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Counting on Your Husband's Retirement Income? Three Things Women Should Know

Women are more likely than men to work in part-time jobs that don't qualify for a retirement plan. And women are more likely to interrupt their careers (or stay out of the workforce altogether) to raise children or take care of other family members. As a result, women generally work fewer years and save less, leaving many to rely on their husbands' savings and benefits to carry them both through retirement.[1]

Women face special challenges when planning for retirement. Women are more likely than men to work in part-time jobs that don't qualify for a retirement plan. And women are more likely to interrupt their careers (or stay out of the workforce altogether) to raise children or take care of other family members. As a result, women generally work fewer years and save less, leaving many to rely on their husbands' savings and benefits to carry them both through retirement.[1]

But this reliance creates risk — risk of divorce, risk that retirement funds won't be adequate to last two lifetimes (a risk that falls disproportionately on women, who are projected to live about five years longer than men),[2] and risk of bad retirement payout decisions. Here are three things you should know if you're relying on your husband's savings to carry you through retirement.

Qualified joint and survivor annuities

If your husband is covered by a traditional pension plan at work, one of the most important retirement decisions the two of you may make is whether to receive his pension benefit as a "qualified joint and survivor annuity" (QJSA). While the term sounds complicated, the concept is simple: should you elect a benefit that pays a higher amount while you're both alive and ends when your husband dies (a single life annuity), or a benefit that pays a smaller amount during your joint lives but continues (in whole or in part) to you if your husband dies first (a QJSA)?

In order to fully understand your choices, it may help to first go over how a traditional pension plan works. Typically, you're entitled to a "normal benefit," payable for your lifetime and equal to a percent of your final pay, if you work for a certain number of years and retire at a certain date. A plan might say that you'll get 50% of your final pay for life if you work 30 years and retire at age 65. If you work fewer years, your benefit will be less. If you retire earlier than age 65, your benefit will also be less, because it's paid for a longer period of time.

For example, assume Joe is covered by a pension plan at work, and his plan contains the exact formula described above. Joe retires at age 65. He's worked 30 years, and his final pay was $100,000. He's entitled to a normal benefit of $50,000 per year, payable over his lifetime and ending at his death (a single life annuity).

But in order to protect spouses, federal law generally provides that if Joe is married, the plan can't pay this benefit to Joe as a single life annuity unless his spouse, Mary, agrees. Instead, the benefit must be paid over Joe and Mary's joint lives, with at least 50% of that benefit continuing to Mary for her remaining lifetime if she survives Joe. (That's why it's called a "joint and survivor annuity;" and it's "qualified" because it meets the requirements of federal law — "QJSA" for short.)

Now, here's where it gets a little complicated. Because the QJSA benefit is potentially paid for a longer period of time — over two lifetimes instead of one — Joe's "normal benefit" will typically be reduced. Actuaries determine the exact amount of the reduction based on your life expectancies, but let's assume that Joe's benefit, if paid as a QJSA with 50% continuing to Mary after Joe's death, is reduced to $45,000. This amount will be paid until Joe dies. And if Mary survives Joe, then $22,500 per year is paid to her until she dies. But if Mary dies first, the pension ends at Joe's death, and nothing further is paid.

The plan will usually offer the option to have more than 50% continue to you after your spouse dies. For example, you may be able to elect a 75% or 100% QJSA. However, the larger the survivor annuity you select, the smaller the benefit you'll receive during your joint lives. So, for example, if 100% continues after Joe's death, then the payment to Joe might now be reduced to $40,000 (but $40,000 will continue to be paid after Joe's death to Mary if she survives him).

You can rest assured that the QJSA option will be at least as valuable as any other optional form of benefit available to you — this is required by federal law. In

some cases, it will be even more valuable than the other options, as employers often "subsidize" the QJSA. "Subsidizing" occurs when the plan doesn't reduce the benefit payable during your joint lives (or reduces it less than actuarially allowed). For example, a plan might provide that Joe's $50,000 normal benefit won't be reduced at all if he and Mary elect the 50% QJSA option, and that she'll receive the full $25,000 following Joe's death. It's important for you to know whether your spouse's plan subsidizes the QJSA so that you can make an informed decision about which option to select. Other factors to consider are the health of you and your spouse, who's likely to live longer, and how much other income you expect to have available if you survive your spouse.

You'll receive an explanation of the QJSA from the plan prior to your spouse's retirement, which should include a discussion of the relative values of each available payment option. Carefully read all materials the plan sends you. A QJSA may help assure that you don't outlive your retirement income — don't waive your rights unless you fully understand the consequences. And don't be afraid to seek qualified professional advice, as this could be one of the most important retirement decisions you'll make.

Qualified domestic relations orders

While we all hope our marriages will last forever, unfortunately that's not always the case. And since men generally have larger retirement plan balances,[1] the issue of how these benefits will be handled in the event of a divorce is especially critical for women who may have little or no retirement savings of their own. Under federal law, employer retirement plan benefits generally can't be assigned to someone else. However, one important exception to this rule is for "qualified domestic relations orders," commonly known as QDROs. If you and your spouse divorce, you can seek a state court order awarding you all or part of your spouse's retirement plan benefit. Your spouse's plan is required to follow the terms of any order that meets the federal QDRO requirements.

For example, you could be awarded all or part of your spouse's 401(k) plan benefit as of a certain date, or all or part of your spouse's pension plan benefit. There are several ways to divide benefits, so it's very important to hire an attorney who has experience negotiating and drafting QDROs — especially for defined benefit plans where the QDRO may need to address such items as survivor benefits, benefits earned after the divorce, plan subsidies, COLAs, and other complex issues. (For example, a QDRO may provide that you will be treated as the surviving spouse for QJSA purposes, even if your spouse subsequently remarries.) The key takeaway here is that these rules exist for your benefit. Be sure your divorce attorney is aware of them.

You *can* have your own IRA

While it's obviously important for women to try to contribute towards their own retirement, if you're a nonworking spouse, your options are limited. But there is one tool you should know about. The "spousal IRA" rules may let you fund an individual retirement account even if you aren't working and have no earnings. A spousal IRA is your own account, in your own name — one that could become an important source of retirement income with regular contributions over time.

How does it work? Normally, to contribute to an IRA, you must have compensation at least equal to your contribution. But if you're married, file a joint federal income tax return, and earn less than your spouse (or nothing at all), the amount you can contribute to your own IRA isn't based on your individual income, it's based instead on the combined compensation of you and your spouse.

For example, Mary (age 50) and Joe (age 45) are married and file a joint federal income tax return for 2018. Joe earned $100,000 in 2018 and Mary, at home taking care of ill parents, earned nothing for the year. Joe contributes $5,500 to his IRA for 2018. Even though Mary has no compensation, she can contribute up to $6,500 to an IRA for 2018 (that includes a $1,000 "catch-up" contribution), because Joe and Mary's combined compensation is at least equal to their total contributions ($12,000).

The spousal IRA rules only determine how much you can contribute to your IRA; it doesn't matter where the money you use to fund your IRA actually comes from — you're not required to track the source of your contributions. And you don't need your spouse's consent to establish or fund your spousal IRA.

(The spousal IRA rules don't change any of the other rules that generally apply to IRAs. You can contribute to a traditional IRA, a Roth IRA, or both. But you can't make regular contributions to a traditional IRA after you turn 70½. And your ability to make annual contributions to a Roth IRA may be limited depending on the amount of your combined income.)

Sources

[1] U.S. Department of Labor, "Women and Retirement Savings," www.dol.gov (accessed December 2017)

[2] NCHS Data Brief, Number 293, December 2017