



Law & Mediation Offices of
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A CENTER FOR ADVANCED FAMILY
SOLUTIONS

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MOST FREQUENTLY ASKED CLIENT QUESTIONS REGARDING RETIREMENT BENEFIT DIVISION AND THE QDRO PROCESS

1. How do we get started identifying the retirement benefits in the case?

We will provide you with a general questionnaire and plan questionnaires. These questionnaires collect essential information we need to identify and assess the retirement benefits in your case and provide recommendations on how best to handle them. The information is also necessary to prepare any (qualified) domestic relations order [referred to as (Q)DRO] to divide the retirement benefits.

2. What happens if I do not have the information requested on the questionnaires?

We ask that you complete the questionnaires to the best of your ability. We will assist you in completing the questionnaires. Often times we already have most of the plan contact information needed. If more information is needed, we will contact you. Each plan will require a name and address of each party in the (Q)DRO. In most cases, a plan will require the dates of births and social security numbers of both parties which will be provided under separate cover to the plan. If possible, do not use a post office box as an address. Some Third-party Administrators (e.g. Fidelity and TIAA) will not accept a (Q)DRO where the nonmember spouse's (alternate payee) address is a post office box.

3. The questionnaires are completed, now what?

We will then make sure we have all the information needed. We will incorporate this information as part of reviewing all the different aspects of your case file. Our office generally takes several weeks to review.

4. A retirement plan is being divided with a (Q)DRO. I received a copy of a letter from your law firm to the plan asking to approve the (Q)DRO. Do I need to do anything?

In most cases, the first correspondence our firm sends out to a retirement plan is a proposed (Q)DRO for the plan administrator to review. This part of the process is to obtain "preapproval" of the (Q)DRO from the plan, if possible. This correspondence is just your copy and no action is required. We encourage you to review the (Q)DRO and Attachment with confidential information to ensure that the information is correct. Please contact our firm if changes are required and with any questions or concerns regarding the (Q)DRO. Please be assured that changes can be made to the (Q)DRO at any time during this process and a revised QDRO can be resubmitted to the plan.

5. How long will the Plan take to respond? Why is a preapproval necessary?

The answers to these questions vary from plan to plan. We find that most Plan Administrators are able to respond to our request for a pre-approval within 30 to 60 days. However, there are some Plans that will require additional time. Our firm prefers to obtain preapprovals when possible in case the Plan Administrator requires any edits before filing with the court. Our firm will follow up with Plan Administrators to ensure a preapproval is received.

6. We received preapproval on the (Q)DRO, what comes next?

We will contact you again to inform you of the preapproval and request your signature. We will also answer any questions or concerns you may have regarding the (Q)DRO. We will follow up regarding the receipt of the signature pages needed in order to file the (Q)DRO with the court. For some, this process is quick, and signatures are returned to us promptly. Some parties may require additional time.

7. I sent in my signature, but the other party hasn't. What happens?

Our goal is to file any (Q)DRO concurrently with the divorce judgment, if possible. We will try to make that happen. We will try to obtain the other party's cooperation in signing the (Q)DRO. If the other party will not cooperate, you will need to retain individual litigation counsel to appear in court to file the (Q)DRO.

8. The (Q)DRO was sent to court, are we done?

The court takes on average 30 to 60 days to return a filed certified copy of any (Q)DRO to our office.

9. What happens after we receive the QDRO filed and entered by the Court?

Once the filed (Q)DRO is returned to our offices, we will send a certified copy of the (Q)DRO to the Plan Administrator requesting implementation. We will also file a proof of service of the (Q)DRO with the court. We will provide copies of any filed QDRO to the parties and/or counsel in the case with the Plan contact information in order for the parties to contact the Plan directly.

10. How long will it take for the division/distribution?

It depends on the Plan. After service of the (Q)DRO, the nonmember spouse (alternate payee) should contact the Plan directly for further information regarding implementation of the (Q)DRO. Please allow a few weeks for the Plan to process the request for implementation. If you do NOT hear from the Plan within 90 days from the date of our letter to you, you should contact the Plan directly. It is always a good idea to contact the Plan no matter what, even if you are not implementing the QDRO, just to make sure it has all your correct contact information and there are no further issues. *If our firm does not hear from either party within 90 days, we will assume that the (Q)DRO has received final approval from the Plan and has been implemented.*

11. Does the nonmember spouse (alternate payee) have any additional responsibilities with the Plan?

It is always the alternate payee's responsibility to notify the plan of any change of address so that s/he receives updated information and materials concerning the benefits. Also, if the

(Q)DRO provides that the alternate payee has the right to designate a beneficiary, s/he must contact the Plan immediately and complete the proper beneficiary designation forms.

12. Does the participant have any additional responsibilities with the Plan?

After the QDRO is filed, the participant should contact the plan to review his/her beneficiary designation and make any necessary changes. A US Supreme Court decision held that even if the divorce judgment revokes the beneficiary designation of the former spouse, unless the participant changes that beneficiary form with the plan, the plan will be required to distribute benefits to the former spouse. *Kennedy v. Plan Adm'r for Dupont Sav. & Inv. Plan*, 129 S. Ct. 865; 172 L. Ed. 2d 662 (2009). **Participants should immediately contact the Plan and complete a new beneficiary designation form.**