



August 14, 2012

Phyllis C. Borzi
Assistant Secretary
Employee Benefits Security Administration
U.S. Department of Labor
200 Constitution Avenue, N.W.
Suite S-2524
Washington, DC 20210

Dear Assistant Secretary Borzi,

The Pension Rights Center and the National Women's Law Center are writing to bring to your attention the scarcity of information provided about spousal protections under ERISA in the online version of the EBSA booklet, "What You Should Know About Your Retirement Plan." We are concerned that EBSA's fundamental booklet about retirement plans does not contain adequate information about spousal rights under ERISA, and that the small amount of information that is contained in the booklet is scattered and not clearly identified.

In contrast, the older printed versions of the booklet, at least in 2002, had a chapter on "Providing Survivor Benefits to Your Spouse." The chapter included explanations of a Qualified Joint and Survivor Annuity (QJSA) and a Qualified Preretirement Survivor Annuity (QPSA), as well as survivor rules for defined contribution plans and where to go for more information.

The current online booklet does not have a chapter dedicated to spousal benefits. There is a chapter on divorce and some spousal protections are mentioned in the chapter entitled "Payment of Benefits." However, the description of spousal benefits is not placed where individuals are likely to notice it. Moreover, it's not completely clear from the wording in the booklet that spousal rights are part of the law, and not just a matter of plan options.

Missing information includes full descriptions of the QJSA and QPSA, timing of elections and rights to change elections, required notices that must be provided on spousal rights and choices at retirement, and the one-year marriage requirement that may be included in a plan. "Joint and Survivor" is not mentioned in the definition of a defined benefit plan. Spousal benefits are not mentioned in Table 1 under "Types of retirement plans" or under "Types of retirement benefit payments."

In addition, cross-references throughout the booklet would be helpful for those consumers who do not initially consult a separate chapter. Online readers may be

inclined to “click through” only on certain headings, rather than read the text from beginning to end, and consistent references to spousal benefits throughout the online booklet may prompt consumers who otherwise did not think to, to consult the chapter on spousal benefits. Cross-references also would be helpful in a printed version of the booklet.

In all probability, information on spousal rights was removed during the course of multiple revisions and simplifications to the booklet. However, we believe it is important for participants and spouses to be able to access information on spousal rights in one easy-to-find location. A more complete explanation of spousal rights should be available since participants and spouses must make many decisions on spousal benefits in the course of a lifetime of work.

We remember your involvement in the drafting of the Retirement Equity Act of 1984 and know of your interest in these issues. We hope that EBSA can initiate a review of the booklet with the goal of providing in a separate chapter clear and adequate information on ERISA’s spousal protections, as well as referencing these important provisions briefly in the summary table and throughout the rest of the booklet.

If you have any questions about our concerns, please contact Jane Smith, Policy Associate, at the Pension Rights Center at 202-296-3776 or jsmith@pensionrights.org.

Sincerely,

National Women’s Law Center

Pension Rights Center