

Legal Basics: Social Security Retirement Benefits

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Kate Lang, Justice in Aging

John S. Whitelaw, Community Legal Aid Society, Inc. (Delaware)

Community Legal Aid Society, Inc.

Community Legal Aid Society, Inc. (Delaware) is a statewide, nonprofit law firm in Delaware whose mission is to combat injustice through creative and persistent advocacy on behalf of vulnerable and underserved Delawareans. CLASI is also Delaware's designated Protection and Advocacy agency for individuals with disabilities.

Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, housing, elder justice, and the courts for older adults with limited resources. Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBTQ individuals, and people with limited English proficiency.

Key Lessons

Social Security retirement benefits are an important source of economic security for millions of older adults and their dependents. Currently, over 51 million retired workers receive Social Security benefits each month. These beneficiaries make up 75 percent of those receiving benefits from the Social Security Administration (SSA). The amount of retirement benefits an individual receives is calculated based on their lifetime earnings, with reductions for claiming before their retirement age and increases for waiting to claim after their retirement age. There is an "earnings test" for those who claim retirement benefits early and continue to work, as well as complicated interactions between early retirement and disability benefits. It is still important for most people to apply for Medicare at age 65, unless they meet one of the very narrow exceptions to being subject to penalties for declining Medicare when they become eligible. It is entirely reasonable to apply for Medicare at 65, but wait to claim retirement benefits until the beneficiary reaches their "full retirement age" or even later, up to age 70. There is never a reason to delay filing for retirement benefits after age 70.

Calculating Social Security Retirement Benefits

Social Security is a social insurance program with benefits based on an individual's work history in covered employment. Social Security provides benefits for the wage earner, and can also provide auxiliary benefits for the wage earner's spouse, children, and some other survivors or dependents.¹ Financial need is not a factor in eligibility determinations. In August 2024, just over 51 million retired workers were receiving Social Security retirement benefits.²

Social Security is funded by a payroll tax (under the Federal Insurance Contributions Act, or FICA) paid on wages in equal amounts by the employer and employee (6.2% each) for all persons working in a job covered by Social Security.³ Those who are self-employed must pay the combined employer and employee amounts for themselves.⁴

1 [42 U.S.C. §§ 402, 423](#) (2024).

2 [SSA, Monthly Statistical Snapshot, August 2024, Table 2.](#)

3 [26 U.S.C. § 3101](#) (2024). The amount of a person's wages subject to the payroll tax for purposes of Social Security benefits is capped. In 2024, the cap is set at a maximum of \$168,600 ([Social Security Administration, Contribution and Benefit Base](#) [2024]).

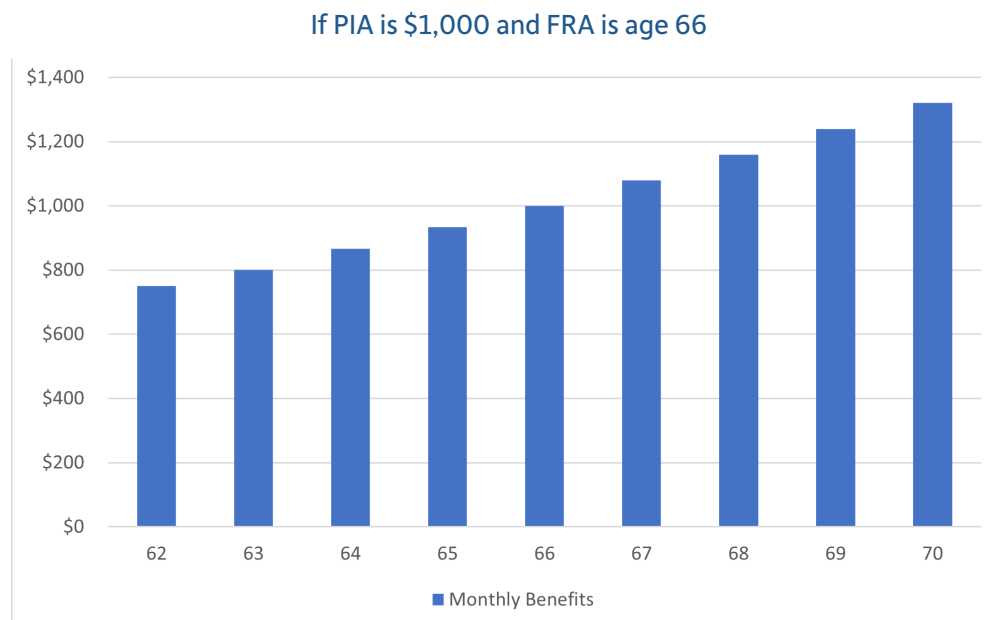
4 [SSA, If You Are Self-Employed.](#)

