

TAKE A STAND FOR CAREGIVERS  
**SOCIAL SECURITY AND SSI**

Where Medicare and Medicaid Intersect



Jan Neal  
Jan Neal Law Firm, LLC  
207 N 4<sup>th</sup> St  
Opelika, AL 36801  
(334) 745-2779  
800-270-7635  
[neal@janneallaw.com](mailto:neal@janneallaw.com)

[www.janneallaw.com](http://www.janneallaw.com)  
[@janneallawllc](https://www.facebook.com/janneallaw)  
[www.linkedin.com/in/jboydneal](http://www.linkedin.com/in/jboydneal)

## OVERVIEW

We will take a broad look at SS and SSI and associated health care coverage in this presentation and briefly examine:

- The importance of understanding the difference in entitlement benefits and means-tested benefits
- Work requirements to qualify for SSR and SSD
- Work incentives for SSD
- Dependents who qualify for Benefits
- Survivors who qualify for Benefits
- SSI and calculating benefits (to include dual eligibility for SS and SSI, Medicare and Medicaid)
- MySocialSecurity online accounts
- Healthcare benefits associated with SS and SSI
- Considerations regarding when to draw SS (full retirement age, reverse claiming decision, earned income offset, delayed benefits)
- Applying for Medicare
- SSD for cognitive impairment
- SS Overpayments
- Returned benefits paid the month of death
- Taxation of SS benefits

## ENTITLEMENT VS MEANS-TESTED BENEFITS

Public benefits today are confusing at best and impossible to maneuver at worst.

Understanding rights and responsibilities for those who draw benefits is important in order to keep from making mistakes that result in ineligibility or having to pay back overpaid benefits.

We will look at income programs of Social Security (SS) and Supplemental Security Income (SSI) and how those benefits, while vastly different from an eligibility perspective, can both provide health care coverage. Sometimes these programs overlap, and so does healthcare coverage from the different programs.

Government benefits generally fall into two categories: means-tested (or needs-based) and entitlement. Means-tested benefits require the client to qualify financially, while entitlement benefits are not in any way related to income or assets. It is essential to understand the difference in the two types of benefits.

SS is not means-tested, rather benefits are an entitlement. In other words, if you paid into the system and meet the requirements to draw benefits, you are entitled to draw those benefits.

SSI is means-tested. The person drawing benefits can only have limited income and resources to be eligible, so these are non-earned benefits.

## **WORK REQUIREMENTS TO BE INSURED BY SOCIAL SECURITY**

To be fully insured for **Social Security Retirement (SSR) benefits** you need to work for at least 10 years (for those born in 1929 or later because 10 years is the minimum amount of time required to earn the mandatory 40 credits). In 2020, you earn one Social Security credit for every **\$1,410** in covered earnings each year. You must earn **\$5,640** to get the maximum four credits for the year.

To be eligible for **Social Security Disability (SSD) benefits**, you must meet a **recent work test** and a **duration work test**. The number of credits necessary to meet the recent work test depends on your age. The rules are as follows:

Before age 24: You may qualify if you have 6 credits earned in the 3-year period ending when your disability starts;

Age 24 to 31: In general, you may qualify if you have credit for working half the time between age 21 and the time you become disabled;

Age 31 or older: In general, you must have at least 20 credits in the 10-year period immediately before you become disabled.

Even if you have accumulated 40 credits, you cannot start drawing SSR benefits on your record until you are 62 or older, and you cannot draw SSD benefits until you demonstrate that you have a disability that has lasted or is expected to last for at least one year or result in death.

**Even though you may draw Social Security retirement benefits as early as age 62, Medicare coverage will not begin until age 65.**

Even if you qualify for Social Security Disability, you will not become eligible for Medicare until you have been eligible for disability benefits for two years.

More than three dozen disability rights groups are urging Congress to end two SSD waiting periods, to include the two-year wait for Medicare, and the five-month delay from the time of the onset of the applicant's qualifying disability and when that person can actually begin receiving disability benefits.

## WORK INCENTIVES

Disabled persons can earn some money without losing benefits so long as the earnings do not exceed Substantial Gainful Activity (SGA) amounts set by SS.

SGA for disabled persons other than blind in 2020 is \$1260 per month, and SGA for blind persons is \$2110.

Disabled persons can continue to draw benefits and retain health care while they try to return to work through what is known as ***Trial Work Periods***.

