

# Divorce and Your Benefits

A guide to understanding your benefit options when your marriage ends



## **Going through a divorce is difficult, but don't lose sight of the need to maintain and protect your financial security—both now and into the future.**

You may consider hiring a divorce attorney to protect your interests, help assess your financial situation and guide you toward a marital settlement agreement. The agreement can specify each former spouse's rights to employer-sponsored group, health and retirement plan benefits. If there are children, the agreement can address who pays medical, dental and vision coverage for each child and the duration of the support obligation.

Your cooperative's benefits administrator also plays an important role, providing you with information about your benefits and working with you to process any benefits changes on a timely basis. This brochure highlights key points to consider and provides checklists to help you keep track of personal data, tax information and benefits-related matters that may require action by you or your benefits administrator.

### **The date of your divorce relative to benefits**

For the NRECA benefit plans, your divorce is considered final in accordance with applicable state law (i.e., you are considered divorced when your state legally recognizes that you are no longer married). The NRECA benefit plans do not recognize legal separation, meaning you are considered to be married until you no longer meet the definition of marriage in your state.

### **Changing your marital status**

A change in your marital status means adjustments to your employee benefits coverage—for yourself, your former spouse and any covered dependents. Your co-op's benefits administrator will work with you to complete any required forms and process your benefits changes so that your coverage meets your changing needs.

### **Divorce is a qualifying life event**

Divorce is considered a qualifying life event for most group insurance benefits, including but not limited to the medical, dental, vision, group term life and accidental death and dismemberment (AD&D) insurance plans. It is also a qualifying event for flexible spending accounts (FSA) and health reimbursement arrangements (HRA) which are also referred to as tax-advantaged accounts. This means you have 31 days following a divorce to adjust certain benefits without having to wait for the annual enrollment period. Your benefits administrator can clarify which benefit changes are required, which are optional (based on your personal situation), actions you can take and the deadline.

If benefit changes are requested, and you do not meet the timeline for requesting these group insurance benefits, you will have to wait until the next annual enrollment period to do so. NRECA's policy for allowing benefit changes in the case of certain qualifying life events is consistent with Department of Labor guidelines under the Health Insurance Portability and Accountability Act of 1996 and the terms of the NRECA benefit plans.





Use the checklists in this guide to keep track of your activities.

## Personal Data and Payroll Information

(✓ Check the boxes as you complete action items.)

- Change of marital status:** To change your marital status for all personnel records, please contact your benefits administrator.
- Change of name:** To change your legal name for all personnel records, you must provide your benefits administrator with your new Social Security card reflecting your new legal last name or a receipt from the Social Security Administration indicating that you have applied for your new legal last name.
- Address change:** Contact your benefits administrator if you wish to change your primary address and/or the mailing address for your benefits information. Your benefits administrator will also need a new mailing address for any covered dependents who will no longer reside with you, to provide legal notices and plan information.
- Payroll and IRS Form W-4 tax withholding changes:** To modify your direct deposit options or federal and state tax withholding, you will need to update your IRS Form W-4 Employee's Withholding Allowance Certificate. Generally, the custodial parent is the individual who claims any qualifying children as tax dependents.

## Review and Update Your Beneficiary Designations

(✓ Check the boxes as you complete action items.)

After you divorce, you may take action to submit new beneficiary designations for each plan in order to revoke your former spouse's right to claim death benefits. You should consider who you want to be the named beneficiaries for your group term life, AD&D, business travel accident and retirement plan(s) benefits following your divorce.



**Even if you divorce, remarry or rewrite your will, your former spouse may be entitled to benefits after your death unless you update your beneficiary designations.**

- Group insurance plans:** Under the terms of the group term life, AD&D and business travel accident insurance plans, you may name any person as your beneficiary, regardless of your marital status. You do not need a beneficiary's consent to make a change. Your benefits administrator can provide you with the proper beneficiary forms.
- Retirement plans:** If you are married, your spouse is the mandatory beneficiary of your 401(k) Pension Plan and Retirement Security (RS) Plan benefits. This is true even if you had previously designated someone else as a beneficiary. You may designate someone other than your spouse as a beneficiary only if your spouse provides written consent and the statement is witnessed by a notary public. Unless you update your beneficiary information after a divorce, the person(s) previously designated (usually your former spouse) will remain your beneficiary. Once divorced, you may designate anyone you choose as a beneficiary for your retirement benefits. Your benefits administrator can provide you with the proper forms.

