

CHAPTER 3

Coverage and Benefits

SECTIONS

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Editor's note: Although most of the provisions of this subtitle I have been repealed by implication by the FSM Social Security Act, the provisions of this Trust Territory Social Security Act are retained in this subtitle I since 53 F.S.M.C. 1109 provides for saving of certain of its provisions for certain purposes.

The designation "subtitle I" has been applied to chapters 1 through 5 of title 53 to accommodate codification of PL 4-36, "Federated States of Micronesia Social Security Act," as subtitle II. Accordingly, "this title," as it appears in chapters 1 through 5, should be read "this subtitle."

§ 301. Employees covered.

(1) All employees as defined by this title, wherever employed by a Trust Territory employer, shall be covered by this title unless both the employer and the employee are currently subject to the United States social security system or any other recognized Social Security System.

(2) For the purposes of this title, any elected official in any Government unit or body in the Trust Territory is deemed to be an employee employed by a Trust Territory employer. The Governmental unit or body to which such

person is elected is subject to the provisions in this title relating to the duty and obligations of a Trust Territory employer. Persons in family employment are excepted from the provisions of this title.

Source: COM PL 3-40 § 5(a); COM PL 3C-48 § 5; TT Code 1970, 73 TTC 101(1); COM PL 4C-18 § 1; COM PL 5-7 § 5; COM PL 6-89 § 2; TT Code 1980, 73 TTC 101(1).

Cross-reference: The statutory provisions on the FSM Social Security Act are found in subtitle II of this title.

§ 302. Eligibility for old-age insurance.

Every person who:

- (1) is a fully insured individual, as defined in this title;
- (2) has attained age 60 years; and

(3) has filed application for old age insurance shall be entitled to an old age insurance benefit for each month, beginning with the month of July 1970, for which both subsections (1) and (2) of this section are satisfied, whichever is later, and ending with the month preceding the month in which he dies, subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(b); COM PL 3C-48 § 6; TT Code 1970, 73 TTC 101(2); COM PL 4C-19 § 2; COM PL 6-89 § 2; TT Code 1980, 73 TTC 101(2).

§ 303. TT Government prior-service credit.

(1) All citizens of the Trust Territory who had not less than five years of employment by the Trust Territory Government prior to July 1, 1968, shall be given prior-service credit for establishment of insured status and determination of benefits for himself, his surviving spouse or dependent children as provided in this title.

(2) Creditable prior service shall include employment for the Trust Territory for the number of years prior to July 1, 1968, that is in excess of five years, such service to be computed on a monthly basis with employment in any month credited as a full month.

(3) Prior-service credit shall be canceled upon termination of employment prior to accumulation of five years creditable service.

(4) Employment by the Government of the Trust Territory for prior-service credits shall include district but not municipal employment and shall include employment by any United States administering department or agency.

Source: COM PL 3-40 § 6; TT Code 1970, 73 TTC 102; TT Code 1980, 73 TTC 102.

§ 304. Retirement benefits.

(1) An insured, eligible individual shall be paid a monthly old age retirement pension for life, except for any month of disqualification as provided by this title, in an amount calculated upon an annual basis of 16.2 percent of the first \$10,000 of cumulative covered earnings, plus 2.7 percent of cumulative covered earnings in excess of \$10,000, but not in excess of the next \$30,000, plus 1.35 percent of cumulative covered earnings in excess of \$40,000, but not in excess of the next \$30,000, plus .675 percent of cumulative covered earnings in excess of \$70,000.

(2) Earnings for employment after commencement of payments for old age or disability insurance benefits shall be included in benefit calculations upon subsequent application for benefits, but such earnings shall be applicable for benefits for months after the calendar year in which such earnings occurred.

(3) An insured, eligible individual shall be paid a minimum monthly pension of \$43.20 if the pension amount calculated in accordance with subsection (1) of this section is less than \$43.20 monthly.

Source: COM PL 3-40 § 5; TT Code 1970, 73 TTC 105(1), (2); COM PL 5-7 § 7(part); COM PL 6-89 § 4(part); COM PL 6-91 § 3; COM PL 6-137 § 2(part); TT Code 1980, 73 TTC 105(1), (2); PL 1-136 § 2 (part); PL 3-37 § 2; PL 4-36 § 1.

§ 305. Reemployment after retirement.

In the event an individual who is receiving retirement insurance benefits returns to covered employment, his benefit shall be recomputed at the end of the calendar year and paid as provided in this title beginning with the year after the calendar year the earnings were made.

