

**Semi-Annual Performance Report  
Cover Sheet**

1. Grant Numbers: 90AM3148/01 and 90AM3148/02
2. Project Title: Mid-America Pension Rights Project
3. Grantee Name: Elder Law of Michigan, Inc.  
3815 W. St. Joseph Street, Suite C-200  
Lansing, Michigan 48917
4. Phone: (517) 372-5959
5. Project Period: October 1, 2007 – July 31, 2010
6. Reporting Period: August 1, 2009 – January 31, 2010
7. Final Reporting Period: Not Applicable
8. Project Investigator: Christa Schofield  
Telephone: (517) 372-5959
9. Report Author: Christa Schofield
10. Date of Report: March 5, 2010
11. Project Officer: Valerie Soroka
12. Grants Specialist: Rebecca Mann

## Activities and Accomplishments

- 1. What did you accomplish during this reporting period, and how did these accomplishments help you reach your stated project goal(s) and objective(s)? Please note any significant project partners and their role in project activities.**

Between August 1, 2009 and January 31, 2010, the Mid-America Pension Rights Project (MAPRP), an established regional pension counseling and information project, provided equitably distributed pension counseling and information services to individuals in Kentucky, Michigan, Ohio, Pennsylvania, and Tennessee. The project grantee, Elder Law of Michigan, Inc. (ELM), together with its partners Pro Seniors, Inc. of Ohio, the Access to Justice Foundation of Kentucky, the SeniorLAW Center of Pennsylvania, and the Tennessee Alliance for Legal Services, continued to accomplish the project's main goal of equitable service delivery throughout its 5-state region. In addition to efficiently and effectively providing high quality pension counseling services, MAPRP partners continued to implement creative outreach strategies and expand the availability of services.

MAPRP continued its regional service through the successful operation of its common toll free telephone number, an automatic telephone routing system, common marketing materials, and its website, [www.mid-americanpensions.org](http://www.mid-americanpensions.org). ELM hosts and maintains the MAPRP website with input from its project partners. A growing number of potential clients discovered MAPRP's services through its website. In addition to those MAPRP clients who cite the Internet as their referral source, MAPRP began to receive a growing number of pension inquiries directly through the contact option available on its website. MAPRP attorneys provided basic pension information to 6 emailed pension inquiries

with the caveat that each case is fact specific. The emailed responses also included an invitation to contact MAPRP for more individualized assistance through its toll free telephone service. MAPRP staff continued to refine and update [www.mid-americanpensions.org](http://www.mid-americanpensions.org) with links to current media releases and announcements of MAPRP events as they occur.

MAPRP partners continued their coordinated outreach efforts during this reporting period. MAPRP's outreach sought to reinforce its presence while increasing awareness of its specialized services. MAPRP partners targeted their outreach efforts to service providers that assist the region's aging and vulnerable population, retiree organizations, members of the private labor and employment bar, and government at all levels.

During this reporting period, MAPRP completed its rolling outreach to all local offices of the Social Security Administration within the project's 5-state region. These outreach materials targeted both office staff and the customers they serve. Each office received a personalized letter explaining MAPRP's pension counseling and information services, a project brochure outlining these services in detail, and a color poster designed to grab the attention of persons who visit these local offices. MAPRP will continue to track the success of this outreach focused uniquely on those individuals seeking income as they withdraw from active employment.

MAPRP also sought to publicize its pension counseling services to members of the Big Ten Retirees Association. This retiree organization serves the interests of all former

employees – faculty and staff – of the Big Ten Conference universities. Each Big Ten university maintains its own retiree association to represent the interests of its retired employees within the university and within the conference. MAPRP distributed personalized letters and project brochures to representatives of each Big Ten university retiree association as well as the Conference’s umbrella organization shortly before its annual conference in August 2009.

Also in August 2009, MAPRP’s Michigan office mailed personalized letters and project brochures to all members of the State Bar of Michigan’s Labor and Employment Law Section. The letters explained MAPRP services and proposed a reciprocal client referral relationship to maximize legal services available to pensioners. In early November 2009, the Michigan office followed up this outreach to the private bar by hosting an informal networking breakfast for pension practitioners in southeast Michigan. Pension attorneys from private practice and labor unions, retired attorneys, and a sitting Michigan judge joined ELM Executive Director, Kate White, and MAPRP Project Director, Christa Schofield, to learn about MAPRP services and volunteer opportunities available within MAPRP.

