



## ADMINISTRATIVE



# A Key Beneficiary Provision in PPA Plan Documents

One example of how plan document evolution protects and clarifies basic values.

BY PAUL CARMICHAEL

**P**rior to reading many of the current PPA plan documents, most of my education on spousal beneficiary rules on divorced and deceased participants was either through seminars, enrollment meetings and articles in the newspaper or pension/IRA periodicals. I did not spend the time to dig through the hundreds of pages in the basic plan document, nor would I probably have found what I was looking for — at least up until the PPA plan documents were released.

I was in the process of fully reviewing a PPA plan document for

a takeover client when I noticed the following language:

*In the event the Participant is divorced, the ex-spouse shall be treated as having predeceased the Participant and benefits will go to the secondary Designated Beneficiaries or if none survive the Participant, to his surviving children, equally, or if none such other heirs, or the executor or administrator of his estate, as the Plan Administrator shall select. In the event the Participant intends that that his ex-spouse remain his Beneficiary, a post-divorce Beneficiary designation must be completed naming the ex-spouse as a Designated Beneficiary.*

Wow. After reviewing this provision I was wondering what genius had the insight to implement and submit these ideas in their plan document. I then realized it was a prototype basic plan document and not a custom one. I went back to the office to share my findings. To my surprise, the same language was in our updated PPA plan documents. Our office was preparing to leave for ASPPA's annual Philadelphia regional conference, and we were excited about sharing this with our ASPPA colleagues.

My impression on this topic was always completely different,

mainly due to my education having come from enrollment meetings with “enlightened” stories to add excitement, interest and advice on the basic provisions of historical prototype plan documents.

Nearly all pre-PPA plan documents lacked a provision about reverting back to pre-deceased status upon divorce and then using the family order as outlined in the plan document. My favorite story in this regard has to do with “The Pension Pickle,” a report published in the *New York Post* on Jan. 31, 2005. A man had been happily married to his wife, a school principal, for more than 20 years. She had a \$900,000 pension in her name with no beneficiary listed on file, which was assumed (according to the husband) to be passed to the husband if she were to predecease him.

She passed away from a heart attack in 2001. The plan administrator found a beneficiary form from 27 or so years before that listed her sister and parents as beneficiaries. Since the parents were deceased and there was no other beneficiary form, the wife’s sister received the entire benefit.

The ruling was never overturned. After more than 20 years of marriage, the widower never received a dime of his wife’s pension — and the sister-in-law was not about to turn any over.

I am sure every enrollment specialist knows this story and is also very familiar with this advice: “In case of a divorce, you need to update your beneficiary form because if you don’t, your pension benefit will go to your ex-spouse, not your current one.” This was probably the truth in many previous plan documents, but after reviewing several PPA plan documents, the new mainstream language seems to better protect the intentions of the participant and his or her family. I guess the beneficiary section of the enrollment meeting will have to be completed without the “Pension Pickle” and other stories.

Plan documents have become much more complicated and

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sophisticated, all for the better. The above enlightening provision, buried in the hundreds of pages in the plan document, is one example of how plan document evolution protects and clarifies basic values. I am sure others can share many other examples of updated provisions over the years to clarify and protect plan participants and their beneficiaries.

So my associates and I were off to Philadelphia to share our newly found knowledge with our fellow ASPPA members. We were out with several of them, doing what TPAs do at conferences — sharing stories, ideas and good times over dinner. Discussing the beneficiary situation led to more in-depth conversations on different aspects of the PPA plan document. The bottom line conclusion: It’s important to ensure that all employees and professionals — or at least a compliance manager — read through all the provisions

in the plan document. You may be pleasantly surprised or change your thinking, or even change the way you give advice on different technical issues. This is an important way good attorneys, administrators and pension professionals show their value.

The next day, a prestigious benefits attorney talked about the same beneficiary provision in his presentation — mentioning it as a passing comment and noting that his firm always had this divorce provision in their plan documents. So what I thought was my newly found knowledge had been practiced by document-drafting attorneys for some time!

However, as the days passed, many industry professionals that I consulted with were unaware that the beneficiary provision in a PPA plan document could state that in the event of a divorce, the participant’s ex-spouse will be treated as having predeceased the participant and that benefits will go to family members in a specific order. The original excitement about our “discovery” was back; since then I have had the opportunity to share the news at several client enrollment meetings, easing the minds of many participants.

An updated beneficiary form is the best way to ensure that retirement assets are properly passed from one generation to the next according to the wishes of the participant. In a complicated industry with complicated rules, it’s good to know we are moving toward protecting the retirement security, and the wishes, of plan participants and their loved ones. **PC**



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