

Death of Employee or Retiree

Upon the death of an employee or retiree, coverage in the State Retiree Health Benefits Program is available to certain surviving family members.

For deceased active employees, existing dependents remain covered in the active group until the end of the month after the month in which the employee died. The membership level may not change during the additional month of coverage (no membership reduction due to the death).

For retiree group participants (retirees or LTD participants), coverage terminates at the end of the month during which the retiree group enrollee dies. (For the remainder of this chapter, references to retirees include LTD participants.)

With proper enrollment, Survivor coverage will begin on the first day of the month after active or retiree dependent coverage ends or, if not enrolled, would have ended due to the death.

Eligibility as Non-Annuitant Survivors

The Code of Virginia provides that the surviving spouse and any dependents of an active or retired state employee who is covered in the state program at the time of the employee's or retiree's death may continue health coverage if the eligible dependents enroll within 60 days of the employee's or retiree's death, regardless of whether they are eligible for any other Survivor benefit. That also means that Survivors who are eligible for a VRS monthly Survivor benefit but, instead, take a lump sum payment may continue coverage as a Non-Annuitant Survivor if they were covered prior to the employee's or retiree's death.

Non-annuitant surviving spouses may be covered until remarriage, obtaining alternate health insurance coverage, or death. Non-annuitant surviving children may be covered until the end of the year in which they turn age 26, and if they meet the eligibility criteria for an adult incapacitated dependent, they may be covered after age 26 until they are no longer incapacitated (see eligibility criteria for adult incapacitated children in Member Handbooks).

Non-annuitant survivors may not add new dependents.

Eligible Survivors of ORP employees and retirees will be considered non-annuitant Survivors and must qualify under the above eligibility criteria to remain in the program.

Non-annuitant surviving spouses who lose eligibility will lose coverage at the end of the month in which the loss-of-eligibility event occurs. Non-annuitant surviving children will also lose coverage at the end of the month in which their loss-of-

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eligibility event occurs, but they may be offered Extended Coverage due to losing dependent child status. There is no Extended Coverage qualifying event for Non-Annuitant Surviving Spouses who lose eligibility for the program.

Eligibility as Annuitant Survivors

Survivors of employees and retirees who are eligible for and take an immediate VRS Survivor benefit are eligible to enroll in Survivor coverage if they do so within 60 days of the employee's or retiree's death, regardless of whether they had coverage prior to the death, as long as the employee or retiree was enrolled in coverage at the time of death.

Annuitant Survivors also include:

- Surviving eligible dependents of an employee who had submitted a disability retirement application electing a Survivor option but dies prior to approval of the disability retirement;
- Surviving eligible dependents of employees whose death was job related. (As provided in the Code of Virginia and VRS administrative guidance, this could be a beneficiary other than the named beneficiary.)

Survivors who are eligible for a VRS Survivor benefit but instead choose to take a lump sum payment are not eligible to enroll in the State Retiree Health Benefits unless they were covered at the time of the employee's/retiree's death. In that case, they would be eligible as non-annuitant Survivors.

After enrollment, an annuitant surviving spouse can maintain coverage during his or her lifetime, but eligibility limits apply to dependent children of the surviving spouse. An annuitant surviving spouse can add dependents based on the program's eligibility criteria, including a legal spouse. However, upon the death of an annuitant surviving spouse, covered dependents will lose coverage at the end of the month in which the death occurs, but they may be offered Extended Coverage for up to 36 months. (While death of a surviving dependent is not generally an Extended Coverage qualifying event, DHRM policy allows for these expanded continuation coverage criteria.) Annuitant surviving children covered without a parent may maintain coverage based on the eligibility criteria for dependent children. Children of an annuitant surviving spouse who also qualify as non-annuitant surviving children (covered at the time of the employee's or retiree's death) may also maintain coverage based on related Code provisions (see above regarding non-annuitant surviving children).

Surviving Stepchildren

Stepchildren covered at the time of the employee's/retiree's death may continue coverage based on the eligibility provisions for non-annuitant Survivors. If they

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are eligible dependents of an annuitant surviving spouse, they may be added to coverage with a qualifying midyear event or at open enrollment.

However, if the covered surviving spouse who is the natural or legal adoptive parent of the deceased employee's/retiree's stepchildren dies, and the children are not otherwise eligible for Survivor coverage in their own right, their eligibility is lost. Under these circumstances, the children's loss of dependent child status would be an Extended Coverage qualifying event and would require the offer of 36 months of Extended Coverage.

Surviving Children as Adult Incapacitated Dependents

Surviving children covered under the State Retiree Health Benefits Program may continue coverage after the limiting age if they are determined to be adult incapacitated children prior to termination of coverage due to reaching the limiting age. This determination is subject to periodic review by the claims administrator. If a child is no longer determined to be incapacitated, coverage will be terminated at the end of month following notification to the Enrollee. The incapacitated child may not be married or self-supporting. Member Handbooks include additional information regarding eligibility as an Adult Incapacitated Dependent.