In December 2009, the Michigan office also introduced MAPRP’s pension counseling services and referral possibilities to the members of the Labor and Employment Law sections of both the Kentucky and Tennessee Bar Associations. Each member of these sections received a personalized letter similar to that distributed within Michigan and a project brochure.

Also during this reporting period, the MAPRP sent letters and project brochures to all statewide and local lawyer referral services in Michigan, Kentucky, Pennsylvania, and Tennessee.

MAPRP had several positive contacts with the Michigan Employment Lawyers Association (MELA) between August and January. MELA's president, David Blanchard, publicized MAPRP's services and its Michigan networking breakfast through MELA's electronic newsletter and listserv. He also made MAPRP brochures available to MELA's members.

MAPRP's Ohio office continued to seek out those needing pension counseling and information services by purchasing advertisements in 25 local Ohio newspapers. These outreach efforts focused on rural Ohio residents through the placements of ads in weekly periodicals serving areas of low population density. Ohio office staff also explained MAPRP services through personal presentations to a rural retiree group and the Legal Aid Society of Cleveland. Throughout the reporting period, staff distributed project brochures, pens, and flashlights that publicized the availability of pension counseling services to Ohio residents.

In December 2009, MAPRP reinforced its previous outreach to Kentucky Area Agencies on Aging by mailing personalized letters and project brochures to all offices. MAPRP also introduced its services to all adult literacy coalitions, senior centers, and hospice

providers in Kentucky through mailed letters and project brochures. During this reporting period, Robin Cooke of Access to Justice of Kentucky personally distributed project brochures at senior events such as a wills clinic and an elder care presentation at the University of Kentucky. Ms. Cooke also discussed and explained the project and its services at the University's Donovan Series on Aging.

MAPRP introduced its services to each Pennsylvania literacy coalition and hospice provider with an individualized letter and project brochure during December 2009. A Pittsburgh area state representative distributed MAPRP brochures during his annual senior expo in October. Throughout the reporting period, the SeniorLAW Center, MAPRP's Pennsylvania partner, continued to distribute MAPRP brochures state-wide with the assistance of the Pennsylvania Attorney General's office and JEVS Human Services.

In addition to frequent email exchanges, MAPRP staff maintained personal contact with project partners and brainstormed about how to best implement the project's goals and objectives during 3 telephone discussions between August and January. Each partner's representative routinely updated the group on her current case load and outreach activities. MAPRP utilized this opportunity to spot trends in call volume and types of pension inquiries. The conferees also discussed substantive pension law and advised each other on client options.

**2. What, if any, challenges did you face during this reporting period and what actions did you take to address these challenges? Please note in your response changes, if any, to your project goal(s), objective(s), or activities that were made as a result of challenges faced.**

MAPRP's previous semi-annual report discussed a possible challenge to the Michigan office's service delivery model. The availability of federal work-study funds threatened to limit the number of law student applicants for the legal intern positions within the organization. The Michigan office operates much like a law school clinic in which interns take responsibility for case investigation and management under the close supervision of experienced attorneys. Happily, this challenge has not proved significant, but the Michigan office remains concerned about the potential reductions in work study funding in the future.

Law students are a traditionally transient population; most only remaining in the Lansing, Michigan vicinity for 3 years. The current economic climate places increased pressure on law students to fill their resumes with significant legal experience in order to make themselves more attractive to recruiters and future employers. While legal interns universally give their Michigan MAPRP experience glowing reviews, they sometimes feel pushed by circumstances to look for another legal experience after only 2 semesters with the Michigan office. To combat this brain drain, Michigan staff will focus its recruitment efforts on members of labor and employment law interest groups formed

within both the Thomas M. Cooley Law School and Michigan State University's College of Law (MSU). They will also seek at least a 1 year commitment from any new hires.

In December 2009, Legal Intern Beth Wolf left MAPRP's Michigan office to concentrate on her family and legal studies. Sean Nichols, a second year MSU law student, filled this vacated position in January, and he has assumed a moderate case load following his project orientation. All other staff throughout the MAPRP offices remained unchanged.

