

Ohio Police and Fire Rules

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742-3-16

Survivor benefits.

- (A) "Interim Survivor Benefit Payment" is defined as the interim monthly survivor benefit initially paid by Ohio police and fire pension fund ("OP&F") to a surviving spouse of a member in the amount described in division (D) of section 742.37 of the Revised Code until OP&F receives the properly completed survivor pension application and the required documents referenced therein, subject to the terms and conditions set forth in this rule. ~~for survivor benefits on the form approved by OP&F and required documents referenced in such application (collectively, the "Application"), subject to the terms and conditions set forth in this rule.~~ The survivor pension application, last modified May 11, 2012, can be found on OP&F's website, www.op-f.org.
- (B) Upon receipt of OP&F's notice of the death of a member, the following will occur:
- (1) OP&F will process the interim survivor benefit payment due the surviving spouse, which shall be paid to the member's surviving spouse for a period not to exceed ninety days (the "Interim Period");
 - (2) OP&F will send the surviving spouse an application to the most recent address referenced in the member's record or the address provided to OP&F; and
 - (3) ~~OP&F will process an interim health care card to the surviving spouse, if applicable, or~~ OP&F's third party administrator for healthcare will notify the surviving spouse of any documents needed to ensure the transition of medical expense benefits to the surviving spouse.
- (C) In the event the properly completed application is not received by OP&F by the expiration of the interim period, OP&F will send a notice to the surviving spouse that the interim survivor benefit payments will be suspended, effective sixty days after receipt of the notice of suspension (the "Notice Period"), unless the properly completed application is filed with OP&F on or before the expiration of the notice period.
- (D) In the event the properly completed application is received by OP&F on or before the expiration of the notice period, OP&F will no longer be considered to be paying interim survivor benefit payments, but rather shall be paying the survivor benefit provided for in division (D) of section 742.37 of the Revised Code.
- (E) In the event the interim survivor benefit payments are suspended due to a surviving spouse failing to file a properly completed application on or before the expiration of the notice period, OP&F will begin to pay the survivor benefits provided for in division (D) of section 742.37 of the Revised Code beginning the month following OP&F's receipt of the properly completed application for survivor benefits and

OP&F will then pay any retroactive survivor benefits due the surviving spouse, subject to the provisions of paragraph (F) of this rule.

- (F) In the event OP&F pays a benefit to a member prior to OP&F's receipt of notice of the member's death (the "Member Benefit"), the member benefit payment is not returned to OP&F, and the surviving spouse is the beneficiary of the member's estate, then in such event, OP&F will offset any member benefit paid against the survivor benefits due the surviving spouse under division (D) of section 742.37 of the Revised Code or section 742.58 of the Revised Code.
- (G) For purposes of the notices provided for in this rule, the notices will be deemed to have been given as of the earlier of:
- (1) The date of the actual receipt;
 - (2) The next business day when sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail, which will be based upon the date of the postmark of such mailing.
- (H) For purposes of filings provided for in this rule, all filings will be the date of OP&F's actual receipt of the filings.
- (I) OP&F may conclusively rely upon its books and records for purposes of determining the notices and filings provided for in this rule.
- (J) OP&F will pay all other survivor benefits provided for in section 742.37 of the Revised Code upon OP&F's receipt of the properly completed application by eligible parties.
- (K) OP&F will reimburse the medicare part "B" premium to the surviving spouse according to the terms of division ~~(D)~~(B) of section 742.45 of the Revised Code and rule 742-7-09 of the Administrative Code.

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742-4-12

Impact of family medical leave.

- (A) "Family Medical Leave Act" shall mean the statutory provisions outlined in the "Family and Medical Leave Act of 1993," 29 U.S.C. 2601 et. seq.
- (B) For members who are DROP participants, but elect to exercise his/her rights under the Family Medical Leave Act (FMLA), an election to exercise his/her rights under FMLA shall not extend the time during which the DROP participant can participate in DROP.
- (C) If the DROP participant uses vacation or sick leave so that he/she can stay on his/her employer's payroll, contributions shall be accrued for his/her benefit according to section 742.443 of the Revised Code and rule 742-4-06 of the Administrative Code. In cases where no "salary" is paid to the DROP participant as a result of this election, no accrual of contributions shall be made for his/her benefit.
- (D) This rule shall be subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.
- (E) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (definitions).

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742-5-03

Contributing service credit.

(A) As used in this rule:

(1) "Contributing service credit" means service credit earned by a member of the police and fire pension fund ("OP&F") as a result of OP&F receiving employee contributions on salary of that member, as required under section 742.31 of the Revised Code, for full-time contributing service rendered by an OP&F member to a covered employer.