In a nutshell, if the SSD recipient's medical condition has improved to where he thinks he might be able to make a living, he can go to work and earn money for a nine-month period of time over the course of five years without jeopardizing SSDI payments. Earning greater than \$910 per month counts as using a month of the trial work period. Even after the end of the trial work period he can still receive disability benefits for any month in which he does not make more than the substantial gainful activity (SGA) amount (\$1,260 per month or \$2,110 per month if blind).

Even if disability benefits are halted because of the amount of income, he will still be entitled to Medicare Part A for at least 93 months after the end of the nine-month trial period. At the end of that period, he will have the option of continuing Medicare Part A coverage by paying a premium, and if he has Medicare Part B, he will just continue to pay the premium as he has in the past.

There are a number of work incentives offered by SS. A reference tool designed to provide a working knowledge of SS's work incentives is available at [ssa.gov/redbook](http://ssa.gov/redbook).

## SOCIAL SECURITY BENEFITS FOR DEPENDENTS

Benefits are payable to family members of retired or disabled workers who are drawing benefits themselves.

Dependent benefits are payable to a spouse, child or ex-spouse from a marriage that lasted 10 years and are potentially payable at the rate of up to one-half of the retired worker's monthly benefit.

A spouse must be at least 62 or be providing care for a child under age 16 or a disabled child.

To receive benefits, a child must be unmarried **and** be:

under age 18; **or**

18-19 years old and a full-time student (no higher than grade 12); **or**

18 or older **and** have a disability that started before age 22.

Normally, benefits stop when children reach age 18 unless they are disabled. However, if the child is still a full-time student at a secondary (or elementary) school at age 18, benefits will continue until the child graduates or until two months after the child becomes age 19, whichever is first.

Remarriage of the former spouse terminates benefits.

## SURVIVOR BENEFITS

Survivor benefits are available for family members of deceased workers. Even if the worker is not fully insured, if he or she has credit for one and one-half years of work (6 credits) in the three years just prior to death, family members may draw survivor benefits.

The spouse can draw benefits as early as age 50 if disabled AND their disability started before or within seven years of the worker's death.

The spouse may also draw reduced benefits as early as age 60 or full benefits at full retirement age.

The spouse may draw benefits at any age, if they have not remarried and provide care for the worker's child who is under age 16 or disabled and receives benefits on the worker's record.

If a widow or widower remarries **after they reach age 60** (age 50 if disabled), the remarriage will not affect their eligibility for survivor's benefits.

A surviving divorced spouse may draw the same benefits as a widow or widower provided that the marriage lasted ten years. If the ex-spouse is caring for a child under age 16 or disabled, they will not have to meet the length-of-marriage rule. The child must be the worker's natural or legally adopted child.

Unmarried children who are under 18 (up to age 19 if attending elementary or secondary school full time) can be eligible to receive Social Security survivor benefits. Children can draw benefits at any age if they were disabled before age 22 and remain disabled. Besides natural children, stepchildren, grandchildren, step grandchildren or adopted children may receive benefits under certain circumstances.

If a worker provided at least half of his or her parent's support, the parent may be eligible to receive a survivor benefits.

## **SUPPLEMENTAL SECURITY INCOME (SSI)**

A person with limited income and resources who is either 65 years or older, or a person from birth through 64 years old with a severe disability, may be eligible for SSI. There is no work requirement because this is not an entitlement benefit, rather it is the national safety net. Qualification for SSI automatically qualifies the individual for Medicaid coverage.

If individuals are married and living together, and both are eligible for SSI based on age (65 years or older), blindness, or disability, they must apply as a couple.

The income and resource limits to draw SSI in 2020 are:

Single persons  
income \$783 per month  
resources \$2000

Married persons  
income \$1175 per month  
resources \$3000

When looking at whether a person will qualify for SSI, be sure to recognize that \$20 of unearned income will be disregarded, so we often say that the actual income limit is \$803 (\$783 + \$20) for single persons and \$1195 (\$1175 + \$20) for married persons. It is also important to recognize that \$65 of earned income is excluded, and only one-half of the remaining earned income counts.

## THE SSI CALCULATION PROCESS

### **Unearned income:**

Step 1. Add up all unearned income for the month, except excluded unearned income (e.g. federal income tax refund)  
Step 2. Subtract the general income disregard of \$20/month  
The result is countable unearned income.

