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July 2, 1976

P. R. Gingrow, Asst. Exec. Director

Retirement

Donald G. Alexander, Deputy

Attorney General

Effective date of Retirement Allowance Under 5 M.R.S.A. Section 1126

Your memorandum of June 3, 1976, supplemented by memo of June 21, 1976 raises certain questions relating to application of 5 M.R.S.A. Section 1126.

FACTS:

A member of the retirement system died on June 1, 1976 which was 31 days after the effective date of her retirement. On the date of death retirement payments had not yet commenced. She had designated certain beneficiaries.

QUESTION:

Does the designated beneficiary have a right to election of benefits pursuant to 5 M.R.S.A. Section 1124-3?

ANSWER:

The designated beneficiary is entitled to an election of benefits where a retiree dies 31 days after retirement but prior to commencement of retirement payments.

DISCUSSION:

The most recent amendments to section 1126 (P. L. 1975 chapter 622 § 60) removed any day limitation on the ability of retirees to revise retirement option choices. Currently the only limits in effect are that option decisions may not be revised at any time after commencement of payments of the service retirement allowance. Thus the key time for fixing of options is the commencement of payment of the service retirement allowance. This would also be the date when any election of options in accordance with section 1126 would become effective. In the factual case presented above, therefore, because payment of benefits had not commenced, the election in accordance with section 1126 had not yet become effective, and the right is reserved to the designated beneficiary to make an election pursuant to the provisions of section 1124-3. (c. 122 §§ P.L. of 1973)

It will be noted that the 1975 amendments to section 1126 are now in effect. However, the 1975 amendments to section 1124, (P.L. 1975 chapter 622 § 55) do not apply as the death in question occurred prior to July 1, 1976. (See P.L. 1975 chap. 622 § 66)

DGA:jg

cc: W. G. Blodgett