

## Chapter ETF 60

### SURVIVOR BENEFITS

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**Note:** Chapter ETF 60 was created as an emergency rule effective October 1, 1982.

**Note:** Chapter ETF 60 requires several new forms. These forms are available at no charge by contacting the department of employee trust funds.

#### Subchapter I — General Provisions

**ETF 60.03 Due dates.** A certification required in the administration of the group life insurance plan, or a written request to cancel an application under this chapter, which is due on a Saturday, Sunday or holiday when the state offices are closed shall be timely if received in the department the next working day.

**History:** Cr. Register, February, 1983, No. 326, eff. 3-1-83.

#### Subchapter II — Group Life Insurance For State And Local Employees

**ETF 60.31 Group life insurance coverage requirement.** (1) An employer who has adopted a resolution to offer a group life insurance plan under s. 40.70 (1) (a), Stats., shall certify to the department all eligibility information specified by the department for employees eligible for group life insurance coverage on the effective date of the resolution. To verify that the participation requirement established under s. 40.70 (2), Stats., has been satisfied, the employer shall indicate the number of employees who have completed an application for coverage. The resolution shall be effective on January 1 if the certification of the eligibility information and the number of employees applying for coverage is received by the department no later than the preceding December 15. An employer may withdraw a resolution before it becomes effective if written notice by the governing body of the employer is received by the department no less than 5 working days before the resolution becomes effective.

(2) The department may review a participating employer's level of employee participation in the basic group life insurance plan provided under s. 40.72 (1), Stats. If in making a review of a participating employer's level of employee participation in the basic group life insurance plan the department determines that there is no employee participation, and this is confirmed by the employer, the department may terminate the life insurance resolution adopted under s. 40.70 (1) (a), Stats. If the department determines that employee participation has decreased below the level established under s. 40.70 (2), Stats., the department shall prepare a list of those employers for submission to the group insurance board and the group insurance board shall determine which resolutions will be terminated. The termination of a resolution shall be effective either after the end of the third full month following the date the group insurance board or the department terminates coverage or the end of the calendar year, whichever occurs later. If a resolution is terminated under this subsection another resolution may be submitted under s. 40.70 (1) (a), Stats., after a lapse of 6 months from the effective date of the termination.

**History:** Cr. Register, February, 1983, No. 326, eff. 3-1-83; am. Register, April, 1984, No. 340, eff. 5-1-84; am. (2), Register, November, 1985, No. 359, eff. 12-1-85; am. (1), Register, September, 1986, No. 369, eff. 10-1-86.

**ETF 60.32 Group life insurance coverage for employees under a private pension plan.** Any insured employee who becomes an annuitant under a private pension plan and who retires before attaining age 65 but who has 20 years of service for the employer, may continue to be insured under the group life insurance plan if:

(1) The employee requests the continuation of the insurance by filing a form provided by the department with the employer within 60 days after termination of employment from the employer and agrees to pay the required premiums until reaching age 65; and

(2) The employer provides confirmation, to the department, of 20 years service.

**History:** Cr. Register, February, 1983, No. 326, eff. 3-1-83; r. (1), renum. (2) (intro.), (a) and (b) to be (intro.), (1) and (2), Register, September, 1986, No. 369, eff. 10-1-86.

**ETF 60.33 Successor employers.** (1) Whenever any employer is created, the territory of which includes more than one-half of the assessed valuation of an employer which was at the time of creation a participating employer, and the newly created employer assumes the functions and responsibilities of the previous employer, the newly created employer shall be a participating employer under the group life insurance program from the inception of the employer.

(2) Any person covered on the day preceding the date of creation of the successor employer shall continue to be covered under the group life insurance program on the same basis.

(3) Any person who first becomes eligible for group life insurance coverage as a result of the consolidation of employers and who desires to enroll shall apply for coverage in accordance with the contract.

(4) The amount of group life insurance coverage for an insured employee of a successor employer shall be based on the aggregate of earnings from both the predecessor and successor employers in the previous calendar year.

**History:** Cr. Register, February, 1983, No. 326, eff. 3-1-83.

#### Subchapter III — Wisconsin Retirement System Death Benefits

**ETF 60.51 Cancellation of death benefit and beneficiary annuity applications.** (1) Any lump sum death benefit or beneficiary annuity application canceled pursuant to this section shall have no force or effect, and any subsequent application shall be treated as a new application. Repayment in full of any sum paid under the application for which cancellation is sought shall be required. The employer may not make this payment on behalf of the recipient of the benefit.

