

Beneficiaries

MACRS

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Beneficiary, defined

- Any person entitled to any present or potential benefit on account of membership of a person other than himself, under the provisions of sections one to twenty-eight, inclusive. (G.L. c. 32, Section 1.)

Relatively Recent Beneficiary News

- Increase in Section 101 benefits allowed via local option
- Increase in minimum allowance under Section 12(2)(d) allowed via local option
- New age factors for the on or after April 2, 2012 set under Section 12(2)(d), particularly negatively impacting those in Group 2 but also Group 4
- Resolution in the form of a non-decision in the ongoing Connery saga involving the concurrent benefit possibility

The Unborn Widow

✿ *Alberta Martín*

✿ *Gertrude Janeway*

Section 101

- At the present time, can be \$6,000, \$9,000 or \$12,000, depending upon the acceptance of a local option. For many years, this benefit was \$6,000 per year.
- In recent years, however, this law has been amended twice to provide a local option for bringing this amount to \$9,000 or \$12,000 per year.
- Majority vote of the board required.
- Then approval by the “legislative body.”

Section 101

Acceptance of the local option shall be deemed to have occurred upon the filing of the certification of the votes of the Board and the legislative body with PERAC.

- State Retirement System and Teachers' Retirement System are deemed to have accepted it.
- See PERAC Memoranda #28/2010, #43/2012

Section 101 & previous COLAs

- Persons currently receiving Section 101 allowances in an amount greater than \$6,000 due to COLAs would NOT be entitled to receive anything more than \$9,000 or \$12,000 in the first year if the local option is adopted.
- See PERA Memo #25/1995 (memo distributed when amount went from \$3,000 to \$6,000).

Section 101, Other Fun Facts

- Available to spouses of ordinary disability retirees who retired prior to December 30, 1971.
- Available to spouses of accidental disability retirees who retired prior to November 7, 1996.

Section 101 in perpetuity

- Also available to a widow(er) who wasn't your spouse when you retired. (See Opinion of the AG, Feb. 7, 1974, p. 109.)
- AG: *Inasmuch as there is no express indication in Section 101 that the widow be the spouse of the retiree at the time of his retirement, I cannot imply such a restriction.*

The “Janeway analysis” and Section 101

- John Janeway, police officer in Quabbin, dob 1946, retires at age 49 in 1995, under the Heart Law, picking Option B. His wife, Miriam predeceases him, dying at age 70 in 2016.
- Gertrude Grubb is born in 2009.
- John Janeway marries Gertrude Grubb in 2027, when he is 81 and she is 18.
- They are married for 10 years before John Janeway dies in 2037. John Janeway dies of pneumonia.
- In 2037, the Quabbin Retirement Board votes to grant Gertrude Janeway a Section 101 benefit. By 2037, the Quabbin Retirement Board is paying \$12,000 a year for Section 101.
- Gertrude Janeway dies in January of 2103 at the age of 93. The benefit on account of John Janeway has spanned 3 centuries.
- If he had died of the cause for which he had retired, Gertrude would have been eligible for the [Section 9](#) benefit for the same time period.

Creation of a beneficiary

- A member in service
- An inactive member
- A superannuation/termination retiree
- An ordinary disability retiree
- An accidental disability retiree

A Chapter 32 beneficiary will receive one of two things

- A lump sum of money
- An allowance of some sort
- Depending upon beneficiary, allowance may last a lifetime or a specified amount of time.
- Accidental death beneficiaries receive both the lump sum and the allowance, in some cases

A Lump Sum Payment

- A beneficiary may be entitled to a return of a member's annuity account when the member dies before retirement.
- The member should designate a beneficiary or beneficiaries on the PERAC form "Beneficiary Selection Form (If Member Dies Before Retirement)"
- Taxable as if withdrawn by member.

Everyone Should Have Filled Out This Form Already

- All public employees should fill out this form upon becoming employed.
- Death is certain and inevitable, and if you should die before retirement, you get to say where the money you have been contributing to the system should go.

