the VRS Web site.

4. Advise the beneficiary to contact the Social Security Administration at 1/800/772-1213 to determine if Social Security death benefits are payable. In addition, assist the beneficiary in completing all accident reports and other forms that may be required for the Virginia Workers' Compensation Commission.

5. If the member participated in the employer-sponsored, tax-deferred savings plans such as 403(b), 457, or 401(k) plans, instruct the beneficiary to contact the plan record keeper. In the case of state employees and employees of political subdivisions that participate in the Virginia Deferred Compensation Plan or the Virginia Cash Match Plan, contact ING at:

ING
P.O. Box 5159
Boston, MA 02206-5159

877/327-5261 (VRS DCPLAN1)

For other plans, provide the contact information for the plan in which the member participated.

When VRS has been notified by Minnesota Life of the member's death, an informational letter and claim form are mailed directly to the beneficiary along with information on the beneficiary's payment options. Once the beneficiary has selected the payment option and mailed the form back to VRS (along with any other required documentation), the beneficiary is eligible to receive the benefits.