

MAINE STATE LEGISLATURE

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February 2, 1953

Yes

To Earle R. Hayes, Secretary, Maine State Retirement System
Re: Two Beneficiaries

We have your memo of January 22, 1953, in which you state that an employee of the State Highway Commission had attained eligibility for retirement, due to the fact that she had attained age 60, but died while still in service. She had designated her two sons as beneficiaries at the time she filed her original application for membership in the System and this designation had never been changed.

Under the provisions of section 10 of Chapter 60 of the Revised Statutes, it is provided that under such circumstances Option 2 becomes effective.

You ask if, in our opinion, two persons can receive a benefit under the provisions of Option 2, or is only one person entitled to a benefit under Option 2.

It is our opinion that the Retirement Board should make payments to both sons of the deceased under the provisions of Option 2.

The legislature has determined that under the above described circumstances it would be as if a member had elected Option 2. It is stated in your memo that the actuary is of the opinion that only one person is eligible for benefits under Option 2 and that if two ~~persons~~ persons are to be considered beneficiaries, then Option 4 should have been selected. However, as noted in your memo, before the benefits of Option 4 could be available to the beneficiary, it would be necessary for the member to substitute a program under that Option. The member never so specified; and we feel that neither the Board nor this office should substitute its opinion for that of the legislature in determining which option should be available to the member. In view of the fact that the member indicated not one but two beneficiaries at the time she filed her initial application for membership and that such application was accepted by the Board without objection, we are of the opinion that the State is estopped from denying the beneficiaries the benefits of Option 2.

For these reasons this office is of the opinion that the two beneficiaries designated by the member are eligible to receive the benefits provided in Option 2.

You have indicated to us orally that, administratively, it would be difficult to make the benefits of Option 2 available to more than one beneficiary. If the question had been posed to us in the first instance, we should probably have ruled that the statute contemplated only one principal beneficiary. Under the present facts, however, we must rule that there may be two beneficiaries. In view of the practical difficulty involved in administering the benefits to more than one person, it might be advisable in future to have one principal beneficiary designated and perhaps contingent beneficiaries, the latter taking in the event they survived the principal beneficiary.

jgf/c

James Glynn Frost
Deputy Attorney General