Pay Out Not Possible to Named Beneficiary If:

- There is an eligible beneficiary nominated under Option D of section 12.
- The person named as beneficiary has died.
- The corporation or charitable organization named as beneficiary has dissolved.
- The beneficiary owes child support and the amounts in the annuity account are intercepted following an “IV-D” search.
- Although no one named as your Option 12(2)(d) beneficiary, your eligible spouse makes the so-called Option 12(2)(d) election, which will be discussed more fully below

The public employee's least favorite option, Option D

- The “Member Survivor Allowance”
- Provides beneficiary with the allowance the member would have received under Option C as if they had retired on the date of their death.
- Calculation depends upon date of entry into service.

Group 1 – Section 12(2)(d)

- *Member prior to April 2, 2012:*
 - If under age 55, age factor bumped up to age 55. If over, actual age used.
 - Beneficiary bumped up same amount.
 - Age 55 factor: 1.5
- *Member on or after April 2, 2012:*
 - If under age 60, bumped up to age 60. If over, actual age used.
 - Beneficiary bumped up same
 - Age 60 factor: 1.45

Group 2 – Section 12(2)(d)

- *Member prior to April 2, 2012:*
 - If under age 55, age factor bumped up to age 55. If over, actual age used.
 - Beneficiary bumped up the same amount.
 - Age 55 factor: 2.0
- *Member on or after April 2, 2012:*
 - If under age 55, age factor bumped up to age 55. If over, actual age used.
 - Beneficiary bumped up the same amount.
 - Age 55 factor: 1.45

Group 4 – Section 12(2)(d)

- *Member prior to April 2, 2012:*
 - If under age 55, age factor bumped up to age 55. If over, actual age used.
 - Beneficiary bumped up the same amount.
 - Age 55 factor: 2.5
- *Member on or after April 2, 2012:*
 - If under age 55, age factor bumped up to age 55. If over, actual age used.
 - Beneficiary bumped up the same amount.
 - Age 55 factor: 2.2

The Minimum Allowance

- Allows for a minimum allowance of either \$250 or \$500 per month, depending upon whether a local option has been adopted.
- Chapter 176 of the Acts of 2011 made the increase to \$500 a possibility.
- Acceptance occurs upon filing with PERAC.
- For members of the State and Teachers Retirement Systems, the minimum allowance increased to \$500 per month on April 2, 2012.
- See PERAC Memorandum #14/2012.

Option 12(2)(d)

Designation vs. Election

- A member designates **ONE AND ONLY ONE Option D beneficiary** on a prescribed form
- spouse, child, former spouse who has not remarried, mother, father, brother or sister
- An eligible spouse makes the election after the member's death

Electing the Benefit

- A spouse may elect the Option D benefit if the following conditions are met:

The member must have completed at least *two years of creditable service*.

The member and spouse must have been *married for at least one year*.

The member and spouse must have been *living together* at the time of the member's death.

If they were not living together at the time of the member's death, the board must find that they were *living apart for justifiable cause*, other than desertion or moral turpitude on the part of the applying spouse.

How and when may a member's spouse elect Option D benefits?

- The retirement board will notify a member's spouse of his or her right to elect Option D benefits. An eligible spouse has 90 days from the date this notice is mailed to elect Option D benefits. To be effective, the election must be made on a prescribed form filed with the retirement board.

What happens if a surviving spouse does not elect Option D benefits?

- If the member had not named another individual as his/her Option D beneficiary, the member's accumulated deductions would be paid to the surviving Section 11 beneficiaries of record, or, if there are none, to the member's surviving spouse in one sum.
- If the member had named another individual as his/her Option D beneficiary, that individual would receive a lifetime allowance (instead of a lump sum payment being made to the surviving beneficiaries of record.)

Inactive Members

- A 12(2)(d) allowance may be available to a beneficiary of an inactive member, HOWEVER:
- No benefit for children is available under Section 12B.
- No eligibility for the “minimum allowance.”

Benefits available to children under Section 12(2)(d)

- Section 12B is the vehicle for the award of benefits to minor children of deceased member.
- Such benefits will not last for the lifetime of the children, unless a child is incapacitated.

The 12B Benefit Ends...