[See Appendix A for Nichols Resume.]

Both the Michigan and Ohio MAPRP offices continue to scan pension plan documents. The Ohio office temporarily suspended document scanning when the hard drive devoted to its PAID system crashed. Utilizing budgeted funds, the Ohio office replaced the damaged drive, and scanning resumed after only a short delay.

These challenges did not require MAPRP to change any previously stated goals, objectives, or activities during this reporting period.

**3. How have the activities conducted during this project period helped you to achieve the measurable outcomes identified in your project proposal?**

The Mid-America Pension Rights Project continued to achieve its goal of providing comprehensive pension counseling and information services throughout Kentucky, Michigan, Ohio, Pennsylvania, and Tennessee during this reporting period. MAPRP

added to its previously surpassed goal of serving 600-700 persons over the life of its 3-year grant. Between August and January, the MAPRP offices responded to 426 pension-related inquiries. Project attorneys resolved 229 (54%) of these individual concerns by providing advice and counsel. During these “quick calls,” experienced attorneys explained relevant law and advised clients of their rights and options. MAPRP attorneys referred 197 (46%) inquiries for further investigation and advocacy by project staff.

Between August 1, 2009 and January 31, 2010, MAPRP recovered pension benefits for 41 clients, representing a present value of \$2,651,102 or a cash accumulated value of \$2,868,955. Each of the 41 pension benefits provided added financial security for the recipient. While MAPRP is pleased that it provided U.S. taxpayers with an impressive return on their investment by recovering over \$26.50 for each tax dollar received to operate the project, project staff continues to derive significant satisfaction from the advocacy of those cases the private bar often views as economically impractical to pursue.

MAPRP is very pleased with the survey results obtained by the Michigan and Ohio offices between August and January. As in past surveys, clients continued to rate MAPRP staff very positively. An overwhelming majority of survey respondents agreed that MAPRP staff treated them politely, promptly, and with respect. Their favorable interaction with MAPRP’s offices resulted in an almost universal willingness to recommend others to the project.

Those surveyed also rated MAPRP's knowledge of pension law very high while finding the project's services valuable in resolving their individual situations and in clearly understanding their rights and options. Understanding that federal funding made MAPRP services possible, a large majority of surveyed clients agreed with the statement that the government cares about their financial wellbeing. They also expressed willingness to seek assistance from other non-profit organizations in the future.

MAPRP is particularly pleased with the noted up-tick in positive responses to the survey's quality of life inquiries. 80% of respondents reported that they had less stress and worry in their lives after getting help with their pension issues. Nearly all clients for whom MAPRP recovered a present or future pension benefit reported that they now felt better able to meet their financial needs and had more stable income in retirement. 92 to 100% of these clients also felt better able to supplement their Social Security income while agreeing that the pension income resulting from MAPRP assistance had improved their standard of living or quality of life.

The MAPRP offices continued to promote the attorney referral services of the National Pension Lawyers Network (NPLN) while actively referring to NPLN those individuals needing additional legal services, such as litigation, not provided by the pension counseling and information projects. The Michigan office developed a flyer explaining NPLN services. (See Appendix C.) Staff distributed the NPLN flyer to those attorneys attending an informal pension practitioner networking event in the metropolitan Detroit

area and posted the flyer along with the NPLN Attorney Registration Form on MAPRP's website.

In November 2009, attorneys Gail Webb and Jean Spring of MAPRP's Ohio office completed their staff development objective by attending the American Bar Association's 2-day ERISA Litigation Seminar in Chicago, Illinois. Both attorneys reported that they found the training challenging and worthwhile, having gleaned valuable nuggets of pension information that will be helpful when advocating for MAPRP clients.

Both the Michigan and Ohio MAPRP offices updated their in-house pension libraries by purchasing the 2009 Cumulative Supplement to Employee Benefits Law 2<sup>nd</sup> Edition during this reporting period. The Michigan office also acquired The Pension Answer Book, 2010 Edition.

MAPRP staff completed fact sheets explaining the importance of including pension benefits in a complete estate plan, the difficulties encountered when assisting a pensioner with dementia or other cognitive impairment, and the rights of surviving spouses. These fact sheets appear on MAPRP's website and will be distributed to clients and service providers when appropriate. (See Question 4, appendices F, G, and H.)

