

Edited Content Extracted from: section 323-325.docx

PART III. BENEFITS (fourth chunk)

SUB-PART D: SURVIVING SPOUSE & CHILD INSURANCE BENEFITS

Section 323. Dependency

- The Administration shall determine that a surviving child or impaired adult is dependent upon a deceased insured person if the child or impaired adult received from such person regular, periodic payments of money or contributions of food, clothing, shelter, medical care, tuition, and other necessities and services required for or by a child or impaired adult. Such contributions must constitute a substantial part of the ordinary living costs of the child or impaired adult.
- Occasional or irregular gifts or donations do not qualify so as to create dependency. Temporary interruptions in contributions, however, for circumstances beyond the control of the insured person are disregarded unless someone else takes over responsibility for support on a permanent basis.
- A child or impaired adult (1) who is living with the insured person at the time of the insured person's death; and (2) the insured person was related to the child or impaired adult, shall be presumed to be a dependent of such insured person. This presumption is rebuttable through clear and convincing evidence.
- A child or impaired adult living with the insured person at the time of the insured person's death, who is not related to the decedent as a natural child, stepchild, adopted child (legally or under Palauan custom), grandchild, or step-grandchild, shall be required to show dependency.

[Source 41 PNC § 711, § 712(d), § 724, & SSA By-Laws]

Section 324. Bona Fide Student

- The Administration shall make a determination that a person or child is a bona fide student for the purposes of eligibility for payment of a surviving child's insurance benefit if:
 - (a) He or she attends a school, which provides elementary or secondary education, including technical, vocational, or trade schools, junior colleges, colleges, and universities, as determined under the law of the jurisdiction in which the school is located. He or she shall furnish the Administrator with a form (ROPSSA 630-20) completed by the officials of the school attended;
 - (b) He or she is in full-time attendance in a day or evening non-correspondence courses and is carrying a subject load which is considered full-time for a day student under the institution's standards and practices, with scheduled attendance at the rate of at least twelve (12) hours per week and a course of study which is at least thirteen (13) weeks in duration; or
 - (c) He or she is enrolled as a student at an elementary or secondary school and attends such school on a regular

basis.

- Note: If a person is being paid while attending a school by an employer who has requested or required that the person attend the school, that person shall not be deemed a bona fide student.

Section 325. Computation of Survivor Benefits

- The monthly total of the survivor's insurance benefits payable with respect to a deceased employee contributor shall not exceed the basic benefit applicable to him or her immediately before death, without recomputation of benefits for earnings after retirement pursuant to 41 PNC § 753(c). However, the minimum amount of the total of a survivor's insurance benefit is one hundred forty-eight dollars (\$148.00) per month, computed before the application of section 755(c). Prior to that date, the minimum monthly benefit amount was ninety-eight dollars (\$98.00) per month, computed before the application of the surviving spouse's benefit pursuant to 41 PNC § 755(c).

[Source 41 PNC § 753, as amended by RPPL No. 9-11, Sec.5]

- The total of all survivors' benefits payable to survivors of a decedent shall not exceed the basic benefit applicable to the decedent immediately before his or her death. If more than one person is entitled to benefits as survivors of an insured decedent and the total of such benefits exceeds the basic benefit, then each such benefit shall be reduced to the proportion that each such benefit represents to the total benefit payable.

Example: The total benefits percentage for a surviving spouse with five (5) surviving children would equal one-hundred and thirty-five percent (135%). In such a case, the surviving spouse would receive 60/135, or 44.4% of the basic benefit, and each child would receive 15/135 or 11.1% of the basic benefit.