

(e) Where post-audits establish the insurance benefits were underpaid, an additional check shall be sent to the beneficiary for the value of the underpayment.

(f) Refunds of a deceased member's pension contributions will be made to the member's designated beneficiary or the employer after written confirmation is received from the employer setting forth the reason for the refund of pension contributions to either the beneficiary or to the employer.

(g) Members who prove their insurability for the group life insurance benefits shall have their insurance benefit calculated on the basis of salary they received or salary upon which pension contributions were based during their last year (10 and 12 months) of service prior to death, regardless of their effective date of insurance coverage.

(h) In computing the salary upon which pension contributions were based during a member's last year of service, in the case of a 12-month employee reported 12 months a year on a biweekly basis, a total of 26 biweekly pays will be used, including any retroactive salary payments made within the prescribed period. The total salary will be adjusted by multiplying the total by the factors supplied by the actuary; such adjustment will compensate for biweekly payroll schedules.

(i) In computing (h) above in the case of employees reported on a 10-month basis, the total biweekly pays will

include those pay periods in the third quarter of each year in which a member does not receive salary. The adjustment as specified in (h) shall not be made.

(j) If a member was reported on a biweekly basis or any combination of 10 and 12-month contract years, the last year's salary prior to death, shall be determined on a proportional basis.

As amended, R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

As amended, R.1978 d.138, effective May 1, 1978.

See: 10 N.J.R. 38(a), 10 N.J.R. 265(c).

Amended by R.1990 d.377, effective August 6, 1990.

See: 22 N.J.R. 1348(a), 22 N.J.R. 2342(c).

Stylistic changes; benefits based on contributions attributable to 12 months preceding death of member.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

### 17:2-3.3 Contributory insurance rate

All participating members' contribution rate for contributory group insurance shall be one-half of one percent (.005) of the member's base or contractual salary, effective as of January 1, 1999.

As amended, R.1970 d.133, effective November 2, 1970.

See: 2 N.J.R. 86(d), 2 N.J.R. 102(b).

As amended R.1978 d.139, effective May 1, 1978.

See: 10 N.J.R. 127(b), 10 N.J.R. 265(d).

As amended, R.1982 d.343, effective October 18, 1982.

See: 14 N.J.R. 200(b), 14 N.J.R. 1164(b).

As amended, R.1983 d.7, effective February 7, 1983.

See: 14 N.J.R. 1150(a), 15 N.J.R. 162(d).

Rate change from one-half to three-quarters July 1, 1981.

As amended, R.1984 d.190, effective May 21, 1984.

See: 16 N.J.R. 358(a), 16 N.J.R. 1284(a).

Contribution rate changed from  $\frac{3}{4}$  to  $\frac{9}{10}$  of one percent, effective April 1, 1984.

Amended by R.1987 d.510, effective December 7, 1987.

See: 19 N.J.R. 1636(a), 19 N.J.R. 2373(c).

Contribution rate changed from  $\frac{6}{10}$  to  $\frac{55}{100}$  of one percent, effective January 1, 1988.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Substituted a reference to one-half of one percent for a reference to fifty-five one-hundredths of one percent, and substituted a reference to 1999 for a reference to 1988.

#### 17:2-3.4 New enrollments and transfers; contributory insurance premiums

For new enrollees and transferees, contributory insurance premiums will be due from the date insurance is effective as shown on the certification, to the date payroll deductions are certified to begin. In no case will the retroactive premiums for more than 15 months be charged.

#### 17:2-3.5 Leave for illness; life insurance coverage

(a) Life insurance coverage during a leave of absence due to illness shall apply only to the personal illness of the member.

(b) A leave of absence on account of another person's illness will not entitle the member to continued life insurance coverage.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), substituted a reference to life insurance coverage for a reference to coverage; and in (b), substituted a reference to life insurance coverage for a reference to insurance coverage.

#### Case Notes

Beneficiary's claim for death benefit coverage denied; deceased not on approved leave of absence at time of death. *Davis v. Public Employees' Retirement System*, 95 N.J.A.R.2d (TYP) 1.

