

***Superseded 5/10/2016***

**49-12-405 Death of married member -- Service retirement benefits to surviving spouse.**

- (1) Upon the request of a deceased member's lawful spouse at the time of the member's death, the deceased member is considered to have retired under Option Three on the first day of the month following the month in which the member died if the following requirements are met:
  - (a) the member has:
    - (i) 25 or more years of service credit;
    - (ii) attained age 60 with 20 or more years of service credit;
    - (iii) attained age 62 with 10 or more years of service credit; or
    - (iv) attained age 65 with four or more years of service credit; and
  - (b) the member dies leaving a spouse to whom the member has been married at least six months immediately prior to the death date.
- (2) The spouse who requests a benefit under this section shall apply in writing to the office. The allowance shall begin on the first day of the month:
  - (a) following the month in which the member died, if the application is received by the office within 90 days of the member's death; or
  - (b) following the month in which the application is received by the office, if the application is received by the office more than 90 days after the spouse's death.
- (3) The Option Three benefit calculation, when there are 25 or more years of service credit, shall be calculated without a reduction in allowance under Section 49-12-402.
- (4) Except for a return of member contributions, benefits payable under this section are retirement benefits and shall be paid in addition to any payments made under Section 49-12-501 and constitute a full and final settlement of the claim of the spouse or any other beneficiary filing claim for benefits under Section 49-12-501.