

A guide to beneficiaries

Protecting your family and loved ones



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Beneficiary vs. heir

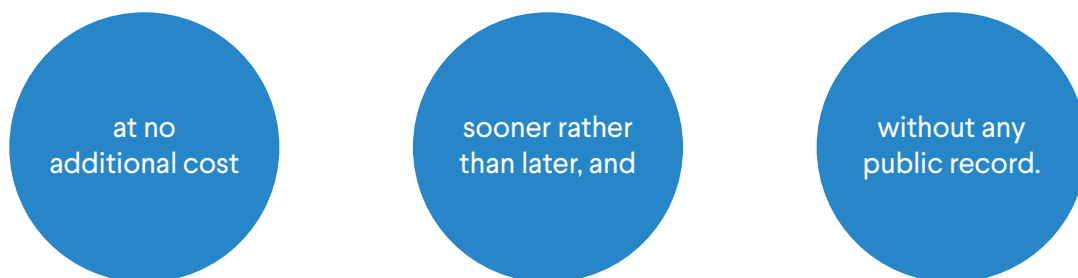
There is an important distinction between a beneficiary and an heir. A beneficiary is a person or other legal entity that the owner of property designates to receive that property upon the owner's death. An heir is a person or legal entity that will inherit the owner's property under the law if the owner fails to designate a beneficiary or take any action to plan for their estate, such as a making a will or establishing a trust.

Naming a beneficiary puts the owner of the property in control of their legacy. They decide who will receive their property upon their death. A beneficiary may be named by contract, such as with an annuity contract, a life insurance policy, an individual retirement account (IRA), or a 401(k) or other qualified plan account. A beneficiary may also be named in a legal document, such as a will or a trust.

Advantages of naming a beneficiary

Naming a beneficiary on an annuity contract allows the death benefit to go directly to the beneficiary, without going through probate. Probate generally refers to the process of administering a decedent's estate, either by will or intestate succession (dying without a valid will). Depending upon the state, probate may be costly and time-consuming, as well as public.

Designating a beneficiary on an annuity contract will bypass probate as long as the beneficiary is not the owner's estate. Thus, funds will be available to a non-estate beneficiary:



Coordination with estate plan

There are many ways property can pass to family members and loved ones. As mentioned, property can pass by contract. It can pass by payable on death (POD) designations on bank accounts and certificates of deposit or by transfer on death (TOD) designations in the case of stocks, bonds, mutual funds, and other brokerage accounts. It can also pass by the titling of property. For example, if a couple owns property by joint ownership with right of survivorship, the property will pass to the surviving spouse at the death of the first spouse, without going through probate.

It is important that an individual's estate plan encompass all these different methods of passing property. Beneficiary designations will override property dispositions listed in a will or a trust. For example, a detailed will or trust will be ineffective if all of an individual's property will pass by contract or by the titling of property.

Types of beneficiaries

There are different types of beneficiaries. **Primary beneficiaries** receive assets first upon the death of the annuity owner. An annuity owner may name one primary beneficiary or any number of primary beneficiaries and assign a percentage to each beneficiary. The percentages must add up to 100%.

Contingent beneficiaries step in if all primary beneficiaries have predeceased the annuity owner. The contingent beneficiary receives the death benefit only if ALL the primary beneficiaries have predeceased the owner.

It is important to name primary and contingent beneficiaries to take advantage of the benefits of beneficiary designation. If there is no living beneficiary of an annuity contract issued by Delaware Life, the default beneficiary is the owner's estate, and the death benefit would become part of the probate estate.

Per capita vs. per stirpes

Per capita and per stirpes are legal terms. They determine what happens if there are multiple beneficiaries named and at least one is no longer living. The following example illustrates the difference between the two terms.