**IMPORTANT:** Beneficiary rules can be confusing. First, take some time to consider all of your available options. Once you make your decisions, be sure to complete and submit all of the required paperwork. Your benefits administrator can confirm that your requested changes have been made. For example:

- If your intent is to provide for your children (or someone else) in the event of a covered accident or death, you must take action to designate them as your beneficiaries.
- A marital settlement agreement does not override a beneficiary designation for any employer-provided benefits. If you previously designated your former spouse as your beneficiary, they may still be entitled to receive your group insurance or retirement benefits unless you submit revised beneficiary designation forms to your benefits administrator.
- If you remarry, your new spouse automatically becomes the beneficiary of any retirement plan benefits. You will need to submit new beneficiary designation forms to your benefits administrator to designate your new spouse as the beneficiary for any group insurance benefits.

### Naming minor children as beneficiaries

Death benefits will not be paid directly to a minor child from either the life insurance or retirement plans. If you wish to name a minor child as a beneficiary, consult a legal, tax or financial advisor to determine the best way to establish the proper legal relationship, such as a guardianship or conservatorship.

## Group/Health Plan Benefits

(✓ Check the boxes as you complete action items.)

It's important to consider the available options for health coverage for yourself, your former spouse and any eligible dependents. Once your divorce is final, you will be notified by your co-op about a special enrollment period during which you can make changes in your coverage. Former dependents (e.g., spouse or step-children) who have been covered under your employer's health plans may be eligible to elect continuing coverage under the terms of the Consolidated Omnibus Budget Reconciliation Act (COBRA). Under COBRA, eligible beneficiaries losing coverage due to divorce have the right to elect up to 36 months of coverage continuation and will receive notification of this option in the mail. They may be required to pay up to 102% of the cost of coverage to the plan (representing the entire premium) and up to 2% in administration fees.

**IMPORTANT:**  
Consider whether you should name a new personal representative to make health care decisions in case you are unable to do so.

- Medical, dental and vision coverage for you and your former spouse:** While you can choose to maintain your current co-op coverage for yourself, once you are divorced you *must* drop your former spouse from your coverage. Step-children will be automatically removed from your coverage. If you wish to continue coverage on your dependents under COBRA, either you or your former spouse must notify your benefits or COBRA administrator no later than 60 days following the date on which you are considered legally divorced.

Research the costs of continuing coverage under COBRA, through another employer's plan or through private insurance options. It's important to consider the total cost—including premiums, copayments, deductibles and out-of-pocket expenses before finalizing a marital settlement agreement.

Depending on the settlement agreement, a divorced spouse may be required to cover a former spouse's health insurance costs for a defined period. This continuing coverage can only be COBRA coverage. Even if you are required to pay for coverage, the COBRA continuation of coverage period under the NRECA group benefit plan will be limited and you may need to seek other insurance coverage after COBRA coverage ends. In the absence of a marital settlement agreement requiring continuing coverage, a former spouse can choose to pay for their own coverage through COBRA. If elected by the deadline, continuing coverage under COBRA will become effective retroactively to the date of the divorce.



To protect your finances during a marital status change, don't discontinue coverage for your spouse and/or dependents during open enrollment in anticipation of a divorce. Which spouse is responsible for the costs of medical, dental and vision coverage and tax-advantaged accounts can be specified in your marital settlement agreement. You will have a special enrollment period to make changes to your family's insurance coverage and tax-advantaged accounts following the date of your divorce.