(2) "Full-time contributing service credit" means the following:

(a) For police officers or firefighter assigned to work a standard forty hour work week, the police officer or firefighter must be compensated by his/her employer for at least thirty-seven and one half hours of service for each week included in any normal monthly payroll reporting period;
or

(b) For members assigned to work a twenty-four hour platoon system (i.e. twenty-four hours then followed by forty-eight hours off), the fire fighter must be compensated by his/her employer for at least the number of hours of service specified in the following table for each week included in any normal monthly payroll reporting period:

Weekly Hours Base	Weekly Compensated Hours Needed For Full-Time Contributing Service Credit
35	32.81
36	33.75
37	34.69
38	35.63
39	36.56
40	37.50
41	38.44
42	39.38
43	40.31
44	41.25

45	42.19
46	43.13
47	44.06
48	45.00
49	45.94
50	46.88
51	47.81
52	48.75
53	49.69
54	50.63
55	51.56
56	52.50
57	53.43
58	54.38
59	55.31
60	56.25

- (3) "Partial contributing service credit" means prorated service credit allowed for hours of service for each week included in any normal monthly payroll reporting period, which fails to qualify as "full-time contributing service credit," as defined in paragraph (A)(2) of this rule.

For partial contributing service credit, OP&F shall prorate the service credit by dividing the hours compensated during the normal monthly payroll reporting period by the hours base for the monthly reporting period.

- (4) "Hours compensated" means hours for which salary is earned by working regularly scheduled hours or by using accumulated leave hours in order to meet the full-time contributing service credit threshold defined in paragraph (A)(2) of this rule.

(5) For purposes of this paragraph, "hours base" shall mean the standard number of hours the member is scheduled per work week.

(B) On and after the first pay period ending in 1999, OP&F shall accrue contributing service credit to a member's account based on the definitions contained in this rule only for contributing service rendered to an employer as a member of OP&F for the first pay period ending in 1999 and thereafter and in all cases, subject to the provisions of section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code.

~~(C) On and after October 1, 1997, employers shall comply under section 742.32 of the Revised Code with the amended member contributions reporting requirements needed to credit service consistent with the terms of this rule, as detailed in the notice provided by OP&F to the employers dated July 31, 1997.~~

~~(D)~~(C) If the actual number of hours compensated is not available from payroll records and the member of OP&F is compensated on an annual salary basis, then a full month of contributing service credit shall accrue for any month in which one twelfth of the annual contract salary is paid.

A partial month of contributing service credit shall accrue for any month in which less than one twelfth of the annual contract salary is paid. The partial month of contributing service credit shall be prorated based on the salary paid divided by one twelfth of the annual contract salary.

~~(E)~~(D) Not more than twelve months of contributing service credit can be allowed in a calendar year.

~~(F)~~(E) Notwithstanding this rule, ~~on and after October 1, 1997~~, no person shall be allowed contributing service credit before the date the person becomes a member of OP&F or after the member's effective date of termination or retirement.

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5/27/08 (Emer.), 07/24/2008

742-5-08

Service credit purchases by payroll deduction.

- (A) A member of Ohio police and fire pension fund ("OP&F") may purchase any type of service credit through payroll deduction that a member is eligible to purchase under any provisions of Chapter 742. of the Revised Code, including but not limited to, Revised Code sections 742.21 (service credit earned for full-time service as member of state or municipal retirement system or united states armed forces; computation of benefits, purchase of service credit), 742.221 (pregnancy or medical disability; purchase of service credit), 742.23 (credit to police officers for service time as firefighters), 742.24 (credit to firefighters for service time as police officers), 742.27 (credit for time laid off), 742.371 (redeposit of withdrawn contributions), 742.375 (police officers and firefighters to receive credit for service in state highway patrol), 742.376 (provisions for credit as full-time member of police or fire department), 742.52 (purchase of credit for military service refund), 742.521 (military service credit).
- (B) Upon a member's request to OP&F to purchase service credit by payroll deduction for service credit the member is eligible to purchase pursuant to section 742.56 of the Revised Code and this rule, OP&F will prepare an authorization form which states the following:
- (1) The service to be purchased, including the total months of service and the type of service;
 - (2) The total cost of the service credit to be purchased through payroll deduction;
 - (3) An authorization from the member to make the total number of payroll deductions in the stated amount, starting with the proposed start date and ending on the proposed completion date; provided, however, that the payroll deduction cannot exceed the member's net compensation after all deductions and withholdings required by law.
- (C) If the member wishes to complete the payroll plan referenced in paragraph (B) of this rule, the member must sign the completed form in the format prescribed by OP&F or substantially similar thereto, the member shall cause the employer to sign the completed form in the format prescribed by OP&F or substantially similar thereto for members purchasing service credit with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), and return the fully executed original form to OP&F, with a copy being given by the member to the member's employer on a timely basis in order for the employer to properly implement the payroll deduction plan elected by the OP&F member.
- (D) The procedure to be followed by OP&F in determining the total cost of the eligible

