

# Consumer Information on Managing a Deceased Spouse's Bills

The death of a spouse is an incredibly difficult time, and managing your deceased spouse's financial affairs can lead to stress. You may need to take full ownership of things you shared, like a house or bank account. You might also lose certain benefits, like a pension that ends when your spouse passes away. If your spouse has recently passed away in Wisconsin, here are some key steps to handle their bills:

## Practical Steps and Documentation

*Get Key Documents:* Get a copy of your spouse's death certificate and find your spouse's will or trust documents, if applicable. These documents are important for managing their estate and notifying beneficiaries and creditors.

**Definition:** A trust is a legal arrangement where a person or entity, known as the trustor, gives another person or entity, known as the trustee, the right to manage assets for the benefit of a third party, known as the beneficiary.

*Notify Credit Bureaus:* Tell the major credit bureaus that your spouse has passed away. This helps prevent identity theft and makes sure their credit reports are updated.

*Executor Responsibilities:* In Wisconsin, the person in charge of your spouse's estate (the executor) must tell creditors about their passing. This can be done by sending letters directly to creditors or by publishing a notice in the local newspaper. Letting creditors know about your spouse's death is important to make sure any unpaid debts are handled properly. This helps protect the estate from legal issues and makes the probate process smoother. Please note that as executor or personal representative of your spouse's estate, debt collectors may contact you about the debt. However, the law does not allow the debt collectors to say or suggest that you are liable to pay the debt unless the debt is shared.

Under Wisconsin law, a personal representative or executor owes certain duties to the dead person's estate. Some duties include acting in the estate's best interest, protecting the estate's documents, filing tax returns, and investing and managing assets wisely.

*Manage Accounts, Recurring Bills and Subscriptions:* Look through important documents, like bank statements and mail, to find any subscriptions or utility accounts in your spouse's name. You may need to keep or transfer these services temporarily until the estate is fully distributed and dissolved. Consider removing your deceased spouse's name from jointly held bank or investment accounts and adding another close family member.

## **Specific Types of Debts**

In Wisconsin, debt rules can be complicated because of the Marital Property Act (MPA). When someone dies, their estate is typically responsible for paying their debts. In Wisconsin, the estate of a deceased person would include their individual property and half of the "community" or "marital" property.

Married couples in Wisconsin usually share responsibility for debts taken on during the marriage. If one spouse dies, the surviving spouse may have to pay for their deceased spouse's debt. Even if the debt was only in the deceased spouse's name, a creditor may still ask the surviving spouse to pay if the debt is considered "necessary."

*Marital Debt:* The Wisconsin Marital Property Act states that any debt taken on during a marriage is usually considered marital debt and both spouses are responsible for it.

*Medical Bills:* In Wisconsin, a spouse is responsible for medical expenses their spouse had while the two are married. So if the deceased spouse's estate (their individual property and their half of the community property) cannot cover their medical bills, the survivor could be responsible for the remaining amount.

However, only the shared (community) property of the still-living spouse, not their individual property, is available to pay for the debt. The law also protects the income of the surviving spouse, along with survivorship marital property (e.g. the house), the deceased spouse's retirement benefits, and life insurance benefits paid directly to the survivor.

If you have to pay your deceased spouse's medical bills, the provider may be willing to lower the amount, remove certain fees, or set up a payment plan. You might also be able to deduct these expenses on your taxes.

*Credit Card Debt:* If both spouses' names are on a credit card, the surviving spouse is responsible for the debt. If the credit card was held solely in the deceased spouse's name, the surviving spouse is still usually responsible for debt taken on that card during the marriage.

However, there are important exceptions. The surviving spouse might not have to pay for debts the deceased spouse took on before or during the marriage if those debts were used to cover costs from before the marriage. In some cases, the surviving spouse only has to pay debts that they directly benefited from, like utility bills or healthcare costs.

The Credit CARD Act of 2009 says that no late or annual fees may be charged by a credit card company while an estate is being settled. In addition, the estate has 30 days to pay the final outstanding balance on a credit card without additional interest being charged. If you are contacted by your deceased spouse's creditors, you should

refer them to the executor of your spouse's estate. If you are the executor of your spouse's estate, you should wait to discuss the debt until you figure out what assets remain, whether the debt is valid, and whether you are responsible for the debt.

*Student Loans:* Federal student loans are usually forgiven upon the death of the borrower. However, private student loans survive the death of the borrower unless the lender offers a "death discharge". When you or the estate executor contact the loan servicer to report the borrower's death, you can find out if they offer a death discharge.

If they don't, the estate will be on the hook to repay the loan. If the estate doesn't have enough money to repay the loan, you may be responsible for repaying the remaining amount IF the loan was taken out during your marriage.

*Mortgages:* If a property mortgage was held jointly, the surviving spouse is still responsible for the remainder of the loan upon the death of a spouse. If the mortgage was held only in the name of the deceased spouse, the loan does not have to be repaid by the surviving spouse. However, if the loan is not repaid by the deceased spouse's estate, the bank holding the mortgage would be able to reclaim the property and kick out the current occupants. The Wisconsin Statute further outlines how to handle such property depending on the situation.

## **Estate and Probate Process**

Probate is the court-supervised process for transferring a deceased person's assets to their beneficiaries under a Will. Wisconsin Statutes Chapters 851-882 govern probate court actions. If your spouse dies with a valid Will, their estate will be distributed as directed by their Will. If your spouse dies without a Will, or their Will is invalidated, their estate will be distributed according to Wisconsin's laws of intestacy.

Definition: Intestacy is the legal term for dying without a valid will. When someone dies intestate, their assets are distributed according to state intestacy laws, rather than their own wishes.

Wisconsin has a rule for “small estates” that are worth less than \$50,000. These estates don’t need to go through probate court. However, estates worth more than \$50,000 usually require probate.

**Disclaimer:** Managing a deceased spouse’s estate, including their debts, can be complicated and vary depending on the specifics of the estate and applicable law. It is highly recommended that you consult a reputable trusts and estates lawyer to ensure you are navigating the process correctly. A qualified lawyer can provide personalized advice

Last updated on April 10, 2025.

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