

# Legal Basics: Social Security Retirement Benefits

Kate Lang, Justice in Aging

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

November 12, 2024

# Webinar Logistics

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to [NCLER@acl.hhs.gov](mailto:NCLER@acl.hhs.gov).
- Written materials and a recording will be available at [NCLER.acl.gov](http://NCLER.acl.gov). See also the chat box for this web address.

# About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

# About 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, 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, LGBT individuals, and people with limited English proficiency.

# About Community Legal Aid Society

Community Legal Aid Society, Inc. (CLASI) (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.

# Key Lessons

- Calculating Social Security retirement benefits
  - Reductions for claiming early and credits for delayed claiming
- Impacts of other reductions, such as Windfall Elimination Provision (WEP)/Government Pension Offset (GPO) and “earnings test”
- Interactions between early retirement and disability benefits
- Considerations around Medicare benefits

# What are we NOT covering today?

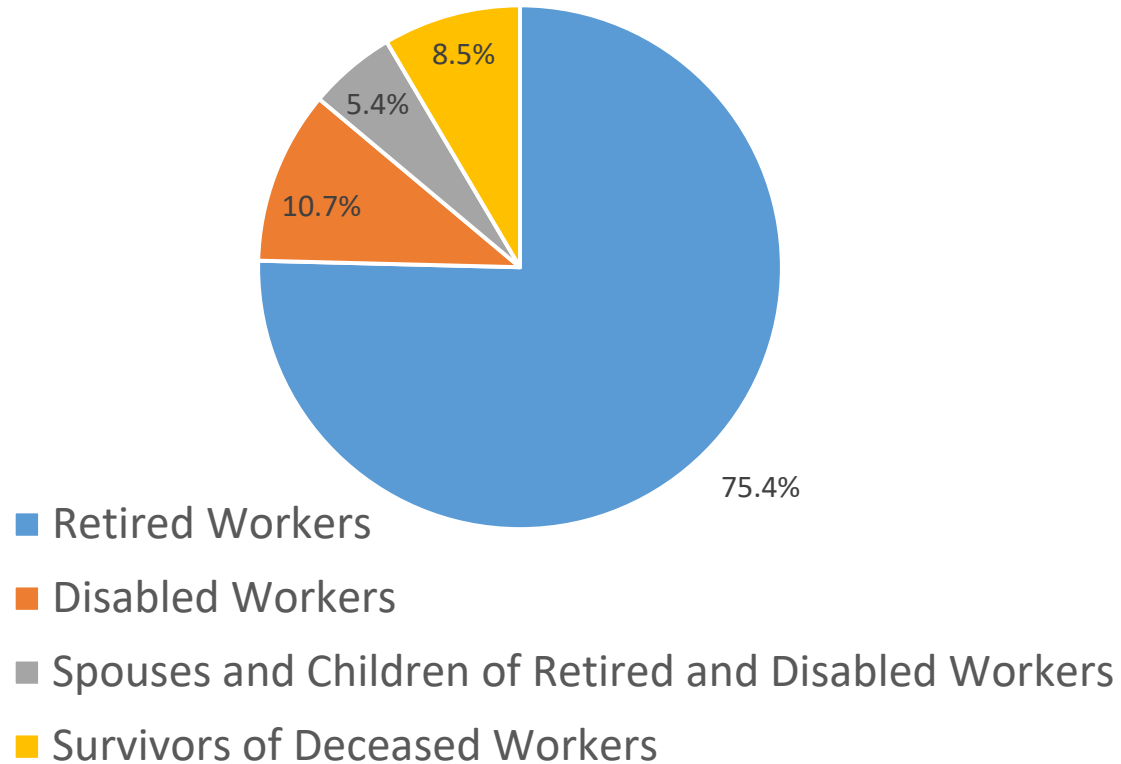
- Supplemental Security Income (SSI)
  - [Supplemental Security Income \(SSI\) Basics](#) (Feb. 2021)
- SSA disability determination process
- Social Security benefits for Dependents or “Auxiliaries”
  - [Title II Auxiliary Benefits: Social Security Benefits You’ve Never Heard of and Who is Eligible for Them](#) (May 2021)
- Overpayments
  - [Legal Basics: Social Security Overpayments](#) (Jan. 2024)
  - [Update on Changes to Overpayment Policies - Justice in Aging](#) (June 2024)

# Social Security

- Title II of the Social Security Act
- Compulsory social insurance for workers
- Covers more than retirement
  - RSDI = Retirement, Survivor and Disability Insurance
- 90% of workers pay in – FICA payroll taxes
  - 6.2% paid by employee, 6.2% paid by employer
- Maximum taxable earnings (2024) = \$168,600
  - No earnings limit for Medicare withholding
- Different rules for self-employed



