

20:16:19:17. Family benefits payable on death of employee before retirement. If an employee with three years of credited service dies after April 30, 2000, 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 pension which started after April 30, 2000, a family benefit shall be paid as follows:

(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;

(2) 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 the employee's normal retirement age, equal to 60 percent of the pension benefit that the deceased employee would have been eligible to receive at the time of the employee's death. Any employee on March 16, 2001, is eligible for the benefits payable under this section, if the employee has at least three years of credited service at death, including any years of continuous service with any successor employer. If an employee terminates employment with the successor employer for any reason other than death, the employee is not eligible for a benefit under this section. However, the spouse is eligible for a benefit under § 20:16:19:22 when the spouse reaches age 65 if the employee dies before retirement. The family benefit payable under subdivision (1) and (2) shall be based on the employee's compensation at plan termination.

All benefits payable under this subdivision shall be increased by application of the improvement factor from § 20:16:19:39 commencing on the July first that is at least 12 full calendar months following the date of termination of employment with the commission.

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.