(2) A request to cancel an application for a lump sum death benefit payment under s. 40.73 (1) or (2), Stats., must be in writing. The request to cancel shall be rejected unless received by the department by the close of regular office hours on the last working day preceding the date specified in s. ETF 10.633 (1) (c).

(3) A request to cancel an application for a beneficiary annuity under s. 40.73 (3), Stats., must be in writing. The request to cancel the application shall be rejected unless received by the department by the close of regular office hours on the last working day preceding the date specified in s. ETF 10.633 (1) (a).

**History:** Cr. Register, April, 1983, No. 328, eff. 5-1-83; am. Register, January, 1996, No. 481, eff. 2-1-96.

**ETF 60.53 Death benefits — automatic distributions.** (1) (a) A beneficiary of a deceased annuitant who is entitled to a continuation of the annuitant's monthly annuity under s. 40.73 (2), Stats., may receive the benefit as a monthly annuity by filing a timely application. The application for a monthly annuity must be received by the department no later than the last day of the third full calendar month which begins after the date the department mails or otherwise provides the application to the beneficiary.

(b) If the department does not receive an application for a continuation of the monthly annuity within the deadline specified in sub. (1) the department shall pay the then present value of the death benefit to the beneficiary as a lump sum. The department may not accept a request to cancel the lump sum payment which is received after the deadline specified in sub. (1) or the deadline specified in s. ETF 60.51 (2), whichever is earlier.

(c) If the beneficiary submits a waiver of a lump sum benefit under s. 40.74 (2), Stats., and the department receives it on or before the deadline specified in s. ETF 60.51 (2), the department shall defer automatic distribution of the benefit during the waiting period before the waiver effective date. Any new beneficiary who becomes eligible for a continuation of the monthly payments as a result of a waiver shall be granted the period specified in sub. (1) to apply for continuation of the monthly payments.

**Note:** This rule (CR 09-057) amends ss. ETF 20.07 (6) and 60.53 (1) (c) to conform to the new effective date for waivers in s. 40.08 (3), Stats., as affected by 2007 Wis. Act 131.

(2) (a) This subsection applies to death benefits payable from required or additional contribution accumulations that the department had not begun to distribute before the death of the participant or alternate payee.

(b) The department shall treat a distribution paid as a lump sum under s. 40.25 (2), Stats., as having begun prior to the death of the participant or alternate payee if the date of the check is on or before the date of death. The department shall treat a distribution paid as an annuity or as a lump sum in lieu of an annuity under s. 40.25 (1) or (4), Stats., as having begun prior to the death of the participant or alternate payee if all of the following apply:

1. The participant or alternate payee is living on the date the department receives the benefit application and on the effective date of the benefit;

2. The department does not receive the participant's or alternate payee's written request to cancel the benefit as provided under s. ETF 20.20 (4) on or before the date of death.

(c) A beneficiary may elect to receive a death benefit payable under this subsection as a monthly annuity, subject to s. 40.73 (3), Stats., provided the beneficiary applies, and the department receives the application, no later than the close of business on the last working day of September in the calendar year following the year of the participant's or alternate payee's death. The annuity effective date may not be later than November 1 of that year.

(d) A beneficiary may elect to receive the death benefit as a lump sum provided the beneficiary applies, and the department receives the application, no later than the close of business on the last working day of September in the fifth calendar year following the year of the participant's or alternate payee's death.

(e) 1. A beneficiary who was the spouse of the deceased participant at the time of death may defer application for the death benefit until the latest of the following dates:

a. For an application for a monthly annuity, the application date specified in par. (c);

b. For an application for a lump sum, the application date specified in par. (d);

c. For an application for any optional form of payment, the last working day of the year in which the participant would have attained age 69.5. The department may not accept an application for a monthly annuity under this subdivision if the department receives the application after the application date specified in par. (c), unless the beneficiary files a beneficiary designation that the department receives by that date or by September 30, 1999, whichever is later.

2. This paragraph does not apply to spouses of deceased alternate payees.

(f) During the calendar year that the participant would have attained age 69.5, a beneficiary who was the spouse of the participant at the time of death and who has filed a beneficiary designation if required under par. (e) 1. c., may apply for a death benefit with a deferred effective date which may not be later than January 1 of the year in which the participant would have attained age 70.5.