- Medical, dental and vision coverage for your dependents:** Determining who will pay for insurance coverage for any eligible dependent children is part of the marital settlement process. Qualified medical child support orders (QMCSOs) are court orders that require a company to enroll eligible child(ren) in an employee's group health coverage. Generally, there are three categories of medical expenses that are incorporated into a child's medical support order:
- Health care coverage premiums, including employer-sponsored insurance, other private coverage, coverage through a state marketplace or exchange, Medicaid and the Children's Health Insurance Program;
  - Payment for the uninsured portion of regular medical expenses, such as copayments, deductibles and uncovered expenses; and
  - Extraordinary medical expenses, such as dental or vision services or other out-of-pocket costs not covered by insurance.
- Tax-advantaged account(s):** In the event of a divorce, CBA-administered HRAs and FSAs may be subject to COBRA rules. Check with your benefits administrator. If you anticipate changes to your health care or dependent care expenses due to your change in marital status, consider if you should increase, decrease or begin making contributions to available tax-advantaged account(s). Your marital settlement agreement may designate which party makes contributions to tax-advantaged accounts.
- Group term life, AD&D and business travel accident insurance benefits:** If you or your former spouse have dependents, the right coverage can help secure their financial future in the event of an unexpected health issue, disability or death. Discuss these options with your attorney before making any changes. Be sure to do the following:
- Consider your current coverage (if any) and whether it should be increased or decreased (if applicable) based on your personal circumstances such as any intention to use these benefits to replace alimony or child support payments should you die or become disabled.
  - Review and update your beneficiary designations, provided that your settlement agreement does not require you to keep your former spouse as the beneficiary.

If your coverage at the time of the divorce included spouse or child life coverage, paperwork will be mailed to you by the insurer for individuals who are eligible for portability or conversion of their group coverage to an individual policy. The application must be made within 31 days of the date of your divorce.

# Information About Qualified Medical Child Support Orders

## Drafting and submitting a court order:

- ❑ Your attorney can prepare the draft order and submit it to NRECA for review to ensure that it complies fully with federal rules and the terms of your co-op's plan(s). As the administrator of the plan(s) providing the medical benefits, NRECA determines whether a court order meets QMCSO requirements. Your benefits administrator cannot make this determination.
- ❑ NRECA's Compliance Department will return the order with either tentative approval or a list of recommended changes. After you and your attorney address any suggested revisions, the order should be resubmitted to NRECA for a final review before being provided to the court.
- ❑ Once you have NRECA's approval, submit the order to the court for approval and a judge's signature. When an order is approved or denied, it is important that you keep your benefits administrator, custodial parent, attorneys and state agencies (if applicable) informed of current status and next steps.

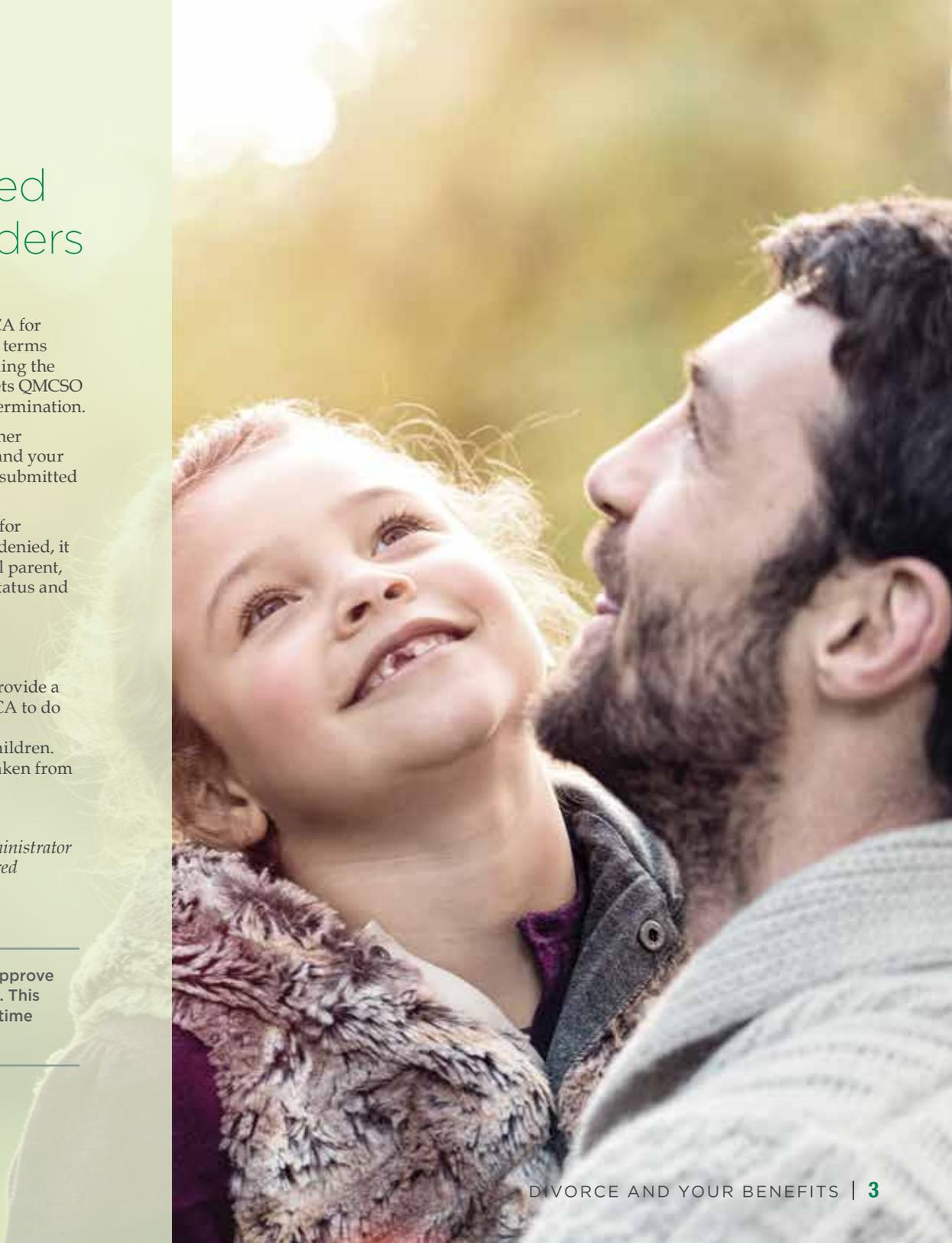
## Administering benefits based on a court order:

