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## Marital Events

By Elaine Floyd, CFP®

**Changes in marital status always call for a review of the financial plan. As you're considering how taxes, estate planning, and retirement goals may be impacted by marriage, divorce, or death of a spouse, don't forget about Social Security and Medicare.**

Here's a rundown of common marital events among baby boomers and the relevant Social Security and Medicare rules that may come into play.

*[Warning: I am using traditional, stereotypical pronouns and examples in this article for clarification purposes. Out of the hundreds, maybe thousands, of married couples' PIAs that I've seen for people aged 55 to 70, nearly all are for opposite-sex couples, and in probably 95% of the cases the husband is the higher earner. Of those, probably 40% show the wife's PIA to be less than half of the husband's PIA.]*

### MARRIAGE OR REMARRIAGE

Marriage is essentially a legal contract that confers certain benefits through the Social Security and Medicare programs. Without a valid, legal marriage two people, no matter how committed they are to each other or how long they've been together, cannot access benefits off each other's earnings record. The one exception might be under the common-law marriage rules of individual states. If an unmarried couple lives in a state that recognizes common-law marriage, and if they can meet all the requirements of that state to

be recognized as married under the common law, usually by holding themselves out as married and filing a joint tax return, SSA will deem them married for the purpose of granting spousal or survivor benefits. But this can be a huge hassle and may not work out in the end.

Committed couples who once saw no reason to get married may, upon approaching Social Security and Medicare age, want to make their union legal in order to provide spousal benefits to a low-earning spouse during the marriage and survivor benefits after the higher-earning spouse has died. There's more involved here than benefits, of course, including the worry that a late-in-life marriage will confer responsibility for caring for a spouse in their old age. As far as Social Security and Medicare are concerned, marriage would primarily (positively) affect a low-earning partner. Partners with relatively equal earnings would be less affected by marriage because they would each keep their own benefit.

Spousal benefits become available to the low-earning spouse after one year of marriage, providing her PIA is less than 50% of his PIA. The one exception to the one-year marriage requirement is when a spouse is receiving auxiliary (spousal or survivor) benefits at the time of the marriage. Say Susie is divorced and is receiving a divorced-spouse benefit based on her ex-husband Steve's earnings record. She remarries Sam. Immediately upon remarriage Susie's divorced-spouse benefit will stop. If Sam is receiving his benefit and if Susie's PIA is less than one-half of Sam's, she can immediately switch to her spousal benefit based on Sam's record. This rule might influence the timing of a remarriage. If Susie would not be entitled to a spousal benefit upon remarriage – say Sam was delaying his benefit for a few more years – Susie might want to delay the marriage until after Sam claims in order to keep receiving the divorced-spouse benefit until such time as she can immediately switch to the spousal benefit based on Sam's record. Again, there are lots of considerations that go into the decision to marry and the timing of the marriage.

And always remember the rule about remarriage and survivor benefits: the remarriage must take place after age 60 in order to preserve the survivor benefits from a previous spouse. Let's say Steve dies. If Susie had not remarried Sam, or if she had married him after age 60, she would have been able to collect a divorced-spouse survivor benefit based on her ex, Steve's record. This would likely be higher than the spousal benefit she could receive from Sam, because the survivor benefit is 100% of Steve's PIA and the spousal benefit is just 50% of Sam's PIA. Even though Steve is very much alive when Susie is considering marrying Sam, there's always the possibility he could die and make her eligible for his full benefit as her survivor benefit – but

only if she remarries Sam after age 60. Divorced people who were married over ten years, who are in their late 50s and contemplating remarriage, would be wise to have a long engagement and plan to remarry after turning 60.