(g) Unless the account is considered abandoned as provided in s. 40.08 (8) (a) 2. or 2m., Stats., the department shall distribute the death benefit as a lump sum unless it has received an application for the death benefit within the applicable deadline specified in par. (d) or (e). If the application was due under par. (d) or (e) 1. b., the department shall make the distribution on or before the last working day of the fifth calendar year following the year of the death of the participant or alternate payee. If the application was due under par. (e) 1. c., the department shall make the distribution effective January 1 of the year in which the participant would have attained age 70.5. Beneficiaries may not cancel distributions made under this paragraph.

(h) The department may not accept a waiver of a benefit under s. 40.74 (2), Stats., for a benefit payable under this subsection if the effective date of the waiver is on or after the application deadline specified in par. (d). If a beneficiary becomes eligible for a benefit under this subsection as a result of a waiver, the department shall base the new beneficiary's deadlines to apply for the benefit on the participant's or alternate payee's date of death.

(i) Except as provided in s. 40.23 (4) (e) 4., Stats., if a beneficiary becomes eligible for a death benefit under this subsection as a result of the death of a beneficiary, the department shall base the new beneficiary's deadlines to apply for the benefit on the participant's or alternate payee's date of death.

**History:** Cr. Register, December, 1996, No. 492, eff. 1-1-97; renum. (1) to (3) to (1) (a) to (c), cr. (2), Register, May, 1997, No. 497, eff. 6-1-97; correction in (2) (b) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, July, 1999, No. 523; CR 09-057: am. (1) (c) Register May 2010 No. 653, eff. 6-1-10.

### ETF 60.60 Conversion of life insurance coverage to pay premiums for health and long-term care insurance.

(1) **PURPOSE.** The purpose of this section is to interpret s. 40.72 (4r), Stats., and to establish procedures to implement this statute.

(2) **DEFINITIONS.** In this section:

(a) "Company" means the insurer under contract with the State of Wisconsin group insurance board to provide the life insurance program under s. 40.72 (1), Stats., and to administer the conversion accounts under s. 40.72 (4r), Stats.

(b) "Conversion" means the voluntary exchange of employer-provided group term life insurance under s. 40.72, Stats., for employer-provided health insurance or long-term care insurance, or both, administered under subch. IV of ch. 40, Stats.

(c) "Conversion account" means the account established by the company to record the balance after conversion available to pay the health or long-term care insurance premiums of the insured who has elected conversion.

(d) "Conversion effective date" means the first day of the first month for which the premium for health or long-term care insurance is fully or partially paid from the conversion account. The conversion effective date is determined as provided in sub. (4) (a) 3.

(e) "Health insurance" means insurance which is provided under s. 40.51, Stats.

(f) "Insured" means a person who has made, or who is eligible to make, the election provided in s. 40.72 (4r), Stats., and this section.

(g) "Life insurance" means insurance which is provided under s. 40.72 (1), Stats., and which has been reduced to a final amount as provided in s. 40.72 (2) and (3), Stats.

(h) "Long-term care insurance" means insurance which is provided under s. 40.55, Stats., and which qualifies as an accident and health plan under section 106 of the internal revenue code.

**Note:** This rule (CR 09-057) amends ss. ETF 60.60 (2) (h) and 60.60 (8) to conform to the definition of "internal revenue code" in s. 40.02 (39m), Stats., added by 2007 Wis. Act 131 by deleting the former reference to s. 71.01 (6), Stats. Section ETF 10.01 (intro.) already provides that definitions in s. 40.02, Stats., apply throughout all ETF chapters.

(i) "Policyholder" means the state of Wisconsin group insurance board.

(j) "Present value of life insurance" means the sum which, if invested on the conversion effective date, would provide a death benefit equal to the face amount of the insured's life insurance coverage on the date of death of the insured, based on actuarial assumptions about future mortality rates and interest rates recommended by the company and approved by the department under sub. (5) (a).

**(3) ELECTION PROCESS.** (a) An insured may elect to convert the present value of his or her life insurance to pay premiums for health or long-term care insurance, or both, by filing the form prescribed by the department provided that on the conversion effective date all of the following apply:

1. The insured meets the requirements of s. 40.72 (4), Stats., to continue life insurance coverage after termination of employment.
2. The insured has life insurance and either health insurance or long-term care insurance, or both, as defined in sub. (2).
3. The face amount of the insured's life insurance has been reduced to its final amount as provided in s. 40.72 (2) and (3), Stats.

**Note:** Under present law, this will occur at age 70 if the insured is a participating employee with life insurance coverage, at age 66 if the insured is a retired employee of the state or of a participating employer which elected to provide post-retirement life insurance coverage at the 50% level, or otherwise at age 67.