Spouses of Annuitant Survivors

Upon the death of an annuitant surviving spouse of a deceased employee or retiree, a new spouse covered under his/her membership will terminate at the end of the month in which the surviving spouse's death occurs. There is no Survivor coverage available to the spouse of a Survivor. However, dependents covered on the day before the death who lose coverage due to the death may be offered Extended Coverage for 36 months per DHRM policy (see *Eligibility as Annuitant Survivors*).

Survivors of Employees on Military Leave Without Pay

Survivors of an employee who dies while on military leave without pay may enroll in the State Retiree Health Benefits Program within 60 days of the date of the employee's death if they are immediately eligible for and elect to receive a Survivor benefit from VRS. The deceased employee must have been eligible for coverage under the State Health Benefits Program prior to the start of the leave. Medicare-eligible enrollees must select a plan that coordinates with Medicare.

Dependents who are continuing enrollment in the state program through Extended Coverage while the employee is on Military Leave Without Pay and who survive the employee during that period may enroll in the retiree program as Survivors if they do so within 60 days of the employee's death, regardless of eligibility for a Survivor benefit from VRS.

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After enrollment in the program, all other program provisions related to annuitant or non-annuitant Survivors will apply. If Survivor enrollment is not completed within 60 days of the employee's death, there will be no future opportunity to enroll.

While death of an employee is also an Extended Coverage qualifying event if it results in a loss of coverage, it would be a second qualifying event for qualified beneficiaries already on Extended Coverage due to reduction of hours (leave without pay). Generally, death of an employee on leave without pay would not be a new Extended Coverage qualifying event. Please contact the Office of Health Benefits if you need assistance.

Plan and Membership Changes After Enrollment

The following changes are allowed after enrollment in Survivor coverage:

- Annuitant surviving spouses may make plan and membership changes with consistent qualifying mid-year events or at open enrollment, if available (only non-Medicare enrollees have open enrollment).
- Annuitant surviving children may make plan changes only at open enrollment, if available.
- Non-Annuitant surviving spouses may not add children who were not covered at the time of the employee's/retiree's death, and marriage will result in their loss of eligibility for the program. However, they may make plan changes at open enrollment.
- Non-Annuitant surviving children covered without the linked membership of a surviving spouse may make plan changes at open enrollment, but they may not increase membership.

Survivors of Employees/Retirees in the Tricare Supplement Plan

Upon the death of an employee or retiree enrolled in the Tricare supplement plan, eligible Survivors may enroll in State Retiree Health Benefits Program coverage within the 60-day window following the death. Standard eligibility criteria for annuitant or non-annuitant Survivors will apply.

Survivors Hired as Employees

Survivors covered under the State Retiree Health Benefits Program who accept positions as part-time classified employees must terminate their retiree group coverage and enroll in the active employee plan. Upon termination of part-time employment, they will be allowed to re-enroll as Survivors as long as they do so within 31 days of their loss of active coverage if they have maintained continuous coverage in the state program and are otherwise eligible based on provisions for annuitant or non-annuitant Survivors, as applicable. If they accrue enough service to retire and become eligible for their own retiree coverage, they may

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enroll as retirees within the enrollment window. This re-enrollment right would also apply to Survivors hired as full-time employees. (Moving to coverage as a full-time employee is generally not questioned since it includes the employer contribution toward the cost of coverage.)

Enrollment Window

Eligible Survivors have 60 days from the date of the employee's or retiree's death to enroll as a Survivor. Existing dependents of retirees in Medicare-primary plans will automatically default to Survivor coverage to avoid possible interruption of their Medicare Part D coverage. Other Survivors must actively enroll for Survivor coverage.

Survivors Eligible for Medicare

Like retirees, since Survivors are not covered based on current employment, those who are eligible for Medicare and wish to stay in the state program must enroll in a plan that coordinates with Medicare, and Medicare will become the primary payer (except for limited circumstances related to eligibility due to End Stage Renal Disease). This also applies to dependents covered through a Survivor's membership.

Premium Payments

Survivors pay the full cost of their health plan premium in the retiree program (no agency contribution toward the cost of coverage). If the Survivor has a VRS benefit that supports the premium, it will be deducted from the monthly benefit. If there is no monthly benefit or if the benefit will not support the deduction, Survivors will be billed directly by the billing administrator. All non-annuitant survivors must pay through direct billing.

Survivors who fail to pay their monthly premium within 31 days of the due date are subject to termination. Once terminated, they may not return to the program at any time based on this Survivor status.

Extended Coverage

Death of an **Employee** or **Retiree** (not of a surviving dependent) is an Extended Coverage/COBRA qualifying event. Dependents who lose coverage due to this qualifying event should be offered Extended Coverage in addition to appropriate Survivor coverage. Offer and/or election of Survivor coverage does not relieve the responsibility to offer Extended Coverage. Failure to offer Extended Coverage can result in potential liability to the program if Survivor coverage is not elected or if it ends during the 36 months after the employee's/retiree's death.

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Please review previous sections of this chapter regarding other Extended Coverage opportunities and limitations related to Survivor coverage.