### **Earned income:**

Step 1. Add up all earnings for the month using gross wages  
Step 2. Subtract any exclusions or deductions, such as impairment-related or Plan for Achieving Self Support (PASS) plans, but only if the recipient is receiving SSI on the basis of disability or was receiving it on the basis of disability the month before reaching age 65  
Step 3. Subtract the earned income disregard of \$65/month  
Step 4. Subtract the general income disregard of \$20/month, but only if the \$20 has not already been applied to unearned income  
Step 5. Divide the remaining amount by 2  
The result is countable earned income.

Add countable unearned and countable earned income for total countable income

Example: Ms. A never worked at a job that paid into the Social Security system, and she has no income. She will qualify for \$783.00, the maximum federal benefit rate, and an additional benefit for her is that she will qualify for Medicaid as her health insurance. She will also qualify for Medicaid to buy her into Medicare Part A if she will go to SSA and apply for conditional Part A Medicare during the General Enrollment Period, which extends from January 1 through March 31 of each year. Coverage begins in July.

Over half of seniors who draw SSI also receive a small Social Security check that is lower than the federal benefit rate.

Example: Ms. B worked in a low paying job and only qualifies for \$500 per month in Social Security. She will qualify for SSI and draw \$283.00 in benefits (enough to bring her up to the \$783.00 federal benefit rate). She has Medicare through Social Security and Medicaid through SSI, making her what is referred to as dual eligible. Medicare will be the primary insurer, and Medicaid will be secondary.

Example: Mr. C has a Social Security check in the amount of \$800. It might appear that he will not qualify for SSI, but when you calculate and disregard the \$20 of his unearned income, his countable income drops to \$780. He will draw \$3.00 of SSI and, like Ms. B, he will be dually eligible for SS, SSI, Medicare and Medicaid.

## MY SOCIAL SECURITY ACCOUNT

You can get an estimate of your future Social Security benefits at different ages by creating a *mySocialSecurity* account online. These estimates are based on your actual earning history and tend to be most accurate for those approaching retirement age. Realize that the estimates may change over time with changes in salary or gaps in earnings.

Creating an online *mySocialSecurity* account allows you to see your most recent Social Security statement. Statements are currently mailed every five years from age 25 – 60, then annually until you begin receiving benefits. At your account portal you can check your annual reported earnings, your full retirement age, estimated retirement, disability and family benefits and more. You will want to look at your earnings history every year to make sure there are no errors and to keep an eye on your estimated retirement benefits.

There are a number of Social Security calculators to help you determine the optimal age to sign up for payments based on your personal situation. Social Security offers a benefit calculator at <https://www.ssa.gov/myaccount/retire-calc.html>, and several other options for calculators can be found at the link below to help you determine the optimal age to sign up for payments.

<https://money.usnews.com/money/retirement/social-security/articles/2017-01-23/6-social-security-calculators-that-can-help-you-decide-when-to-claim>

## **BASIC BENEFIT AND HEALTH COVERAGE**

In working with people who are disabled or approaching retirement age there are some basic things they need to understand about the timing of drawing benefits, and the implications of health insurance coverage that need to be taken into consideration. Among those are:

- How to maximize benefits
- How to have effective health insurance coverage
- How to avoid late enrollment penalties for Medicare coverage
- How to plan for a spouse's health care coverage

A good rule to remember is:

- Social Security is married to Full Retirement Age (or reduced benefits at 62) or Disability, and
- SSI is married to age 65 or Disability, and
- Medicare is married to Age 65 or 24 months following a finding of Social Security Disability,
- Medicaid is married to Supplemental Security Income (SSI).

## **SOCIAL SECURITY FULL RETIREMENT AGE**

Originally Social Security Retirement benefits began at age 65 and coordinated simultaneously with eligibility for Medicare. In 1983 a law passed to gradually raise the retirement age from 65 to 67 (beginning with those born in 1938 who had to reach 65 years and two months to qualify for full Social Security benefits). It is estimated that when Social Security began in 1935, average life expectancy was 17 years lower than it is today. It is also estimated that by 2035 Social Security will only be able to pay 80 percent of promised benefits. For this reason there are multiple proposals being floated in Congress to increase the full retirement age higher, to increase the minimum age from 62 to 64, and to encourage people to work longer by allowing maximum benefits at age 75.

Medicare eligibility remains at age 65.

