

Is Protection for Support Really Protection?

The recent mergers within Canada's insurance companies have resulted in an industry that is evolving from one day to the next. As a result, one must question whether or not the current practice of establishing life insurance policies to guarantee future support payments is being done correctly in conjunction with these changes within the system.

As a Certified Divorce Financial Analyst (CDFA), I will often have a client who is named either the beneficiary or the trustee of a life insurance policy which was bought by his or her former spouse. Such insurance policies are put into place to ensure the continuance of support payments for my client and his or her children in the event of the death of the former spouse.

Although a separation agreement can be put on file with the insurer so that the supported spouse, or my client, can call to inquire about the status of his or her former spouse's policy, such an agreement does not constitute adequate protection for the supported spouse. Canadian life insurance companies are not obligated to notify any parties other than the insured life or the owner of the life insurance policy of any change in status of that particular policy. This fact means that, should the former spouse, whose life is insured, choose not to pay the policy, thereby allowing it to lapse, the supported spouse would only discover this information if he or she took the initiative to inquire about the status of the policy. If the policy were to lapse due to lack of payment by the

supporting spouse, and this change were not immediately detected through the inquiries of the supported spouse, problems could potentially arise. For example, should the insured spouse's health change after the lapse of the policy, this spouse might no longer be insurable, leaving the supported spouse and family in a very vulnerable position.

In the case of a life insurance policy issued through an employer, a more serious situation can arise. When an employer changes carriers, all employees are obligated to re-apply for their life insurance policies. If this scenario should arise for an employee with a former spouse and family, the employee might forget that his or her former work policy was in place for the security of his or her former spouse and family. It is therefore possible that the employee would likewise forget to designate his former family as the beneficiary of the new life insurance policy. The employee would, naturally, name his or her new family as beneficiary of the policy. Unfortunately, the former spouse would not be aware of this important change until the unfortunate time when he or she would need to rely upon it.

Separating spouses can, however, avoid such situations, by creating the following condition within their separation agreement: when any life insurance policy is written, the supported spouse must be the owner as well as the beneficiary of the policy. As a result, the supported spouse will make the monthly payments on the insurance policy. Despite this condition, the financial responsibility of maintaining the policy continues to be that of the supporting spouse. The supporting spouse will simply include the amount owing on the policy as part of the monthly support payments that he or she makes to the

supported spouse. Consequently, the supported spouse can ensure that the policy does not lapse due to lack of payment, as he or she will be making the monthly payment on the policy with funds provided from the insured spouse. In addition, as the owner of the policy, the supported spouse will be notified of any substantial changes in the status of the policy.

The idea of protecting the future support of one's former spouse by taking out a life insurance policy is only one of the insurance-related issues that can arise in the case of a divorcing couple. As a CDFA, I am aware other crucial issues that can cause serious complications within a support agreement. Presently, critical illnesses such as cancer, stroke, heart attack, and many other potentially terminal diseases are on the rise. It is ineffective to have a support agreement in place if it is not protected against the potential loss of income due to critical illnesses contracted during working years. Some people are fortunate enough to have the protection of disability policies through work. Individuals who are self-employed, and even some salaried people, however, do not have such coverage.

It is essential that support payments be insured against the thirteen major critical illnesses. If a supporting spouse were to become ill, his or her income would be greatly reduced or even eliminated. The supported spouse and family would therefore suffer financially, as their monthly support payments would stop. Several lawyers with whom I have spoken about this subject feel that critical illness insurance only serves to add to the complications of divorce; having a CDFA working in conjunction with a lawyer during

divorce, however, can help to ease the implementation of this very important aspect of insurance protection.

As a Certified Divorce Financial Analyst, I have been told that there are legal cases in the United States which are proving that it is our fiduciary duty to ensure that every client undergoing divorce is aware that these types of protection are available to them. It is inevitable that lawyers will have to deal with these problems that I have outlined if they are advising their clients on the issue of protection for support. In working with a Certified Divorce Financial Analyst, these issues will be addressed and contended with, and everyone concerned will be ensured full protection for the future.