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How divorce and remarriage affect your Social Security benefits

Many people are aware that seniors are entitled to collect Social Security benefits that are calculated based on their spouse's work record. What's less well-known is that this benefit applies in many cases to divorced spouses. In fact, ex-spouses may even be entitled to survivors benefits in certain circumstances.

As a spouse, you have the option of (1) claiming a Social Security retirement benefit based on your own earnings record, or (2) collecting a spousal benefit equal to one-half of your spouse's Social Security benefit. You are automatically entitled to whichever benefit is higher, and you can collect on your spouse's record even if you never worked yourself.

A divorced spouse can collect benefits based on an ex-spouse's work record, whether or not the ex-spouse has remarried and whether or not the ex-spouse's new spouse is also collecting on the same work record.

But to receive this benefit, you must meet the following requirements:

- Your ex-spouse is currently eligible for retirement benefits.
- Your marriage lasted at least 10 years.
- You are at least 62 years old.
- You are currently unmarried.

If your ex-spouse has not yet applied for retirement benefits, but is eligible for them, you can receive benefits based on his or her work record as long as you have been divorced for at least two years.

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If you have reached full retirement age and are eligible for both a spouse's benefit and your own retirement benefit, you have a choice. One option is to receive only the spouse's benefit for now, and delay receiving your own retirement benefit until a later date. The longer you

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Here's a new idea for buying long-term care insurance

Many middle-income people have too much money to qualify for Medicaid, but can't afford a pricey long-term care insurance policy. In an effort to encourage more people to buy long-term care insurance, Congress created something called the "Qualified State Long-Term Care Partnership" program. In states that offer the program, you can buy special long-term care policies that allow you to protect your assets and still qualify for Medicaid when the policy runs out.

Here's how it works: You buy a long-term care policy that is sold by a private company but that has been approved by the state under the program. The policy will cover at least some of your long-term care needs. If the policy runs out and you need to go on Medicaid, you can keep more of your assets than the $2,000 that Medicaid normally allows.

In most states, it's a dollar-for-dollar benefit – for every dollar of coverage that the long-term care policy provides, you can keep a dollar in assets that normally would have to be spent down to qualify for Medicaid.

So if you buy a long-term care policy that provides $150,000 in benefits, you might be allowed to keep $152,000 in assets and still qualify for Medicaid. (The exact details vary from state to state.)

Some states go even further. In New York, for instance, if you buy a policy that covers three years of nursing home care or six years of home care, then once you've exhausted the policy benefits, you can qualify for Medicaid with no limit whatsoever on the amount of your assets.

However, in order to obtain the Medicaid protection, you have to receive your long-term care in the same state where you bought the policy, or in another state that has a reciprocal agreement with the state where you bought the policy.

More information on this program can be found at the National Clearinghouse for Long-Term Care Information at www.longtermcare.gov.

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IRS boosts long-term care tax deductions for 2014

The amount you can deduct on your taxes as a result of buying long-term care insurance has been increased by the IRS for 2014.

If you itemize your deductions, you can generally claim a deduction if your premiums, together with your other unreimbursed medical expenses, amount to more than 10% of your adjusted gross income (or 7.5% if you're 65 or older).

The maximum amount of the premiums you can deduct each year depends on your age at the end of the year:

Age	*Maximum deduction*
40 or younger	$370
41-50	$700
51-60	$1,400
61-70	$3,720
70 or older	$4,660

What happens if you write your will on your computer?

Javier Castro was in the hospital and wanted to write a will. Because there was no paper handy, he used a Samsung Galaxy tablet computer and signed the will using the tablet's stylus. His brothers also signed as witnesses. After Javier's death, his family printed out the will and submitted it to probate in Ohio.

A judge accepted the will, finding that it met the requirements of Ohio law, which are that a will be in writing, signed by the testator, and witnessed. However, the judge urged the legislature to update the law on this issue.

Electronic wills may be convenient, but they raise serious concerns about authentication and forgery. Currently, Nevada is the only state that specifically provides guidelines for creating a valid electronic will. Some states, such as Arizona and North Carolina, refuse to accept wills that aren't on paper. Most states simply have no rules yet, so whether a computer will is okay is up in the air.

The best way to make sure your will is considered valid is to consult with your attorney, who can explain all the legal requirements, and also provide advice on avoiding taxes and unnecessary hassles and expenses.

How divorce, remarriage affect Social Security benefits

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delay taking your own benefit (up to age 70), the higher the monthly payment you will ultimately receive.

