

STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM
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July 1, 2020

**HAWAII DOMESTIC RELATIONS ORDERS
FREQUENTLY ASKED QUESTIONS**

This document is intended for ERS members and other parties interested in the Hawaii Domestic Relations Orders (HiDRO). It contains general information about the HiDRO, but not inclusive of all information related to the HiDRO. An accompanying ERS HiDRO Guide is also available. If you have further questions, call ERS at 808-586-1735.

GENERAL INFORMATION

Should I get a HiDRO? The ERS does not advise whether a member, former member, retirant (also known as the retiree), or their spouse or ex-spouse should obtain a HiDRO. The ERS can provide information about its retirement benefits plan and procedures but cannot provide legal advice. The information provided here should not be relied for determination of any legal issues under state law. You should consult an attorney to protect your interest in ERS benefits and determine your legal rights under state law.

If I have a divorce decree, will ERS automatically pay my spouse or ex-spouse starting on July 1, 2020 in accordance with my divorce decree? No. A HiDRO model form would need to be entered by a court, and then submitted and qualified by the ERS before ERS makes payment to an alternate payee. A Divorce Decree or Complaint for Divorce cannot be used as a HiDRO.

What is the difference between the pre-retirement and post-retirement HiDRO model forms? A pre-retirement HiDRO model form should be submitted if the member or former member is not yet retired, or has not previously retired. A court-entered pre-retirement HiDRO model form submitted to the ERS on or after the member's retirement date will not be accepted. The pre-retirement HiDRO can be applied to a retirement benefit when the member retires, or to a termination refund if a member or former vested member takes a refund of an accumulated account and/or hypothetical account (Hybrid plan only) balance prior to retirement. A post-retirement HiDRO model form should be submitted if the member is a retirant, or has previously retired (and returned to work). The alternate payee's payment is from the retirant's monthly pension, starting the month after qualification of the HiDRO.

What information is required by the HiDRO model form? The required HiDRO model form, provided by the ERS, is required to identify the member and the alternate payee and their addresses. It also indicates the percentage or amount to be paid to the alternate payee, or the way

in which the percentage is to be determined if it is based on the dates of marriage. The form also specifies that the HiDRO applies to ERS. The required HiDRO model form must be entered by a court (and domesticated if entered by a court outside of Hawaii) prior to being considered for qualification by the ERS. The HiDRO model form is available at <http://ers.ehawaii.gov> or by calling 808-586-1735.

What is the general process of the ERS's qualification of a HiDRO model form? The requesting party or parties or their legal representatives are required to complete a HiDRO model form, and obtain entry of the HiDRO model form by a court (and domestication if entered by a court outside of Hawaii). The court-entered HiDRO model form is submitted to ERS with a \$300 fee for review, which will determine whether the court-entered HiDRO model form is qualified as a HiDRO. Upon qualification, the HiDRO will be applied to a former member or retiree's benefit in accordance with a pre- or post-retirement HiDRO.

Would I be able to have a proposed HiDRO model form reviewed by the ERS before it has been entered by the court? Yes. The ERS can review a completed proposed HiDRO model form to determine if it would meet the requirements of a HiDRO, but a court-entered HiDRO model form would still need to be submitted in order to be qualified by the ERS. Each proposed or court-entered HiDRO model form will be subject to the non-refundable \$300 fee for each review.

The HiDRO model form refers to "service credits the system determines has been credited to the Member" when choosing a percentage in the formula based on the dates of marriage. What are "service credits?" An ERS service credit is earned each month that a member works a minimum number of hours and/or days. It is possible for a member to not receive service credits when on leave without pay or employed in a position that is ineligible for ERS membership.

Can the ERS help me with the filing of the HiDRO model form in court? No. Seek legal advice and/or check with the appropriate court in which the divorce was filed.