- ❑ **IMPORTANT:** Once approval is granted by the court, you must provide a certified copy of the final order(s) to NRECA. This enables NRECA to do the following:
  - Identify the type of coverage in which to enroll any eligible children.
  - Determine the maximum amount of deductions that can be taken from your paycheck under state law.
  - Enroll dependent child(ren) under an approved QMCSO.

*REMINDER: To provide a COBRA notice, your benefits or COBRA administrator will also need a new mailing address for your former spouse and any covered dependents who will no longer reside with you.*



We recommend that you allow NRECA to review and pre-approve any proposed QMCSOs before they are filed with the court. This extra step can help minimize additional legal expenses for time incurred when an amended order is necessary.



## Retirement Benefits

Divorce can affect your retirement plans. Your rights to RS Plan, 401(k) Plan and Social Security benefits can be affected. Generally, your vested 401(k) Plan and RS Plan benefits belong to you and may not be transferred to anyone else. While married, your spouse is the beneficiary of your retirement plan benefits upon your death—regardless of who is listed on the beneficiary form—unless your spouse consents in writing to waive his or her rights as a beneficiary. When a marriage ends, however, section 414(p) of the Internal Revenue Code allows vested retirement benefits to be divided as part of your marital settlement agreement if you have a qualified domestic relations order (QDRO).

A QDRO used to assign all or a portion of your retirement benefits to an alternate payee for the 401(k) Plan or the RS Plan must be filed with a court and signed by a judge. An alternate payee is usually your former spouse, but may also be a child or other dependent. You and your former spouse may need to obtain legal counsel to draft a QDRO that both meets your financial objectives and satisfies applicable plan and legal requirements. An informal agreement between you and your former spouse is not an acceptable document.

### Administering benefits based on a QDRO

If NRECA receives written notice that an assignment of benefits is being considered in connection with a marital settlement, NRECA will place a hold on your pension benefits. Plan distributions (including hardship withdrawals or 401(k) Plan loans) may not be made until there is a determination on the QDRO. Written notice of a potential assignment will be accepted only from the participant, the participant's attorney or the spouse's attorney.

### Requests for retirement plan benefits information in conjunction with a QDRO

NRECA may release information regarding your 401(k) Plan account balance and/or RS Plan accrued benefit to specific individuals (such as your attorney or your spouse's attorney) upon receipt of a subpoena or a written request with signed authorization such as the Authorization to Release Confidential Information form, which is available on the Employee Benefits website at [Cooperative.com](https://www.cooperative.com) > **Guidance & Resources** > **Overall Benefit Documents**. Fax documents to 703.907.6409.

