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Legal Matters®

Divorce could impact your health insurance

Divorce is a highly stressful process that brings up many potential issues. One that causes particular uncertainty is health insurance, both during the divorce process and after the divorce is final.

A common question is whether your spouse can drop you from the employee health plan once one of you have filed for divorce. The answer to that, like many things, depends on the laws and policies of the state where you live.

For instance, some states may consider legal separation to be the equivalent of a divorce for health coverage purposes, in which case your spouse may in fact be able to take you off the policy.

Other states have laws that prevent one spouse from canceling the other spouse's health insurance while the divorce is pending. In fact, in some states, once a spouse has filed for divorce, restraining orders go into effect barring either spouse from changing or canceling beneficiaries on any insurance policies, including health insurance, without official court approval.

In those instances, if your spouse tries to remove you, he or she may face legal consequences. A court may even declare that your spouse is responsible for all medical costs you've incurred since the time your coverage was wrongfully canceled and take those costs from your spouse's share of the marital property and allocate it to you instead.

Another common question is whether, once the divorce is final, you can stay on your ex-spouse's policy if he or she approves.

Generally, the answer is "no." Most employer health plans allow



only eligible dependents such as a spouse or a child to be covered. Once you're divorced, you no longer meet those requirements. In such a case, you and your former spouse might be tempted to not inform the insurance company of your divorce, going about your business as usual instead. But that would be a huge mistake. The insurer would inevitably find out, and that could give it grounds to cancel the policy altogether and even accuse you of insurance fraud, which is a serious criminal offense.

An alternative in such a case may be to remain legally separated without actually getting a divorce, but that's really something to discuss with a lawyer, since it could have disadvantages of its own.

Now let's say you do go through with the divorce and you were pre-

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Unique legal issues that face blended families



According to recent data from the Pew Research Center, 16 percent of children in America live in blended families that include either a stepparent, a stepsibling or a half-sibling. Meanwhile, 40 percent of American families may be considered “blended” with one partner having a child from a prior relationship.

With blended families, however, come unique legal issues.

One such issue is custody and visitation rights. In a blended family in which both partners have brought in children from a prior marriage or relationship, they each probably have their own custody and visitation arrangements based on what a judge determined to be in the children’s best interest. It’s possible that changing family dynamics after a remarriage can complicate those arrangements, particularly around holidays, vacations and stepsiblings’ custody arrangements, which may cause conflict between exes.

In such a case, particularly if you feel like your ex is unilaterally altering arrangements to meet the needs of his or her new family or being unreasonably inflexible in response to your needs, don’t take matters into our own hands. Instead, consult with an

attorney who can provide legal guidance.

Creating a blended family may also mean that you need to redo your estate plan. In particular, you may need to redo your will to ensure that your new spouse replaces your former spouse as a beneficiary. And if you want to provide for your stepchildren in addition to your biological children, you will need to make sure they’re in your will as well, since stepchildren have no automatic inheritance rights in most states.

Similarly, you would need to update your beneficiary designations in your bank accounts, retirement accounts, and life insurance policies to reflect your wishes, particularly if you want your stepchildren to benefit.

Meanwhile, trusts — where assets are managed by a trustee who distributes income generated by trust assets to the named beneficiaries according to the creator’s wishes — can be impacted by blended families as well. Typically, in a blended family, a trust will need to be divided into two parts: one part that’s controlled by the surviving spouse (likely the stepparent), while a second part is for the benefit of your children (and your stepchildren if you so desire).

There are other issues that can arise in a blended family following divorce and remarriage as well. An experienced family law attorney can help you navigate them.

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What to do if you suspect your spouse is hiding assets

Divorce can be an emotionally charged process, as tensions arise around issues such as custody, child support, alimony and how property gets split up. But it can ramp up to a whole other level if you suspect your spouse is hiding assets to keep them out of the marital estate that gets divided between you.

If you suspect your spouse is hiding assets, it’s critical to talk to a divorce lawyer as soon as you can. An attorney can help you protect your rights in court while also doing what’s necessary — including working with private investigators and accountants — to identify hidden assets.

It’s also very important that you go through all your legal and financial documents and organize and take inventory of them, because they may have information that can assist your attorney in locating hidden assets.

For example, your bank statements can help your attorney get a sense of your spouse’s income and

typical expenses, and whether he or she has made suspicious withdrawals and/or deposits, or whether large purchases have been made in your spouse’s name that would typically be made in both of your names.

Loan applications can also be a useful source of information. Since applicants need to disclose their income and other assets for bank approval, scrutinizing an application may give clues of hidden assets.