# Social Security Beneficiaries – 68 Million



# Calculating Retirement Benefits

# Insured Status

- Fully insured = 40 quarters of coverage
  - 20 out of last 40 for Social Security Disability benefits
- 2024: \$1,730 = one quarter of coverage/one credit
- Only 4 quarters/credits can be earned per year

# Calculation of Retirement Benefits

- Calculation based on person's own lifetime earnings
  - Primary Insurance Amount (PIA)
  - Formula based on highest 35 years of earnings
  - Retirement benefit if claimed at Full Retirement Age (FRA) – increasing to age 67, now age 65 is irrelevant
- Average monthly retirement benefit (August 2024): \$1,920

# Claiming Early

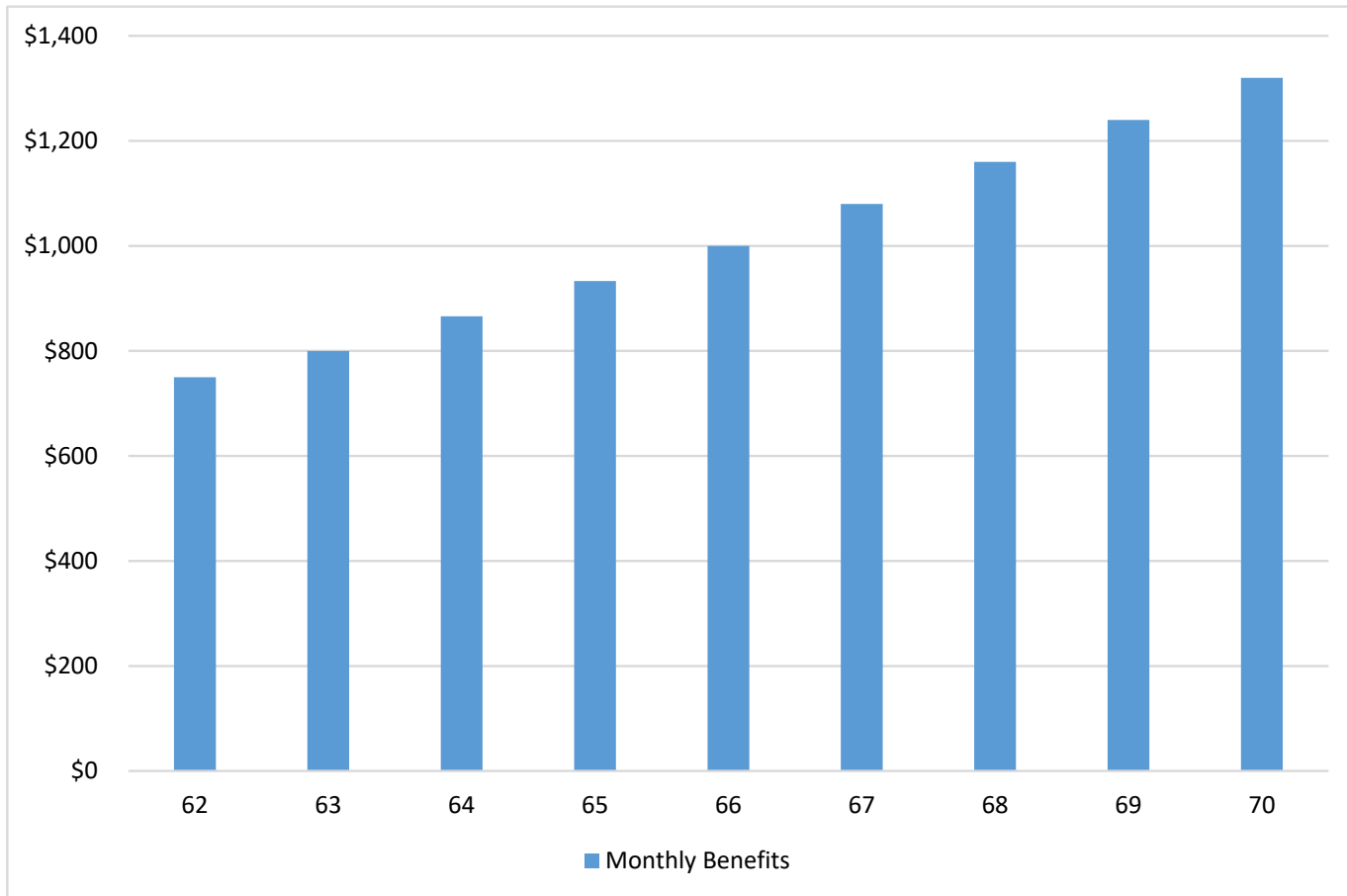
- Earliest age of eligibility: 62
- Benefits permanently reduced if claimed early, before FRA
  - FRA gradually increasing from 65 to 67 for those born after 1938; age 67 for everyone born in 1960 and later
  - NOTE: Medicare eligibility still begins at age 65
- 5/12 of 1% reduction per month before FRA
- If claiming at 62 and FRA is 67 = 30% lifetime reduction in retirement benefits
- Retirement Age and Benefit Reduction

