**Section 1540.140 Removal of Children from Care of Surviving Spouse**

a) Children Under Age 18

If a spouse is receiving a widow's or survivors' annuity prior to age 50 because minor children of the member are under the care of the spouse and the children are legally removed by order of a court from the spouse's care, then the widow's annuity or survivors' annuity payable to the spouse shall be suspended until the spouse attains age 50; however, the children eligible to receive a survivors' annuity, if under the care of the legal guardian, may continue to receive their portion of the survivors' benefit, based on their individual eligibility. Widow's or survivors' annuity payments accepted by the spouse after the children have legally been removed by order of a court from the spouse's care will be considered benefit overpayments due to the System.

b) Children Over Age 18 and Under Age 22 and a Full-Time Student

1) If under the care of the surviving spouse at attainment of age 18, children over age 18 and under age 22 and a full-time student will be presumed under the care of a surviving spouse during their period of eligibility, based upon a self-certification signed by the surviving spouse. However, the surviving spouse will not be considered as the natural guardian of the child.

2) Application for benefits by or on behalf of a child over age 18 and under age 22 and a full-time student must be accompanied by a student certification. The certification must have the signature of the student and a representative of the school to be valid. A new certification must be obtained and submitted to the System semi-annually after initial approval of the benefit unless the System is able to determine, based on records in its possession or vendor-supplied data, that the child is a full-time student for that semi-annual period.

3) Survivor benefits shall be payable during the period between regular school years, such as winter breaks or summer terms, if the benefit recipient carried a full-time workload in the preceding semester.

c) Definitions of Full-Time Student and Regular School Year

1) For purposes of this Section, a full-time student shall be one who is enrolled in a course of study in an educational institution and who is carrying a full-time workload as determined by the educational institution during the regular school year for the course of study the student is pursuing.

2) A regular school year is the 8 to 9 months that includes two semester terms or three trimester (quarter) terms, excluding the summer term.

(Source: Amended at 46 Ill. Reg. 4100, effective February 23, 2022)