

- i. During the first year of a biennial period..... \$350.00
- ii. During the second year of a biennial renewal period \$175.00
- 3. Initial certificate of registration for a mortuary:
 - i. During the first year of a biennial renewal period..... \$700.00
 - ii. During the second year of a biennial renewal period \$350.00
- 4.-8. (No change.)
- 9. Biennial license renewal fees:
 - i. Practitioner \$350.00
 - ii. Mortuary certificate of registration \$700.00
 - iii. (No change.)
 - iv. Inactive paid license renewal \$170.00
- 10.-15. (No change.)

(a)

**DIVISION OF CONSUMER AFFAIRS
OFFICE OF THE DIRECTOR
PUBLIC MOVERS AND WAREHOUSEMEN
Notice of Administrative Corrections
N.J.A.C. 13:44D Appendix**

Take notice that the Division of Consumer Affairs has found an error in the Appendix of N.J.A.C. 13:44D.

N.J.A.C. 13:44D Appendix defines "increased valuation" as "a process by which a public mover and a consumer agree that all items, or specific items, in a shipment will be reimbursed for loss or damage by the mover at a rate greater than the standard \$.60 per pound." The standard valuation, established in N.J.A.C. 13:44D-4.6, is \$1.00 per pound. The Division has corrected the definition of "increased valuation" in the appendix to cite the actual standard valuation.

This notice of administrative correction is published pursuant to N.J.A.C. 1:30-2.7.

Full text of the corrected rule follows (addition indicated in boldface thus; deletion indicated in brackets [thus]):

APPENDIX

IMPORTANT NOTICE TO CONSUMERS USING PUBLIC MOVERS AND WAREHOUSEMEN

...

GLOSSARY OF MOVING TERMINOLOGY

...

"Increased valuation" means a process by which a public mover and a consumer agree that all items, or specific items, in a shipment will be reimbursed for loss or damage by the mover at a rate greater than the standard [\$.60] \$1.00 per pound.

...

TREASURY—GENERAL

(b)

**DIVISION OF PENSIONS AND BENEFITS
TEACHERS' PENSION AND ANNUITY FUND**

Teachers' Pension and Annuity Fund

Adopted Amendments: N.J.A.C. 17:3-3.8 and 3.13

Proposed: February 5, 2018, at 50 N.J.R. 715(a).

Adopted: August 3, 2018, by the Teachers' Pension and Annuity Fund, Angelina Scales, Secretary.

Filed: August 6, 2018, as R.2018 d.166, without change.

Authority: N.J.S.A. 18A:66-56.

Effective Date: September 4, 2018.

Expiration Date: October 19, 2022.

Summary of Public Comment and Agency Response:

A comment on the notice of proposal was received from Sarah Favinger, Associate Director, on behalf of the New Jersey Education Association (NJEA).

COMMENT: The commenter expresses a major concern about the proposed amendment to N.J.A.C. 17:3-3.8 and deletion of N.J.A.C. 17:3-3.13(b), regarding group life insurance conversion provisions. More specifically, the commenter states that the proposed changes do not uphold current statutory provisions under N.J.S.A. 18A:66-47 and 79 and contradict the information provided in the Division of Pensions and Benefits' (Division) Fact Sheet 13, *Conversion of Group Life Insurance*, prior to July 2016. The commenter states that the Division has since made revisions to Fact Sheet 13, stating that a member must live more than 31 days into retirement for his or her beneficiary/beneficiaries to receive a payout of the conversion of life insurance, which she asserts is inconsistent with statutory and case law.

The commenter also states that as provided in statute and in Fact Sheet 13, members have the ability to convert, within 31 days of retirement, at the member's expense, the difference between the retired group life insurance amount and the full active group life insurance amount; however, the commenter asserts that the Division has incorrectly added that the individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period. Further, she asserts that in *New Jersey Education Association v. Board of Trustees, Public Employees' Retirement System*, 327 N.J. Super. 405 (App. Div.), *certif. denied* 165 N.J. 135 (2000), the Court held that life insurance did not automatically convert by statutory function, but qualified that holding by stating that the statutory intent only prohibited the collection of both the active and retired benefit "absent an election to purchase additional insurance." The commenter states that this suggests that both benefits would be due if the life insurance policy was converted, as had been the Division's practice until recently.