If you remarry, though, you cannot receive benefits based on your former spouse's work record unless the new marriage ends (by death, divorce, or annulment).

Survivors benefits

If you're divorced and your former spouse has passed away, you could be eligible for survivors benefits if the marriage lasted 10 years or more. Survivors benefits are equivalent to the deceased spouse's full Social Security benefit amount.

However, if you remarry before the age of 60, you can't collect survivors benefits (unless the later marriage ends for any reason). If you remarry after age 60, you can still receive survivors benefits based on your former spouse's record.

It may be that your new spouse is also collecting Social Security benefits, and you would receive a higher amount based on the new spouse's work record. If this is the case, you will receive the higher amount.

There is one circumstance in which you don't have to meet the 10-year marriage rule – if you're caring for a child who is under age 16 or disabled, and who is currently receiving benefits based on the work record of your former spouse.

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Surviving spouses may get help with reverse mortgages

A federal court has thrown a life preserver to some surviving spouses who are facing foreclosure due to an "underwater" reverse mortgage.

In a traditional mortgage, you borrow money against your house and pay it back in monthly installments over time. With a reverse mortgage, you borrow money against your house, but you don't have to pay it back until you die, sell the house, or move – which means you don't owe anything as long as you stay in your home. In most cases, to qualify you must be at least 62 years old.

Sometimes, only one spouse has his or her name on a reverse mortgage. This might be because the other spouse was under age 62 when the mortgage was taken out, for example. In the past, some lenders have encouraged couples to put only the older spouse's name on the mortgage because the couple could borrow more money that way.

The problem is that if only one spouse's name is on the mortgage, and that spouse passes away, the entire mortgage comes due, and suddenly the other spouse has to pay it all off or lose the home. If the house is "underwater" (worth less than the balance due on the mortgage), the surviving spouse may be unable to refinance and repay the loan, and may face foreclosure and eviction.

Recently, the AARP filed a lawsuit on behalf of several spouses in this situation against the U.S. Department of Housing and Urban Development, which administers a reverse mortgage program. AARP claimed that HUD had a legal duty to protect surviving spouses from foreclosure.

In September, a federal court in Washington, D.C. agreed with AARP, and ordered HUD to find a way to shield surviving spouses from eviction.

It's not clear yet how HUD will solve this problem. One possibility is that the agency may take over affected loans from the banks that hold them.

However, while the court ruling is very good news for spouses in this situation, seniors should still be very careful about taking out a new reverse mortgage with only one spouse's name on it, at least until it becomes clear what rules HUD will create in response.

If only one spouse's name is on the mortgage, and that spouse passes away, the entire mortgage comes due, and suddenly the other spouse has to pay it all off or lose the home.

This newsletter is designed to keep you up-to-date with changes in the law. For help with these or any other legal issues, please call our firm today. The information in this newsletter is intended solely for your information. It does not constitute legal advice, and it should not be relied on without a discussion of your specific situation with an attorney.

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Life insurance policies can reduce Medicaid eligibility

In order to qualify for Medicaid in most states, you can't have more than $2,000 in "countable" assets. When calculating their total assets, many people overlook life insurance, which can count as an asset depending on the type of insurance and the value of the policy.

Life insurance policies are usually either "term" or "whole life." Term policies don't count as an asset – and won't affect Medicaid eligibility – because they don't have an accumulated cash value. On the other hand, whole-life policies usually have a cash value that the owner can access, so they may be counted as an asset.

Medicaid generally exempts "small" whole-life policies – those with a death benefit of $1,500 or less. But if a policy's face value is more than $1,500, then the policy's cash surrender value becomes a countable asset.

Example: A whole-life policy has a death benefit of $1,750 and a cash surrender value of $700. Because the death benefit is more than $1,500, the $700 surrender value counts toward the $2,000 asset limit.

If you have a life insurance policy that may disqualify you from Medicaid, you have several options, including:

- Surrender the policy and spend the cash value.
- Transfer ownership of the policy to your spouse or to a special needs trust. If you transfer the policy to your spouse, the cash value will be counted among the assets that the spouse of a Medicaid recipient is allowed to keep.
- Transfer of the policy to a funeral home. The policy can then be treated as a pre-payment of funeral expenses, which doesn't count as an asset.
- Take out a loan on the cash value. This reduces the cash value and the death benefit, but keeps the policy in place.

Before taking any action, talk with your attorney to find out what is the best strategy for you.