
29 C.F.R. § 2530.206

Time and order of issuance of domestic relations orders.

(a) *Scope.* This section implements section 1001 of the Pension Protection Act of 2006 by clarifying certain timing issues with respect to domestic relations orders and qualified domestic relations orders under the Employee Retirement Income Security Act of 1974, as amended (ERISA), 29 U.S.C. 1001 *et seq.* The examples herein illustrate the application of this section in certain circumstances. This section also applies in circumstances not described in the examples.

(b) *Subsequent domestic relations orders.* (1) Subject to paragraph (d)(1) of this section, a domestic relations order shall not fail to be treated as a qualified domestic relations order solely because the order is issued after, or revises, another domestic relations order or qualified domestic relations order.

(2) The rule described in paragraph (b)(1) of this section is illustrated by the following examples:

Example (1).

Subsequent domestic relations order between the same parties. Participant and Spouse divorce, and the administrator of Participant's 401(k) plan receives a domestic relations order. The administrator determines that the order is a QDRO. The QDRO allocates a portion of Participant's benefits to Spouse as the alternate payee. Subsequently, before benefit payments have commenced, Participant and Spouse seek and receive a second domestic relations order. The second order reduces the portion of Participant's benefits that Spouse was to receive under the QDRO. The second order does not fail to be treated as a QDRO solely because the second order is issued after, and reduces the prior assignment contained in, the first order. The result would be the same if the order were instead to increase the prior assignment contained in the first order.

Example (2).

Subsequent domestic relations order between different parties. Participant and Spouse 1 divorce and the administrator of Participant's 401(k) plan receives a domestic relations order. The administrator determines that the order is a QDRO. The QDRO allocates a portion of Participant's benefits to Spouse 1 as the alternate payee. Participant marries Spouse 2, and then they divorce. Participant's 401(k) plan administrator subsequently receives a domestic relations order pertaining to Spouse 2. The order assigns to Spouse 2 a portion of Participant's 401(k) benefits not already allocated to Spouse 1. The second order does not fail to be a QDRO solely because the second order is issued after the plan administrator has determined that an earlier order pertaining to Spouse 1 is a QDRO.

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