



Introduction to Social Security Benefits

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Disclaimer- This overview of the Social Security Act and certain provisions are not intended to provide any legal advice on a particular or personal issue

I. Benefits provided under the Social Security Act

A. Title II (Retirement, Survivors and Disability benefits)

(Established 1937, based on FICA (Federal Insurance Contributions Act) taxes paid on prior work under Social Security by the Wage-earner, employers and self-employed (WE))

1. Retirement Benefits

- a. Worker at age 62 or older, (early retirement) paid only as of date of application
Age 65 (66+) or older (full retirement), may be paid up to 6 months retroactive [43-54=66, after 1960=67]
- b. Spouse at age 62 or older
- c. Child if under 18 or 19 if in high school
- d. Child at any age if disabled before age 22
- e. Spouse at any age if caring for child under 16
- f. Divorced spouse if married at least ten consecutive years, and not remarried before age 60

2. Survivor's Benefits

- a. Spouse if over age 60
- b. Spouse (widow) 50-59 if disabled
- c. Child if under 18 or 19 if in high school
- d. Child at any age if disabled before age 22
- e. Spouse at any age if caring for child under 16
- f. Divorced spouse if married at least 10 consecutive years and not remarried before age 60
- g. Stepchildren benefits
- h. Parent's benefits
- i. \$255 one time death benefit to spouse or children

“Wage Earner” (W/E) must be fully insured for any benefit payments listed above.

“Fully Insured”: Total of 40 Quarters of Coverage (Credits) earned at any time during lifetime. If under 31, the individual requirements are less than 40.

In 2015, \$1220.00 of earnings is required for one quarter of coverage. (credit) or at least earnings of \$4,880.00 for all four quarters of coverage.

The mathematical calculation of the Primary Insurance Amount (PIA) disability benefit is contained in Sections 404.204-404.261. A record of a person’s earnings can be obtained by obtaining SSA Form 7004 which requests a Social Security Earnings and Benefit Statement (4-6 weeks) on a yearly basis; a detailed Earnings Statement by using SSA Form 7050 (which has a fee); 1-800-772-1213 or by using **ssa.gov** at www.ssa.gov/myaccount. The maximum benefit is based on 35 years of work.

SSA will mail Earnings Statements to workers attaining ages 25, 30, 35, 40, 45, 50, 55, 60 and older about three months prior to their birthday if they don’t receive Social Security benefits and don’t have an SSA account.

Social Security computations are deemed correct unless it can be clearly demonstrated that the computation is incorrect, or that earnings have not been reported or have been reported in an incorrect or erroneous amount.

Regulation 20 CFR 404.801-823 Record of Earnings (Time limit to amend earnings record- “3years, 3 months and 15 days after any year in which you received earnings”)

Regulation 20 CFR 404.1080-404.1081 Net Earnings from Self-employment and General Rules for Figuring Self-employment.

Regulation 20 CFR 404.1082 Rentals from Real Estate; material participation

3. Disability Benefits

- a. Worker at any age if disabled before retirement at 65 or older
- b. Spouse at age 62 or older
- c. Child if under 18 or if in high school, end at 19
- d. Child at any age if disabled before age 22
- e. Spouse at any age if caring for child under 16

In addition to being “fully insured” as described above, the wage earner must be; “Currently Insured”: 20 Credits earned within the last 40 quarters ((“20/40 Rule” or 5 of last 10 years) Under the age 24 must have 6 credits and number of credits required increases with age until max of 20/40 is met. 20 CFR 404.130

NOTE “Date Last Insured” (DLI), the impairment(s) must be disabling during the period of currently insured status.

Rules for work needed for the “recent work test”

<i>If you become disabled...</i>	<i>Then you generally need:</i>
In or before the quarter you turn age 24	1.5 years of work during the three-year period ending with the quarter your disability began.
In the quarter after you turn age 24 but before the quarter you turn age 31	Work during half the time for the period beginning with the quarter after you turned 21 and ending with the quarter you became disabled. Example: If you become disabled in the quarter you turned age 27, then you would need three years of work out of the six-year period ending with the quarter you became disabled.
In the quarter you turn age 31 or later	Work during five years out of the 10-year period ending with the quarter your disability began.

