

April 28, 1998
L-98-10

TO : Philip H. Arnold
Chief of Records Analysis and Systems
Through: John L. Thoresdale
Director of Policy and Systems

FROM : Steven A. Bartholow
Deputy General Counsel

SUBJECT : Adoption: Right of Adopted Child to Inherit from
Natural Parents

This is in reply to your memorandum of April 20, 1998, regarding the eligibility of an adopted child for survivor annuities due but unpaid at death. The employee died in 1982. The widow of the employee died in 1997. Both were domiciled in Tennessee at death. The children of the employee are entitled to the survivor annuities in this case (see sections 234.33 and 234.31(c) of the Board's regulations). The child who is the subject of your inquiry was adopted shortly after birth by a sibling of the widow. The adoption took place in Michigan and that child is domiciled in Michigan.

You point out that the summaries of state law contained in Martindale-Hubbell differ in regard to the effect of an adoption with the summaries contained in the Retirement Claims Manual. You inquire as to which state's law should be considered in determining whether an adopted child has inheritance rights; whether the child in question is the child of the employee for the purpose of payment of annuities due but unpaid at death; and as to which source of the law is correct.

Tennessee law provides that an adopted child shall not inherit from its natural parents. See Tenn. Code Ann. § 36-1-121(e), which provides in pertinent part that "An adopted child shall not inherit real or personal property from a biological parent or relative thereof when the relationship between them has been terminated by final order of adoption * * *." Michigan law also provides

that an adopted child shall not inherit from its natural parents. See Mich. Laws Ann. § 710.60(2), which provides that “* * *After entry of the order of adoption, an adopted child is no longer an heir at law of a parent whose rights have been terminated * * *.”

Since, for the purposes of answering this inquiry, Michigan law and Tennessee law are the same, it is not necessary to determine which state’s law applies (the law of the domicile of the employee at death is applied initially, but that law may incorporate the law of another state). The adopted child in this case should not be considered the child of the employee for the purpose of paying the annuities accrued but unpaid at death.