

Introduction

During a marriage dissolution proceeding the court may decide that the 401(a) pension assets accrued during a marriage will be divided between the parties of the divorce. For the court to have sufficient information regarding the value of the marital assets, the Minnesota State Retirement System (MSRS) will provide the participant or others (provided they meet the criteria in Minnesota Statute Chapter 356.49) with a projection of the retirement benefit and current refund amount. A court appointed actuary may evaluate pension benefits and calculate “present value” based on the MSRS projection.

If the court determines that there are not enough liquid assets to divide the marital property equitably, it may order that future pension payments be divided. If the member is still working at the time of the divorce, the divorce decree may include the formula for determining the future percentage. Please see the MSRS sample language for an example of the formula.

MSRS Retirement Plans

MSRS administers the following defined benefit 401(a) retirement plans: General Employees Retirement Plan, Correctional Retirement Plan, State Patrol Retirement Plan and Judges Retirement Plan. MSRS also administers the Unclassified Retirement Plan which is a 401(a) defined contribution plan that can be converted to a defined benefit plan under certain conditions.

Dividing the MSRS Retirement Account

The court may use a marital ratio to divide the pension benefit. The marital ratio compares the number of years the member worked to the number of years they were married during their employment. The court may award more or less than one-half of the marital ratio to either party. If the member is already retired, the court may award a simple percentage or flat dollar amount per month to the former spouse. Below are examples of the division of a pension benefit using a marital ratio.

Example A - If the member worked for 20 years but was married for only 10 years of that employment, the court may award one-half of the marital ratio to the ex-spouse. The marital ratio would be 10 years divided by 20 years, or 1/2 of your pension. The ex-spouse would receive 1/4 of each pension payment upon the member’s retirement.

Example B - If the member worked for 30 years but was married for only 10 years of that employment, the court may award one-half of the marital ratio to the ex-spouse. The marital ratio would be 10 years divided by 30 years, or 1/3 of the pension. The ex-spouse would receive 1/6 of each pension payment upon the member’s retirement.

Sample Language Available

MSRS can provide sample language for division of a MSRS account that may be incorporated into a Judgment and Decree for marital dissolution. A separate order is not required. Please submit a draft order for review prior to filing it with the court.

Refund of Account Prohibited

This provision in the MSRS sample language is optional, but recommended. Without this provision the member may apply for a refund after termination from employment. Any pension benefit payable to either party is forfeited and a refund of the entire account is paid to the member and the ex-spouse. The ex-spouse does not have the option to maintain a retirement account with MSRS but may roll-over their refund to another tax-deferred plan. Prohibiting a refund protects the ex-spouse’s future retirement benefit from forfeiture.

Former Spouse as Joint and Survivor of their Portion

This provision provides a reduced lifetime retirement benefit to the former spouse but does not affect the amount paid to the member. If the 100 percent survivor option is not included in the court ordered division of benefits, the former spouse’s benefit will cease upon the death of the member. The benefit to the former spouse is reduced by an actuarial factor, usually resulting in a cost of about 15 to 20 percent of the benefit amount. This provision in the MSRS sample language is optional but recommended because it does not impact the monthly retirement benefit of the member.

At retirement the member may choose a survivor option for their own portion of the retirement benefit, resulting in a reduction of their monthly payment.

Social Security Numbers

Social Security numbers are frequently removed from the court order. The drafting attorney should reference both Social Security numbers in a cover letter. MSRS must be provided with a photocopy of each person’s birth certificate and their Social Security number before any payments can be made.

Beneficiary Designation

In the event of a marriage dissolution, the member may wish to review the beneficiary designation. The beneficiary designation determines who receives a refund of the retirement contributions if the member dies prior to recovering the contribution costs. To change the beneficiary, a *Beneficiary Designation* form must be completed and sent to MSRS. To obtain the form, visit www.msrs.state.mn.us or contact MSRS.

Note:

Unless the court order provides otherwise, MSRS is required by Minnesota Statute 524.2-804 to remove a beneficiary designation naming a former spouse. To redesignate a former spouse or other beneficiary(ies) after a divorce, the *Beneficiary Designation* form must be completed and returned to MSRS.



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