**4. What was produced during the reporting period, and how have these products been disseminated? Projects may include articles, issue briefs, fact sheets, newsletters, survey instruments, sponsored conferences and workshops, websites, audiovisuals, and other informational resources.**

ELM hosted and maintained MAPRP's common website which was launched during the previous reporting period. MAPRP continued the time-intensive process of updating and refining [www.mid-americanpensions.org](http://www.mid-americanpensions.org). Through its website, MAPRP announced outreach events and offered links to current pension information. Staff carefully screened all included weblinks for relevance and accurate fact-based information before posting.

[See Appendix B for [www.mid-americanpensions.org](http://www.mid-americanpensions.org).]

As previously discussed, MAPRP created, distributed, and posted on its website a 1-page flyer explaining the services of the National Pension Lawyers Network (NPLN) for both pension attorneys and their potential clients.

[See Appendix C for NPLN Flyer.]

The Michigan MAPRP office works cooperatively with the State Bar of Michigan's Michigan Litigation Assistance Partnership Program (MI-LAPP) to obtain the qualified domestic relations orders (QDROs) necessary to enforce the rights of low-income clients awarded during divorce or legal separation. MI-LAPP coordinates the efforts of a cadre of private Michigan attorneys who volunteer their excellent QDRO drafting services to benefit those who might otherwise be unable to access pension income. To encourage other Michigan attorneys to volunteer, MAPRP created, distributed, and posted on its website a 1-page flyer.

[See Appendix D for MI-LAPP Flyer.]

Michigan staff distributed both the NPLN and MI-LAPP flyers at their November 2009 networking event for pension practitioners.

[See Appendix E for Breakfast Invitation.]

As previously mentioned, MAPRP created and posted 3 fact sheets to [www.mid-americanpensions.org](http://www.mid-americanpensions.org). “Don’t Forget Your Retirement Benefits When You Consider Your Estate Planning” explains the importance of checking into possible pension benefits within the context of providing additional income for one’s spouse or beneficiaries. MAPRP attorneys have frequently encountered surviving spouses who are shocked and sometimes left impoverished when they learn that the pension on which they hoped to rely will not be forthcoming. This fact sheet encourages those pondering end-of-life issues to obtain documentation of benefits from plan administrators and to place this information in safekeeping with other estate planning documents.

[See Appendix F for “Don’t Forget Your Retirement Benefits When You Consider Your Estate Planning.”]

“Assisting Cognitively Impaired Pensioners” explains the limited actions that can be taken on behalf of a pensioner or potential pensioner who is impaired by dementia or other cognitive diseases. After setting out how to conduct a preliminary investigation into plan sponsors and administrators, this fact sheet discusses the need for legal authority such as agency under a durable power of attorney or court appointment as a guardian or conservator in order to legally act on the cognitively impaired person’s behalf.

[See Appendix G for “Assisting Cognitively Impaired Pensioners.”]

“Surviving Spouse Pension Benefits” discusses, in a question and answer format, the potential rights of a pension plan participant’s surviving spouse and the significance of the plan participant’s date of retirement when determining those rights. This fact sheet also explains the waiver of spousal rights to a survivor pension.

[See Appendix H for “Surviving Spouse Pension Benefits.”]

MAPRP will complete and post its fourth fact sheet, Qualified Domestic Relations Orders (QDROs), early in the next reporting period.

Appendix A  
Nichols Resume

# Sean J. Nichols

2630 Marfitt Road • Apartment 10 • East Lansing, MI 48823 • (248) 921-1094 • nicho247@msu.edu

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## Education

**Michigan State University College of Law** **East Lansing, MI**  
*Juris Doctor expected in May 2011*

- Chancellors Scholarship
- Selected to participate in Intellectual Property focused Legal Research and Writing
- Alternative Dispute Resolution Society

