

§ 19.6-4 Date of court orders.

(a) A court order directing or barring payment of a pension to a former spouse under § 19.9 may not be given effect by the Department if it is issued more than 12 months after the divorce becomes final. A court order adjusting the amount of a regular or additional survivor annuity to a former spouse under § 19.11-2 or § 19.10-5 may not be given effect by the Department if it is issued after the death of the principal.

(b) A court order issued within 12 months after a divorce becomes final directing payment of a pension to a former spouse in an amount other than provided in § 19.9 may be made retroactively effective to the first of the month in which the divorce becomes final if so specified by the court. In such event, the Department will adjust any future payments that may become due to an annuitant and a former spouse by increasing one and correspondingly reducing the other in order to give effect to the order of the court. However, if future payments to one party are not due, as for example if a court orders that no payments be made to a former spouse, or that 100 percent of an annuity be paid as pension to a former spouse, the Department will not give retroactive effect to a court order by collecting overpayments from one party in order to pay them to the other party and will not make overpayments from the Fund.

(c) A court order under this chapter involving any payment other than a pension to a former spouse under § 19.9 may not be given retroactive effect and shall not be effective until it is determined to be a qualifying order under § 19.6-5.

§ 19.6-5 Preliminary review.

(a) Upon receipt of an application for payment under § 19.6-3, PER/ER/RET will determine whether—

- (1) The application is complete;
- (2) The applicant is an eligible beneficiary under this chapter; and
- (3) The court order is a qualifying order. If the application is completed, the beneficiary is eligible and the court order appears on its face to be a qualifying order, PER/ER/RET will provide the notification required by § 19.6-6, otherwise, it will notify the applicant

of any deficiency or requirement for additional information, and if the order is determined to be non-qualifying, the basis for such determination.

(b) Upon receipt of a certified copy of a final decree of divorce, PER/ER/RET will determine whether—

(1) It is a valid decree. Any decree recognized as valid by the parties will be considered valid for this purpose. In addition, any non-recognized decree will be considered valid for this purpose unless:

(i)(A) Neither party was domiciled within the court's jurisdiction, and

(B) The party denying recognition did not participate in the proceedings, or

(ii) The party denying recognition was not afforded notice of the proceedings (actual or constructive);

(2) A related court order has been submitted by either party; and

(3) A pro rata share payment is or may become due the former spouse. If a divorce decree is deemed valid under this paragraph, a pro rata share payment is due a former spouse unless PER/ER/RET is in receipt of a court order which it has deemed qualified under paragraph (a) of this section, or a valid spousal agreement providing otherwise. If it determines that a pro rata share payment is due, it will provide the notification required by § 19.6-6, otherwise, unless action is being taken pursuant to a related court order, it will notify both parties to the divorce the reason a pro rata share payment is not payable.

[46 FR 12958, Feb. 19, 1981. Redesignated and amended at 46 FR 18970, Mar. 27, 1981]

§ 19.6-6 Notification.

(a) *Notification to a principal.* Whenever PER/ER/RET receives from a former spouse or other eligible beneficiary—

(1) a court order which it deems qualified that requires payment to the beneficiary; or

(2) A final decree of divorce which it deems valid together with a request for a pro rata share payment—PER/ER/RET will send a copy of the document to the principal and a notice stating: (i) That PER/ER/RET deems the order qualified or the divorce decree valid, (ii) that payments will be made from