



# Social Security Q&A Guide

2022

# How This Guide Will Help

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Financial Experts Network created this guide to help consumers and financial advisors better understand how the Social Security program works, what benefits can be expected, and how to plan around the related issues. This guide was also built to help consumers better understand the significant changes made to Social Security policies by the passing of The Bipartisan Budget Act of 2015. (See pages 5-6 for more information)

The Social Security program was created in 1935 by President Franklin D. Roosevelt. At that time, it was considered to be one of the best systems available to provide retirement income to those who were age 65 and over. Qualifying disabled individuals began receiving benefits in 1956.

Social Security has grown a great deal over the years, and today this system offers a range of financial benefits to those who qualify, including retirement income, disability income, and death & survivors benefits.

The program pays out billions of dollars every year to its recipients—many of whom would be destitute without such assistance. As of 2021, more than 70 million people receive Social Security benefits.

While Social Security is a complex topic, it can make up an integral part of one's financial intake—and it is likely to continue as a pillar of retirement income for many years to come. Although most people have at least heard about Social Security, many are unaware of exactly what benefits they are entitled to, as well as how much.

Many people are surprised to learn that they may qualify for benefits such as:

- Divorced Spouse Income
- Income for Children of a Disabled Worker
- Survivor's Income Benefits

In addition, the manner in which various benefits are filed and applied for could make a substantial difference in the amount that is ultimately received.

Knowing what benefits are available to your clients from Social Security—as well as the best way to go about applying for them—can help you to reduce financial hardship and to better plan your clients' financial future going forward.

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# Claiming Strategies

The Bipartisan Budget Act of 2015 introduced substantial changes to Social Security law. Specifically, the new laws have limited Social Security claiming strategies that would have resulted in more retirement income for consumers in retirement. The new laws may impact millions of Americans who were poised to use the “file and suspend” and “restricted application” claiming strategies to maximize their Social Security benefits and create additional retirement income.

The new laws took effect on April 30, 2016. Your clients’ ability to utilize the “file and suspend” and “restricted application” strategies will depend on their date of birth and whether or not they chose to suspend their benefits before April 30, 2016.

## “File and Suspend”

The “**file and suspend**” claiming strategy involves one spouse, usually the higher earner (but not always), filing for their retirement benefit but immediately suspending payment. The purpose is to allow the worker’s spouse to begin collecting a spousal benefit while the worker’s benefit continues to earn Delayed Retirement Credits on his or her own record while in suspension.

Under the new laws:

- Anyone **born on or before May 1, 1950** have suspended their retirement by no later than April 29, 2016 in order to still allow others to collect auxiliary benefits based on their record (i.e., spousal and child benefits). If they suspended their benefits after April 29, 2016, the auxiliary benefits based on their work record will also be suspended concurrently.

**\*Note:** Anyone who has already had their benefits in suspension are grandfathered, and can continue with the “file and suspend” option.

- Anyone **born on or after May 2, 1950**, who suspended their benefits, will henceforth also result in the suspension of the benefits paid to others on his or her earnings record, regardless of the age that they file for Social Security benefits.

## “Restricted Application”

The other major change to claiming strategies was the elimination of the “restricted application.” The restricted application strategy allowed a spouse who had attained full retirement age, who was also eligible for his or her own retirement benefit, to collect only a spousal benefit while deferring collection of his or her own benefit. At a later date, usually age 70, the spouse would then switch to his or her own retirement benefit which would have grown to its maximum through Delayed Retirement Credits.

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Under the new legislation, the “deemed to be filing” rule was extended from age **66** to age **70** as well. Deeming is the requirement that if your client takes their retirement benefit and are eligible for a spousal benefit or a divorced spouse’s benefit, they must also take their spousal benefit and vice versa. This leaves your client with roughly the larger of the two benefits.