service credit to be purchased by an OP&F member through a payroll deduction will be based upon the assumption that the purchase is to be made in a single lump-sum payment on the proposed date of the completion of the purchase, with the total cost then being divided by the number of payroll periods between the proposed start and the proposed completion date of the payroll deduction in order to yield a level amount of the deduction, which is all based upon the member's original request.

- (E) As required by section 742.56 of the Revised Code, OP&F will certify the amount to the employer through a monthly billing the amount of each deduction and the payrolls from which deductions are to be made. The employer shall forward that payroll deduction to OP&F so that the applicable payroll deduction and the payroll deduction statement are received by OP&F by the close of business on the last business day of the following month, excluding any legal holidays, consistent with the reporting requirements in section 742.32 of the Revised Code. The employer's payroll deduction statement shall be accompanied by a completed OP&F recap form, as referenced in rule 742-9-17 of the Administrative Code.
- (F) For purposes of assessing the penalties prescribed by section 742.352 of the Revised Code for all filings due OP&F under section 742.56 of the Revised Code, OP&F shall take the following course of action:
- (1) No payroll deduction report/no payroll deduction. If the required payroll deduction prescribed by section 742.56 of the Revised Code is not made in accordance with the deadline outlined in such section and no payroll deduction report is filed with OP&F in accordance with the deadline outlined in such section, OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code.
 - (2) Payroll deduction report/no payroll deduction. If the required payroll deduction report prescribed by section 742.56 of the Revised Code is filed with OP&F in accordance with the deadline outlined in such section, but the proper payroll deduction is not paid to OP&F in accordance with the deadline outlined in such section, OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code.
 - (3) No payroll deduction report/payroll deduction. If the required payroll deduction report prescribed by section 742.56 of the Revised Code is not filed with OP&F in accordance with the deadline outlined in such section, but a payroll deduction is made with OP&F in accordance with the deadline outlined in such section, OP&F shall assess the penalties prescribed by section 742.352 of the Revised Code.

(4) All other cases, the following shall apply:

- (a) Non-conforming payroll deduction report. OP&F shall initially give verbal notice to the employer of the non-conforming nature of the report and allow the employer to have an opportunity to take corrective actions to cure such deficiencies within thirty days of OP&F's verbal notice of deficiency. If the employer has not submitted a writing to OP&F that properly addresses the noted deficiencies by Friday of the week in which OP&F gave the verbal notice, OP&F shall then send a written notice to the employer of the non-conforming nature of the report and allow the employer to still have an opportunity to take the corrective actions identified in the written notice from OP&F within thirty days of OP&F's initial verbal notice (referred to herein as the "cure period"), and the following shall apply:
 - (i) If the employer files a corrected payroll deduction report and such report is received by OP&F on or before the expiration of the cure period, no penalties will be assessed by OP&F against the employer.
 - (ii) If OP&F does not receive from the employer a corrected payroll deduction report, as noted in OP&F's written notice to the employer, on or before the expiration of such cure period, then OP&F will assess the penalties prescribed by section 742.352 of the Revised Code, beginning the day after the expiration of the cure period.
- (b) In all other situations, OP&F will notify the employer in writing of the employer's failure to comply with the provisions of section 742.56 of the Revised Code and shall then send a written notice to the employer of the failure to comply with section 742.56 of the Revised Code and shall allow the employer to still have an opportunity to take the corrective actions identified in the written notice from OP&F within thirty days of OP&F's initial verbal notice (referred to herein as the "cure period"), and the following shall apply:
 - (i) If the employer files a correct payroll deduction report and such report is received by OP&F on or before the expiration of the cure period, no penalties will be assessed by OP&F against the employer.
 - (ii) If OP&F does not receive from the employer the proper payroll

deduction report, as noted in OP&F's written notice to the employer, on or before the expiration of such cure period, then OP&F will assess the penalties prescribed by section 742.352 of the Revised Code, beginning the day after the expiration of the cure period.