**University of Michigan-Dearborn** **Dearborn, MI**  
*Bachelors of Arts in Economics, Spring 2008*

- Magna Cum Laude
  - Dean's List
  - Earned 100% of education expenses
- 

## Experience

**2005-2009 Providence Hospital and Medical Center** **Southfield, MI**  
*Office Clerk and Materials Handler*

- Set and tested parameters for productivity monitoring software AtStaff
- Set par levels for twenty-two nursing units according to lean/one-day supply principles
- Monitor supply level of storeroom according to lean/one-day supply principles
- Coordinate and deliver specialized and general supplies for twenty-two nursing units
- Gather data for Six Sigma productivity enhancing projects
- Assisted in budget preparation by preparing Excel spreadsheets and completing data entry

**2005 Dickinson Wright PLLC** **Bloomfield Hills, MI**  
*Receptionist*

- Greeted and assisted the firm's clients in a professional setting
- Coordinated the use of office resources

**2004 SignGraphix** **Farmington Hills, MI**  
*Installation Apprentice*

- Packaged and installed various signs
  - Installation of various signs
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## Languages

**Spanish**

- Working knowledge of verbal and written Spanish

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## Skills

- Strong ability to combine facts with instinct when problem solving
- Substantial experience with all aspects of surveys, from hypothesis creation to data analysis
- Highly skilled with using general and economic statistics to analyze data, test for errors, and adjust survey hypotheses
- Highly skilled with theoretical models through testing and changing econometric models of the U.S. economy
- Substantial experience with public speaking and debate through participation in competitive forensics and the Intercollegiate Ethics Bowl

Appendix B  
[www.mid-americanpensions.org](http://www.mid-americanpensions.org)

[www.mid-americanpensions.org](http://www.mid-americanpensions.org)

Appendix C  
NPLN Flyer

**Reach Prospective Clients  
Through The  
National Pension Lawyers Network**

The National Pension Lawyers Network (NPLN) connects local private practitioners with potential clients. If you are willing to represent individuals having pension or employment problems, consider adding your name to the NPLN referral panel. Operated by the Pension Action Center at the University of Massachusetts, the NPLN refers retirement plan participants and their beneficiaries to local practitioners when problems occur in securing plan benefits.

The NPLN does not charge attorneys a registration fee for listing their names on its referral panel. The NPLN does not require participating attorneys to accept all referrals. Attorneys decide whether or not to accept a particular case. Also, this national referral service does not impose fee expectations on participating attorneys. The NPLN does ask whether attorneys would like to list themselves as accepting full fee, reduced fee, or pro bono cases.

The NPLN attempts to match inquiring pension plan participants with local pension or employment attorneys, but it does not screen lawyers for ability or background. It is up to the potential client to determine if the referred attorney is the right person to take on the case. The NPLN does not charge the prospective client a fee for a lawyer referral.

The NPLN is able to provide this service without charge to both panel attorneys and potential clients because it receives funding from the US Administration on Aging.

To place your name on the NPLN referral panel, contact:

The National Pension Lawyers Network  
Gerontology Institute  
University of Massachusetts Boston  
100 Morrissey Blvd., Boston, MA 02125  
Tel. (617) 287-7332  
Fax (617) 287-7080  
E-mail: [npln@umb.edu](mailto:npln@umb.edu)

Appendix D  
MI-LAPP Flyer

## **Sign up to draft QDROs for low income Michigan residents! A great way to volunteer!**

**M**ost attorneys have the skills necessary to make an important difference in the lives of low income Michigan residents. Increasingly, some Michigan residents are unable to reach pension benefits obtained during a divorce or separate maintenance action because they cannot afford the cost of drafting the required qualified domestic relations order (QDRO). More attorneys are charging extra fees to create a QDRO on top of the cost of the divorce. In many cases legal aid does not have the resources to draft these documents unless they also helped the client with their divorce. There are many low income families and older single women struggling to make financial ends meet because they don't have access to retirement benefits.

The MI-LAPP program of the State Bar of Michigan operates a pro bono QDRO program that empowers volunteer attorneys to draft QDROs for clients of legal aid programs. This is a great way to help out with pro bono family law cases without handling the divorce or meeting with clients!

MI-LAPP actively refers the responsibility of drafting proposed QDROs to volunteers for the benefit of low-income clients throughout the state of Michigan, and they need more attorneys to volunteer to be drafters. Training will be provided upon request.

