

OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM
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MEMORANDUM

DATE: May 6, 2005

TO: OPERS Retirement Board Members

FROM: Julie E. Becker, General Counsel

RE: **IV. Action Items:**
 C. Rule 145-1-80, Effect of applicant's death on payment plan
 Rule 145-2-47, Beneficiary and payment plan changes after
 retirement

Action requested: _____ moved, _____ seconded, to approve for submission to the Joint Committee on Agency Rule Review (JCARR) and the Legislative Service Commission (LSC), Rules 145-1-80 and 145-2-47 as set forth in this memorandum.

Summary of plan change rule amendments

(A) Rule 145-1-80, Effect of applicant's death on payment plan

Rule 145-1-80 provides instruction for processing the retirement applications of members and retirants filed shortly before their death. Under the current rule and statute, a retirant's request to change his or her plan of payment from a single life annuity to a joint and survivor annuity after marriage is effective the first day of the month following receipt of the application. Amended House Bill 10, effective June 6, 2005, provides that the effective date of a retirant's request to change his or her plan of payment after marriage shall be effective immediately on the day it is received by the retirement system. This amendment is made because division (B) is now redundant to the new law. It will be filed as an emergency so that it is also effective on June 6, 2005.

(B) Rule 145-2-47, Beneficiary and payment plan changes after retirement

Rule 145-2-47 describes the beneficiary and payment plan changes available to a retirant under Ohio Revised Code Section 145.46. Amended House Bill 10 provides that the effective date of a retirant's request to change his or her plan of payment after marriage shall be effective immediately on the day it is received by the retirement system. The new benefit calculation and payment occur with the first monthly benefit

following the effective date of the plan change (i.e. filing the plan change form with the retirement system). This rule is amended only for consistency with H.B. 10. This amendment and H.B. 10 impact those retirants that marry or remarry on and after June 6, 2005, who have one year from their date of marriage to change their plan of payment, as well as eligible retirants who married or remarried before June 6, 2005, who may still change the retirement plan selection at any time prior to death. This rule will be filed as an emergency so that it is also effective on June 6, 2005.

145-1-80 Effect of applicant's death on payment plan

- (A) If a member has filed an application for retirement pursuant to section 145.32, 145.33, 145.331, 145.34, 145.37 or 145.46 of the Revised Code and the member's death occurs subsequent to the effective retirement benefit date, the beneficiary and benefit payable shall be determined by the plan of payment and beneficiary designated by the member on the application for retirement benefits.
- (B) ~~If a retirant has filed an application to change the payment plan as authorized in division (D)(2) or (E) of section 145.46 of the Revised Code, and PERS rules, and the retirant's death occurs prior to the effective date of the change, any benefits shall be payable under the payment plan in effect at the retirant's death.~~
- ~~(C)~~ If a PERS retirant or other system retirant as defined in section 145.38, or a retirant described in section 145.382, or 145.383 of the Revised Code has filed an application for a benefit pursuant to section 145.382, 145.383 or 145.384 of the Revised Code, and the retirant dies subsequent to the effective date of the benefit, the benefit payable to the beneficiary shall be determined by the plan specified by the retirant on the application.
- (D) The third-party administrator shall distribute benefit payments in accordance with guidelines established by the public employees retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.38.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.37, 145.38, 145.382, 145.383, 145.384, 145.46.

Rule Review Date: 9/29/05.

Replaces: 145-15-01.

Effective Date History: 1/1/03; 3/22/02; 11/2/00; 2/1/93; 2/3/92; 8/6/90; 2/15/67.

145-2-47 Beneficiary and payment plan changes after retirement

- (A) Section 145.46 of the Revised Code as effective July 24, 1990 renames the plans of payment available under sections 145.32, 145.33, 145.34 and 145.46 of the Revised Code. For purposes of Chapter 145. of the Revised Code and PERS rules such payment plans shall be treated the same as follows:
 - (1) A straight or single life annuity payment plan and plan B.
 - (2) An option 1 payment plan and plan D.
 - (3) An option 2 payment plan and plan A when the retirant's spouse is the retirant's beneficiary and the amount payable after the retirant's death is fifty per cent.
 - (4) An option 2 payment plan and plan C when the beneficiary is someone other than the retirant's spouse or the amount payable to a beneficiary after the retirant's death is other than fifty per cent.
 - (5) An option 3 payment plan and plan E.
- (B) A designation of beneficiary may be changed after retirement when the retirant is receiving benefits under:
 - (1) A payment plan B.
 - (2) A payment plan E, but the payment plan cannot be changed.
- (C) When a retirant is receiving benefits under plan A, C, or D, the plan shall be changed to plan B and a new beneficiary may be designated:
 - (1) Effective on the later of September 1, 1976 or the first day of the month following the death of the spouse designated as beneficiary under the plan.
 - (2) Effective on the later of November 1, 1978 or the first day of the month following the death of the beneficiary, other than a spouse, designated under the plan.
 - (3) On the first day of the month after receipt of the election of the retirant to revert to plan B following divorce, annulment or dissolution of marriage with a spouse designated as beneficiary under the plan, except that no benefit shall be increased without the written consent of the former spouse who was the designated beneficiary or an order from the court with jurisdiction over the termination of the marriage.
- (D) (1) The right to have plan A, C, or D recomputed as plan B upon the death of the beneficiary or divorce, annulment or dissolution of marriage with a spouse who was designated as beneficiary, applies to all retirants who are receiving benefits under plan A, C, or D regardless of the original effective date of benefits.

145-2-47 (continued)

- (2) A retirant who elected to receive a partial lump sum option payment under division (B)(3) of section 145.46 of the Revised Code shall have the partial lump sum option payment accounted for upon the recomputation of the retirant's benefit under plan B.
- (E)
 - (1) A retirant who is receiving benefits under plan B may upon the retirant's later marriage or remarriage elect to have the retirant's benefit recomputed as plan A, C or D under division (E) of section 145.46 of the Revised Code designating the current spouse. The effective date shall be the ~~first day of the month following~~ date of receipt by the board of the election and the actuarial factors shall be based on the actuarial ages of the retirant and beneficiary ~~on such effective date~~ **at the time the benefit is recomputed.**
 - (2) A retirant who elected to receive a partial lump sum option payment under division (B)(3) of section 145.46 of the Revised Code shall have the partial lump sum option payment accounted for upon recomputation of the retirant's benefit under plan A, C, or D.
- (F) Any request for a change of plan of payment or of beneficiary, as authorized in divisions (D) and (E) of 145.46 of the Revised Code and this rule, shall be made on a form approved by the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.33, 145.34, 145.43, 145.46.

Rule Review Date: 9/29/06.

Replaces: 145-19-05.

Effective Date History: 2/16/04; 1/1/04 (Emer.); 1/1/03; 9/27/98; 8/6/90; 10/30/78; 8/20/76.