Source: COM PL 3-40 § 15; TT Code 1970, 73 TTC 106; COM PL 4C-19 § 5; TT Code 1980, 73 TTC 106.

§ 306. Disability benefits.

(1) Every individual who is a fully and currently insured individual and is disabled and has been disabled for at least three full calendar months, upon filing an application for disability insurance benefits, shall be entitled to a disability retirement pension for each month beginning with the month of January 1974, or the first month of the waiting period, whichever is later, and ending with the month preceding the month in which he dies or recovers from his disability, subject to the earnings test as defined in this title.

(2) An individual who is both fully and currently insured and who has been under a disability for three full calendar months shall be paid a monthly pension for life or until recovery from the disability, except for any month of disqualification as provided by this title, in an amount calculated in accordance with section 304 of this chapter.

(3) The amount of the pension as so determined shall, if the individual is receiving a periodic workmen's compensation benefit, be reduced each month by the excess of the sum of the workmen's compensation benefit for that month payable under this title, over 80 percent of one-twelfth of the highest annual covered wages in the period consisting of the year in which the disability occurred and the preceding five years.

(4) If a workmen's compensation benefit was payable in periodic benefits but was commuted to a lump sum, for purposes of this subsection it will be considered that the periodic benefit originally available was paid in each month that it would have been paid if the commutation had not occurred.

Source: COM PL 3-40 § 5(e); TT Code 1970, 73 TTC 104(3), 105(3); COM PL 5-7 §§ 4, 5; COM PL 6-89 §§ 3, 4; COM PL 6-137 § 2 (part); TT Code 1980, 73 TTC 104(3), 105(3); PL 1-136 §§ 1 (part), 2 (part).

§ 307. Surviving spouse's benefits.

The surviving spouse of an individual who died fully insured, if such spouse has filed application, shall be entitled to a survivor's insurance benefit for each month beginning with the month of July, 1970, or, if death occurred after July, 1970, the month of death of his or her fully insured spouse and ending with the month preceding the month in which he or she dies or the month preceding the month he or she remarries; provided, that such benefit shall be subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(c); COM PL 4-31 § 2; COM PL 3C-48 § 7; TT Code 1970, 73 TTC 103; COM PL 4C-19 § 3; TT Code 1980, 73 TTC 103.

§ 308. Children's benefits.

(1) Every surviving child who was dependent upon an individual entitled to old-age benefits, or who was dependent upon an individual who dies fully insured or currently insured, upon filing application, shall be entitled to a child's insurance benefit for each month beginning with the month of January 1970, or the month of death of such individual whichever is later and ending with the month preceding whichever of the following first occurs:

(a) attainment of age 18 years, except that 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 disabled before the attainment of age 22;

(b) marriage; or

(c) adoption (except for adoption subsequent to the death of the fully insured individual, upon whom the child is dependent, by a step-parent, grandparent, aunt, or uncle).

(2) A child shall be deemed dependent upon his parent or adopting parent unless such individual was not living in the same household with or contributing to the support of such child. Child's insurance benefits shall be paid to the individual upon whom the child is currently dependent except such benefit shall be subject to the earnings test as defined in this title.

Source: COM PL 3-40 § 5(e); COM PL 3C-48 § 8; TT Code 1970, 73 TTC 104(1), (2); COM PL 4C-19 § 4; COM PL 5-7 § 6 (part); TT Code 1980, 73 TTC 104(1), (2); PL 1-136 § 1 (part).

§ 309. Survivors' insurance benefits—Amount.

(1) The surviving spouse of a fully insured worker eligible in accordance with section 307 of this chapter shall be paid a monthly pension in an amount equal to 60 percent of the retirement insurance benefit calculated for the deceased spouse at the date of death.

(2) Each eligible child of an insured worker shall be entitled to a monthly pension of 15 percent of the

retirement insurance benefit calculated for the deceased parent at the date of death.

(3) If the spouse of the injured worker is eligible for retirement pension based on his or her own employment coverage, the survivor's insurance pension shall be reduced by the amount of such retirement pension.

(4) In no event shall the total survivors' pension paid to the spouse and children, as provided in this title, exceed the retirement pension calculated for the decedent as of the date of death nor shall it be less than \$33.60 a month computed prior to the application of subsection (3) of this section.