- (5) Even with the cure period, the employer will still be assessed any statutory fines for late filings and/or payments, as the case may be under the applicable statutory provision.
- (6) This rule shall apply once the payment and/or report has been filed with OP&F and shall not limit any other remedies available to OP&F by law.
- (G) Upon receipt of the applicable monthly payroll deduction, as certified by OP&F, OP&F will grant the service credit to the member based on the percentage of the service credit for which the member is eligible to receive multiplied by the ratio of the amount actually received by OP&F divided by the total amount due OP&F pursuant to section 742.56 of the Revised Code and this rule.
- (H) All payroll deduction plans may last no longer than sixty months, or if less, the period of service to be purchased.
- (I) No member may participate in more than one payroll deduction plan to purchase service credit provided for in section 742.56 of the Revised Code and this rule, even though the payroll deduction plan may include various types of service credit.
- (J) Tax deferred payroll deduction plans (i.e. pick-up plans) shall be irrevocable and may only be terminated upon the member's termination of employment with the employer who is implementing the member's payroll deduction plan.
- (K) Except for tax deferred payroll deduction plans (i.e. pick-up plans), a member can increase or decrease the member's payroll deduction by written notice to the member's employer and OP&F, except that in no event shall a deduction be decreased to less than an amount specified by OP&F in a board policy or the current month's interest, whichever is greater.
- (L) Beginning from and after September 16, 1998, OP&F will not treat a member who is purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2) unless the employer certifies in writing the tax deferred status of the payroll deduction plan as part of the employee's enrollment in the payroll deduction plan or within ninety days of OP&F's request and OP&F will

rely upon certification in determining the taxability of benefits due the member, as outlined in rule 742-9-14 of the Administrative Code. In the event that the employer fails to provide such certification, then OP&F will treat the payroll deduction plan as a regular non-tax deferred payroll deduction plan. In all events, it shall be the responsibility of the employer to establish the tax deferred payroll deduction plan, as required by the applicable terms of the Internal Revenue Code.

- (M) For members who are purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), such members cannot do any of the following:
- (1) Decrease or increase the payroll deduction;
 - (2) Terminate the payroll deduction, unless the member has terminated employment with such employer or all of the service credit has been purchased through the applicable payroll deduction plan; or
 - (3) Make a partial payment for the purchase of service credit outlined in this rule.
- (N) For members who are purchasing credit pursuant to this rule with amounts designated by the employer as picked-up contributions under section 414(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(h)(2), the employer cannot decrease, increase, or terminate such payroll deduction unless the member has terminated employment or all of the service credit has been purchased through the applicable payroll deduction plan.
- (O) Except for tax deferred payroll deduction plans (i.e. a pick-up plan), a payroll deduction plan may be terminated upon any of the following events:
- (1) The failure of the employer to forward to OP&F the monthly payroll deduction for three consecutive months, with the termination being effective the first month in which the employer failed to forward the deduction to OP&F without any further action on the part of the employee, the employer or OP&F;
 - (2) Upon the member's termination of employment with the employer who is implementing the member's payroll deduction plan;
 - (3) In cases where a payroll deduction exceed the member's net pay after all deductions and withholdings required by law; or

- (4) When the payroll deductions received by OP&F equal the total cost of the eligible service credit, as originally outlined in OP&F's authorization form duly signed by the member.
- (P) On early termination of the payroll deduction plan, the member will be credited with a proportion of the service to be purchased equal to the proportion of time the payroll deduction plan was in effect to the time the payroll deduction plan was scheduled to complete the purchase. In addition, OP&F will provide written notice of such termination to the member. Beginning January 1, 2007, for employers who wish to pay all or part of the voluntary contributions for the purchase of service credit through payroll deductions, the employers shall submit the standard resolution in the form adopted by OP&F's board of trustees.

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742.56
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742-9-11

Penalties for employer's failure to file the report of employee deductions in a format approved by OP&F.

For purposes of determining whether the employer has timely transmitted the reports and/or payments required by section 742.32 or 742.35 of the Revised Code, as the case may be under the applicable statutory provision, OP&F will rely on its books and records as of the close of business on the due date, except that in the case of electronic reports filed with OP&F, the "close of business" shall mean midnight on the statutory due date. (For example, for contributions withheld in April, the report and payments are due to OP&F by the close of business on May thirty-first, which is the due date. If OP&F receives a report in the proper format and the requested payment by the close of business on May thirty-first, then no penalties and interest would apply.) Thus, paper reports must be received by OP&F's close of business on the statutory due date and electronically filed reports must be received before midnight on the statutory due date.

In no event would this rule impact the penalties that would apply in cases where the report was filed by the statutory due date, but was not in proper format, as outlined in rule 742-9-10 of the Administrative Code.

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