

Social Security provision can benefit former dependent spouses

June 17, 2015 12:00 AM

By Tim Grant / Pittsburgh Post-Gazette

When financial analyst Lisa Turbeville counsels a dependent spouse who is considering divorce after nine years in a failing marriage, she strongly advises them to do whatever necessary to stay married another year.

That's because a provision in the Social Security rules allows people who have been married 10 years or longer to collect benefits based on their former spouse's work record.

"A lot of my clients are in their 50s when they get divorced," said Ms. Turbeville, owner of Watermark Financial in Mt. Lebanon. "They may have been stay-at-home moms, maybe an executive spouse or possibly worked in their husband's business and didn't collect a paycheck. So, she has not accrued a benefit.

"Someone who is 30 right now may not be a dependent spouse," she said. "But this Social Security rule is very pertinent to the generation coming into retirement right now. You don't know if you're going to need to use it. But we like to preserve that option."

But even when a former spouse is collecting a benefit based on another person's work history, it does not affect the Social Security benefit of the former spouse whose work record is being used. The person collecting benefits also does not need to inform his or her former spouse about filing a claim for Social Security benefits.

At the age of 62, a former dependent spouse is entitled to collect half of a former spouse's full Social Security benefit — as long as the dependent spouse is not remarried at the time the claim is filed. A dependent spouse only can remarry later.

The benefit will increase until the divorcee reaches the full retirement age of 66, at which point he or she can switch to his or her own benefit or continue to receive benefits based on the former spouse's income.

There are caveats.

A dependent spouse cannot begin collecting his or her own Social Security benefit at age 62 and switch to the former spouse's benefit at a later age. Also, former spouses cannot start collecting Social Security and continue working full-time. And if a former spouse earns more than \$15,720, the Social Security Administration will start taking back part

of the benefits. Also, a person must have been divorced at least two years before claiming benefits from a former spouse.

While benefits max out at 50 percent of a former spouse's Social Security benefit, one exception to that rule is if the former spouse is dead. In that case, a former spouse may be entitled to 100 percent of the deceased former spouse's Social Security benefit.

If a person claiming benefits based on a former spouse has been married multiple times, as long as each of the marriages lasted 10 years or more, he or she can choose which former spouse's work record to base benefits on.

"It's not just a first-spouse benefit," Ms. Turbeville said. "I think it's just a fairness issue.

"It goes back many years. The stay-at-home spouse, which was very typical for many years, didn't accrue their own Social Security benefit. So the ex-husband would be able to collect Social Security for their entire lifetime and the dependent spouse would get nothing. That was probably the original reason for this."

Laurence Kotlikoff, professor of economics at Boston University and author of "Get What's Yours: The Secret to Maxing Out Your Social Security," has his own ideas on why the former spouse benefits rules were put in place. He said the system is a function of the times in which it was created and the whole program was "sexist."

"It was paternalistic in the sense that most women were stay-at-home moms raising kids and they figured they would try to provide something for them if they got divorced, but it also trapped them into staying married for 10 years," he said. "And if you are remarried, you can't get any benefit from the ex. Also, you can't get a widow's benefit unless you remarry after age 60.

"This is a punishment strategy by the men who developed this system," Mr. Kotlikoff said. "I don't think it's coming from a good place.

"Some women who don't work at all or don't earn much money can end up collecting solely on the work of an ex-spouse," he said. "Some would argue that you are helping women. Others say you create a disincentive for them joining the workforce if they don't earn enough on their own."

Ms. Turbeville said today's younger couples usually feel that both husband and wife need to work and contribute financially to have the lifestyle they want. That means both of them are accruing benefits and there's less dependency.

"In the future, the ex-spouse Social Security rule may be less important," she said. "But people who really need this, really need it.

“They didn’t have a lot of assets when they divorced. Maybe they got some spousal support until age 59½ when you can access retirement without a penalty, or to age 62 when they qualify for Social Security. Rarely do I see spousal support go past age 62. I commonly see that [former spouse Social Security benefits are] still very much needed.”

For more information, go online to www.socialsecurity.gov.

Tim Grant: tgrant@post-gazette.com or 412-263-1591.