

Social Security for Divorced Individuals

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–Elaine Floyd, CFP®

If there is one key differentiator between baby boomers and their parents, it is the higher incidence of divorce. Americans over 50 are twice as likely to be divorced compared to the same age group 20 years ago.

If you have been divorced in the past and are currently unmarried, you may be able to qualify for Social Security benefits based on your ex-spouse's work record. In order to qualify for a divorced-spouse benefit you must:

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

Your ex-spouse must be at least age 62. If the divorce occurred more than two years prior, your ex-spouse 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 you claim your divorced-spouse benefit at full retirement age or later (66 for those born before 1954, increasing gradually to 67), your benefit will be 50% of your ex-spouse's primary insurance amount (PIA). The primary insurance amount is the amount your ex-spouse will receive if he claims his benefit at full retirement age.

Example: Jim and Judy are divorced. Jim's PIA is \$2,400. Judy files for her divorced-spouse benefit at age 66. She will receive 50% of Jim's PIA, or \$1,200, as her divorced-spouse benefit.

What if you also qualify for Social Security on your own work record?

If you also worked and qualify for a Social Security benefit based on your own work record, you may be able to coordinate your divorced-spouse benefit with your own retirement benefit in order to maximize each type of benefit. But you must get the timing right.

Don't file at 62. If you file for Social Security at age 62, you may not be able to receive a divorced-spouse

benefit. That's because you will be required to take your own reduced benefit first. If your PIA is more than one-half of your ex-spouse's PIA, you will not ever be able to receive a divorced-spouse benefit.

Example: Sam and Sue are divorced after being married more than 10 years. Sam's PIA is \$2,400. Sue's PIA is \$2,200. If Sue files for Social Security at 62, she will be forced to receive her own reduced benefit of \$1,650 (75% of \$2,200). Since her PIA is more than one-half of Sam's PIA, she will not ever be able to receive a divorced spouse benefit. The \$1,650 will be her permanent benefit except for annual cost-of-living adjustments.

File a restricted application at FRA. To receive a divorced-spouse benefit while your own benefit builds delayed credits – an ideal strategy for divorced people – you can file a restricted application for your divorced-spouse benefit at full retirement age and switch to your own maximum retirement benefit at age 70.

Example: If Sue, from the above example, waits until age 66 to file a restricted application for her divorced-spouse benefit, she can receive 50% of Sam's PIA, or \$1,200 from age 66 to 70. At age 70, she can switch to her own maximum retirement benefit of \$2,904 (\$2,200 x 1.32). This is Sue's optimal Social Security claiming strategy, allowing her to maximize both benefits and giving her the highest lifetime benefits.

Note: The Budget Act of 2015 is phasing out the ability to file a restricted application. You must have attained age 62 by January 1, 2016 to file a restricted application for spousal benefits. If you are not able to file a restricted application, you may still be eligible to receive a divorced-spouse benefit, but only if it is higher than your own benefit.

Mechanics of filing

To file for a divorced-spouse benefit, you need not be in contact with your ex-spouse. Your ex-spouse's current marital status is not relevant. In fact, if your ex-spouse has remarried, the current spouse and any other ex-spouses can also receive benefits without affecting your divorced-spouse benefit. Or, if your ex-spouse has

not remarried, he (or she) can claim a divorced-spouse benefit off your record. Unlike with spousal benefits, two divorced spouses can each claim a spousal benefit off the other's record at the same time.

If you are not in contact with your ex-spouse, it may be difficult to estimate the amount of your divorced-spouse benefit. Due to privacy issues, the Social Security Administration will not give out this information until you are ready to apply for the benefit.

You can generally ballpark your ex-spouse's PIA at somewhere between \$2,000 and \$2,600. Your divorced-spouse benefit will be 50% of that amount if you file for it at your full retirement age.

To file for your divorced-spouse benefit, you will need to make an appointment with your local Social Security office and show a certified copy of the divorce decree. It is helpful to have your ex-spouse's Social Security number (you can get it off an old tax return), but not essential.

If you do not have your divorce papers you can order a certified copy through VitalChek, www.vitalchek.com. If your marriage lasted right around ten years and you're not sure if you meet the ten-year requirement, check the date on the divorce decree; some people are surprised to learn that the actual date of dissolution is later than they had thought.

Ex-spouse deceased?

If your ex-spouse has died, and if you were married at least ten years, you may qualify for a divorced-spouse survivor benefit. If you apply for it at your full retirement age or later, the benefit amount will be 100% of his PIA, or, if he had already started benefits, the amount your ex-spouse was receiving at the time of death.

As with divorced-spouse benefits, you can sequence the timing of the survivor benefit and your own retirement benefit to maximize each benefit. For example, you could apply for a reduced divorced-spouse survivor benefit as early as age 60 (50 if disabled) and then switch to your own maximum retirement benefit at age 70. Or you might do it the other way: start your own reduced retirement benefit at age 62 and switch to your maximum survivor benefit at full retirement age. Your financial advisor can help you determine the optimal strategy.

More than one ex-spouse?

If you were married two (or three) times and each marriage lasted more than ten years, you can choose which ex-spouse's record to draw from. In fact, you can sequence these benefits for maximum advantage, essentially taking advantage of several benefits, just not at the same time. It can get complicated. Your advisor and SSA can help you sort it all out.

Think twice before remarrying

Keep in mind that divorced-spouse benefits must stop upon remarriage. You cannot receive a divorced-spouse benefit if you are married (one exception: the divorced-spouse benefit may continue if the person you marry is receiving survivor benefits at the time of the remarriage). But also consider the potential spousal benefit from your new spouse. If you are receiving a divorced-spouse benefit at the time of your remarriage, that benefit would stop but you may immediately start receiving a spousal benefit based on your new spouse's earnings record without waiting the usual one year for spousal benefits.

So here you might want to compare the two benefits and either remarry or remain single depending on which benefit is higher.

If your ex-spouse is deceased, divorced-spouse survivor benefits would not be available to you if you remarry before age 60. Or, to put it another way, if you remarry after age 60, you may still receive a divorced-spouse survivor benefit based on the earnings record of your ex-spouse who has died.

The bottom line: if you are eligible for divorced-spouse benefits or divorced-spouse survivor benefits and are thinking of remarrying, consider delaying the marriage. If your ex is still alive (and has a higher PIA than your new potential spouse), remarriage at age 70 will allow you to receive full divorced-spouse benefits from age 66 to 70, when you would switch to your own maximum retirement benefit. If your ex is deceased, you can remarry anytime after age 60 without jeopardizing your divorced-spouse survivor benefit.

Talk to the Social Security Administration and to your financial advisor about the best claiming strategy for you based on your personal circumstances.

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