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Divorce and Social Security



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Divorce and Social Security

Can a divorced person benefit from an ex-spouse's Social Security entitlement?

If you're married, it's possible for you to claim Social Security benefits at the appropriate time in one of two ways. You can claim benefits in your own name (if you have been employed and have accumulated enough credits over the years), or you can claim benefits as a dependent (whether or not you ever worked), provided that your spouse satisfied the applicable requirements. In the latter case, you'll probably be entitled to only 50 percent of your spouse's primary insurance amount (PIA)--the benefit that your spouse is entitled at normal retirement age. In certain cases, a divorced party can qualify as a dependent for Social Security purposes. Thus, you may be entitled to 50 percent of your former spouse's benefits. Note: That this entitlement doesn't reduce your ex-spouse's benefits by one-half; rather, this merely establishes the amount of money you may collect.

What requirements must be met?

The requirements vary, depending on whether your former spouse is presently of retirement age or has died.

If ex-spouse is of retirement age

In order to qualify for one-half of your ex-spouse's Social Security benefits, all of the following conditions must be met:

- Your ex-spouse is currently entitled to receive Social Security retirement or disability benefits
- You and your ex-spouse had been married for at least 10 years before the divorce became final
- You are not currently married
- You are age 62 or older, and
- You aren't entitled to collect a retirement or disability benefit based on a PIA that equals (or exceeds) one-half of your ex-spouse's PIA

Note: If you're age 62 or older and you've been divorced for at least two years, you can receive Social Security benefits immediately (based on your former spouse's earnings) regardless of whether that spouse has chosen to retire or has submitted an application for Social Security benefits. This, of course, is assuming that the other four requirements listed above have been satisfied. However, if you choose to receive benefits at age 62 instead of your normal retirement age, the benefit that you would have received at your normal retirement age will be reduced by at least 25 percent (assuming you don't have a dependent child who's entitled to benefits on the deceased spouse's Social Security record). In other words, if you choose to receive reduced benefits at age 62, you will not be entitled to collect full benefits when you reach your full retirement age.

Example(s): Assume Jack will collect \$750 per month in Social Security benefits when he retires. If he has been married to Joan for at least 10 years before he divorces her, Joan can collect \$375 per month (one-half of Jack's benefit) when she reaches age 65. Naturally, Joan will have the option to take the Social Security benefits she earned in her own name. Obviously, she'll choose the higher figure.

If you're age 62 or older and are caring for a dependent child who is entitled to child's benefits based on a deceased parent's Social Security record, then your benefits won't be reduced currently and will remain unreduced later, after you reach your full retirement age. Bear in mind that you can't receive a spouse's benefits prior to age 62, even if you have a dependent child.

If ex-spouse has died

You may also qualify for Social Security benefits if your former spouse has died. You may qualify if:

- Your ex-spouse was entitled to Social Security benefits
- You and your ex-spouse had been married to each other for at least 10 years before the divorce was finalized
- You are age 60 or over (or are between ages 50 and 60 and are disabled)
- You aren't currently married, and
- You aren't entitled to a retirement benefit that is equal to or greater than 100 percent of your deceased spouse's benefit



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Note that if you meet the above conditions, you will be entitled to full widow's or widower's benefits; that is, you will collect an amount equal to 100 percent of your former spouse's PIA, not merely one-half. However, if you're under full retirement age, your benefits will be reduced for each month you receive benefits under your full retirement age. Benefits at age 60 will be 71.5 percent of your former spouse's PIA. It's also important to note that a divorced spouse may be entitled to a mother's or father's benefit if caring for the dependent child (under age 16 or disabled) of his or her deceased former spouse. Typically, the amount of a mother or father's benefit is equal to 75 percent of the deceased spouse's PIA. Unlike a spousal benefit, it isn't necessary for the marriage to have lasted 10 years.

How does remarriage of the husband and/or the wife impact Social Security benefits?

If your ex-spouse gets remarried and you don't, your Social Security entitlement will be unaffected. If your ex-spouse is married to a second spouse for at least 10 years and then they get a divorce, you and that second spouse will each be entitled to collect an amount equal to one-half of the former spouse's benefits (assuming that you each meet the requirements set forth above).

If you're the one who remarries, you would then look to your current spouse's PIA in computing your dependent Social Security benefit. However, if you worked for a sufficient period of time, you may be entitled to a larger benefit amount computed based on your own earnings record.



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