

20:16:17:17. Family benefits payable on death of employee before retirement. If an employee with five years of credited service dies after January 31, 1977, but prior to the earlier of either the employee's normal retirement age or the employee's actual retirement date or if the employee was receiving a disability allowance that started after January 31, 1977, the surviving spouse of the employee or, if there is no spouse, the custodian or conservator of any surviving children shall be paid the following family benefits:

(1) A surviving spouse having the care of children shall receive an annual amount, payable in monthly installments, equal to 40 percent of the highest annual earnings earned by the employee during any one of the last three years of credited service, plus 10 percent of those earnings for each child to a maximum of five children;

(2) If there is no surviving spouse, the custodian or conservator of each child shall receive on behalf of each child, to a maximum of five children, an annual amount, payable in monthly installments, equal to 10 percent of the highest annual earnings earned by the employee during any one of the last three years of service. Payments under this subdivision may not total more than 50 percent of those earnings;

(3) If there are more than five children, the benefits payable to children under subdivision (1) or (2) shall be allocated to all children on a share and share alike basis; or

(4) If there are no benefits being paid to the spouse under subdivision (1), the spouse upon reaching age 65 shall receive a monthly payment based on the pension which would have been payable to the deceased employee at normal retirement age based on the employee's credited and projected service and projected compensation actuarially reduced to reflect a 50 percent joint and survivor option. The benefit payable under this subdivision shall be increased by application of the improvement factor for time which elapses between the date the employee would have reached normal retirement age and the date benefits begin to the spouse.

Source: 28 SDR 109, effective February 11, 2002; 36 SDR 207, effective July 1, 2010; 40 SDR 197, effective May 27, 2014..

General Authority: SDCL 3-12-222

Law Implemented: SDCL 3-12-218, 3-12-219.