4. The insured is no longer required to pay life insurance premiums pursuant to s. 40.05 (6) (b), Stats.
5. The insured's credits, if any, in the accumulated unused sick leave account established under s. 40.05 (4), Stats., are less than the insured's current monthly health insurance premium. This subdivision does not apply to elections to convert life insurance to pay long-term care insurance premiums.

(b) The election form shall include all of the following:

1. Estimates of the face amount and the present value of the insured's life insurance prepared by the department and based on the earliest possible conversion effective date at the time of preparation.
2. The insured's designation of a health insurance plan or long-term care insurance plan, or both, for which premiums are to be paid from the conversion account.
3. The insured's waiver of all benefits under the Wisconsin public employers group life insurance program based on the life insurance that is converted, in exchange for the benefits provided in this section.
4. The signature of the insured or of the insured's representative as provided in par. (c).

(c) A person holding the insured's durable power of attorney may sign in lieu of the insured under the provisions of s. ETF 10.75 if so authorized by the terms of the power of attorney. If a guardian or conservator of the insured's estate has been appointed, the guardian or conservator shall sign in lieu of the insured. The

election is deemed not to have a long-term effect on the insured's rights and benefits, for purposes of s. 40.08 (9m), Stats., and express court approval of the terms of the election is not required.

**Note:** See s. ETF 10.80 (2) (c).

(d) The entire face amount of insured's life insurance up to \$50,000 shall be included in the conversion. Insurance over \$50,000 may not be converted, and shall remain in force subject to the provisions of statute and contract.

(e) As provided in s. 40.08 (1), Stats., the life insurance benefits provided under s. 40.72, Stats., and this section are not assignable and are not subject to execution, levy, attachment, garnishment, or other legal process. The Department may not honor or otherwise enforce any order which conflicts with s. 40.08 (1), Stats., specifically including but not limited to an order to convert or refrain from converting life insurance coverage, to satisfy claims of creditors other than the department, to apply for, obtain or retain a benefit or entitlement, and any order the department determines to be in violation of s. 40.08 (1), Stats.

**Note:** Form ET-2324, "Election to Convert Life Insurance to Pay Health or Long-Term Care Insurance Premiums," may be obtained no charge by writing to: Department of Employee Trust Funds, P.O. Box 7931, Madison, WI 53707-7931, or by calling (608) 266-3285 or toll free at (877) 533-5020.

**(4) APPROVAL OF THE ELECTION, CONVERSION EFFECTIVE DATE.**

(a) Upon receipt of the election form the department shall do all of the following:

1. Verify that the election meets the requirements under sub. (3) and reject any election which does not meet the requirements.
2. Verify the face amount of the insurance coverage.
3. Determine the conversion effective date. The conversion effective date shall be the first day of the coverage month which is the later of the following:
  - a. The third month which begins after the department receives the insured's election to convert life insurance.
  - b. The first month in which the insured meets the requirements in sub. (3) (a).

(b) If the department determines that the conversion effective date is 5 or more full calendar months after the date the department received the election, the department may reject the election without prejudice. The insured may file a new election at a later time.

(c) The department shall provide the company with a copy of the approved election form and other necessary information including but not limited to: the insured's name, social security number, date of birth, verified face amount of life insurance coverage, the conversion effective date, and the type, carrier, and premium amount of the applicable health or long-term care insurance plan.

**(5) CONVERSION ACCOUNT.** The company shall do all of the following:

(a) Recommend and provide to the department a table of conversion factors by age in years and attained months, based on mortality experience within the life insurance plan and the interest rate established by the company for valuations of the post-retirement insurance program. The company may recommend revisions to the table from time to time. The factors may not be used until approved by the department.

(b) Compute the present value of the insured's life insurance by multiplying the verified face amount, up to \$50,000, by the conversion factor for the insured's age in years and attained months on the conversion effective date.

(c) Establish a conversion account in the insured's name from the appropriate reserve, as determined by the company and the department, held by the company for the policyholder. The company shall credit the account with the present value computed in par. (b) and debit the account each month by the premium amount certified by the department.

(d) Notify the insured of the face amount converted and the initial conversion account balance within 20 days of receipt of the approved election form.

(e) Notify the insured of the conversion account balance annually and when the balance in the conversion account falls below 4 times the monthly premium being debited. If the company does not have current address information it may request the department to mail the notification to the insured's current address.

(f) Remit to the department from each conversion account, by the 20th of the month preceding the coverage month, the applicable premiums for health and long-term care insurance.

(g) Annually report to the policyholder the number of conversion accounts opened and closed, the volume of premiums paid, and the amounts reverting to the reserves as provided in sub. (8) (c).

