



ADMINISTRATIVE RULES OF MONTANA

2.43.3008 FAMILY LAW ORDERS – CONTENTS AND DURATION FOR DEFINED BENEFIT PLANS

- (1) Pursuant to this rule and ARM 2.43.3009, the board will accept and apply family law orders (FLOs) in the PERS DBRP, and the JRS, SRS, GWPORS, HPORS, MPORS, and FURS.
- (2) Specific designations of a participant(s) in a FLO may include:
 - (a) for all systems and plans listed in (1), an individual "member" (active, inactive, or retired);
 - (b) for the PERS DBRP, or JRS, SRS, and GWPORS, "primary" and "contingent beneficiaries" eligible to receive a lump sum payment and "contingent annuitants"; and
 - (c) for HPORS, MPORS, and FURS, "survivors" and "designated beneficiaries" who are eligible to receive lump sum payments.
- (3) FLOs for participants who are in more than one retirement system, choose to be in a DROP, or are eligible for multiple monthly benefit payments from the same retirement system must specify the benefit or benefits to which the FLO applies. If a benefit is not included in a FLO, it is not subject to distribution pursuant to the FLO.
- (4) A FLO may specify a future effective date provided:
 - (a) a FLO may not be effective any earlier than the date the FLO is received by MPERA;
 - (b) if the participant is a benefit recipient, the first monthly benefit payment that may be divided is the first benefit payment following the month MPERA receives the FLO; and
 - (c) a FLO may not provide for payments to an alternate payee prior to the date on which the participant first receives a payment from the retirement system or plan.
- (5) Unless otherwise specified in the FLO, payments to an alternate payee will continue only while the participant is receiving payments. The FLO may further limit payments to:
 - (a) the life of the participant whose payment rights are being transferred;
 - (b) a specified maximum time;
 - (c) the life of the alternate payee; or
 - (d) the life of a designated participant.
- (6) The two basic types of payments allowed to alternate payees are:
 - (a) A "defined sum" must designate a specific total dollar amount to be paid to the alternate payee in the form of a fixed dollar amount payable for a designated maximum number of months. If the fixed monthly payment designated is more than the total monthly benefit or

payment to the participant, the lesser amount will be paid until the alternate payee receives the specific total dollar amount. If the defined sum cannot be divided evenly by the number of payments or monthly amount, any odd amount will be paid in the first payment. The defined sum, the designated monthly dollar amount, and the designated number of months will not be increased by subsequent conditions or events. Payments will cease when the defined sum is paid or when payments from the account end.

- (b) A FLO may order "proportionate payments" by designating either a fixed percentage or a formula describing how to calculate the percentage. The fixed percentage must be expressed as a specific percentage or as a fraction for which the numerator and denominator are indicated. A formula calculating a fixed percentage may use months, years, or dollar amounts to establish a proportionate benefit.

Authorizing statute(s): 19-2-403, 19-2-907, MCA

Implementing statute(s): 19-2-907, MCA

History: NEW, 1993 MAR p. 2400, Eff. 10/15/93; AMD, 2002 MAR p. 2182, Eff. 8/16/02; TRANS, from ARM 2.43.615, Eff. 9/30/02; AMD & TRANS, from ARM 2.43.1704, 2008 MAR p. 2467, Eff. 12/1/08; AMD, 2013 MAR p. 2240, Eff. 11/28/13; AMD, 2020 MAR p. 391, Eff. 2/29/20.