

## NOTICE OF INTENT

### Law Enforcement Officers and Firemen's Survivor Benefit Review Board

#### Survivor Benefits

(LAC 37:I.1101; LAC 58:XXXIII.101-111)

In accordance with R.S. 40:1665.3 and the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that rulemaking procedures have been initiated to repeal the Survivor Benefits regulations, LAC 37:I.1101 and promulgate Sections §101 Survivor Benefits, §103 Definitions, §105 Board Membership and Domicile, §107 Claims Requests, §109 Procedures for Hearings, and §111 Appeals in Title 58 (Retirement), Part XXXIII (Survivor Benefit Board) of the Administrative Code.

The proposed Rule applies to reviews of survivor benefits claims made on behalf of deceased law enforcement officers and firemen to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. The proposed Rule will address additional qualifying claim circumstances enacted by law and clarify documents necessary for adjudication of claims submitted for review by the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. In order to provide continuity and a single point of contact for employee agencies reporting potential qualifying claims, the proposed rule will provide that the Attorney General or their designee shall chair the Board in lieu of a rotational chairmanship by members of the Board.

#### Title 37

#### INSURANCE

##### Part I. Risk Management

##### Subpart 1. Insurance and Related Matters

##### Chapter 11. Law Enforcement Officers' and Firemen's Survivor Benefit Review Board

##### §1101. Survivor Benefits

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 33:1947, R.S. 33:1981, R.S. 33:2201, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), repealed by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

#### LAC 58

#### RETIREMENT

##### Part XXIII. Survivor Benefit Board

##### Chapter 1. Law Enforcement Officers and Firemen's Survivors Benefit Board

##### §101. Survivors Benefits

(Formerly LAC 37:I.1101.A-B)

##### A. Purpose

1. To establish an effective and efficient mechanism for fulfilling the provisions of R.S. 39:1533.A, 40:1665, 40:1665.3, 40:1665.2B and 40:1665.1.

2. To govern the submission, evaluation and determination of claims submitted

pursuant to R.S. 40:1665.3, 40:1665.2, 40:1665.1 40:1665, 33:2011, and 33:2581.

B. Application

1. The rules will apply to all claims arising from RS 40:1665, 40:1665.2, and 40:1665.1.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

**§103. Definitions**

**(Formerly LAC 37:I.1101.C)**

*Board*—the Law Enforcement Officers and Firemen's Survivors Benefit Board.

*Child*—as defined in R.S. 40:1665.3 C(2).

*Fireman*—as defined in R.S. 40:1665 B.

*Law Enforcement Officer*—as defined in R.S. 40:1665.2B.

*Line of Duty*— shall include:

*For Law Enforcement*—any activity performed in which a law enforcement officer suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. arising out of any activity while on or off duty, in their official enforcement capacity, involving the protection of life or property;

c. traveling to or from a public safety emergency or responding to a request for law enforcement assistance regarding the health, safety, or welfare of the public; or

d. traveling to or from their residence or their authorized work area while using a law enforcement vehicle provided by their employing agency.

*For Firemen*—an activity performed in which a fireman suffers death as a result of:

a. an injury arising out of and in the course of the performance of their official duties;

b. an injury arising out of an activity, while on or off duty, in their capacity as a firemen, in the protection of life and property;

c. a heart attack or stroke as provided for in R.S. 40:1665.1;

d. a disabling cancer, following ten or more years of service, as provided for in R.S. 33:2011; or

e. a disease or infirmity of the heart or lungs, which develops during employment in the classified fire service, as provided for in R.S. 33:2581.

*Qualifying Claim*—those claims meeting the criteria of claims request documentation, and the meaning ascribed to line of duty.

*Spouse*—as defined in R.S. 40:1665.3 C(1).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

**HISTORICAL NOTE:** Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

**§105. Board Membership and Domicile**  
**(Formerly LAC 37:I.1101.D-D.2)**

A. The board's official domicile will be located in Baton Rouge. All claims hearings, presentations etc. will be held in the board's official domicile. Claimant expenses related to claim preparation and presentation are not allowable for reimbursement. Board members serve on a gratuitous basis. The chairman of the board shall be the attorney general, or their designee.