#### 17:2-3.6 Survivor benefits

(a) Payment of benefits to eligible survivors shall become effective on the first of the month subsequent to the member's death and shall terminate on the first of the month subsequent to the date in which the survivor no longer qualifies for such benefits.

(b) In the instance of an active member who dies in the performance of duty (accidental death), the initial pension payment will be for the month following the month in which the member died, and the last payment will cover the month the survivor dies or ceases to qualify for the continuance of benefits.

Amended by R.1979 d.399, effective October 9, 1979.

See: 11 N.J.R. 411(a), 11 N.J.R. 596(b).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (a), substituted "subsequent to" for "of" following "month", and substituted "on the first of the month subsequent to the date" for "as of the month" following "terminate"; and in (b), deleted "immediately preceding the month" following "cover the month".

#### 17:2-3.7 Withdrawal application; contributory insurance

A properly executed contributory insurance withdrawal application must be in the possession of the Retirement System before termination of the contributory coverage can be effected. Such withdrawal application cannot be retroactive.

Correction: The words "Retirement System" were inadvertently omitted from text.

See: 18 N.J.R. 2391(c).

#### 17:2-3.8 Withdrawal and return; contributory insurance

Withdrawal from contributory insurance coverage shall apply only to the membership account under which the cancellation was exercised. Any person who has canceled his contributory insurance coverage and withdraws from membership in the System shall, upon his or her subsequent re-enrollment in the System, be subject to the provisions of N.J.A.C. 17:2-3.1.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Neutralized a gender reference.

#### 17:2-3.9 Retired life insurance coverage

If a member's date of PERS enrollment was on or after July 1, 1971, noncontributory life insurance shall be payable after the death of a retired member, only if the member established 10 or more years of pension membership credit at the time of retirement, or retired on a disability retirement. The life insurance shall equal  $\frac{3}{16}$  of the retiree's last 10 months of salary if formerly employed on a 10-month basis, or 12 months of salary if formerly employed on a 12-month basis. No premium payments are required to continue the  $\frac{3}{16}$  coverage after retirement. Contributory group life insurance coverage ceases at retirement.

New Rule, R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

#### 17:2-3.10 Contributory insurance premiums; leave of absence

(a) Contributory insurance coverage will be in effect for up to two years while a member is on an official leave of absence for the personal illness of the member without premiums paid by the member.

(b) Contributory insurance coverage will be in effect while a member is on an official leave of absence without pay for the following reasons, provided that insurance premiums are paid in advance by the member. It is the member's responsibility to make arrangements directly with the Division to continue these premium payments:

1. Up to one year to fulfill a residency requirement for an advanced degree; or as a full-time student at an institution of higher education; and
2. Up to 93 days on an official leave for any other reason.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

**17:2-3.11 Ten month members**

A member employed on other than a 12-month contract year will continue to be insured during the summer vacation period provided a bona fide employee-employer relationship exists during this period.

**Case Notes**

Part-time adjunct professor who died during summer hiatus was still active member of Public Employees' Retirement System. Estate of Hagel v. Board of Trustees, Public Employees' Retirement System, 226 N.J.Super. 182, 543 A.2d 1010 (A.D.1988).

**17:2-3.12 Beneficiary designation; pension contributions**

(a) When a member establishes multiple status by becoming employed by one or more additional employers in an eligible position or positions and files an enrollment application, the beneficiaries designated on the most recently submitted enrollment application supersede any older designations of beneficiaries on file with the Division of Pensions and Benefits.

(b) All beneficiaries must be specifically named. The designation "children," unless otherwise qualified by the member shall mean all individuals, including natural or adopted children, entitled to take from the member by the New Jersey laws of intestate succession, N.J.S.A. 3B:1-1 et seq., and excludes all persons who are only stepchildren, foster children, grandchildren or any more remote descendants.

R.1974 d.230, effective August 19, 1974.

See: 6 N.J.R. 32(a), 6 N.J.R. 361(a).

