

## Federal and Public Sector Retirement

### Court-Ordered Benefits

When federal employees and their spouses become divorced or separated their retirement and insurance benefits could be affected by a court order in accordance with the U.S. Code and Code of Federal Regulations (CFR). The Office of Personnel Management (OPM) must generally comply with qualifying court orders, decrees, or court-approved property settlements in connection with divorces, annulments of marriages, or legal separation of federal employees or retirees that award former spouses retirement and insurance benefits.

A court order related to a divorce or separation may:

- ▶ Divide a Civil Service Retirement System (CSRS) or Federal Employees Retirement System (FERS) annuity.
- ▶ Divide a refund of CSRS or FERS employee retirement contributions.
- ▶ Provide a survivor annuity payable upon the death of a federal employee or retiree.
- ▶ Permit a former spouse to continue coverage under the Federal Employees Health Benefits Program (FEHBP).
- ▶ Require a federal employee to cover his or her children under FEHBP.
- ▶ Require a federal employee or retiree to assign his or her Federal Employees' Group Life Insurance (FEGLI) coverage to a former spouse or children.
- ▶ Require a federal employee to name his or her former spouse or children as beneficiaries under FEGLI.

There could be several reasons why OPM does not adhere to court orders, decrees, or court-approved property settlements in connection with divorces, annulments of marriages, or legal separation of federal employees or retirees that affect retirement or insurance benefits. The most common reason is that numerous court orders are drafted under the assumption that the Employee Retirement Income Security Act (ERISA) applies to CSRS or FERS benefits. ERISA court orders are often described as a Qualified Domestic Relations Order (QDRO), which is not acceptable to affect CSRS or FERS benefits. Unless the QDRO expressly states that it is written in conformity with OPM's regulations, OPM will generally not accept the court order for processing.

A court order acceptable for processing generally requires three separate provisions – employee annuities, refund of employee contributions, and survivor annuities – one addressing each type of benefit that the court can affect. There are a number of variables that can come into play with respect to OPM's handling of a court order involving retirement.

Our law firm advises and represents individuals before OPM in such matters. Please [contact Berry & Berry, PLLC](#) to schedule a consultation with an attorney to discuss your individual matter as each type of case before OPM may be different.