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Divorced-Spouse Benefits

By Elaine Floyd, CFP®

A divorced person who was married more than ten years may be able to receive Social Security benefits based on their ex-spouse's work record.

Some women (and it's usually the woman who was the lower-earning spouse) aren't aware of this additional benefit, especially if the marriage and divorce occurred early in life. We sometimes encounter women in their 70s or 80s who are receiving a low benefit on their own work record only to discover that they never applied for their divorced-spouse benefit. Once we confirm that they meet the eligibility requirements, all that's needed is for them to go online or call SSA and file for divorced-spouse benefits under their former spouse's record. Then they can receive a spousal add-on, bringing their total combined benefit up to 50% of their former spouse's primary insurance amount (PIA).

Or, sometimes we are asked by higher-earning divorced people if they can receive a benefit based on their ex's work record while their own benefit continues to grow. Then it becomes necessary to say no, that they can only receive a divorced-spouse benefit if their own benefit is less than 50% of their ex's PIA—and in no case can they take a divorced-spouse benefit without also starting their own benefit. This would stop the accumulation of delayed credits.

So let's review the rules for divorced-spouse benefits. They are not that complicated, but sometimes it can be hard to keep them all straight, especially if there have been multiple marriages and divorces or if an ex-spouse has died.

In order to qualify for a divorced-spouse benefit a person must:

- Be finally divorced from the worker on whose record benefits are being claimed
- Have been married over 10 years
- Be currently unmarried
- Be at least age 62

To see if you might be able to take advantage of divorced-spouse benefits, ask the following questions:

- Have you ever been divorced?
- Did the marriage last at least 10 years?
- Are you currently unmarried?
- Is your ex-spouse still alive?
- Is your ex-spouse at least 62?
- When did the divorce occur?

Here are some facts about divorced benefits with examples.

The worker on whose record the benefit is being claimed must be at least age 62. If the divorce occurred more than two years prior, the worker does not need to have filed for his or her own retirement benefit.

Example: Michael and Maria were married over 10 years. They have been divorced over two years. Both are age 62. Maria has not remarried. Maria is eligible for a divorced-spouse benefit based on Michael's work record, regardless of whether or not Michael has filed for his benefit.

If the divorced-spouse benefit is claimed at full retirement age (FRA) or later, it will be 50% of the worker's primary insurance amount (PIA).

Example: Jim and Judy are divorced. Jim's PIA is \$3,600. Judy never worked and does not

qualify for a benefit on her own record. Judy files for her divorced-spouse benefit at age 67. She will receive 50% of Jim's PIA, or \$1,800, as her divorced-spouse benefit.

If the divorced person also qualifies for a benefit on her own work record, she will be paid her own benefit first. If her PIA is less than half of his PIA, she will receive that difference in addition to her own benefit.

Example: Tom and Trudy are divorced. Tom's PIA is \$3,600. Trudy's PIA is \$800. Trudy files at her FRA. She will receive her own benefit of \$800 plus the difference between her PIA and one-half of Tom's PIA ($\$3,600 \div 2 = \$1,800 - \$800 = \$1,000$) for a total benefit of \$1,800 ($\$800 + \$1,000$). If Trudy had claimed prior to FRA, both her own benefit and the spousal add-on would be reduced for early claiming.

A person who has been divorced twice can choose the higher of the two divorced-spouse benefits, as long as each marriage lasted at least ten years and the applicant is currently unmarried. But remember...if she also qualifies for a benefit on her own work record she must take that benefit first. And...if she has been divorced less than two years the ex must have filed for his benefit.

Example: Susan was married to Sam for 20 years. She was married to Steve for 12 years. Susan is now single and it has been more than two years since her divorce from Steve. Sam's PIA is \$3,600. Steve's PIA is \$3,400. Susan does not qualify for a benefit on her own record. She is FRA. When she files, she can choose to receive half of Sam's PIA since it is higher than Steve's.

If an ex-spouse is deceased, a divorced person can receive a divorced-spouse survivor benefit based on the ex-spouse's record, providing the applicant is currently unmarried or remarried after age 60. If she applies at her FRA or later, the benefit will generally equal 100% of the amount the decedent was receiving at his death.