B. The board will be comprised of those individuals or their designees as stated in R.S. 40:1665.3

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

**§107. Claims Requests**

**(Formerly LAC 37:I.1101.E-E.2.k)**

A. All claims shall be submitted to the chairman of Louisiana Law Enforcement and Firemen's Survivors Benefit Board through the Department of Justice-Attorney General.

B. All claim requests must include the following documentation:

1. notarized affidavit for decedent's date of employment, rank, duty assignment, routine work schedule, work responsibilities, years of classified service if applicable, and brief statement outlining injuries;

2. copy of decedent's commission as police officer/fireman;

3. notarized affidavits from any witnesses to incident;

4. certified copy of investigative report, or uncertified copy accompanied by notarized affidavit of reporting investigative officer, which identifies copy of report as accurate reproduction of original report;

5. certified copy of decedent's death certificate and autopsy protocol report;

6. notarized affidavit from decedent's surviving spouse stating their full name, address, date of marriage, and that they were not legally separated or divorced at time of death. Also, a certified copy of marriage license;

7. list of names and birth dates of each minor child born to or adopted by decedent, certified copies of birth certificates;

8. certified copy of letters of tutorship;

9. notarized affidavit of tutor or legal representative of surviving child stating child is unmarried and under the age of 18, or alternately, is unmarried, under the age of 23, and a student;

10. notarized affidavit of caretaker of surviving child which states the major child is physically and/or mentally handicapped, totally and permanently disabled, and solely dependent upon decedent for support. Also, copy of the major child's medical and /or psychological records; and

11. if decedent was not survived by a spouse, child or children, a notarized copy of the department's form designating decedent's chosen beneficiary. If decedent is not survived by a spouse, child or children, and no beneficiary designation form has been completed, any approved qualifying claim shall be paid to the decedent's estate.

C. Additional Information Required for some firemen

1. For claims involving disabling cancer under R.S. 33:2011 - a certified copy of

medical diagnosis of disabling cancer originating in the bladder, brain, colon, liver, pancreas, skin, kidney, or gastrointestinal tract, and leukemia, lymphoma, and multiple myeloma.

2. For claims involving diseases or infirmity of the heart or lungs under R.S. 33:2581 – a certified copy of a medical diagnosis of disease of the heart or lung during period of classified fire service.

3. For claims involving heart attack or stroke under R.S. 40:1665.1 – Notarized affidavit providing that heart attack or stroke occurred while on duty while fireman was engaged in an activity which was stressful or physical, or participating in a training exercise that involved stressful or strenuous physical activity, or no later than twenty-four hours from engaging or participating in such activities, while on duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

#### **§109. Procedures for Hearings**

**(Formerly LAC 37:1.1101.F.-F.7)**

A. Upon receipt of a claim, the chairman will schedule the claim for board hearing within 60 days after all required documentation is received. Each claim shall be assigned a sequential number claim code which shall be utilized for official references.

B. The chairman shall notify the board members, claimant, and appointing authority of the claimant of the claim items up for consideration no later than 10 days prior to hearing.

C. At the hearing date described the board shall officially receive and act upon all claims received.

D. The board may, at its discretion, entertain additional oral presentations from outside parties regarding the claim.

E. The board shall have the following options with regards to the claim action:

1. approval of the qualifying claim;
2. denial of the claim;
3. deferral pending receipt of additional data; or
4. conditional approval of qualifying claim, pending receipt of any outstanding documentation.

F. The board shall inform the claimant, in writing, of its determination.

G. If approved or upon receipt of outstanding documentation following conditional approval, the board chairman shall certify to the commissioner of administration and request payment in accordance with R.S. 39:1533.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

#### **§111. Appeals**

**(Formerly LAC 37:1.1101.G.-G.2.)**

A. Claimant may appeal within 60 days of being advised of the board's decision;

B. This appeal shall be filed in the 19th JDC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1665, 40:1665.1, 40:1665.2, 40:1665.3, 33:2011, 33:2581, and R.S. 39:1533.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of Risk Management, LR 16:400 (May 1990), amended LR 31:69 (January 2005), LR 32:1443 (August 2006), amended by the Department of Justice, Law Enforcement Officers and Firemen's Survivors Benefit Review Board, LR 43:

### **Family Impact Statement**

In accordance with Section 953 and 972 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on the stability of the family. We anticipate no effect on the stability of the family.
2. The effect on the authority and rights of parents regarding the education and supervision of their children. We anticipate no effect on the authority and rights of parents regarding the education and supervision of their children.
3. The effect on the functioning of the family. We anticipate no effect on the functioning of the family.
4. The effect on family earnings and the family budget. We anticipate the proposed rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.
5. The effect on the behavior and personal responsibility of children. We anticipate no effect on the behavior and personal responsibility of children.
6. The ability of the family or a local government to perform the function as contained in the proposed rule. We anticipate the proposed rule will aid the family of a deceased law enforcement officer or firemen in tendering necessary documents required by statute when submitting a claim for survivor benefits to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board and thereby allowing such claims to be resolved on a more expedited basis.