Similarly, income tax returns may reveal assets you were unaware of, and publicly searchable land and vehicle registration records might reveal that your spouse bought real estate or cars that you didn’t know about.

Gathering that kind of documentation and reviewing it so you understand your finances in detail will also help you more effectively keep a lookout for new bank accounts and suspicious transfers that you can report to your attorney when they occur.

Is ‘parallel parenting’ right for you and your ex?

In many divorces involving children where both parents plan to take an active role in their kids’ lives, the divorcing couple enters a “co-parenting” relationship in which they make important decisions about education, health care and activities their children are involved in together. They also maintain similar rules, reward systems and consequences in their respective households.

Experts say this helps kids by creating consistency and stability in their lives. It also provides a model for children in problem-solving and compromise.

However, successful co-parenting requires that parents put aside personal grievances and engage in open communication and show mutual respect for one another. This can be challenging for many former couples, particularly in high-conflict situations in which parents can’t even be in the same room with each other, much less communicate effectively.

This is where “parallel parenting” may enter the picture. Parallel parenting is an alternative to co-parenting. Each parent makes their own decisions for the kids during their own time with them. This can minimize direct conflict, resulting in less stress for the children.

However, parallel parenting can also be challenging. For one thing, it requires each parent to respect the other parent’s decisions. It can also sometimes



be confusing for children, who have to adjust to separate rules in separate places.

And since a major purpose of parallel parenting is to reduce the need for hostile parents to communicate directly, a key to success is developing a detailed parenting plan that makes clear each parent’s responsibilities and how holidays, vacations and school events will be handled. Such a plan may even have detailed arrangements for handoffs, such as having a third party deliver the children from one parent to the other so they don’t have to see each other.

If you are in a high-conflict situation with your ex and don’t feel that the co-parenting model is working for you, it could be worth a call to a local family law attorney to discuss the possibility of negotiating and drafting a parallel parenting plan that might create a better situation for your children.

Divorce could impact your health insurance

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viously on your spouse’s plan. Are you out of luck? Not necessarily.

For one thing, the federal Consolidated Omnibus Budget Reconciliation Act (commonly known as “COBRA”) mandates that an employer continue to provide health insurance for an employee’s former spouse for up to 36 months following the divorce.

COBRA, however, can be expensive, since the employee now has to pay both their share and the employer’s share of the premium (which a judge might then factor into how much spousal support to order a spouse to pay).

Another option is to join your own employer’s plan, assuming you have an employer that provides one. This may not be ideal. After all, there’s a reason

you chose to be covered by your spouse’s plan instead. But it may still be the most affordable option.

If you can’t get coverage through your employer, then you might have to purchase insurance on the open market, potentially under the Affordable Care Act (commonly known as “Obamacare”). This could be pricey, but if you are the party who is at a financial disadvantage, it’s possible that a court might order your ex to pay your health insurance premiums as part of the financial settlement in your divorce.

Be aware, however, that this is just a general, broad overview. To truly understand your best options, you should set up an appointment with a family law attorney near you.



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NJ case highlights importance of updating documents post-divorce

A recent case from New Jersey serves as yet another example of how important it is to update your beneficiaries in your bank accounts, retirement accounts, and insurance policies after you get divorced.

The couple in this case, Michael and Jeanine Jones, divorced after 28 years of marriage.

As part of the divorce, Michael agreed to pay Jeanine \$200,000 and, in the event of his death, anything he still owed would become a debt owed by his estate.

The former couple stayed on cordial terms. But in late 2019, Michael became ill and soon passed away.

Before he died, Michael appointed his now-ex-wife power of attorney, giving her authority to organize his funeral, pay his bills, and take care of the former marital home, where Michael still lived. At that point, he still owed Jeanine roughly \$100,000 of the \$200,000 called for by their divorce agreement.

Jeanine soon discovered several treasury bonds designating her as Michael's pay-on-death beneficiary,

which she cashed in for \$77,000.

Michael's daughter from a prior relationship then came forward and argued to the court that because Jeanine got \$77,000 from the bonds she found, Michael's estate now only owed Jeanine \$23,000.

A family court judge ruled in the daughter's favor, pointing to a state law that automatically revokes any beneficiary designation on a financial instrument upon divorce.

The New Jersey Appellate Division reversed the decision, ruling that New Jersey's law didn't apply to treasury bonds, which are governed by federal law.

It's still unclear what Michael's true intentions were, but had he changed his beneficiary designation on the bonds or updated his will to make his wishes clear, he could have saved Jeanine and his daughter a great deal of conflict and legal costs.