Survivors of Line of Duty Beneficiaries

Survivors of employees killed in the line of duty and determined to be eligible for Line of Duty Act benefits must fulfill all eligibility criteria under the State Retiree Health Benefits Program in order to enroll for coverage. Eligibility for Line of Duty benefits alone does not create eligibility for the State Retiree Health Benefits Program. However, the Department of Human Resource Management's Office of Health Benefits will bill and accept premium payments directly from the Department of Accounts for Line of Duty-eligible Survivors who are enrolled in the State Retiree Health Benefits Program. Otherwise, administration of Line of Duty benefits is handled by the Department of Accounts.

Offering Survivor Coverage

Following are samples of letters that can be used when offering Survivor coverage. They may need to be adjusted to fit individual circumstances:

NOTE: Due to enrollment restrictions regarding Medicare Part D, Medicare-eligible retiree group participants who are eligible for Survivor coverage are automatically defaulted to maintaining their existing plan. The Virginia Retirement System (VRS) has a letter explaining this move. If you are Benefits Administrator for a non-VRS retiree group member and need assistance with this default enrollment, please contact the Office of Health Benefits.

SAMPLE LETTER TO NON-ANNUITANT SURVIVORS

Dear _____

Please accept our condolences regarding the death of _____.

Since you are currently enrolled in the State Health Benefits Program/State Retiree Health Benefits Program, you and any other covered dependents are eligible to continue coverage under the Program by completing the enclosed enrollment form and submitting it to _____ within 60 days of the death. Failure to enroll within this time frame will result in loss of eligibility. At this time, you may choose to maintain your current health plan, or you may make a plan change. If any enrollees or dependents are eligible for Medicare, a Medicare-coordinating plan must be elected.

Please refer to your Member Handbook for additional information regarding eligibility for coverage as a Survivor.

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As required under the provisions of the Public Health Service Act, qualified beneficiaries covered at the time of the employee's/retiree's death and lose coverage due to that event must be offered Extended Coverage. This is in addition to offer of Survivor coverage. An Election Notice is enclosed for your consideration. While election of and continued eligibility for Survivor coverage is governed by the Code of Virginia as explained in your Member Handbook, Extended Coverage based on the death of an employee or retiree is limited to qualified beneficiaries covered on the day before the death who lose coverage due to the death, and the duration of coverage is limited to a maximum of 36 months. Please read your Election Notice carefully to determine which program will best meet your individual needs. Should you wish to exercise your rights under Extended Coverage instead of Survivor coverage, you must submit your Election Form within the time frame designated in the Election Notice.

If you need additional information, please contact _____.

Enclosures:

- Enrollment Form for Retirees, Survivors and LTD Participants
- Applicable Monthly Premiums
- Extended Coverage Election Notice
- HIPAA Certificate of Creditable Coverage (end of dependent coverage)

SAMPLE LETTER TO ANNUITANT SURVIVOR (may or may not have existing coverage)

Dear

Please accept our condolences regarding the death of _____.

As an annuitant Survivor (receiving a Virginia Retirement System Survivor benefit) of a state employee (or retiree), you and other eligible dependents may elect coverage under the State Retiree Health Benefits Program by completing the enclosed enrollment form within 60 days of the employee's (or retiree's) death. Failure to enroll within this time frame will result in loss of eligibility for coverage.

(Insert the appropriate paragraph)

Since you are currently enrolled under the state program, you may maintain your current plan option or make a plan change. However, any enrollees eligible for Medicare must select a Medicare-coordinating plan.

-or-

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Since you are not currently covered under the state program, you may select from the available plans noted on the enrollment form. If you need additional information about plan provisions, benefit summaries and member handbooks are available at www.dhrm.virginia.gov. Any enrollees eligible for Medicare must select a Medicare-coordinating plan.

Eligibility provisions are included in each plan's Member Handbook or Evidence of Coverage.

(If the annuitant Survivor was covered at the time of the employee's/retiree's death, insert the following paragraph:)

As required under the provisions of the Public Health Service Act, qualified beneficiaries covered at the time of the employee's/retiree's death must be offered Extended Coverage. This is in addition to an offer of Survivor coverage. An Election Notice is enclosed for your consideration. While election of and continued eligibility for Survivor coverage is governed by the Code of Virginia as explained in your Member Handbook, Extended Coverage based on the death of an employee or retiree is limited to qualified beneficiaries covered on the day before the death who lose coverage due to the death, and the duration of coverage is limited to a maximum of 36 months. Please read your Election Notice carefully to determine which program will best meet your individual needs. Should you wish to exercise your rights under Extended Coverage instead of Survivor coverage, you must submit your Election Form within the time frame designated in the notice.

If you need additional information, please contact _____.

Enclosures:

- Enrollment Form for Retirees, Survivors and LTD Participants
- Applicable Monthly Premiums
- Extended Coverage Election Notice (if covered prior to the death)
- HIPAA Certificate of Creditable Coverage (if covered prior to the death)