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Sent: Tuesday, March 13, 2007 12:45 AM

To: EBSA, E-ORI - EBSA

Subject: QDRO Timing Rules

It is not entirely clear whether the post-death dro may be qualified because the plan was notified pre-death that a former spouse would be seeking a dro, or whether the fact a faulty order was submitted pre-death is irrelevant. It would be helpful if you would clarify the basis for the conclusion, especially because the court cases are currently split on this issue.

It would be helpful if the rules clarified that a dro filed after the death of a participant who was receiving a single life annuity under a defined benefit plan fails to qualify because it requests a form of benefit that does not exist under the plan. If such a dro qualified as a qdro, it would create unanticipated costs to the defined benefit plan, which did not reduce the participant's benefit to take into account a survivor interest because it was not notified that a former spouse would be seeking a survivor annuity.

The situation is almost the same if the dro were filed after the participant began receiving his benefits in the form of a single life annuity. Arguably, the plan could recalculate and reduce the single life annuity going forward to take into account the survivor interest, but if the participant died before the amount could be recouped, the plan would have an unanticipated loss. It would be helpful if this issue were also addressed.\

Thank you for your consideration.