Now full retirement age is based on your year of birth:

| Year of birth  | Age of Full Retirement |
|----------------|------------------------|
| 1955           | 66 years and 2 months  |
| 1956           | 66 years and 4 months  |
| 1957           | 66 years and 6 months  |
| 1958           | 66 years and 8 months  |
| 1959           | 66 years and 10 months |
| 1960 and later | 67                     |

The downside of early retirement (taking benefits before full retirement age) include:

- Permanent reduction of benefits ranging from 25 – 30 percent.
- An offset of benefits for those who continue to work from age 62 until full retirement age

## REVERSING CLAIMING DECISION

A Social Security policy allows you to reverse your claiming decision. Once you start claiming, you're allowed one do-over if you change your mind and want to hold off on receiving benefits. However, there are two major requirements:

- You have to withdraw your application within 12 months of claiming, and
- You also need to pay back all the benefits you have already received.

Sometimes people who become unemployed may claim benefits early for the extra cash and plan to withdraw the claiming within a year. On the surface, that seems to be the best of both worlds. Not only will you receive some money now to help get through these tough times, but if you find another job within the next year, you can reverse your decision and then wait a few more years to begin claiming, thus boosting your benefit amount. The only problem is you are taking a risk that you will gain employment that pays enough to meet your needs and repay the Social Security benefits drawn.

## **EARLY RETIREMENT EARNED INCOME OFFSET**

For people continuing to work from age 62 until full retirement age there is a benefit reduction based on the amount of earnings the person has.

For workers whose full retirement age is not in 2020, the exempt amount of earnings is \$18,240 per year (\$1520 per month), and over the exempt amount \$1.00 in benefits is withheld for every \$2.00 earned over \$18,240.

For workers who reach full retirement age in 2020 who had earnings during the year predating full retirement age, the exempt amount is \$48,600 per year (\$4050 per month), and \$1.00 in benefits is withheld for every \$3.00 earned over \$48,600.

## **DELAYING BENEFITS TO MAXIMIZE AMOUNT DRAWN**

If a person waits to draw Social Security benefits until after full retirement age up to age 70, he or she will draw higher benefits at the increased rate of 8 percent per year.

The average Social Security benefit in 2020 is \$1503, and the maximum monthly Social Security benefit that an individual can receive per month in 2020 is \$3,790 for someone who files at age 70.

## APPLYING FOR MEDICARE

Independent of when you decide to begin drawing Social Security retirement benefits, keep in mind that you need to apply for Medicare at age 65.

If you draw Social Security when you apply for Medicare, your Medicare Part B premiums will be withdrawn from your check. If you are not drawing Social Security (the more likely scenario due to the increase in full retirement age past 65), you will send premiums to Social Security.

Premiums for Part B and D of Medicare increase with higher earnings. For Part B most pay \$144.60 per month in 2020 for earnings up to \$87,000 single, \$174,000 married, and as high as \$491.60 for earnings of \$500,000 single, \$750,000 married. Earnings two years prior are used to calculate the premium. Part D tacks on \$12.20 to \$76.40 per month for earning exceeding \$87,000.

If you fail to enroll in Medicare Part B when you first become eligible, you will pay a penalty of 10 percent for each full 12-month period you did not apply. The premium is permanently increased by this percentage when you do sign up.

If you fail to enroll in Medicare Part D when you first become eligible, you will pay a penalty of 1 percent of the national base beneficiary premium (\$32.74 in 2020) for each month you were eligible but did not sign up. That amount is permanently added to your premium when you do sign up.

## MEDICARE FOR A SPOUSE

A couple of years ago MassMutual conducted a survey to determine how much average Americans understand about Medicare coverage for their spouses. They found that most people surveyed answered incorrectly when asked about their coverage based on their spouse's eligibility for coverage.

The true or false question was, “If I am not eligible for Medicare, but my spouse is eligible, I can receive Medicare benefits.” True or false?

Just 21 percent of respondents accurately answered correctly with “True,” while 79 percent answered incorrectly with “False.”

Your spouse may be eligible for Medicare coverage under your work record, provided they are either age 65 or disabled.

## SSD FOR COGNITIVE IMPAIRMENT

It is usually a difficult and lengthy process to be approved for Social Security Disability or SSI Disability. The applicant must prove that he or she meets a listed impairment or has a combination of illnesses that combine to render the applicant totally unable to perform prior work, without transferable skills to adjust to new work, and has a disability that has lasted or is expected to last for at least one year or result in death.