MI-LAPP strives to:

- provide a critical service to low-income persons in the divorce process;
- prevent divorced and dependent persons from being unnecessarily impoverished due to a divorce;
- effectively utilize the skills of pension and financial specialists to further facilitate legal services to the poor; and
- expand the resources available to legal services providers by providing volunteer assistance in a critical and specialized legal and financial area related to divorce actions.

Remember, MI-LAPP can arrange training on how to draft QDROs, so let MI-LAPP know if you would need it.

If you can help by volunteering your time, please contact:

Dionnie Wynter, MI-LAPP, c/o State Bar of Michigan  
Attention: Justice Initiatives Division  
306 Townsend Street  
Lansing, MI 48933-2012  
[dwynter@mail.michbar.org](mailto:dwynter@mail.michbar.org) or (517) 346-6412

Appendix E  
Breakfast Invitation



Michigan Office  
3815 W. St. Joseph St., Ste. C-200  
Lansing, Michigan 48917

1-866-735-7737  
[mid-amicapensions.org](http://mid-amicapensions.org)

Please join the friends and staff of  
the Mid-America Pension Rights Project,  
a program of Elder Law of Michigan, Inc.,  
for Pensions Over Breakfast,  
an opportunity for pension practitioners to meet informally  
between 8 and 10 o'clock  
Wednesday, November 4, 2009  
Area Agency on Aging 1-B  
29100 Northwestern Hwy., Suite 400  
Southfield, MI 48034.  
Please RSVP by calling  
(517) 853-2389  
before Friday, October 30<sup>th</sup>.

Please check out [www.mid-amicapensions.org](http://www.mid-amicapensions.org) for more details.

Mid-America Pension Rights Project is a program of  
Elder Law of Michigan, Inc., a 501(3)c non-profit.

*Helping with Pension and Retirement Benefit Problems in  
Kentucky, Michigan, Ohio, Pennsylvania, and Tennessee*

Funded by the United States Administration on Aging

Appendix F  
“Don’t Forget Your Retirement Benefits  
When You Consider Your Estate Planning”



## **DON'T FORGET YOUR RETIREMENT BENEFITS WHEN YOU CONSIDER YOUR ESTATE PLANNING**

When most people think about their estate planning and end-of-life issues, they consider how and to whom they will leave their possessions. They look into wills, trusts, and other inheritance devices. Forward-thinking people also ponder who will make decisions for them during their lifetime if they are unable to participate in the decision-making process. They investigate durable powers of attorney for their financial affairs and medical powers of attorney (sometimes called living wills) for healthcare decisions.

All of these documents can be important parts of a complete estate plan, but don't overlook a potential source of income for yourself, your spouse, and your beneficiaries. If you have worked for a government or private employer, you may be entitled to collect retirement benefits. Some employers also provide life insurance coverage for their employees.

- Have you checked your beneficiary designation on your IRA, your defined contribution pension plan such as a 401(k), or your life insurance policies?
- Have you checked with the administrator of your traditional (defined benefit) pension about your spouse's rights should you die first?

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Making these inquiries may be very important especially if you ever divorced. Get any beneficiary and surviving spouse benefit information in writing and keep this document with your other estate planning documents.

**Be sure to consult an attorney in the state where you reside and your tax advisor before taking any action to change or update your estate planning.**

If you need basic pension information; if you need help finding a pension lost due to company bankruptcy, closure, or merger; or if you need help with a pension claim, please call **(866) 735-7737**. The Mid-America Pension Rights Project provides confidential pension assistance without any income or age restrictions.

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Appendix G  
“Assisting Cognitively Impaired Pensioners”



## Assisting Cognitively Impaired Pensioners

Caring for persons with cognitive impairments may require dealing with the impaired person's financial issues. Potential pension benefits and problems with pension claims often present a challenge.

Before attempting to help with a pension issue, be warned that you may not get very far in this process without legal authority. Employers, government agencies, and pension plan administrators are required to protect private information and generally will only deal with the individual pension plan participant or his/her legal representative. In many cases, a financial Durable Power of Attorney signed by the impaired person while mentally competent will be acceptable. However, some organizations will only release information to a court-appointed guardian or conservator.