Owner: Parent

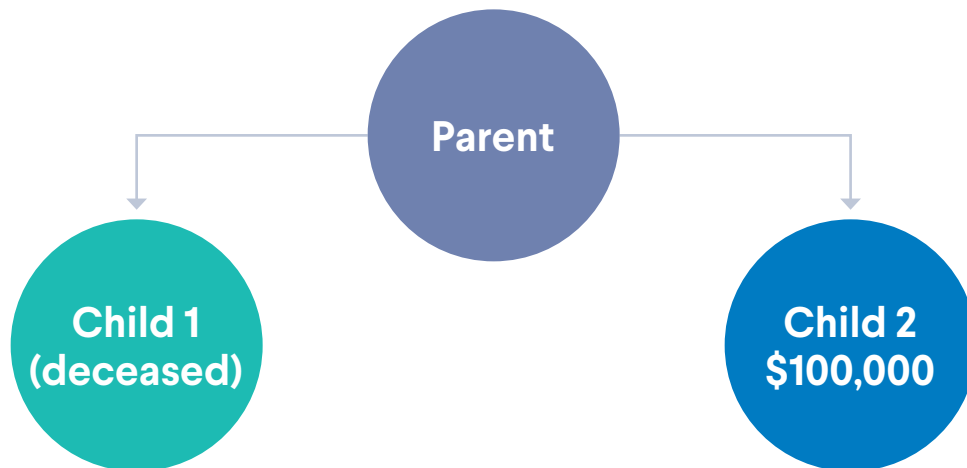
Death benefit: \$100,000

Beneficiaries: Child 1 and Child 2 (split evenly)

Descendants: Child 1 has Grandchild 1 and Grandchild 2

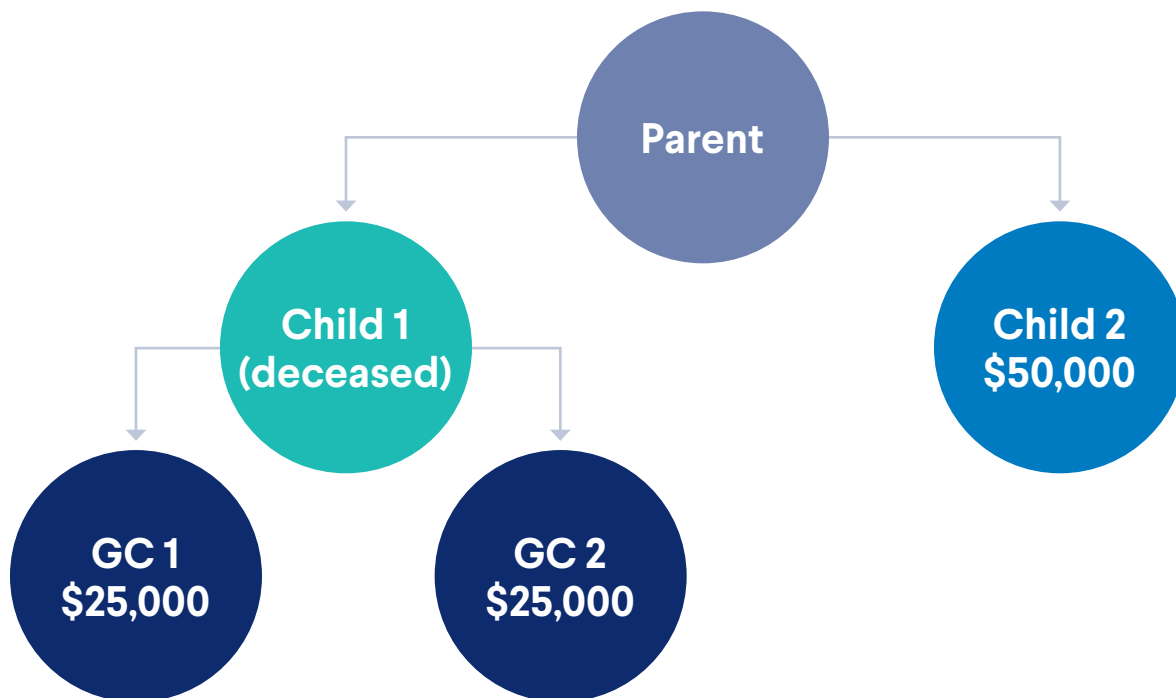
If both primary beneficiaries are living at Parent's death, each would receive 50% of the \$100,000 death benefit.