Recognizing that there are specific diseases and medical conditions that, by definition, will meet the eligibility criteria, Social Security has created the Compassionate Allowance (CAL) categories, providing an expedited approval for those conditions. The agency has a list of over 200 conditions that qualify as compassionate allowances. Some of the most common conditions that qualify are Adult Non-Hodgkin Lymphoma (ALS), and various types of cancer and adult brain disorders. Among brain disorders are the following diseases that are currently eligible for CAL:

- Early-onset Alzheimer's disease (onset prior to age 65)
- Adult-onset Huntington disease
- Creutzfeldt-Jakob disease (CJD)
- Frontotemporal dementia (FTD), Pick's disease - Type A
- Lewy body dementia
- Mixed dementia
- Primary Progressive Aphasia (PPA)
- Progressive Supranuclear Palsy (PSP)
- The ALS Parkinsonism Dementia Complex

A list of all CAL categories can be found at <https://www.ssa.gov/compassionateallowances/conditions.htm>

## SS OVERPAYMENTS

Overpayment can occur for many reasons, but the problem is commonly seen in SSI means-tested benefits because the individual's income and assets are subject to such scrutiny.

Examples for SS overpayment:

- The individual is working and income exceeded the allowable amounts without having an offset
- A calculation error by SS results in an overpayment

Examples for SSI overpayments:

- Income may be more than the applicant estimated
- A living situation changes and is not reported (e.g. moving into the home of another creating a one-third reduction in benefits or leaving an excluded home property)
- Resources exceeded the allowable \$2000 when some unexpected money was received.

## **SS AND SSI OVERPAYMENT OPTIONS**

Use the SSA appeals process to challenge the fact or the amount of the overpayment determination

Request a Reconsideration in writing within 60 days or within 30 days to stop the recoupment during this part of the appeal process; send by certified mail

If overpayment is SSI, can request case review, informal conference or formal conference

Agree with the overpayment determination and ask for a waiver of recovery using SSA-632

Can request at any time

Individual must be without fault and recoupment will defeat the purpose of the Act (cause financial hardship) OR recoupment will be against equity and good conscience (in relying on the overpayment the individual relinquished a valuable right or changed position for the worse)

If waiver denied, recoupment begins though the individual can request reconsideration or hearing within 60 days

Negotiate with SS for a lower monthly payment amount than having the full benefit rate withheld

SS tries to recoup repayment within 12 – 36 months, but leniency is permitted when expenses exceed income. People on Part D low income subsidy can have repayment as low as \$10 per month (roughly single persons with income less than \$1615 and resources less than \$14610 or married persons with income less than \$2174.99 and resources less than \$29,160 who have applied for Low Income Subsidy to help with the expenses of their drugs).

## **BENEFITS PAID THE MONTH OF DEATH**

There is some confusion about Social Security payments received the month of death and what the estate is allowed to retain.

SS pays a month behind, and you have to live the full month to be eligible for the check. A benefit paid in May is payment for April. So if you die on May 15 you should be entitled to that full payment that would arrive in May because you lived through all of April. However sometimes Social Security will take back the payment from the bank account where the direct deposit was made. When this happens Form SSA-1724 can be filed to determine whether you are entitled to keep the payment if you are family or the legal representative of the estate.

For SSI any payments sent after the month of death, or any checks not cashed or deposited before death, are not due to be paid and must be returned.

## TAXATION OF SOCIAL SECURITY BENEFITS

One half of your Social Security is used to calculate whether you will pay tax on those benefits. It is based on *combined income* which is calculated as follows:

\*Your adjusted gross income  
+ Nontaxable interest (e.g. municipal bonds, income producing assets in a Roth IRA)  
+ ½ of your Social Security benefits  
= Your "**combined income**"

If you:

**file a federal tax return as an "individual"** and your *combined income*\* is between \$25,000 and \$34,000, you may have to pay income tax on up to 50 percent of your benefits, more than \$34,000, up to 85 percent of your benefits may be taxable.

**file a joint return**, and you and your spouse have a *combined income*\* that is between \$32,000 and \$44,000, you may have to pay income tax on up to 50 percent of your benefits. more than \$44,000, up to 85 percent of your benefits may be taxable.

**are married and file a separate tax return**, you probably will pay taxes on your benefits.

## **WHERE TO ACCESS THE MATERIALS FROM THIS PRESENTATION**

This PowerPoint will be available at Slideshare, and a link to the slides will be posted on The PANDA Project Facebook page and the Jan Neal Law Firm Facebook Page following this presentation.