



Divorce and Your Pension FAQ's

Is a former spouse entitled to the Participant's Benefits?

Your divorce may impact your retirement benefits. Part of your retirement benefits may be awarded to your former spouse as part of your divorce proceedings.

Can MPIPHP give me legal advice concerning my retirement benefit and my divorce?

The Plan staff cannot provide legal advice concerning the division of retirement benefits.

Do I have to hire a lawyer?

While it is not mandatory that divorcing parties are represented by an attorney, the Plans recommend that both the member and the former spouse make themselves aware of laws concerning the division of retirement accounts.

Is the property settlement agreement sufficient in order for the Plans to make a payment to a former spouse?

No. The documents that are needed in order for the Plans to make a payment to a former spouse are:

- Final Judgment for Dissolution of Marriage or Legal Separation
- Joinder (If the QDRO is not filed in a California court, no Joinder is necessary.)
- Qualified Domestic Relations Order (QDRO).

Why do I need a Joinder?

California law provides that an order or judgment in a dissolution or other family law proceeding is not enforceable against the Plans unless the Plans have been joined as a party to the proceeding. For the protection of the member, former spouse, and the Plans, the Plans require that the Plans be joined as a party to divorce proceedings in order for the Plans to comply with a QDRO. The Joinder documents are available from your local family court and should be filed in the county where your divorce is filed.

Upon receipt of a Joinder or Notice of Adverse Interest, the Plans will place a legal hold on all or a portion of the member's benefits. This hold is intended to preserve the spouse's rights until the Plans have received a court-approved QDRO specifying the division of retirement benefits.

What is a Qualified Domestic Relations Order?

A Qualified Domestic Relations Order, or QDRO, is a court order that will provide the Plans with instructions on how and when to pay your former spouse. For a copy of a model QDRO, please contact the Pension Department.

Please note that neither party is required to use the Plans' model QDRO language. However, this model has been prepared by the Plans' Counsel and will meet with the Plans' Counsel's approval. Because of the complexity of some of the provisions of the Plans and the laws applicable to division of retirement benefits, the Plans strongly recommend that you use the model QDRO.

The Plans' model QDRO addresses most issues concerning the community property division of retirement benefits; including when payments may commence, preservation of the former spouse's interest in the event of death of either party before or after benefits commence, and division of any retiree increases. Again, the Plans staff cannot advise either party concerning legal issues. Therefore, both parties should hire attorneys or familiarize themselves with the laws concerning the division of plan benefits. The Plans strongly recommend that Plans' Counsel review a draft of the QDRO before it is submitted to the court.

What if I don't send my QDRO to Plans' Counsel for pre-approval? Will the Plans make payments as long as it has a judge's signature?

A plan may only make payments under a court order if the Plans have been joined in the proceeding and if the order has been determined to be a Qualified Domestic Relations Order ("QDRO") under the rules of the Plans and the laws affecting QDROs.

Any order received that was not approved by the Plans' Counsel in advance will be referred to the Plans' Counsel for a determination whether the order satisfies both the Plans' requirements and the laws affecting QDROs. However, if the order has to be revised and resubmitted to the court, it will delay payments.

Do I need to serve a Joinder and QDRO for each Plan - Pension Plan, Individual Account Plan (IAP)?

No. One joinder and one QDRO can be used for both Plans, eliminating the need for two separate orders.

Legal processes may be served on the Executive Administrative Director at the Plan Office:

Executive Administrative Director
Motion Picture Industry Pension Plan
Motion Picture Industry Individual Account Plan
11365 Ventura Boulevard, Studio City, California 91604-3148

Mailing Address:

P.O. Box 1999, Studio City, California 91614-3148

PLEASE NOTE: The Plans staff cannot assist the member or the former spouse with preparation of any court documents. The Plans do not receive copies of orders directly from the court. It is the responsibility of the member, non-member spouse, or the attorneys for the parties to serve the Plans with any court-approved order.

What do the Plans do?

The Plans and the Plans' Counsel review all draft QDROs submitted to ensure they meet the requirements of the applicable law, the Plans' provisions, and the Plans' QDRO requirements. The Plans do not take any position as to the division of benefits or whether or not an ex-spouse is entitled to receive a portion of a Participant's benefits. This is something that the parties and their attorneys must decide. Nor do the Plans enter the order in court -- this is done by either or both parties.

How do I obtain all the necessary information on the Plans?

Individual retirement records, such as accrued benefit and hours, are confidential. These records may be disclosed only to the member or to someone authorized by the member in writing or by court order. We strongly recommend you use our form so that all the necessary information is submitted with your request.

Alternatively, the Plans will provide information requested through a validly issued subpoena or Joinder.

How do I know my portion of the benefits?

