

CHAPTER 30. QUALIFIED DOMESTIC RELATIONS ORDERS

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[Authority: 20 O.S., § 1111; 74 O.S., § 923]

[Source: Codified 7-27-95]

590:30-1-1. Purpose

The rules of this Chapter have been adopted to establish policies and procedures for the process of approving qualified domestic relations orders, setting standards for said orders and administering the payment of benefits to alternate payees.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95]

590:30-1-2. Definitions

The following words or terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Qualified Domestic Relations Order" means an order issued by a district court of the State of Oklahoma pursuant to the domestic relations laws of this state which relates to the provision of marital property rights to a spouse or former spouse of a member or provision of support for a minor child or children and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of Oklahoma Public Employees Retirements System, or The Uniform Retirement System for Justices and Judges.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 16 Ok Reg 616, eff 12-2-98 (emergency); Amended at 16 Ok Reg 2017, eff 6-11-99]

590:30-1-3. Filing a qualified domestic relations order

A member, his legal representative, a member's former spouse, or his legal representative may file a qualified domestic relations order with the System. In not more than ninety (90) days of such filing, the System will acknowledge receipt and notify all parties listed in the order that the order has been accepted or that clarification of the order must be provided. All qualified domestic orders filed with the System must be in accordance with Oklahoma Statutes and

accepted by the System before they are enforceable. No rights or benefits are enforceable until the order is accepted.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 16 Ok Reg 616, eff 12-2-98 (emergency); Amended at 16 Ok Reg 2017, eff 6-11-99]

590:30-1-4. Contents of qualified domestic relations order

For a qualified domestic relations order (QDRO) to be accepted and binding on the System the order must meet the following requirements:

- (1) The order must clearly specify the following:
 - (A) the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order and Social Security number of each,
 - (B) the dollar amount or exact percentage of the member's benefits to be paid to the alternate payee,
 - (C) the number of payments or period to which such order applies,
 - (D) the characterization of the benefit as to marital property rights or child support, and whether the benefit ceases upon the death or remarriage of the alternate payee,
 - (E) each plan to which such order applies,
 - (F) the date of marriage and the date of commencement of divorce proceedings giving rise to the QDRO for division of marital property,
 - (G) if the order is for child support, the name of each child covered by the order, each child's date of birth and the Social Security Number of each,
 - (H) if the order is for child support, the exact amount (if any) awarded in continuing child support for each child and the exact amount (if any) awarded for arrearages, and
 - (I) any conditions that will cause the QDRO to terminate.
- (2) The order meets the requirements of this section only if such order:
 - (A) does not require the System to provide any type or form of benefit, or any option not otherwise provided under the state law as related to the Retirement System,
 - (B) does not require the System to provide increased benefits,
 - (C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic relations order by the System, and
 - (D) does not require payment of benefits to an alternate payee prior to the actual retirement date of the related member or prior to the date the member elects to receive a lump sum distribution of his or her retirement account upon withdrawal from the System or Plan.
- (3) The order must provide an exact dollar amount or percentage of total benefit. The order may not provide for a percentage of the benefit accrued on a given date, unless the exact dollar amount is also provided. The order may not provide a formula which requires the System to calculate the amount payable to an alternate payee.

(4) If the Order awards a dollar amount, subsequent benefit adjustment will not change the amount of payment to an alternate payee unless the order specifically provides for the apportionment of future cost of living increases. If the order awards a percentage of the total benefit, the payment to the alternate payee may increase or decrease due to subsequent benefit adjustments, unless the order directs otherwise.

(5) Upon the effective date of the Medicare Gap Benefit option as provided in Chapter 10, Subchapter 19, of these rules, the order must contain a provision requiring that the award will only be made if the Pre-Medicare and/or Post Medicare Benefit amounts of the member are sufficient to make the required payment to the alternate payee and result in a payment amount to the member of at least One Hundred Dollars (\$100.00) per month.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 16 Ok Reg 616, eff 12-2-98 (emergency); Amended at 16 Ok Reg 2017, eff 6-11-99; Amended at 20 Ok Reg 1758, eff 6-12-03; Amended at 23 Ok Reg 1487, eff 5-25-06]

590:30-1-5. Payment to alternate payee

(a) Payments to an alternate payee from the Retirement Systems will be made in a like manner and at the same time payment is made to the member. Payment will be either a lump sum distribution of the contributions due the member upon termination of service, or monthly benefit payments under the retirement options available to the member at the time he or she applies for retirement benefits. The alternate Payee shall not be allowed to choose a method of payment that is different from the method chosen by the member. The alternate payee may not receive payment of any kind prior to the member making application and becoming eligible for payment of benefits.

(b) Federal and Oklahoma state income taxes will be withheld from the payment to an alternate payee in accordance with applicable federal and state statutes.

(c) It is the responsibility of the alternate payee to notify the System of any change in the alternate payee's address.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 16 Ok Reg 616, eff 12-2-98 (emergency); Amended at 16 Ok Reg 2017, eff 6-11-99; Amended at 20 Ok Reg 1758, eff 6-12-03]

590:30-1-6. Termination of a qualified domestic relations order

(a) A qualified domestic relations order, whether for provision of marital property or child support, will terminate when the System has fully met the provisions of the order. The obligation of the System to pay an alternate payee pursuant to any qualified domestic relations order shall cease upon the death of the member.

(b) In the event a qualified domestic relations order requires the benefits payable to an alternate payee to terminate upon the remarriage of the alternate payee, the System shall terminate said benefit only upon the receipt of a certified copy of a marriage license, or a copy of a certified order issued by the court that originally issued said qualified domestic relations order declaring the remarriage of said alternate payee.

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(c) If the qualified domestic relations order is for continuing child support obligations, the order shall cease upon the death of a minor child. If the qualified domestic relations order is for arrearages owed for child support, the order shall not cease upon the death of a minor child.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 20 Ok Reg 1758, eff 6-12-03]

590:30-1-7. System not subject to ERISA

For purposes of this Chapter the Oklahoma Public Employees Retirement System, and the Uniform Retirement System for Justices and Judges are not subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act. The order should not reference ERISA.

[Source: Added at 12 Ok Reg 3255, eff 7-27-95; Amended at 16 Ok Reg 616, eff 12-2-98 (emergency); Amended at 16 Ok Reg 2017, eff 6-11-99]