

Here are answers to some frequently asked questions that members may have concerning qualified domestic relations orders (QDROs) and divorce.

### **Can a court order award my former spouse a portion of my retirement benefit?**

Yes, if the court order:

- a) meets the federal requirements for a QDRO as defined under Section 414(p)(4) of the Internal Revenue Code and;
- b) is in the form of the mandatory pre- or post-retirement QDRO templates available at <https://www.nhrs.org/members/plan-details/divorce-qdro> and;
- c) has been submitted to, and subsequently qualified by NHRS.

### **My divorce decree already states that my former spouse is entitled to a percentage of my benefit, why do I need another court order (i.e., a QDRO)?**

The applicable laws are very strict in their protection of a Member's retirement benefits from attachment. QDROs are the only manner in which a Member may assign all or a portion of his or her benefit to a third party such as a former spouse. To ensure that a Member's benefits are not inappropriately awarded to another party, applicable law requires that a court order must meet certain specifications to be considered a qualified domestic relations order.

### **What is a domestic relations order (DRO)?**

A domestic relations order (DRO) is a judgment, decree or court order relating to the provision of child support, alimony payments or the division of marital property rights awarded to a spouse, former spouse, child or other dependent of the Member (NHRS member) as part of a divorce settlement. The individual designated to receive said award is referred to as the "Alternate Payee."

### **What is a qualified domestic relations order (QDRO)?**

A qualified domestic relations order (QDRO) is a court-approved domestic relations order (DRO) that has been subsequently qualified by NHRS. Although the DRO is court-approved, NHRS has the final authority to qualify a DRO, or to deny it if it: (a) fails to meet the requirements for a QDRO; or (b) provides for benefits not otherwise available under the Plan.

### **Will I be notified if a court-approved DRO is received?**

Yes. NHRS will issue a standard acknowledgement letter via certified mail, which will include a copy of NHRS' procedures for the processing of QDROs. (Note: NHRS should be promptly advised of any change in your address.)

### **When should the DRO be submitted to NHRS?**

As soon as possible. Although the Member may not be ready to retire yet, the QDRO will provide NHRS with instruction as to what benefits are to be awarded to an Alternate Payee in the event of the Member's death or election to withdraw his (or her) funds prior to retirement. Also, if NHRS denies the order, the parties will still have had recent contact with their legal counsel and can more readily seek an amended order.

### **Can my former spouse choose a lump sum instead of a monthly benefit?**

Lump sum payments can only be made to an Alternate Payee under a QDRO if the Member has terminated his (or her) position of employment and has elected to take a refund of contributions in lieu of a monthly pension benefit. The mandatory QDRO templates allow for payment instructions for both a monthly benefit, or a lump sum payment. Partial withdrawals are not part of the plan benefits available to a Member, nor an Alternate Payee, under a QDRO.

### **When can my former spouse (Alternate Payee) begin collecting benefits?**

Under an NHRS QDRO, benefits are paid to the Alternate Payee at the time payments commence to the Member or as soon as administratively possible if the Member is already in receipt of a monthly pension.

### **Can my former spouse (Alternate Payee) name a beneficiary?**

No. An Alternate Payee is not a Member and does not have Member rights under the Plan. Upon the death of the Alternate Payee, any benefits due to be paid to the Alternate Payee would revert to the Member.

### **How do I fill out the NHRS Mandatory QDRO Templates?**

Instructions are available at: <https://www.nhrs.org/members/plan-details/divorce-qdro>

**Note:** Use of the NHRS QDRO templates is mandatory. NHRS will accept no other form of QDRO.

**Who can assist me with this process?**

An attorney who is well versed in the area of domestic relations orders as they relate to governmental defined benefit plans would likely be your best choice.

NHRS’ role is strictly to review the QDRO to determine if it is in compliance with state and federal laws; our role is not to determine what is fair or equitable for either party. Bear in mind that it is your attorney who has the time to review your particular financial situation and circumstances and, more importantly, represent your interests only.

The parties and their attorneys are strongly encouraged to present a draft of the proposed Order to the NHRS QDRO Specialist for preliminary review prior to its submission through the court system.

**Who has access to my account information? Can my spouse, former spouse or his/her attorney request information? Can my attorney request information on my behalf?**

No one has access to your confidential account information without written authorization from you as the Member. The only exception is if a court specifically authorizes NHRS to release this information.

**My attorney said I need to find out the value of my retirement benefit and is asking for my total contributions and interest from the date I was married to the date of filing for my divorce. Is this how my benefit value is determined?**

No. NHRS is a governmental defined benefit plan that pays annuities to its membership. A Member's retirement benefit is based on a defined benefit formula which generally considers two variables: 1) the average of the three (or five) highest years of Earnable Compensation (less any applicable statutory benefit caps); and 2) the length of service as an NHRS contributing member. Your defined benefit is not calculated based on your contributions and interest. A Member may request benefit estimates to assist them in their decision-making.

**What information can NHRS provide to help me determine the value of my benefit?**

If you are an active member (not receiving a monthly NHRS pension), your account information is available on our website through our *My Account* portal. There you will find your current member balance.

If you are a retired member (receiving a monthly NHRS pension), your account information is also available through *My Account*. This includes a summary of your monthly benefit payment details that is similar to what you would find on a check stub. (Important: Once you have commenced receipt of your monthly pension, there is no other value to calculate).

See: <https://www.nhrs.org/my-account>

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