WEST VIRGINIA CODE: §8-22-9

§8-22-9. Death benefits; return of contributions.

(a) A beneficiary or beneficiaries of a deceased member, which member was not receiving a retirement pension under the provisions of section seven of this article at the date of his death, may qualify for death benefits under either of the following mutually exclusive provisions:

(1) If the member died as a result of personal injury or disease arising out of and in the course of his employment with the city, the surviving spouse shall be entitled during widowhood or widowerhood to a monthly benefit equal to thirty-three and one-third percent of the final monthly salary of the member, but not to exceed $125 per month. In the event there be no surviving spouse, or if remarriage occurs before the youngest child attains age eighteen, each child under age eighteen shall be entitled until age eighteen to a monthly benefit equal to twenty percent of the member's final monthly salary, subject to a total payment to all such children of fifty percent of such final monthly salary, or $125 per month, whichever is the lesser. If there be no surviving spouse or children under age eighteen, the deceased member's dependent father or mother or both, the question of dependency to be determined by the board, shall each be entitled until death to a monthly payment equal to one sixth of the deceased member's final monthly salary, but the payment to either parent shall not exceed $50 per month. Effective January 1, 1987, a city may provide that the above maximum benefit limitations of this section nine shall no longer apply. Any benefits payable from the retirement and benefit fund shall be reduced by benefits payable from workers' compensation due to the death of the member.

(2) If the member died from any cause other than that stated in subdivision (1) of this subsection, and such member at the date of his death had ten or more years' total service credit, his beneficiary or beneficiaries shall be entitled, for a period not to exceed ten years, to death benefits in accordance with the retirement pension table contained in section seven of this article. The death benefits shall be paid to such individual or individuals having an insurable interest in the member's life as such member shall have nominated in a designation filed with the board. As to any spouse beneficiary, the marriage must have occurred at least one year prior to the death of the member in order that the spouse may be eligible for benefits under this subdivision (2).

(b) If a member receiving a retirement pension under the provisions of section seven of this article at the date of his death dies with a spouse or beneficiary surviving (concerning which retirement pension the optional benefit provisions set forth in subsection (f) of said section seven are not applicable), and such member had been receiving such retirement pension for less than ten years, such surviving spouse or beneficiary shall be entitled to receive death benefits equivalent to the deceased member's retirement pension for the remaining period of ten years dating from the date of the member's retirement. The death benefits shall be paid to such individual or individuals having an insurable interest in the member's life as such

WV Legislature

member shall have nominated in a designation filed with the board; but a surviving spouse shall not be entitled to death benefits under the provisions of this subsection unless such surviving spouse was married to the member before the date of his retirement and such marriage took place at least one year prior to the date of the death of the member. If the surviving spouse remarries, such spouse's death benefits shall be terminated and shall not be resumed upon subsequent change in the marital status of such spouse.

(c) If a member dies with less than ten years' total service credit so that he was not entitled to a retirement pension during life, the member's total contributions to the fund, without interest, shall be returned to such individual or individuals having an insurable interest in the member's life as such member shall have nominated in a designation filed with the board, and in the absence of any such designation, to the member's estate.

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