Per capita may be referred to as “by head.” If there are two primary beneficiaries listed and one of the two is no longer living at the death of the annuity owner, the death benefit would go to the sole remaining primary beneficiary.



Per capita is the default for annuities issued by Delaware Life.

Per stirpes may be referred to as “by branch.” If there are two primary beneficiaries listed and one of the two is no longer living at the death of the annuity owner, the death benefit would be divided among the remaining living primary beneficiary and the descendants of the deceased primary beneficiary, if any.



Per stirpes may be elected by owners of annuities issued by Delaware Life by checking the per stirpes box on the application or on the beneficiary election form.

Special considerations

Minors as beneficiaries

It is not recommended to list minors as outright beneficiaries. Should the owner of an annuity die unexpectedly before the minor reaches the age of majority in their respective state, the minor will be unable to exercise legal control over the death benefit. A legally responsible adult will need to petition the appropriate court to appoint a guardian or conservator to oversee the death benefit under the court's supervision.

It is recommended that custodial language under the Uniform Gifts to Minors Act (UGMA) or Uniform Transfers to Minors Act (UTMA) be used whenever a minor is listed as a beneficiary. This allows the owner of the annuity to appoint a custodian to receive and manage the death benefit for the benefit of the minor in an UGMA or UTMA account without the need or expense of (1) hiring a trust attorney to establish a trust or (2) going to court. An UGMA or UTMA account does not need to be set up ahead of time. It will only be set up if the minor is still a minor at the time of the death of the annuity owner. If the beneficiary is no longer a minor at the time of the death of the annuity owner, the custodial language will be ignored.

Sample custodial language:

(Name of Custodian), Custodian, for the benefit of (Name of Minor), minor, under the (Name of State) Uniform Transfers to Minors Act (or Uniform Gifts to Minors Act)

It is important to note that the minor will have full control of the UGMA or UTMA account upon reaching the age of majority. In addition, UGMA and UTMA accounts are considered assets of the minor for purposes of determining eligibility for federal financial aid for college. Student assets count more than parents' assets and could negatively affect the amount of federal financial aid received.

Special needs individuals as beneficiaries

It is not recommended to list special needs individuals as beneficiaries of annuity death benefits. Special needs individuals often receive government benefits. Strict asset and income limits apply for special needs individuals to maintain their eligibility for government benefits. Leaving a death benefit directly to a special needs individual will generally result in the loss of government benefits. If a properly drafted special needs trust has been established for the special needs individual, it can be listed as the beneficiary and allow government benefits to continue.

Trusts as beneficiaries

Trusts may be named as beneficiaries of annuities for a variety of reasons. Leaving a large sum of money to a trust may allow the grantor to exert control over the money after death through the trust document and the trustee. The grantor can specify which beneficiaries get what and when. For example, a certain amount of money may be given to certain beneficiaries upon attaining certain ages. Trusts also can provide for professional management, creditor protection, and incapacity planning as well as avoid probate.

Trusts may also be owners of annuities for some of the same reasons. Delaware Life requires non-natural owners of nonqualified annuities, such as trusts, to also be listed as beneficiaries.

Common mistakes

Common mistakes include:

- no beneficiary listed
- no contingent beneficiary listed
- minor listed as beneficiary
- special needs individual listed as beneficiary
- beneficiary designations not reviewed after major life events

Reasons to avoid the first four common mistakes have been addressed earlier in this guide. The fifth common mistake is addressed below.

Importance of beneficiary reviews

Reviewing beneficiary designations regularly and, especially after major life events, such as the death of a beneficiary, the birth of a child, or a divorce, is critically important. Beneficiary designations generally control the disposition of death benefits and other assets. However, several states have adopted revocation-by-divorce statutes. These statutes may work, but they may not. Oftentimes, they may not keep family and loved ones out of court.

Check with insurance carriers or other financial institutions and review what is currently on file. Submitted changes to beneficiary designations are not final until on record at the carrier or other financial institution.

Having the proper beneficiary listed is essential to ensure that death benefits go to the right person at the right time...without anyone having to go to court.

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