401(k) beneficiary rules: who gets the money, and how

Key facts

- A 401(k) pays out to whoever is named on the beneficiary form, not to whoever is named in the will (IRS, Retirement Topics - Beneficiary, checked 2026-09-22).
- Under ERISA, a married participant's account must go to the surviving spouse unless the spouse signs a written, witnessed waiver allowing a different beneficiary (U.S. Department of Labor, checked 2026-09-22).
- Most non-spouse beneficiaries must empty an inherited 401(k) by December 31 of the 10th year after the owner's death (IRS, Retirement Topics - Beneficiary, checked 2026-09-22).
- If the owner died on or after their required beginning date for withdrawals, beneficiaries subject to the 10-year rule must also take a yearly RMD in years 1 through 9, not just a lump sum in year 10, under final IRS regulations effective 2025 and later (IRS, Notice 2024-35, checked 2026-09-22).
- The required beginning date for RMDs is generally age 73 for people reaching that age between 2023 and 2032 (IRS, checked 2026-09-22).
- Missing a required RMD can trigger a 25% excise tax on the amount not withdrawn, cut to 10% if corrected within two years (IRS, checked 2026-09-22).
- A surviving spouse who inherits a 401(k) can roll it into their own IRA, keep it as an inherited account, or take a lump sum, options not open to other beneficiaries the same way (IRS, checked 2026-09-22).

A step-by-step checklist for naming or updating a 401(k) beneficiary

1. Log in to the plan administrator's site, or call, to see who is currently listed as primary and contingent beneficiary.
2. Name both a primary and at least one contingent (backup) beneficiary, in case the primary dies first.
3. If married and naming someone other than the spouse, get the spousal waiver signed and notarized or plan-witnessed (U.S. Department of Labor, checked 2026-09-22).
4. Use full legal names, dates of birth and Social Security numbers where asked, to avoid identification problems later.
5. If naming a trust, confirm with an estate attorney that it qualifies as a see-through trust.
6. Update the form after every marriage, divorce, birth or death; do not assume a will or divorce decree updates it for you.
7. Ask the plan for written confirmation of the current designation and keep a copy.
8. Record the plan name, account number and administrator's phone number somewhere the family can find it.