### Notice of determination of a QDRO

As the administrator of the plans providing the retirement benefits, NRECA determines whether a court order meets QDRO requirements. Your benefits administrator cannot make this determination.

NRECA will provide written notice to you and each alternate payee (specified in the order as entitled to a payment of benefits) of the determination of the qualified status of the order. If your court order does not meet the QDRO requirements, NRECA will provide all applicable parties, including the attorney who drafted the order, you and the alternate payee, with a written determination that explains the reasons for the determination and provides additional information about any further action that may be needed.



**REMINDER:** We recommend that you allow NRECA to review and pre-approve any proposed orders before they are filed with the court. This extra step can help minimize additional legal expenses for time incurred when an amended order is necessary.

**IMPORTANT:** NRECA cannot give legal advice to you or your spouse on how to divide your vested pension benefits. Sample QDRO templates for the 401(k) Plan and RS Plan are available on the Employee Benefits website for your attorney's use. We encourage using the sample documents as a starting point. The sample documents are not applicable if you are currently receiving retirement benefit payments.



## Information About Qualified Domestic Relations Orders

QDROs are necessary when a vested retirement benefit is to be divided. It's critical that your QDRO clearly spells out how the assets are to be split and when the distribution will be made. The following actions will help ensure that your documents are deemed as qualified orders for each retirement plan.

- Download any of the following documents from the Employee Benefits website at **Cooperative.com > Guidance & Resources > Overall Benefit Documents** and share them with your attorney:
  - Authorization to Release Confidential Information
  - NRECA QDRO Procedures 401(k)
  - QDRO Sample 401(k)
  - NRECA QDRO Procedures Retirement Security
  - QDRO Sample RS
- Your attorney can prepare a draft order for each plan and submit them for review to:
- The NRECA compliance team will return the order with either tentative approval or a list of recommended changes necessary for acceptance as qualified by the retirement plan(s).
- After you and your attorney make the suggested revisions, the order(s) should be provided to NRECA for a final review (before submission to the court).
- Once pre-approval is given by NRECA, the order(s) should be provided to the court for approval, court approval stamp and judge's signature.

NRECA  
Attn: Compliance/QDRO Department  
4301 Wilson Boulevard, MAS9-321  
Arlington, VA 22203  
Fax: 703.907.6409  
Email: QDRO@nreca.coop

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**IMPORTANT:** Once approval is granted by the court, a final copy of each order (including the judge's signature and court stamp) must be submitted to NRECA.

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### Benefit distributions to alternate payees

Once a QDRO has been reviewed and approved as qualified by NRECA, the alternate payee will receive any applicable documents. NRECA will work directly with the alternate payee on any distributions. As the plan participant, you will receive a written confirmation when any benefit awarded under the QDRO is distributed.

If an alternate payee commences benefits but dies before receiving all benefits awarded under the QDRO, their interest will pass to the alternate payee's designated beneficiary(ies).

### Tax treatment of distributions and rollovers

Before making or taking any retirement plan distributions or rollovers, we recommend that you discuss potential tax consequences with your financial or tax advisor.

### Reporting distributions to the IRS

Anyone who has received a distribution from the RS Plan and/or the 401(k) Plan in the previous year will receive a Form 1099-R, with copies sent to the IRS and the appropriate state, city or local tax departments. If your form contains a federal income tax withholding amount in Box 4, it must be filed with your federal income tax return when you report the income. You may also be liable for state income taxes on any distributions.



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**If you have questions,** please contact your benefits administrator or NRECA's Member Contact Center at **866.673.2299** or **[contactcenter@nreca.coop](mailto:contactcenter@nreca.coop)**. Representatives are available Monday through Friday, from 7 am to 7 pm, Central time.

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**DISCLAIMER:** The purpose of this booklet is to help you understand how your employee benefits may be affected when you divorce. In the event there are any inconsistencies between what is written here and the actual provisions of your plans, the plan documents shall govern. This is not a legal document, and it does not provide legal or tax advice. You should consult your legal, financial and tax advisors on all issues related to your change in marital status and give them a copy of this information.



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