4. Benefits under Title II

- W/E Benefits amount is based on length and amount of earnings over lifetime (with emphasis towards latter years of earnings). Benefits can range from as low as approximately \$100.00 to approximately \$2,800.00. (PIA- Primary Insurance Amount)
- Family (“Auxiliary Benefits” “Dependents Benefits”). General rule is that the “dependents” split an additional “pot” in the amount of 150-180% of the W/E’s benefits. (Family Maximum). As anyone loses their share, it is just thrown back into the “pot” and redistributed to remaining eligible dependents.
- Children receive benefits only if parent is fully insured for Retirement, Survivors or Disability benefits.
- Retroactive Disability Benefits: Are paid going back to the LATER of:

Five full calendar months after “established onset of disability” (EOD) This is called the “Waiting Period”

OR

One year prior to date of Application

NOTE: “full” calendar month.

Thus, if onset is established on first day of month, the month of onset counts as one month. Any day after first day of month means the month of onset is not one of the five months.

- **Spouse/Widow Benefits**
 - Spouse may receive own SSN benefit or ½ WE benefit as a spouse benefit, but not both. “Working Woman Penalty” Widow gets full W/E benefit.
 - Spouse receiving benefits at 62 will incur standard deduction. At full retirement age no deduction. **Note:** if spouse was born before Jan 2, 1954; and has reached full retirement age, spouse may choose to receive only the spouse benefit and defer own retirement benefit. After date, a spouse filing for one benefit has filed for all benefits.
 - If spouse is working, retirement test deductions will apply.
 - GPO and WEP apply to spouse benefits
 - Widow’s benefits if higher than own or spouse. **Note:** May withdraw own retirement benefit within 12 months and file for survivors benefit only if higher, then reapply later for increased retirement benefit.
- Disability trial work period: Claimant may be eligible to receive full benefits and full wages for 9 months after being found to disabled. Earnings of \$1,020.00 a month in 2015 = substantial gainful activity or if blind, \$1820.00 each month. Also Extended Period of Eligibility and “Ticket to Work”
- **COLA:** Benefits are increased each year based on cost of living adjustment.
- **MEDICARE**
 - PART A- Hospitalization and catastrophic care
 - PART B- Physician Services
 - PART D- Medication Re-imburement
 - Effective Date: Effective after client has received 24 months worth of disability benefits. No waiting period for persons with amyotrophic lateral sclerosis (ALS), end stage renal disease or kidney transplant.
 - Cost: Monthly premium is deducted from monthly DIB benefit or pay out of pocket if not receiving SSA
 - **EXCEPTION:** If client is also receiving SSI, then Medicaid will pay the monthly premium.
 - Claimant may take early retirement then file for disability after age 62 in an effort to qualify earlier for Medicare and to replace the 25% reduction in retirement benefits, but will not recover deduction already incurred.
- Retirement benefits payable if insured at age 62 (currently), but with a 25% reduction in benefits from full retirement age (65- or 66 if born 1943-1954, and if born after 1960- 67

- **62-75%/63-80%/64-87%/65-93% 66-100%/67-108%/68-116%/69-124%/70-132%-**
- According to SSA, the typical 65 yr old will live to 83, 1 in 4 will live to 90, and 1 in 10 will live to 95
- **Government Pension Offset-** The Government Pension Offset (GPO) reduces public employees' Social Security spousal or survivor benefits by an amount equal to two-thirds of their public pension
- **Windfall Elimination Provision-WEP-** Social Security benefits are reduced if receiving a pension based on work for a federal, state or local government agency, a nonprofit organization or in another country, which did not pay Social Security taxes.
- **File and Suspend Removed 5/2016-** Social Security beneficiaries are allowed to file for benefits but suspend their payments and then resume higher payments at a later date due to the **accumulation of delayed retirement credits**. In the past, spouses and dependent children could claim payments based on your work record while your payments were suspended and continued to grow. However, beginning in May 2016, suspending your payments also suspends payments for anyone else receiving payments based on your work.
- **Working after Retirement-** if 62-65/66, limit is \$15,720.00 then \$1 for every \$2 over the limit. In the year you reach full retirement, \$1 for every \$3 over, but only on earnings in the month before retirement, for 2015- \$41,880.00- after the month of full retirement, **no limit, but possible tax consequence**

