

WAC 415-02-530 How can a property division dissolution order give my ex-spouse an interest¹ in part of my Plan 3 retirement account? (1) Who may use this section?

(a) You **MUST** use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3 and do not have enough service credit to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement.

(b) You **MAY** use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3, and have earned enough service to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-540.

(2) What language must the property division dissolution order or amendment include to pay a portion of my defined monthly retirement benefit to my ex-spouse? The order must use the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both.

If _____ (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to _____ (the obligee) _____ dollars from such payments or _____ percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

(3) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order BEFORE I retire?

(a) Your ex-spouse will not receive any payments from your defined benefit portion until you retire.

(b) If you or your ex-spouse dies before you retire, the portion of your defined benefit account awarded to your ex-spouse in the dissolution order ends.

(4) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order AFTER I retire?

(a) If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your defined benefit payment the first month after the department has accepted the order.

(b) If your ex-spouse dies before you, the portion of your defined benefit payment being paid to him or her will be paid to you.

(c) If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least thirty days before you retired and it required the department to name your ex-spouse as a survivor beneficiary. See RCW 41.50.700(1) and 41.50.790.

(5) Is there a maximum payment amount of the defined benefit portion of my retirement account that the property division dissolution order can award to my ex-spouse? Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

(6) Can I amend my existing order to remove my ex-spouse as my survivor beneficiary? Yes. To remove your ex-spouse as your survivor

beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (13) for the language that must be used.

(7) **If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?** The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

(8) **How much is the fee the department charges for making payment directly to my ex-spouse?** See RCW 41.50.680 and WAC 415-02-500(11).

(9) **If the department accepts the property division dissolution order BEFORE I retire, how will the department divide my defined contribution account with my ex-spouse?**

(a) The amount the dissolution order awards to **your ex-spouse** will be deducted from **your** account and set up in a separate account for your ex-spouse under his or her Social Security number.

(b) **You** and **your ex-spouse** will manage your individual portions of the account independently from one another.

(c) **You** must continue to contribute to your account during your employment.

(d) **Your ex-spouse** may not contribute to his or her account.

(10) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(a) Transfer money between the state-managed (WSIB) or the self-directed (SELF) investment programs; and

(b) Transfer money among the investment options in the SELF-directed program.

(11) **How will the department make distributions to both my ex-spouse and me on each of our defined contribution accounts?**

(a) When you separate from employment or retire, the funds in your defined contribution account will be disbursed to you according to your distribution choice.

(b) Your ex-spouse must begin distribution from his or her account at the same time that you request distribution from your account.

(c) Both you and your ex-spouse have the same distribution options as outlined in WAC 415-111-310.

(d) If **you** die **before** a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum distribution of the funds in your account.

(e) If **you** die **before** a distribution has been made from your defined contribution account, your ex-spouse must begin receiving distribution of his or her funds at that time according to the distribution options in WAC 415-111-310.

(f) If **your ex-spouse** dies **before** a distribution has been made from his or her defined contribution account, your ex-spouse's beneficiary(ies) must apply for a lump sum distribution of the funds in his or her account.

(g) If **you** die **after** you begin receiving funds from your defined contribution account but before your funds have been exhausted, the remaining balance of the funds will be disbursed to your designated beneficiary(ies).

(h) If **your ex-spouse** dies **after** receiving funds from his or her account but before the funds have been exhausted, the remaining bal-

ance of the funds will be disbursed to your ex-spouse's designated beneficiary.

(12) **What language must the dissolution order or most recent amendment include to pay a portion of my defined contribution account to my ex-spouse?** The language provided in the following paragraph must be used. The order or amendment must state a specific dollar amount.

The Department of Retirement Systems (department) shall divide _____'s (member's) **defined contribution account** in the _____ retirement system and plan) and create a separate account for _____ (ex-spouse). The amount of \$_____ shall be transferred from _____'s (member's) **defined contribution account** to _____'s (ex-spouse) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

(13) **If the department accepts the property division dissolution order AFTER I retire, how will the department divide my defined contribution account with my ex-spouse?** If your defined contribution account has not been exhausted at the time the department accepts the dissolution order, the department will divide the remaining funds as specified in the dissolution order according to subsections (9) through (12) of this section.

(14) **Terms used:**

- (a) Department's acceptance - Order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.
- (b) Dissolution order - RCW 41.50.500.
- (c) Ex-spouse - WAC 415-02-030.
- (d) Obligee - RCW 41.50.500(5).
- (e) Obligor - RCW 41.50.500(6).
- (f) Plan 3 retirement systems - WAC 415-111-100.
- (g) Split accounts - WAC 415-02-030.
- (h) Survivor benefits - WAC 415-02-030.

Footnote to section:

¹ When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement benefit payments or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-530, filed 5/27/03, effective 7/1/03.]