Source: COM PL 3-40 § 8; COM PL 4-31 § 3; COM PL 3C-48 § 9; TT Code 1970, 73 TTC 107; COM PL 5-7 § 8; COM PL 6-91 §§ 4, 5; TT Code 1980, 73 TTC 107; PL 1-136 § 3.

§ 310. Lump-sum benefits.

(1) When a worker dies before becoming entitled to a pension or after retirement and he and his dependents have received pension payments less than four percent of his cumulative covered earnings, the survivors, heirs, or the estate of such individual shall be paid a lump-sum benefit after all rights to survivors' benefits have terminated in an amount equal to four percent of the decedent's cumulative covered earnings, reduced by the amount of any pension paid to the insured worker and his eligible dependents, other than prior-service benefits paid for service for the Trust Territory Government.

(2) In the absence of a will, survivors shall be paid in the following order:

(a) spouse, children in equal shares, or guardian, if such children are minors;

(b) parents in equal shares;

(c) duly appointed legal representatives of the deceased or, if none, person or persons determined to be entitled thereto under the laws and customs of the last domicile of the deceased person.

Source: COM PL 3-40 § 9(a); COM PL 3C-48 § 10; TT Code 1970, 73 TTC 108; TT Code 1980, 73 TTC 108.

§ 311. Benefits for prior Government service.

(1) An individual having prior-service credits for employment by the Trust Territory Government shall receive upon retirement (including disability retirement, when the individual has qualified for disability retirement benefits under section 306 of this chapter), in addition to any other benefits for which he may be eligible under this chapter, a prior-service pension in an amount equal to three percent of such employee's salary (not exceeding \$250 per month) received as of July 1, 1968, if employee was employed by the Trust Territory Government on July 1, 1968 or, if not so employed, the salary received as of the month in which the employee terminated from Trust Territory Government prior to July 1, 1968 multiplied by the number of years creditable prior-service credited to him, with a minimum of \$10 per month.

(2) Survivors' insurance benefits for such employee shall be determined by including prior-service benefits in determination of the amount of survivors' insurance benefits as provided in this title.

(3) Prior-service benefits shall be funded from general funds appropriated for operation of the Trust Territory Government and shall be paid into the Retirement Fund in advance upon quarterly calculation of ensuing prior-service

benefit payments by the Retirement Board.

Source: COM PL 3-40 § 10; TT Code 1970, 73 TTC 109; COM PL 5-7 § 9; COM PL 6-90 § 2; TT Code 1980, 73 TTC 109.

§ 312. Payment of benefits to foreign citizens outside TT.

(1) Notwithstanding any other provision of this chapter, no monthly benefits shall be paid under this chapter to any individual who is not a citizen or national of the Trust Territory for any month which is:

(a) after the sixth consecutive calendar month during all of which the administrator finds, on the basis of information furnished to him by the Attorney General or information which otherwise comes to his attention, that such individual is outside the Trust Territory; and

(b) prior to the first month thereafter for all of which such individual has been in the Trust Territory.

(2) For purposes of subsection (1), after an individual has been outside the Trust Territory for any period of 30 consecutive days he shall be treated as remaining outside the Trust Territory until he has been in the Trust Territory for a period of 30 consecutive days.

(3) Subsection (1) of this section shall not apply to any individual who is a citizen of a foreign country which the administrator finds has in effect a social insurance or pension system which is of general application in such country and under which:

(a) periodic benefits, or the actuarial equivalent thereof, are paid on account of old age, retirement, or death; and

(b) individuals who are citizens of the Trust Territory but not citizens of such foreign country and who qualify for such benefits are permitted to receive such benefits or the actuarial equivalent thereof while outside such foreign country without regard to the duration of the absence.

Source: COM PL 6-89 § 5; TT Code 1980, 73 TTC 111.

Editor's note: Subsections (1) and (2) of this section were previously a single subsection prior to the 1982 edition of this code.

§ 313. Adjustments in payments.

(1) Whenever an error has been made with respect to insurance payments to an individual, proper adjustment shall be made, under regulations promulgated by the Board in accordance with law, by increasing or decreasing subsequent payments to which such individual is entitled. If such individual dies before such adjustment has been completed, adjustment shall be made by increasing or decreasing subsequently paid survivors' benefit payments payable with respect to the wages which were the basis of benefits of such deceased individual.

(2) No adjustment shall be made when adjustment or recovery would be against equity and good conscience.

Source: COM PL 3-40 § 11; TT Code 1970, 73 TTC 110; TT Code 1980, 73 TTC 110.