Example: Melissa is divorced after 11 years of marriage to Matthew. As a higher earner, Matthew's

retirement benefit is more than Melissa's. But because Melissa was also a relatively high earner, she was never entitled to a divorced-spouse benefit because her own benefit was higher than 50% of Matthew's. Now Matthew has died. If Melissa applies for her divorced-spouse survivor benefit at her FRA or later, she will be able to switch from her own benefit to the higher survivor benefit and receive 100% of the amount Matthew was receiving at his death.

If the person applying for the divorced-spouse benefit worked in a non-Social Security covered job, the divorced-spouse benefit will be reduced by two-thirds of the amount of her pension under the Government Pension Offset. This will likely reduce it to zero.

Example: Greta worked as a teacher in Texas, where she did not pay into Social Security. She is currently receiving a pension of \$3,000 per month. She is divorced from George, to whom she was married more than ten years. George's PIA is \$2,800. Greta's divorced-spouse benefit of \$1,400 would be reduced by \$2,000 (2/3 of \$3,000), which reduces the benefit to zero. If George dies, Greta will become eligible for a divorced-spouse survivor benefit. After the GPO reduction she will receive \$800 ($\$2,800 - \$2,000 = \800).

If a couple has married, divorced, remarried, and divorced again, the two marriages can be added together (including the time in between) for the purpose of determining the ten years, providing the remarriage occurred before the end of the calendar year following the divorce.

Example: Peter and Paula were married from June 2001 to September 2008 (7 years). They remarried in December 2009 and divorced in November 2012 (3 years). They meet the 10-year requirement because the remarriage took place before the end of the calendar year following the first divorce.

Here are some additional facts:

The ex-spouse's marital status is not relevant for a divorced person claiming benefits off an ex-spouse's record. If the ex-spouse has remarried, both the divorced spouse and the current spouse may receive spousal benefits off the ex's record (or survivor benefits if he dies).

When filing for divorced-spouse benefits, the applicant will need to provide a copy of the divorce decree showing the dates of the marriage and divorce, which must comprise a span of at least ten years.

It is helpful, but not essential, to provide SSA with the ex-spouse's Social Security number. This can be found on an old joint tax return. If the ex-spouse's Social Security number is not available, the worker can access the ex-spouse's records if given sufficient identifying information (full name, birthdate).

It may be difficult to estimate the divorced-spouse benefit until you actually apply for the benefit. SSA usually will not give out this information due to privacy issues. If you don't have your ex-spouse's Social Security statement and you don't feel comfortable asking him, you may have to ballpark his PIA around \$3,000 to \$3,800. The divorced-spouse benefit would be 50% of that. The survivor benefit would be 100%.

Like spousal benefits, divorced-spouse benefits are based on the worker's PIA. The age at which the worker claimed his benefit is not relevant. That is, the divorced-spouse benefit will be the same regardless of whether the worker's own benefit is reduced for early claiming or includes delayed credits for claiming after FRA. However, the divorced-spouse survivor benefit will be based on the decedent's actual benefit amount and will be highest if he had claimed his benefit at 70.

If you are receiving divorced-spouse benefits and you remarry, you must notify SSA of your marriage. The divorced-spouse benefit will stop (but you can now claim on your new husband's work record without waiting out the usual one-year marriage requirement).

Remember the rule on remarriage: If the ex-spouse is still alive, remarriage at any age will stop entitlement to divorced-spouse benefits. If the ex-spouse is deceased, divorced-spouse survivor benefits may be paid if remarriage took place after age 60. If the remarriage took place before age 60, no divorced-spouse survivor benefits may be paid unless that marriage ends.

REFERENCES

Retirement Planner: If You Are Divorced

<https://www.ssa.gov/planners/retire/divspouse.html>

RS 00202.005 Divorced Spouse:

<https://secure.ssa.gov/apps10/poms.nsf/lnx/0300202005>

RS 00202.100 Independently Entitled Divorced Spouse: <https://secure.ssa.gov/apps10/poms.nsf/lnx/0300202100>

Benefits Planner: Survivors

<https://www.ssa.gov/planners/survivors/ifyou.html>

Elaine Floyd, CFP® is Director of Retirement and Life Planning for Horseshoehn, LLC, where she helps people understand the practical and technical aspects of retirement income planning.

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