- Upon his or her adoption
- Upon reaching age 18
- Upon reaching age 22 if a full-time student
- Upon his or her marriage
- Upon his or her death
- It will NOT end if child incapacitated on date of member's death.

Children can in some circumstances “stand in a spouse’s shoes”

- Sometimes there is no spouse.
- In that event, any minor children would divide the Member Survivor Allowance amongst them, and the 12B allowance would still be payable.
- This benefit, derivative of Section 12B, would end as described in that section.

Accidental Death Benefit

- A member in service dies as a result of and while in the performance of his duties.
- All sums credited in his annuity account immediately disbursed to his beneficiary or beneficiaries of record.
- Surviving spouse to receive pension equal to seventy-two percent of member's annual rate of compensation on date of death.

Accidental Death Benefit to Children

- Children of a deceased member receive an additional allowance of \$774.36 annually, in systems which have accepted the local option, until they turn 18, 22 (if a student) or are adopted or marry.
- Payment does not stop if child incapacitated on date of member's death.
- This additional payment is payable to the guardian of the children.

Killed in the Line of Duty Benefit

- Available only to certain named employees such as police officers or firefighters.
- Death under certain conditions triggers this section, which pays 100% to surviving spouse.
- A spouse is required.
- Children taking benefit without spouse limited to 72%.
- Section 100A.

Retiree dies of the cause for which he retired (Section 9)

- Retiree dies of the cause for which he retired;
- Widow entitled to not less than the pension portion he was receiving;
- Must have been living with member at time of death, but no requirement of one year of marriage;
- Option B retiree's beneficiary will receive a return of accumulated deductions; and
- Same benefits to minor children as described in Section 9 for active members.

Making it to Retirement: 3 Possible Options

- Option A
- Option B
- Option C
- These options are available to superannuation, termination, ordinary disability retirement and accidental disability retirement.

OPTION A

- Gets the largest possible retirement allowance, known as “Life Annuity”
- Upon his death, no money payable to anyone except:
 - If he dies on the 16th of September, for example, his estate will be due 16 days of retirement allowance

OPTION B

- May be selected by retiree.
- But also the “default” option to which those who fail to select an option are assigned.
- Option B provides a lifetime allowance that is 1% to 5% less per month than Option A.
- The member’s annuity account is gradually depleted by an amount equal to the annuity portion of your retirement allowance.

Option B, continued

- Usually, the annuity account will be depleted about 15 years after retirement.
- Member still gets full allowance after depletion.
- Upon member's death, beneficiary gets whatever amount is remaining in the annuity account, if anything.

Who may be designated as an Option B beneficiary?

- Any person or entity.
- More than one person or entity may be designated.
For example, “50% to Luke McGlue and 50% to the Boy Scouts of America”
- The Option B beneficiary may be changed by the member at any point prior to death.

Option C

- A/k/a “the joint and last survivor allowance”.
- Allowance will be 7 to 15% less than that which a person would receive under Option A.
- Upon the retiree’s death the beneficiary will be paid a monthly allowance for life.
- Amount of benefit depends on the life expectancies of member and beneficiary.
- See PERAC Memo #37/2004 for more information.

Who can be designated as Option C beneficiary?

- A member may only designate **ONE** Option C beneficiary.

The beneficiary may be the spouse, parent, unmarried former spouse, sibling or child.

Eligibility of the beneficiary is determined at the time the option is selected at retirement.

What if the Option C beneficiary dies before the member?

- No new beneficiary is selected.
Member's allowance "pops up" to Option A.
- Member paid as if receiving an Option A from date of death of beneficiary to the day he dies.

Concurrent Benefit Possibility

- PERAC Memo #8/1997, issued on January 23, 1997.
- Entitled “Effect of Selection of Option C By An Accidental Disability Retiree.”
- “The amendment to G.L. c. 32, [Section] 12 has no effect on the language of G.L. c. 32, [Section] 9 which provides for an accidental death benefit....”

Concurrent Benefit Possibility

- In the case of those individuals who retired between November 7, 1996 and June 30, 2004, the possibility remains that a single eligible beneficiary can receive both the Option C benefit and the accidental death benefit.
- Appeals Court dismisses Connery, but non-resolution = resolution in this case