Eligibility for Social Security benefits generally requires that the wage earner be “fully insured” at the time of retirement, disability, or death.⁵ An individual is considered “fully insured” for retirement if they have 40 “quarters” or “credits” in covered employment.⁶ The use of the term “quarters” is misleading; it has nothing to do with calendar quarters. It simply refers to a dollar amount that one must earn in a calendar year to obtain a credit for that year, with four being the maximum number of credits one can earn in a given year.⁷ The amount required to earn a “quarter” is indexed and will change from year to year. In 2024, wages of \$1,730 are required for one “quarter” of coverage.⁸ A quarter is earned as soon as that financial threshold is reached. A person who obtains the maximum four credits every year would be fully insured after ten years of work.

The amount beneficiaries receive when first getting retirement benefits sets the base for the amount they will receive for the rest of their lives. SSA uses a formula to compute the benefits that will be paid to an individual based on their highest 35 years of earnings. The amount of benefits an individual will receive at their “normal” or full retirement age (FRA) is known as their “Primary Insurance Amount” or PIA.⁹

The age at which a fully insured person is first entitled to full or unreduced retirement benefits is referred to as their “full retirement age.” An individual can choose to begin receiving regular retirement benefits at their full retirement age, reduced early retirement benefits starting at age 62, or increased retirement benefits up to age 70. For those born between 1954 and 1960, the full retirement age is gradually increasing from 66 to 67.¹⁰

Example of Initial Monthly Retirement Benefit Amounts



A worker can choose to claim their retirement benefits as early as age 62, but doing so may result in a reduction of as much as 30 percent for those whose FRA is 67. The benefit is reduced by 5/9 of one percent for each month before full retirement age, up to 36 months. If the number of months exceeds 36, then the benefit is further reduced 5/12 of one percent per month.¹¹ For those who were born in 1943 or later, they can earn an increase of 2/3 of one percent per month if they wait after FRA to claim their retirement benefits, up to eight

⁵ [42 U.S.C. § 415](#); [20 C.F.R. § 404.110](#) (2018).

⁶ [20 C.F.R. § 404.110](#).

⁷ [42 U.S.C. § 413](#) (2024).

⁸ Social Security Administration (SSA), [Quarter of Coverage](#) (2024) (table showing amount of earnings needed to earn quarters of coverage in previous years).

⁹ SSA, [Primary Insurance Amount \(2024\)](#).

¹⁰ SSA, [Benefits Planner: Retirement Age and Benefit Reduction](#).

¹¹ [SSA POMS RS 00615.101, Reduced RIB](#) (March 2017).

percent per year.¹² Credits are only given up until age 70. Age 65 is now irrelevant for Social Security retirement purposes; however, it is still important for Medicare purposes, as will be discussed below.

Other Reductions

Windfall Elimination Provision (WEP) and Government Pension Offset (GPO)

The Windfall Elimination Provision (WEP) can affect how SSA calculates retirement benefits. If someone works for an employer who does not withhold FICA taxes, any pension from that work can reduce their Social Security benefits. Such an employer may be a state or local government agency or an employer in another country. If a person earns a “non-covered” pension from an employer who doesn’t withhold FICA taxes, and is eligible for Social Security retirement benefits based on work in other jobs where they did pay FICA taxes, SSA adjusts the formula to calculate their Primary Insurance Amount.¹³

The Government Pension Offset (GPO) adjusts Social Security spousal or widow(er) benefits for those who receive a “non-covered” pension from an employer who doesn’t withhold FICA taxes. The GPO reduces the Social Security spousal or widow(er) benefit by two-thirds of the monthly non-covered pension amount, resulting in a partial or complete offset the individual’s Social Security spousal or widow(er) benefit, depending on the amount of the non-covered pension.¹⁴

Limits on Earnings When Claiming Early Retirement Benefits

If an individual elects to begin receiving retirement benefits before reaching FRA, there are annual limits on their work activity that can significantly affect the amount of retirement benefits they receive. This is a common problem, resulting in overpayments for those receiving early retirement benefits, made worse by SSA’s practice of analyzing annual earnings and waiting to do so until sometime in the following calendar year.

