

TITLE 3: HUMAN RESOURCES
DIVISION 3: SOCIAL SECURITY ACT

§ 3305. Survivors' Insurance Benefits: Eligibility.

(a) *Survivors' Insurance Benefits: Eligibility.*

(1) Every person who:

(A) Is the surviving spouse of a person who at the time of death was a fully insured individual and

(B) Has filed application for survivors' insurance benefits shall be entitled to a survivor's insurance benefit for each month beginning with the month of January 1976 for which subsection (a)(1)(A) of this section is satisfied, and ending with the month preceding the month in which he or she dies or the month preceding the month in which he or she remarries, subject to the earnings test as provided in 3 CMC § 3312.

(2) Every surviving child of an individual who dies a fully or currently insured individual who was dependent on such insured individual at the time of death (or, if such individual had a period of disability which continued until he became entitled to old-age or disability insurance benefits or until the month of his death, was dependent at the beginning of such period of disability or at the time he became entitled to such benefits) upon filing for child's survivor's insurance benefits shall be entitled to a child's survivor's insurance benefit, subject to the earnings test as defined in this division, for each month beginning with the month of January 1976 or the month of death of the individual, if later, and ending with the month preceding whichever of the following first occurs.

(A) Attainment of age 18 years, except the benefits are payable until the month before the attainment of age 22 so long as the beneficiary is a bona fide student, and except that benefits are payable during the disability of a child who was under a disability before he attained age 22;

(B) Marriage;

(C) Adoption (except for adoption subsequent to the death of the individual upon whom the child was dependent by a stepparent, grandparent, aunt, or uncle); or

(D) Death.

(3) A child's survivor's insurance benefits shall be paid to the person upon whom the child is currently dependent.

(b) *Dependents' Insurance Benefits: Eligibility.*

(1) Every person who:

(A) Is the spouse of an individual entitled to old-age or disability insurance benefits, if such spouse has filed an application for spouse's insurance benefits; and

(B) Has attained age 62 or has in his or her care a child under age 16 entitled to a child's insurance benefits on the basis of the income of such individual; and

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(C) Is not entitled to old-age or disability insurance benefits that are more than one-half of the amount of such individual's old-age or disability benefit, shall be entitled to a spouse's benefit for each month beginning with January 1985 and ending with the month preceding the month in which such spouse dies, such individual dies, or the spouse is under age 62 and no longer has in his or her care a child under age 16 entitled to benefits or entitled to childhood disability benefits.

(2) Every child who:

(A) Is the child of an individual entitled to old-age or disability insurance benefits, if such child has filed an application for child's insurance benefits; and

(B) Is unmarried and either under age 18, under age 19 and a bona fide student at an elementary or secondary school or is under a disability which began before age 22; and

(C) Is dependent on such individual at the time the application is filed, at the time the individual died or if the insured had a period of disability that continued until entitlement to old-age benefits or death, at the beginning of such period of disability or at the time he became entitled to such benefits, shall be entitled to a child's survivor's insurance benefits for each month beginning with January 1985 and ending with the month preceding the month in which such child dies, marries, attains age 18 and is no longer in elementary or secondary school, attains age 19, or is not under a disability which began before age 22.

(3) A child shall be deemed dependent on his parent or adopting parent at the time specified in subsection (2)(c) of this section unless, at such time, such individual was not living with or contributing to the support of such child. In those cases, see 3 CMC § 3003(o)(5). For purposes of this subsection a child deemed to be a child of a fully or currently insured individual pursuant to 3 CMC § 3003(o)(5) shall be deemed to be the legitimate child of such individual.

(4) A child's insurance benefits shall be paid to the person upon whom the child is currently dependent.

Source: PL 4-27, § 5.

Commission Comment: The Commission inserted a colon in place of a dash in the heading of this section to conform the heading to the style used elsewhere in the code. According to PL 3-90, § 7(a) (reprinted in the preface material, prior to title 1), "section headings . . . do not in any manner affect the scope, meaning, or intent of the provisions of this Code."