

TO: All Retirement Boards
FROM: Joseph E. Connarton, Executive Director
RE: Concurrent Benefits
DATE: June 26, 2014

At the May 8, 2014 meeting of the Public Employee Retirement Administration Commission, the members of the Commission discussed the effect of the August 9, 2013 decision of the Division of Administrative Law Appeals in the matter entitled *Larrison v. Stoneham Retirement Board*, Docket No. CR-10-779, on PERAC's longstanding position that two people can concurrently receive a benefit on one member's account. Consequently, the Commission voted to issue this memorandum. Pursuant to the *Larrison* decision, which is a final determination of CRAB as the Petitioner did not appeal, two people cannot receive a benefit on one member's account. The *Larrison* decision was the catalyst for the Commission to issue this memorandum.

This memorandum supersedes PERAC Memorandum #8/1997 in its entirety, and the portion of PERAC Memorandum #25/2004 pertaining to G.L. c. 32, § 12(1), concerning two people concurrently receiving a benefit on one member's account. Such a scenario could occur if a member retiring for accidental disability nominated an Option C beneficiary under §12 (which provides for a lifetime benefit), and then died of the cause for which he retired, entitling someone, most likely a spouse, to a benefit under §9. Section 9 provides for an accidental death benefit when a member dies in service or retires but dies as the natural and direct cause of the condition for which he or she retired. Following the *Larrison* decision, however, two people cannot receive a benefit on one member's account, and a Section 9 beneficiary trumps and supersedes an Option C beneficiary.

This policy change is PROSPECTIVE ONLY, applying to new benefits conditioned on a member's death on or after July 1, 2014, and shall not affect any concurrent Section 9 and Option C beneficiaries already receiving such benefits.

Accordingly, pursuant to that decision and effective July 1, 2014, no new concurrent benefit shall be paid to both a Section 9 and an Option C beneficiary who may otherwise qualify. In cases where a member has nominated an Option C beneficiary, but where either a surviving spouse or legal guardian of a person or persons who qualify under §9(2)(b) or §9(2)(c) successfully petitions for §9 Accidental Death Benefits, the Section 9 beneficiary shall supersede the Option C beneficiary, and the Option C beneficiary's right to a benefit shall be extinguished. This new policy in no way impacts the issuance of the refund of the member's annuity savings fund pursuant to §9(2), in cases where the annuity account may be distributed post-retirement.

If you have any questions, please feel free to contact this office.