(h) Close the conversion account and restore the insured's life insurance coverage when so directed by the department pursuant to sub. (7) (c).

**(6) INTEREST ON CONVERSION ACCOUNTS.** The conversion accounts may not accrue interest on the unexpended balances.

**(7) REVOCATION OF THE CONVERSION ELECTION.** (a) An insured may not revoke an election to convert life insurance under this section unless:

1. The department receives the insured's written request to revoke prior to the conversion effective date; or

2. The present value of the life insurance as computed by the company is less than 90% of the department's estimate, and the department receives the insured's written request to revoke within 21 days after the company mails notification of the initial conversion account balance to the insured.

(b) If the insured dies within 60 days after the conversion effective date, the department shall deem that a timely revocation was received.

(c) When the department determines that it received a timely revocation, the department shall do all of the following:

1. Direct the company to increase the insured's life insurance coverage by the face amount used to compute the present value under sub. (5) (b), less any deduction made pursuant to subd. 3.

2. Recover and refund to the company the premiums which were disbursed from the conversion account. Premiums may be recovered by deduction from the insured's Wisconsin retirement system annuity check, by payment directly by the insured, or otherwise, as the department may determine.

3. If the insured dies before the premiums are recovered, direct the company to reduce the insured's death benefit from the life insurance program by the amount of premiums disbursed.

**(8) BENEFITS FROM THE CONVERSION ACCOUNT.** (a) The moneys credited to the conversion account may only be used to provide health or long-term care insurance premiums or death benefits. The insured may not receive the balance in the conversion account as a living benefit or in any form which would be included in the insured's gross income under applicable provisions of the internal revenue code.

**Note:** This rule (CR 09-057) amends ss. ETF 60.60 (2) (h) and 60.60 (8) to conform to the definition of "internal revenue code" in s. 40.02 (39m), Stats., added by

2007 Wis. Act 131 by deleting the former reference to s. 71.01 (6), Stats. Section ETF 10.01 (intro.) already provides that definitions in s. 40.02, Stats., apply throughout all ETF chapters.

(b) Debits to the conversion account shall cease with the premium payment for the coverage month which is the earliest of any of the following:

1. The last month for which premiums can be fully or partially paid from the balance remaining in the conversion account.

2. The month in which the insured dies.

3. The month in which insurance terminates due to an employer's withdrawal from the health or long-term care insurance program.

4. The month in which health or long-term care insurance terminates due to cancellation by the insured.

5. The second month which begins after the month in which the department receives the insured's written request to discontinue premium payments from the conversion account.

(c) The balance remaining in the account after premium payments cease is payable as a death benefit to the insured's beneficiaries as determined under s. 40.02 (8), Stats. However, if payments ceased pursuant to par. (b) 4. or 5., balances of \$25 or less shall revert to the reserve held by the company for the policyholder and may not be paid as death benefits.

(d) An insured surviving spouse, domestic partner, or dependent child may not continue payment of premiums from the conversion account after the death of the insured but may elect, if otherwise eligible, to continue coverage as provided in s. ETF 40.01.

**(9) CHANGES AND ADJUSTMENTS.** (a) The department shall notify the company of annual changes in premium, health insurance and long-term care insurance plans made available, and other program changes at least 90 days in advance of the effective date of the change. The company shall make the required adjustments in remittances from all affected accounts.

(b) The insured may discontinue premium payments from the conversion account, resume payments which were previously discontinued or change the allocation of conversion account payments from one type of insurance to another, by filing a written request with the department. The request shall be effective in the third month which begins after the department receives the request.

(c) The department shall notify the company of an insured's change in coverage type, carrier, family status, allocation of premiums, or other relevant data. Changes reported to the company by the fifth day of a month shall be reflected in the premium remittance for the following coverage month.

(d) If the insured reports a change of status which affects premium amounts previously paid from the conversion account, the company shall adjust the conversion account balance in cooperation with the department and the affected insurance carrier. However if all funds in the conversion account have been disbursed and the account has been closed at the time the company is notified, the department shall make the adjustments. All premium adjustments are subject to s. 40.08 (10), Stats., and applicable contractual limitations on refund of premiums.

**History:** Cr. Register, December, 1994, No. 468, eff. 1-1-95; CR 09-057: am. (2) (h) and (8) (a) Register May 2010 No. 653, eff. 6-1-10; EmR0938: emerg. am. (8) (d), eff. 1-1-10; CR 10-004: am. (8) (d) Register July 2010 No. 655, eff. 8-1-10.