The earnings test only applies to those who start to receive Social Security benefits before their full retirement age and continue to work. SSA withholds benefits if earnings exceed a certain level, called an earnings test exempt amount. One of two different exempt amounts apply — a lower amount in years before the year the beneficiary reaches their full retirement age, and a higher amount in the calendar year they reach their full retirement age. The lower exempt amount is \$22,320 in 2024; SSA then withholds \$1 for every \$2 earned over this amount. The higher exempt amount is \$59,520 in 2024; SSA withholds \$1 for every \$3 earned over this amount. These amounts are adjusted for inflation each year.¹⁵

It is important to note that any benefits withheld while the beneficiary continues to work are not “lost.” Once they reach their full retirement age or reduce their work activity below the amounts set forth by SSA, their monthly benefit will be increased again and may also include an additional amount to account for the months in which they worked.¹⁶

Interaction between Early Retirement and Disability Benefits

Individuals between age 62 and their full retirement age should also consider whether they qualify for Social Security Disability Insurance (SSDI) benefits rather than early retirement benefits. Individuals who are no longer able to work due to a disability are eligible for SSDI up until full retirement age with no reduction in benefit amount. However, they would have to go through SSA’s disability determination process, which can be very lengthy for some individuals, and Medicare coverage only begins after a 24-month waiting period, or age 65, whichever occurs first.

12 [SSA POMS RS 00615.692, Computing the Amount of the Delayed Retirement Credits \(DRC\)](#) (Nov. 2014).

13 SSA, [Windfall Elimination Provision](#).

14 SSA, [Government Pension Offset](#).

15 SSA, [Exempt Amounts Under the Earnings Test](#).

16 SSA, [How Work Affects Your Benefits](#).

There is no disability determination process with early retirement, but there is a permanent benefit reduction, and Medicare coverage will not begin until age 65. In most circumstances, if an individual will likely qualify for SSDI, it makes sense for them to apply for disability benefits rather than drawing on early retirement. If they are approved, their SSDI benefit would equal their full retirement benefit.

If they decide to take early retirement (perhaps they need the income while waiting for a decision on their SSDI application), they can apply for SSDI at the same time as when they claim their early retirement benefits.¹⁷ If they are found to have met the disability standard before they began to receive early retirement, they would be entitled to retroactive benefits equal to the difference between their early retirement payment and what they were entitled to for SSDI. If an individual starts to receive early retirement benefits, and then later applies for and becomes eligible for SSDI, their SSDI benefits will be reduced by 5/9 of one percent for every month they received early retirement benefits before becoming eligible for SSDI.¹⁸

Medicare Considerations

Although “full” or “normal” retirement age for Social Security benefits is increasing to age 67, the eligibility age for Medicare is still age 65. The “initial enrollment period” (IEP) for Medicare is a seven-month period that begins on the first day of the third month before the month the individual turns 65, and ends on the last day of the third month following that month.¹⁹ Those who fail to enroll in Medicare during the IEP risk being subject to late enrollment penalties, which increase the longer they wait to enroll.²⁰

Conclusion

It is vital for advocates to understand the rules of the Social Security retirement benefit program, and perform thorough research to ensure that the clients who rely on these benefits for their economic security are receiving and continue to receive the full amount to which they are entitled.

Additional Resources

- Social Security Act: 42 U.S.C. § 402
- Social Security Regulations: 20 C.F.R. §§ 404.1 et. seq.
- Program Operations Manual System (POMS): [Retirement and Survivors Insurance Table of Contents](#)
- [Social Security Administration](#)
- [NCLER Trainings: Social Security](#)

Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.

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17 SSA, [Form SSA-1-BK, Application for Retirement Insurance Benefits, Question 9](#).

18 [SSA POMS RS 00615.110, Reduced RIB as Affected by DIB](#) (Dec. 2023).

19 [SSA POMS HI 00805.015, Initial Enrollment Period](#) (Oct. 2022).

20 Centers for Medicare and Medicaid Services, [Avoid Late Enrollment Penalties](#).