### ❖ Tracking down a potential pension benefit

Begin by researching the work history that may have earned a pension benefit. Usually some bit of information starts the search for a pension. Can the impaired person tell you where he worked? If not, are there family members that may have this information? Did the former employee receive a Notice of Potential Private Pension Benefit from the Social Security Administration (SSA)?

If you cannot informally discover the impaired person's work history, consider submitting a Request for Social Security Earnings Information. For a fee, the Social Security Administration will research and report an individual's earnings history. You can find a request form, SSA-7050-F4, on the SSA website. If the former employee cannot make this request himself, you will need a form of legal authority to make the request for him.

Once you have an employer name as a starting point for your research, the Internet is a great source of information. You will be searching for the current

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pension plan administrator. Does the employer still exist? If not, did it merge with another or just cease to exist? Did the employer declare bankruptcy? A quick query to Google or a similar search engine may give you the information you need.

Most states have an agency or department that maintains online corporate records. You may be able to track the former employer to a successor company or find a resident agent who may have some information.

Did the Pension Benefit Guaranty Corporation (PBGC) take over the administration of the pension? The PBGC guarantees certain defined benefit (traditional) pensions earned through private employment. The PBGC does not guarantee or administer any defined contribution pension plans like 401(k)s. Check the PBGC website, [www.pbgc.gov](http://www.pbgc.gov), for more information. This website includes searchable databases of pension plans administered by the PBGC and potential pensioners who may be due a benefit.

Ask around your community. Can you find other former employees who are receiving a pension? This information can lead you straight to the pension plan administrator.

Another great internet resource is [www.freeerisa.com](http://www.freeerisa.com). This website offers free searches of the 5500 forms filed by pension plan sponsors. Federal pension law [the Employee Retirement Income Security Act of 1974 (ERISA) and the Internal Revenue Code] requires plan sponsors to report certain information to the federal Department of Labor each year. The 5500 form will provide a name and address for the pension plan administrator. Generally, however, the most current forms available on [www.freeerisa.org](http://www.freeerisa.org) are at least 2 years old.

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Be aware that it may be difficult to locate information about a specific pension plan if the impaired person's employment for the plan sponsor ended before 1975. Extensive recordkeeping of private pension information was not mandated until enactment of ERISA.

❖ **Contacting the pension plan administrator**

After you have located the administrator of the pension plan, write a letter to the plan. Here again, if the impaired person cannot write this letter himself, you will need some form of legal authority to request the impaired person's personal information and/or to act on his behalf. The letter should explain your legal authority and include a photocopy of the Durable Power of Attorney or court documents recording your appointment as the impaired person's guardian or conservator.

The initial letter to the pension plan administrator should clearly set out the employee's full name, his Social Security number, and his last date of employment. Ask the plan administrator to provide a copy of the Summary Plan Description (SPD) in effect on the impaired person's last date of employment. An SPD contains important information such as participation, vesting, and eligibility rules. It is a condensed version of the actual pension plan. It should be written in language easily understood by the average person. Also request an explanation of the former employee's potential pension benefits and an application form.

If you are contacting the PBGC, follow its online instructions, and use its forms when making a pension inquiry.

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## ❖ Dealing with problems

Read over the pension plan administrator's response to your request for information. Compare it with the facts you have gathered about the impaired person's work history and the rules spelled out in the SPD.

If you disagree with or are unsure about the plan's determination, consider calling the Mid-America Pension Rights Project's toll free telephone number **(866) 735-7737** for advice, information, and possible intervention. Be very careful that you do not take any action that could be viewed as an appeal by the pension plan administrator. Consult a pension attorney first. Most plans only permit 1 appeal to a plan's determination. If your action/appeal is incomplete, the plan need not consider any further evidence you have to offer. The pension plan's denial of an appeal could also limit the impaired person's options. His only recourse may be to sue the pension plan, an often lengthy and expensive process. An appeal denial also starts the clock running on a Statute of Limitations. Once this legal time limit on filing a lawsuit has expired, the employee may lose all rights of reconsideration.

If you encounter difficulties at any point in the steps outlined above, please feel free to contact the Mid-America Pension Rights Project **(866) 735-7737**. The Project provides free legal assistance with pension issues without any age or income restrictions.