A spouse aged 65 who does not qualify for Medicare on her own earnings record may qualify as a spouse, providing the worker-spouse has paid into Medicare at least ten years and is at least age 62. A divorced spouse may qualify based on the ex's record if the marriage lasted at least ten years and the ex is at least 62. Consider this rule if it might apply to you. For example, if Sam is considerably younger than Susie and would not be 62 yet when she turns 65, she could qualify for Medicare as an ex-spouse of Steve (assuming he's 62)—but only if she remains single. When we say “qualify for Medicare” we mean free Part A. Everyone age 65 or older who is a U.S. citizen or legal resident can get Part B as long as they pay the premium.

## DIVORCE

Late-in-life divorces are happening so often these days they've been given a name: gray divorce. Fortunately, low-earning spouses who were married more than ten years can qualify for Social Security and Medicare benefits based on an ex-spouse's work record. These benefits paid to ex-spouses do not affect benefits paid to the worker, the worker's current spouse, or any of the worker's other ex-spouses. If the ex has not started receiving benefits yet, there must be a two-year gap between the divorce and the start of the divorced-spouse benefit. In other words, for the first two years after the divorce they are like a married couple with respect to the rule that requires the worker-spouse to have filed for his benefit before a spousal benefit can be paid. This is (probably) so people don't get divorced just to get around this rule.

Remember that in order for a divorced person to get a divorced-spouse benefit, her own PIA must be less than 50% of the worker-spouse's PIA. This is the rule for all spousal and divorced-spouse benefits. A wife who divorces after a long marriage in which she did not work would probably qualify for a divorced-spouse benefit. But someone who divorced years ago, went to work and established an earnings record may not.

If a person is receiving a spousal benefit when they get divorced, they must call SSA to report the divorce. The divorced-spouse benefit will stop, but if the marriage lasted at least ten years, the divorced-spouse benefit can start right up with no interruption (other than some processing time as divorce records are submitted, etc.). This divorced-spouse benefit may continue as long as the divorced spouse remains unmarried. If she goes back to work and builds up

her own Social Security work history, she should get a letter from SSA once her benefit exceeds the divorced-spouse benefit. As always, a divorced person will want to keep tabs on the ex, so she can claim her divorced-spouse survivor benefit if he dies. Even if she is receiving her own benefit at that time, the divorced-spouse survivor benefit may be higher than her own; if it is, she can switch.

## DEATH OF A SPOUSE

Some marital events are involuntary. While you can never be sure of the timing of the death of a spouse, you can certainly plan for the eventuality of it, especially with regard to the lower-earning spouse. Ensuring continued income for a surviving spouse is a staple of the financial planning profession which, after all, evolved out of the life insurance industry. Fortunately, Social Security provides its own form of (free) life insurance, providing inflation-adjusted income to a surviving spouse for the rest of that spouse's life.

How to plan for a surviving spouse using Social Security? First, have the higher-earning spouse claim his benefit at 70. Honestly, it does my heart proud to know that hundreds, if not thousands, of future widows are being assured a respectable income due to this one, nearly inviolable, piece of advice that our Savvy Social Security members are delivering to their clients. High-earning husbands who claim at 62 are not necessarily being selfish (or maybe they are), but more likely they are uninformed. The calculator reports make it clear that claiming at 70 is the most prudent thing

they can do for the long-term financial health of themselves and their spouses.

Once a spouse (or ex-spouse, if married over 10 years) dies, the widow will need to arrange for survivor benefits. If she has been receiving a spousal benefit, it will automatically convert to a survivor benefit once the death is reported, usually by the funeral director, to SSA. If she has not been getting a spousal benefit, the first step in applying for survivor benefits is to call SSA at 800-772-1213. Yes, telephone hold times are ridiculous, but it's the only way. Survivor benefits cannot be applied for online. The widow will need to provide a certified copy of the marriage certificate. She may or may not need to provide the death certificate. SSA will tell her what documents they need. For widows between the ages of 60 and 70, be sure to coordinate the survivor benefit with the widow's own retirement benefit.

It is crucial for you to tell your financial advisor about any impending marriage or divorce plans you may have, as these marital events—and the timing of them—can have a significant effect upon your finances.

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