

Wall Street Journal

JANUARY 14, 2012

When a Divorce Pays Off

By [ELLEN E. SCHULTZ](#)

Is your mother getting shorted on her Social Security payments?

If she is divorced or has been married more than once, or her late husband delayed taking Social Security, she might be entitled to a bigger monthly benefit than she is collecting. That can be important news for someone with a fixed or limited income.

If you are one of the thousands of baby boomers who help their parents with their finances, reviewing their Social Security benefits ought to be at the top of your list.

A Bigger Bang

You might be eligible for a bigger Social Security benefit based on a former spouse's earnings record if the marriage lasted at least 10 years, and:

- You are at least 62 years old and unmarried and your former spouse is currently collecting benefits.
- You have been divorced at least two years, your former spouse isn't collecting benefits and you are both over 62.
- You are over 60 and your former spouse has died.
- Your spouse or former spouse delayed taking Social Security until after his full retirement age.

These days, couples getting divorced likely will hear about the ins and outs of how their Social Security will be affected, often from an attorney or accountant. But people who divorced years—or even decades—ago usually have no clue. This may include your parents.

The rules apply to both genders, but because women typically earn less over their working lives than men, they are more likely to be collecting lower benefits than they might be eligible for based on the earnings history of a former spouse.

The basics: A person can collect Social Security benefits based on her own earnings history, or 50% of her spouse or former spouse's benefit, if it is greater than her own, and 100% if he is deceased.

Rules for Divorced Couples

For divorced spouses, there are a couple of catches: The marriage must have lasted 10 years or longer, and the person seeking a former spouse's higher benefit must currently be unmarried, unless she remarried after age 60.

Let's say your mother was married in the 1950s or 1960s for at least a decade. Perhaps she was out of the work force raising children and subsequently worked at low-paying jobs, so her benefit might be, say, \$800 a month.

By contrast, her former husband—with more years in the work force and higher wages—might be eligible for a monthly benefit of \$2,000. (Social Security benefits currently max out at \$2,366 a month.)

Your mother might not realize she can collect a total of \$1,000 a month if her former spouse is alive, and \$2,000 a month if he isn't. If the Social Security Administration determines she is eligible for higher benefits, she also will receive retroactive amounts going back six months. For the woman in the example above, that would be a lump sum of either \$1,200 (six times \$200) or \$7,200 (six times \$1,200).

It doesn't matter whether the ex-husband remarried; collecting on his earnings record doesn't affect what his current spouse (or any other ex-spouse) will receive. Nor does this require any involvement with the former spouse: The Social Security Administration has information about a former spouse's earnings history and whether he is alive or not, and makes its determination based on those records.

If your mother is under full retirement age—65 or 66, depending on her birth date—there are other options. If the former husband is 62 or older, then regardless of whether he has begun collecting Social Security, your mother can begin receiving a reduced benefit at 62 based on the husband's record, provided the divorce took place at least two years prior. She can later switch to her own benefit once she reaches full retirement age, if the benefit is higher.

If the former spouse is deceased, your mother can begin collecting a reduced widow/divorced widow benefit at age 60, then later switch to her own benefit at her full retirement age, if it is greater. Working while collecting Social Security, delaying receiving benefits, being disabled or having a dependent child also can change the equation. The Social Security Administration can answer initial questions about a benefits review over the phone (800-772-1213); [the agency's website](#) has details.

An Ex-Spouse's Earnings

Applying for benefits based on a former spouse's earnings is a legitimate move, unlike the gimmick of taking a reduced benefit at age 62, then paying all the money back and commencing a benefit at full retirement age. (The Social Security Administration has closed this dubious loophole, which affluent people were using to get an interest-free loan from the government.)

Besides family members, others who might want to consider requesting a benefits review on behalf of an older person include legal-aid attorneys and counselors advising people struggling

with debt and foreclosures; nursing-home administrators, since Social Security benefits often go to the facility to help pay for the resident's care; and financial planners who are reviewing clients' sources of income.

Last year, Chris Walker of J. Mark Nickell & Co., a fee-only advisory firm in Brentwood, Tenn., helped the widow of a client obtain the full value of the survivor benefit to which she was entitled. Because her husband had delayed receiving Social Security until age 68, the widow's benefit was supposed to be \$2,140 month, not the \$1,862 that the Social Security Administration was paying her.

It took numerous phone calls and letters over a period of almost five months to get the benefit corrected, Mr. Walker says, but he persisted.

"For widows," he says, "every dollar of monthly income is valuable and needed."