***THIS FACT SHEET IS INTENDED TO PROVIDE ONLY GENERAL INFORMATION AND  
SHOULD NOT BE RELIED ON AS A LEGAL OPINION.  
SEEK INDIVIDUAL LEGAL ADVICE  
BEFORE MAKING ANY DECISION ABOUT YOUR RIGHTS.  
CALL THE  
MID-AMERICA PENSION RIGHTS PROJECT  
(866) 735-7737  
TO GET ADVICE AND INFORMATION  
ABOUT PRIVATE AND PUBLIC PENSIONS.***

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Appendix H  
“Surviving Spouse Pension Benefits”



## Surviving Spouse Pension Benefits

As a widow or widower, federal law may entitle you to receive a surviving spouse pension benefit resulting from your spouse's work for a private employer. Federal law began regulating the pension plans of private employers with the enactment of the Employee Retirement Income Security Act of 1974 (ERISA).

Before ERISA was amended in 1984, many employees chose to receive a single life annuity without consulting their spouses. Single life annuities generally pay a higher monthly benefit than a joint and survivor annuity which guarantees payments over the lifetimes of both spouses. If an employee opted to receive a greater amount each month as a single life annuitant, the surviving spouse was not entitled to a pension benefit after the employee's death.

In 1984, Congress passed the Retirement Equity Act (REA) giving spouses important rights in private pensions. REA required most private pension plans to provide a retirement benefit as a joint and survivor annuity unless the employee's spouse specifically gave up all rights to the pension by signing a waiver. No longer did the married employee have complete control over the form of pension benefit received. Unfortunately, REA did not extend this right retroactively.

The right to receive part of your spouse's pension depends on several factors including:

- ❖ Where your spouse worked,
- ❖ When your spouse retired,
- ❖ When your spouse died,
- ❖ Whether you signed a written statement waiving your survivor's benefit, and
- ❖ Whether you and your spouse divorced.

Did your spouse work for a private employer?

If yes, and he or she was a member of a pension plan, you may be entitled to a benefit.

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If your spouse was employed by the military or the federal, state, or local government, he or she was not a member of a private pension plan. The terms of public pension plans are set by the laws of the government offering the benefit.

ERISA requirements may not cover pension plans offered by churches or church-related agencies. If your spouse worked for such an employer, check with the pension plan to find out if it has chosen to follow ERISA guidelines.

Did your spouse retire before 1985?

Before 1985, your spouse could choose to waive your survivor's pension benefit without your consent. REA's surviving spouse waiver provisions, generally, did not apply to plan years starting before December 31, 1984.

After 1985, your spouse could not receive a pension paid only over his or her lifetime unless both you and your spouse waived the survivor's benefit. Federal law now required private pension plans to provide an employee with a "spousal consent" form which explains in clear language the effects of the waiver.

Did your spouse retire on or after August 23, 1984, but before January 1, 1985?

On August 23, 1984, the President signed the Retirement Equity Act. Survivors could no longer choose to receive a single life annuity, instead of a joint and survivor annuity, without spousal consent. Most provisions of the REA did not go into effect until January 1, 1985.

However, if your spouse retired on or after August 23, 1984, but before January 1, 1985, you may be entitled to a special survivor benefit under the REA.

Did you sign a waiver form that was unclear, or were you forced to sign under pressure?

Waiver forms may sometimes be challenged if the spouse signed the form under pressure or if the form did not clearly warn the spouse about the consequences of signing the document.

Did you and your spouse divorce?

Generally, once you are divorced, you are no longer eligible to receive a survivor's benefit unless your Judgment of Divorce specifically states that you are

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to receive this part of your former spouse's pension and you get a special court order called a Qualified Domestic Relations Order (QDRO).

***THIS FACT SHEET IS INTENDED TO PROVIDE ONLY GENERAL INFORMATION AND SHOULD NOT BE RELIED ON AS A LEGAL OPINION. SEEK INDIVIDUAL LEGAL ADVICE BEFORE MAKING ANY DECISION ABOUT YOUR RIGHTS. CALL THE MID-AMERICA PENSION RIGHTS PROJECT (866) 735-7737 TO GET ADVICE AND INFORMATION ABOUT PRIVATE AND PUBLIC PENSIONS.***

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