FEES, PAYMENTS AND TAXES

Will there be any ERS fees related to the filing of a HiDRO? The law allows the ERS to collect filing fees for the review of proposed HiDRO model forms, and the review for qualification of court-entered HiDRO model forms. The ERS Board of Trustees approved a non-refundable filing fee of \$300 for each court-entered and proposed HiDRO model form review. Additional fees may be incurred if the HiDRO model form requires further legal or actuarial review.

When will an alternate payee start receiving payments? For a post-retirement HiDRO, payments directly from ERS begin the month after the HiDRO model form is qualified by the ERS. For a pre-retirement HiDRO, alternate payee payments begin at the same time the member begins receiving retirement payments. For a refund to a member or former member prior to retirement, a pre-retirement HiDRO would be applied when the member or former member is processed for a refund. Payments may be delayed if not all required forms are turned in by the

alternate payee. Recurring monthly payments are made by direct deposit once a month, at the end of the month.

Will the alternate payee have to pay taxes? An alternate payee, who is a spouse or former spouse of a member or retirant, generally has the same tax consequences as the member or retirant, including rollover rights of eligible lump-sum payments. The alternate payee is responsible for applicable taxes on ERS distributions. Consult a tax adviser if you have additional questions.

Are alternate payees eligible for the annual post-retirement increase? The alternate payee will receive a post-retirement increase each year when the retirant receives it.

Can a HiDRO be applied to any benefits already distributed or paid out by the ERS? No. The HiDRO does not provide payment of benefits that have already been distributed to the former ERS member or retirant.

Can the HiDRO be applied to an active member's contributions? No. A pre-retirement HiDRO can only be applied if a member or former vested member requests and receives a refund of accumulated contributions and/or hypothetical account balances prior to retirement. A former member who has taken a refund prior to retirement is no longer a member of the system and is not eligible for a retirement benefit.

REQUESTS FOR INFORMATION

Can I make a request for HiDRO-related information for an ERS member, former member with vested benefit status or retirant prior to seeking a HiDRO? Yes. Upon receipt of a completed ERS Request for Information form and a copy of the certified copy of the complaint for divorce or a divorce decree, the ERS will provide the spouse or former spouse with HiDRO-relevant ERS information of the member, former member or retirant. A member seeking information can submit a Request for Information form without the complaint for divorce or divorce decree. Beneficiary information will not be released. The information provided is based on the date of request and does not project any future benefits.

How can I find information about the ERS retirement plans? Brochures for the plans are located on our website: <http://ers.ehawaii.gov>.

BENEFICIARIES AND RETIREMENT OPTION

Does the HiDRO affect a member's designation of beneficiary or selection of retirement payment option? No. A HiDRO cannot require the designation of a particular person as the beneficiary of death benefits, or the selection of a particular retirement payment option.

DEATH

Can the HiDRO specify a lifetime benefit for the alternate payee? No. A HiDRO is void upon the death of the member, former member with vested status, retirant, or alternate payee. Generally, if a member or retirant predeceases an alternate payee, HiDRO payments to the alternate payee, if any, would stop, and the designated beneficiary or beneficiaries would receive

death benefits, if any. If the alternate payee predeceases a retirant, the portion being paid to the alternate payee would be restored to the member the month after the death was reported to the ERS.

RESOURCES

Hawaii Revised Statues Chapter 88-93.5, Distribution of property in a divorce action, effective July 1, 2020

Hawaii Administrative Rules Chapter 6-40 Hawaii Domestic Relations Orders, effective July 1, 2020

Hawaii Domestic Relations Orders Guide, July 1, 2020

Contact ERS

If you have any questions, please contact us at (808) 586-1735 from 7:45 a.m. to 4:30 p.m., Monday through Friday, except on State Holidays. The phone numbers for the Neighbor Islands and continental United States are also listed.

Hawaii	974-4000 ext. 61735
Maui	984-2400 ext. 61735
Kauai	274-3141 ext. 61735
Molokai/Lanai	1-800-468-4644 ext, 61735
Continental US	1-888-659-0708