Amended by R.1983 d.6, effective February 7, 1983.

See: 14 N.J.R. 1151(a), 15 N.J.R. 163(a).

Clarification of "children" as beneficiaries.

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

Rewrote the section.

**Case Notes**

Failure to fill out correct change of beneficiary form did not prevent payment of accumulated pension funds to decedent's intended beneficiary. Estate of Phyllis Braginton v. Board of Trustees of the Public Employees' Retirement System. 92 N.J.A.R.2d (TYP) 135.

**17:2-3.13 Benefits payable under P.L. 1984, c.96, as amended by P.L. 1995, c.221**

(a) For the purposes of P.L. 1984, c.96, section 1, as amended by P.L. 1995, c.221, section 2, (N.J.S.A. 43:15A-50), the person designated as the beneficiary of an optional settlement on the retirement application may request that a retirement become effective and that a selection of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after retirement as otherwise provided in the Public Employees' Retirement System Act, N.J.S.A. 43:15A-1 through 141 as amended and supplemented.

(b) Where a beneficiary of a member requests that a retirement take effect and that a selection of an optional settlement be made as authorized under P.L. 1984, c.96, section 2, as amended by P.L. 1995, c.221, section 1 (N.J.S.A. 43:15A-50), an additional amount of insurance, not to exceed the amount of insurance that could be converted under the group policies for noncontributory and contributory death benefits, shall be paid as claims under the group policies only if the member files an application for conversion of the insurance upon retirement as provided under N.J.S.A. 43:15A-93 and pays the initial premium for the converted insurance. The premiums paid for the converted insurance shall be retained by the carrier and be applied to the premiums payable by the State and the retirement system for benefits provided under the group policies.

New Rule, R.1998 d.501, effective November 2, 1998.

See: 30 N.J.R. 1917(a), 30 N.J.R. 3970(a).

Amended by R.2000 d.26, effective January 18, 2000.

See: 31 N.J.R. 3229(a), 32 N.J.R. 304(a).

In (b), substituted a reference to N.J.S.A. 43:15A-50 for a reference to N.J.S.A. 18A:66-47.

**17:2-3.14 Acceptable designations of beneficiaries**

(a) The beneficiary designation on a duly executed retirement application that is filed with and accepted by the Division supersedes any older designation of beneficiary on file. The designation is effective upon acceptance by the Division, even if the retirement date on the application is in the future.

1. The beneficiary or beneficiaries designated on the retirement application for the retirement allowance shall be the beneficiary or beneficiaries for the return of the member's accumulated contributions.

2. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for the retirement allowance, the Division shall pay the benefit to the member's estate.

(b) The beneficiary or beneficiaries of the group life insurance designated on the retirement application shall be the beneficiary or beneficiaries of the active group life insurance.

1. If no beneficiary designation is in effect at the time of the member's death, or if no one is named as beneficiary for life insurance, the Division shall pay the benefit to the member's estate.

New Rule, R.2000 d.74, effective March 6, 2000.

See: 31 N.J.R. 3928(a), 32 N.J.R. 823(a).

## SUBCHAPTER 4. MEMBERSHIP

**17:2-4.1 Creditable compensation**

(a) The compensation of a member subject to pension and group life insurance contributions and creditable for retirement and death benefits in the system shall be limited to base salary, and shall not include extra compensation. For purposes of this section:

1. "Base salary" means the annual compensation of a member, plus the value of maintenance, if applicable, in accordance with contracts, ordinances, resolutions or other established salary policies of the member's employer for all employees in the same position, or all employees covered by the same collective bargaining agreement,

which is paid in regular, periodic installments in accordance with the payroll cycle of the employer; and

2. "Extra compensation" means individual salary adjustments which are granted primarily in anticipation of a member's retirement or as additional remuneration for performing temporary duties beyond the regular workday or work year. Forms of compensation that have been identified as extra compensation include, but are not limited to:

i. Overtime;

ii. Pay for extra work, duty or service beyond the normal workday, work year (for 10 month employees) or normal duty assignment;

iii. Bonuses;