The Plans can provide upon request by the member an estimate of the community property interest of the member's account using a commonly applied formula. The member may request this estimate, called a QDRO estimate, by providing the following information to the Plans:

- The member's name and Social Security number.
- The former spouse's name, Social Security number, and date of birth.
- The date of marriage.
- The date of separation.
- The date of determination, which is the estimated date of retirement. If no date of determination is provided, the estimate will default to the Normal Retirement Date.

Please remember that the information provided is an estimate and may not reflect the member's actual benefit at retirement. However, the information can be useful in determining the non-member spouse's community property share of the member's retirement benefits under this formula. Please allow four weeks for preparation of the estimate.

The Plans will provide a copy of the Summary Plan Description to any requesting party. However, any information of a confidential nature will only be released to the member or an authorized party.

How are my benefits divided?

Under a commonly applied formula, the number of hours earned while you were married is divided by your total hours at retirement, then multiplied by one-half to determine your former spouse's portion of Benefits.

Under the time rule, if you earned 10 years of service credit while you were married but you retire with 20 years of service credit, your former spouse will receive 25% of your total retirement allowance. (10 years / 20 years x ½ = 25 %.) There are other methods for dividing retirement benefits, so you should consult with an attorney to explore your options.

Will the Plans recover payments for back child support or spousal support?

Under Federal law, the Plans are unable to distribute amounts to anyone other than the Participant, with the exception of those amounts payable under a Qualified Domestic Relations Order (QDRO). The Judicial Council of California has a form Qualified Domestic Relations Order for Support (Earnings Assignment Order for Support) FL-460, which the Plans have accepted in the past.

Who gets taxed if a QDRO is for support?

Under the federal QDRO laws, whenever the alternate payee is the spouse or former spouse of the participant, such spouse or former spouse will be taxed on the QDRO distribution. This is true even if the QDRO was drafted for child support arrearage purposes.

If the QDRO is for child support purposes, you may designate the child as the Alternate Payee in the QDRO. While the Plans will accept a QDRO either way, if the child is named as the Alternate Payee, then the Participant will be taxed on the distribution.

What is the earliest date on which payments may be withdrawn from Participant's benefit plan? Can the former spouse receive payments prior to the Participant?

Yes, if the QDRO allows for this provision and the Participant has met the Earliest Retirement Age.

The Individual Account Plan benefit is payable in the form of a single cash lump sum to Alternate Payee as soon as administratively feasible after an Order is served on the Account Plan and determined by the administrator of the Account Plan to be a QDRO. If the allocations under the Individual Account Plan for the preceding plan year have not yet been completed, the benefit under the Individual Account Plan may be paid in two installments.

If my former spouse does receive part of my retirement benefits, can the Plans make a direct payment to my former spouse?

Yes. If the Plans have a Joinder and a Qualified Domestic Relations Order, we can make a direct payment to your former spouse. Also, we will issue separate Form 1099s for both you and your former spouse.

What if the former spouse wants to waive the Participant's benefits?

In order for a beneficiary to waive his or her rights to benefits in a divorce decree, the divorce decree must specifically identify the benefits being waived.

What if a Joinder and/or QDRO are pending and the parties decide to stay married?

If the parties are staying married, then they should get the pending court case dismissed. If they can provide the Plans with a copy of the case dismissal by the court, then the Plans will release any applicable hold.

How do I change the provisions in a QDRO after it is signed by a judge?

If either party disputes the allocation of benefits set forth in a QDRO, that party should consult with his or her attorney on the matter.

What if the former spouse decides to waive the Participant's benefits after a Joinder and/or QDRO is signed by a judge?

If the Plans receive an order that meets the QDRO requirements and is signed by a judge, the Plans must administer such a court order, unless the Plans receive a subsequent court order to the contrary.

What happens if I get divorced after Retirement?

In the event that the Plans are served with a Summons on Joinder after the member is retired, the member's monthly retirement benefit will be reduced according to a court-approved QDRO. However, the Plans are restrained by the Joinder from making benefit payments to the member until the non-member's interest can be determined. There is often a lapse between the time a Joinder is received and the time a QDRO is received. Normally, this would mean that the member's benefit would be suspended until the Plans receive a conformed QDRO. To avoid unnecessary hardship on our members, the Plans will only suspend 50% of the member's pension benefit until a QDRO has been received. At that time, the Plans will determine whether the member has been underpaid and will restore the corrected benefits to the member.

What about health benefits?

Please note that the former spouse is not an eligible dependent under the Health Plan effective with the date of the divorce. You must notify the Health Plan immediately when you are divorced, to ensure that no benefits are paid to ineligible dependents. The Health Plan may recover any benefits wrongfully paid on behalf of an ineligible dependent from either the participant or the dependent. Please also consult the Summary Plan Description for the Health Plan for rules concerning the former spouse's COBRA rights.