B. Title XVIII-Medicare (Age 65)

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Part A- Hospitalization

Part B- Physician Services

Part D- Medication reimbursement

When you're first eligible for Medicare, you have a 7-month Initial Enrollment Period to sign up for Part A and/or Part B; after if you don't sign up for Medicare Part B when you're first eligible, you'll have to pay a late enrollment penalty for as long as you have Part B and could have a gap in your health coverage. Later you can sign up during the General Enrollment Period between January 1–March 31 each year, but won't be effective until July of that year. Once your Initial Enrollment Period ends, you may have the chance to sign up for Medicare during a Special Enrollment Period. If you're covered under a group health plan based on current employment, you have a Special Enrollment Period to sign up for Part A and/or Part B any time as long as you or your spouse (or

family member if you're disabled) is working, and you're covered by a group health plan through the employer or union based on that work.

C. Title XVI (Supplemental Security Income, SSI)

1. “Disabled”- Same as Social Security Disability or over 65
2. “ Financially Eligible”
 - Resources: Less than \$2,000 (if married, less than \$3,000) in property that can be converted to cash such as:
 - Cash in Bank account
 - Investments
 - Cash value of life insurance or burial policy
 - Home and land it sits on are excluded
 - One automobile is excluded

In addition benefits will be reduced by income

- Income: less than \$733.00 per month income not from wages for an individual, or less than \$1100.00 per month not from wages for a couple both receiving SSI.
 - Spouse to spouse deeming of income.
 - While not exactly dollar for dollar; household income of roughly more than \$21,000.00 per year would be enough to totally disqualify the disabled spouse.
 - Parent to child deeming: Occurs only until the child is 18.
 - Income may also be “in kind” from any source if received on a regular basis
 - “1/3 Reduction”:
 - living in the “home of another”: (client’s name is not on the mortgage/deed or lease)and
 - Not paying rent, and
 - Food is also provided.
 - Concurrent claims (II/XVI): The Title II check is “other income” which would reduce the SSI monthly benefit.
- Cash Benefits

- Disabled Individual: Maximum SSI benefits of \$733.00 in 2015 for an individual minus any other income (see “Income” rules, above).
- Family: There are no Dependents’ Benefits
- Retroactive Benefits:
 - Retroactive only to month after month of application or month after onset of disability, whichever is later.
 - Retroactive benefits are paid in installments no more than one year’s benefits every 6 months
 - Trial work period: None under SSI
 - Worker’s Compensation: Receipt of WC probably exceeds income limitation for SSI eligibility.
 - COLA: Benefits are increased each year based on cost of living adjustment.
 - MEDICAID Effective Date: Effective with first month of SSI benefits/ Cost is Free

D. Additional Benefit Reductions and Offsets

Student Loans, IRS or other government debt, Non-service connected VA benefits, Workers Compensation, incarcerated (30 days or more) or “fleeing felon” rule. Long Term Disability benefits (LTD) paid by a private insurance carrier generally offset Social Security Benefits. The carrier will demand repayment of the claimant’s benefits and in some instances offset benefits paid to secondary beneficiaries as well. Social Security Disability benefits are not offset by receipt of Unemployment benefits at this time, but this matter is becoming increasingly prevalent in hearings as a potential issue.

Supplemental Security Income (SSI) Special Needs Trust can be created to avoid Resource limitations for SSI. Be aware however, that a trust which pays a set regular amount of funds to the beneficiary is at risk for failure to meet the income limitation provisions.