### **Poverty Impact Statement**

In accordance with Section 953 and 973 of Title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on the Rule proposed for adoption, repeal, or amendment.

1. The effect on household income, assets, and financial security. We anticipate the proposed rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.
2. The effect on early childhood development and preschool through postsecondary education development. We anticipate no impact on early childhood development or preschool through postsecondary education development.

3. The effect on employment and workforce development. We anticipate no impact on employment and workforce development.
4. The effect on taxes and tax credits. We anticipate no impact on taxes or tax credits.
5. The effect on child and dependent care, housing, healthcare, nutrition, transportation, and utilities assistance. We anticipate the proposed rule may allow for more expedited consideration and adjudication of survivor benefit claims by family of law enforcement officers and firemen by providing additional clarification regarding documents legally necessary and required for review of claims and payment of eligible claims.

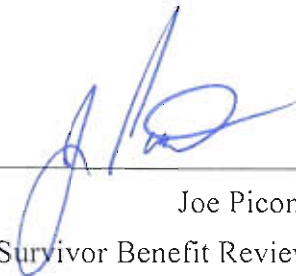
#### **Provider Impact Statement**

In accordance with House Concurrent Resolution No. 170 of the Regular Session of the 2014 Legislature, there is hereby submitted a Provider Impact Statement on the Rule proposed for adoption, repeal, or amendment. This will certify the agency has considered, without limitation, the following effects on the providers of services to individuals with developmental disabilities.

1. The effect on the staffing level requirements or qualifications required to provide the same level of service. We anticipate no effect on the staffing level requirements or the qualifications for that staff to provide the same level of service.
2. The total direct and indirect effect on the cost to the provider to provide the same level of service. We anticipate no impact on the total direct and indirect effect on the cost to the provider to provide the same level of service.
3. The overall effect on the ability of the provider to provide the same level of service. We anticipate no effect on the ability of the provider to provide the same level of service.

#### **Public Comments**

Interested persons may submit written comments to Vickie Sweezy, Louisiana Bureau of Investigation, Office of the Louisiana Attorney General, P.O. Box 94005, Baton Rouge, LA 70804, or by email to [SweezyVi@ag.louisiana.gov](mailto:SweezyVi@ag.louisiana.gov). Ms. Sweezy is responsible for responding to inquiries regarding this proposed Rule. The deadline for receipt of all written comments is Noon on Friday, May 19, 2017.



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Joe Picone, Chair  
Law Enforcement Officers and Firemen's Survivor Benefit Review Board

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

### RULE TITLE:

#### I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change is not anticipated to result in any implementation costs or savings to the Department of Justice or any state or local governmental units. The proposed rule change will address legislative redesignation of survivor benefit statutes and additional qualifying circumstances which have been enacted into law in regard to claims for survivor benefits for law enforcement officers and firemen.

The proposed rule change clarifies the documents required by law to adjudicate a survivor benefit claim presented to the Law Enforcement Officers and Firemen's Survivor Benefit Review Board. The proposed rule change designates the Attorney General, or their designee, as the chairman of the Board in lieu of the current prescribed rotational chairmanship and provides that the Board may approve a survivor benefit claim, subject to the submission of additional statutorily required documents unrelated to determining the validity of the claim. These documents may include letters of tutorship regarding awards to minor children.

#### II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change is not anticipated to have any effect on revenue collections of the State or Local Governmental Units.

#### III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change is not anticipated to have any estimated cost for directly affected persons or non-governmental groups. The proposed rule change may result in more expedited review and approval of survivor benefit claims through reduction in delays in timely submission of documents and information required for adjudication of claims.

#### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change is not anticipated to have any effect on competition or employment.