RESPONSE: Several important factors support the amendments of the rules in question, N.J.A.C. 17:3-3.8 and 3.13. First and foremost, when the historical context of this area is examined, the statutory intent of the Legislature becomes quite clear. Prior to 1995, the beneficiary of a member who died with a retirement application pending, before the member's retirement became due and payable, would be entitled to active death benefits, which included the member's active group life insurance and a return of the member's contributions. The beneficiary did not have the option of choosing to receive a retired pension benefit and retired group life insurance coverage in place of the active benefits. However, with the enactment of P.L. 1995, c. 221, the Legislature amended N.J.S.A. 43:15A-93, the Public Employees' Retirement System (PERS) equivalent of N.J.S.A. 18A:66-79, to allow the member's beneficiary to choose to receive either active death benefits or retired death benefits. In such cases, under N.J.S.A. 43:15A-50 and 93, a beneficiary is permitted to select the member's active group life insurance benefits and a return of contributions, or the beneficiary is allowed to select a monthly (pension) beneficiary benefit, along with the member's retired group life insurance benefits.

Thus, the intent of N.J.S.A. 43:15A-50 and 93 (the PERS equivalent of N.J.S.A. 18A:66-47) is to allow the beneficiary of a member who dies with a retirement application pending to choose either active benefits or retired benefits, based on the beneficiary's own personal needs. The intent is not to allow a member's beneficiaries to receive both benefits. In *New Jersey Education Association v. Board of Trustees, Public Employees' Retirement System*, 327 N.J. Super. 405, 411 (App. Div.), certif. denied 165 N.J. 135 (2000), the court pointed out that "the legislative history demonstrates that by amending N.J.S.A. 43:15A-50, the Legislature intended the beneficiary to select either a retirement allowance or an active member death benefit, but not both." In addition, the Office of Legislative Services (OLS) noted that if a beneficiary had previously received the death-in-service life insurance death benefit but now wanted the retirement benefit, the beneficiary would have to return to the PERS a substantial portion of the life insurance death benefit. Surely, there would be no need to consider the return of the life insurance death benefit if the beneficiary was to be given both the death benefit and the retirement benefit. A literal interpretation of the relevant statutes would give benefits to a limited class of beneficiaries that exceed the benefits that a retiring member could receive, absent an election to purchase additional insurance. Further, the commenter's statement that this last phrase suggests that both benefits would be due if the life insurance policy was converted is incorrect. To be literal, the phrase only refers to a purchase of additional insurance, which a member can do at any time through any insurance company; no mention of the group life insurance conversion privilege through membership in PERS is made.

In addition, it is important to note that a member's retired group life insurance policy and converted individual policy both do not take effect until 31 days after the date of termination of employment. Thus, a member continues to be covered by his or her active group life insurance until that period ends. At that time, the member's retired group life insurance and any converted individual life insurance, up to the amount of active group life insurance, will take effect. If a member passes away before the effective date of the converted individual policy, the death benefit provided by the policy in effect at that time, the active group life insurance policy, will be paid. In such cases, the converted individual group life insurance has not yet become effective, based on its date of issue, and is, therefore, null and void, so it is not paid to the designated beneficiary. If a payment for the conversion privilege has been made, that payment will be returned. For this reason, N.J.A.C. 17:3-3.13(b) is to be deleted.

This is not peculiar to the conversion privilege offered by the State of New Jersey through Teachers' Pension and Annuity Fund (TPAF) membership, but rather reflects the insurance industry's standard for conversion policies. In general, such policies do not become effective until the member's active group life insurance policy expires, since the purpose of a group life insurance conversion privilege is to allow someone who is terminating employment for any reason to continue to have the same level of insurance coverage as while actively employed. As Prudential states in its brochure, *Continuing Your Group Term Life Insurance Coverage* (2017), "YOUR CONVERSION POLICY will be effective on the 32nd calendar day after YOUR group life insurance coverage ended. If YOU die within 31 calendar days after YOUR group life insurance coverage ended and while YOU are entitled to CONVERSION, then a life insurance claim will be processed under the GROUP CONTRACT. The amount of any benefit determined to be payable under the GROUP CONTRACT is equal to the amount of group life insurance coverage YOU had under the GROUP CONTRACT immediately after that coverage ended. If a benefit is payable under the GROUP CONTRACT, then it will be paid even if YOU have not exercised YOUR conversion right under the GROUP CONTRACT."