# Delayed Retirement Credits

- Credits earned for waiting to claim retirement benefits after “full retirement age” (FRA)
- Earn  $\frac{2}{3}$  of 1% of PIA for each month worker delays claiming retirement benefits after FRA
  - 8% per year, up to 24% (if FRA is 67 and wait until 70)
  - No credits earned for waiting after age 70

# Example of Initial Monthly Retirement Benefit Amounts

If PIA is \$1,000 per month at 66 (FRA)



# When to Claim Retirement Benefits?

- Personal decision based on financial situation, longevity expectations
  - Able to make ends meet without Social Security benefits?
  - Other sources of income in retirement?
  - Anticipate living beyond average life expectancy, when other money may have run out?
  - If married, able to maximize expected cumulative lifetime benefits for both partners?



# Running the Numbers

- SSA Benefit Calculators
  - [Benefit Calculators | SSA](#)
- Private Companies
  - AARP Social Security Benefits Calculator
  - Social Security Solutions, Inc.
  - Maximize My Social Security
  - SSAnalyze by Bedrock Capital

# Other Reductions

# WEP/GPO

- When pension from certain government jobs or work in other countries received
- Windfall Elimination Provision (WEP)
  - Worker's own Social Security retirement benefits reduced if receiving pension from employer which wasn't required to withhold FICA taxes
  - Government Pension Offset (GPO)
    - Spousal/survivor benefits (based on Social Security record of spouse) reduced for worker's own government pension
  - [SSA, Information for Government Employees](#)

# Can I Claim Early and Still Work?

- Yes, with limitations – “Earnings Test”
- For 2024:
  - Up to \$22,320, no impact on benefits
  - Over \$22,320, benefits reduced \$1 for every \$2 earned over limit
  - Up to \$59,520 in year of full retirement age
  - No limits after Full Retirement Age
  - [Receiving Benefits While Working](#)
  - [Retirement Earnings Test Calculator \(ssa.gov\)](#)

# Interaction Between Early Retirement and SSDI

# Early Retirement

- No disability determination process
- Permanent benefit reduction
- No Medicare coverage until age 65
- Subject to earnings test if continue to work

# Social Security Disability Insurance (SSDI)

- Eligible for SSDI up until full retirement age
- Unreduced benefit amount
- Disability determination process
- Medicare coverage after 24-month waiting period
- If working, have to worry about “substantial gainful activity” (SGA) limits
- May be reduced for worker’s compensation offset

# Early Retirement and SSDI (1 of 2)

- Can apply for both at same time, or first one and then the other later.
- Early retirement can provide income while waiting for disability determination.
- Usually, disability payment is higher than early retirement amount, but will not be as high if did not receive early retirement before SSDI.
  - Disability benefits will be reduced 5/9 of 1% for every month received early retirement prior to first month due disability benefit.
- [POMS RS 00615.110 - Reduced RIB as Affected by DIB](#)



# Early Retirement and SSDI (2 of 2)

- Question on Form SSA-1 Retirement Application:
  - During the last 14 months, have you been unable to work because of illnesses, injuries or conditions that have lasted or are expected to last at least 12 months or can be expected to result in death?
  - If “Yes,” what date did you become unable to work?
- If applying for SSDI when over age 62, SSA will contact to ask if claimant wants early retirement

# Medicare Considerations

# Medicare

- Eligible at age 65, or after 24-month waiting period on SSDI
- Possible eligibility through spouse's work history
- Initial Enrollment Period (IEP)
  - 7 month time period beginning 1<sup>st</sup> day of 3<sup>rd</sup> month before eligibility date, and ending last day of the 3<sup>rd</sup> month following the first month of eligibility
  - [POMS HI 00805.015 - Initial Enrollment Period](#)
- EXAMPLE: Ms. W turns 65 on July 15, 2024
  - Her IEP runs from April 1, 2024 to October 31, 2024

# What is at Risk if I Decline Medicare Coverage?

- Part A is “free” for everyone who is insured
- Part B & Part D
- Risk of Penalties and Delayed Enrollment
  - **DO NOT FAIL TO CLAIM Medicare at age 65 without consulting with expert first**
- Legal Basics: Medicare Parts A, B, and C (Nov. 2023)
- Medicare Part D Legal Basics and 2022 Updates (Oct. 2022)

# Visit Our Website: [ncler.acl.gov](http://ncler.acl.gov)

NATIONAL  
CENTER ON  
**LAW &  
ELDER  
RIGHTS**

Search for resources

**Read practice tips**

Sign up for the email list

**Request a case consultation**

Learn about upcoming trainings

[ncler.acl.gov](http://ncler.acl.gov)



# Case Consultations

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