To restate, a member's active group life insurance continues for 31 days after the date of termination of employment for any reason, including a member's retirement. Because the member is still covered by his or her active group life insurance policy during this 31-day period, the member cannot also be covered by a retired and/or converted group life insurance policy. For this reason, N.J.A.C. 17:3-3.8 is amended to state that a member's retired group life insurance and any individual life insurance that the member converts will take effect only after coverage

under the member's active group life insurance policy ends, 31 days after the member's termination of employment, and N.J.A.C. 17:3-3.13(b) will be deleted.

However, as the commenter correctly states, and consistent with N.J.S.A. 18A:66-79, the beneficiary (or beneficiaries) of a member who dies on or after 31 days after the retirement date (or due and payable) will be eligible to receive the full conversion benefit, if the member filed the conversion application and paid the initial premium prior to death. That private conversion insurance policy will then be honored by the insurance company, as long as the member converts within the period specified by N.J.S.A. 18A:66-79, that is, prior to the 31st day after termination of employment. If the member dies, the member's beneficiary or beneficiaries will receive the benefit under the private individual conversion policy, along with any other retired benefits payable under the deceased member's TPAF membership.

N.J.S.A. 18A:66-79 clearly provides that when an individual's coverage under the group policy terminates due to termination of employment, whether by retirement or for another reason, the conversion privilege becomes available upon termination of the group policy. Further, N.J.S.A. 18A:66-79 clearly articulates that if a member dies during the 31-day period that he or she would be entitled to exercise the conversion privilege, the amount of insurance with respect to which he or she could have exercised the conversion privilege shall be paid as a claim under the group policy. As N.J.S.A. 18A:66-79 specifically states, this ensures that the benefits paid "shall in no event exceed the amount of insurance for which the member was insured under the group policy immediately prior to the date the right of conversion arose."

Moving forward, the TPAF Board of Trustees intends to uphold the statute correctly, even if it may have been misinterpreted in the past, by allowing the beneficiary of a member who dies with a retirement application pending to choose to collect either the active death benefits or the retired death benefits. In cases where a member dies during the 31-day period in which his or her group life insurance coverage continues, before a member's converted group life insurance policy becomes effective, the converted individual policy does not take effect. The proposed amendments to N.J.A.C. 17:3-3.8 and 3.13 are adopted without change.

Federal Standards Statement

A Federal standards analysis is not required for the adopted amendments because N.J.S.A. 18A:66-56 governs the subject of this rulemaking, and there are no Federal requirements or standards that affect the subject of this rulemaking.

Full text of the adoption follows:

SUBCHAPTER 3. INSURANCE AND DEATH BENEFITS

17:3-3.8 Withdrawal and return, contributory insurance, and conversion

(a) (No change.)

(b) If a member is covered by group life insurance during employment, the coverage ceases 31 days subsequent to the member's termination date from employment, regardless of the cause of termination. A member can convert the life insurance at the member's expense as set forth in N.J.S.A. 18A:66-179. The converted individual policy will not take effect until the expiration of the group life insurance policy at the conclusion of the 31-day grace period.

17:3-3.13 Benefits payable when a member dies with a retirement application pending

Pursuant to N.J.S.A. 18A:66-47 and 18A:66-47.3, the person designated as the beneficiary of an optional settlement on the retirement application may request, upon the member's death, that a retirement become effective and that a selection of an optional settlement be made as authorized by the law. If there is no designated beneficiary for an optional settlement, the person designated as the beneficiary to receive the return of contributions or unpaid benefits due to a retiree at the date of death may make this request. If a beneficiary requests that an optional settlement be made, the death benefits payable on behalf of the member shall be the death benefits payable on behalf of a member who dies after

retirement as otherwise provided in the TPAF Act, N.J.S.A. 18A:66-1 through 93, as amended and supplemented.