Under the new laws:

- Anyone **born January 1, 1954 or earlier**, i.e. is age 62 or older by the end of 2015, will operate under current rules and will **still be able to** file a “restricted application” at or after their full retirement age.
- Anyone **born after January 1, 1954**, will be subject to the new “deemed to be filing” rule, even at their full retirement age and **will be unable to** file a “restricted application” for only spousal benefits or ex-spousal benefits while their own retirement benefits accrue Delayed Retirement Credits.

The extension of the “deemed to be filing” rule does **NOT** apply to survivor benefits. Widow(er)s are still able to choose which benefits they collect at which time.

Divorcées are no longer able to take advantage of filing a restricted application “**just**” for divorced spousal benefits, so that their own retirement benefit can accrue delayed retirement credits. The exception to this is the group who has already reached age 62 by the end of 2015.

Those who are subject to deeming, but aren’t deemed to be filing for their excess spousal benefits when they file for their retirement benefit because their spouse has not yet filed for his/her retirement benefit will be so deemed as of the date their spouse files for his/her retirement benefit.

**Q. Can my client who was born on or before January 1, 1954 file a “restricted application” at age 62 to receive only their spousal benefits?**

**A.** No. If a person files for Social Security at any point prior to reaching their full retirement age (FRA), they will be “deemed” to be filing for both their own retirement benefit and a spousal benefit, and will only receive whichever benefit is higher. But, once they reach their FRA, they will be able to file a “restricted application” and receive just a spousal benefit while deferring collecting their own retirement benefit in order to accrue Delayed Retirement Credits (DRCs). Under the Bipartisan Budget Act of 2015, anyone who was age 62 by the end of 2015 will still have the option of filing a “restricted application” upon reaching their FRA.

# Calculating Benefits

Millions of Americans receive benefits from Social Security every year, and many people wonder how their Social Security benefits—whether current or future—are figured. The actual amount of your client’s Social Security benefits will depend on a number of different factors that are dependent upon what type of benefits they are eligible for, as well as other criteria such as their (and/or their spouse’s) work history, and when they opt to file. While there are several benefit calculators available on the Social Security Administration’s website, the information below will help your clients to get a better idea of what information Social Security takes into consideration regarding when and how they are eligible, as well as approximately how much they can expect to receive.

Based on the Consumer Price Index, Social Security payments were increased by 5.9% beginning in January 2022. The average monthly payment for retired individuals is now estimated to be **\$1,657**, up from \$1,565 in 2021. Retired couples will receive an estimated average of **\$2,753** per month, up from \$2,599 in 2021.

The maximum possible payout in 2022 for your client who retired at their full retirement age or are retiring at his or her full retirement age on or after January 2, 2022 (at age 66 + 2 months) is **\$3,345 per month**. The maximum monthly payment in 2021 was \$3,148. However, a higher monthly payment might be possible for your clients who delay collecting benefits until after their full retirement age - up until age 70.

## **Q. How are my client’s Social Security retirement benefits calculated?**

**A.** In order to receive Social Security benefits, your client must earn “40 credits” based on their work history, including time in the workforce and/or the amount of wages that are earned within a certain period of time. In 2022, your client receives **one credit for every \$1,510 that they earn, up to a maximum of 4 credits per year**. Therefore, in order to earn the maximum 4 credits in 2022 your client would need to earn **at least \$6,040 during the calendar year**. Once a person has earned a total of 40 credits, he or she will be eligible to receive benefits. The amount needed to earn one credit increases automatically each year when average wages increase. If your client earns enough to get the 4-credit maximum in each of 10 years, they will be eligible for Social Security benefits.

*“Although most people have at least heard about Social Security, many are unaware of exactly what benefits they are entitled to, as well as how much.”*

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## Q. At what age can my client start receiving full Social Security benefits?

A. When Social Security was first created, age 65 was considered to be a person’s “full retirement age.” At that time, most retirees only lived a few years beyond that age. Over time, though, due to longer life spans, the Social Security program has had to make numerous revisions so as to lengthen its funding ability. One adjustment has been to increase the age at which an individual is deemed to have reached full retirement age. Currently, the full benefit age is 66 for people born in 1943-1954, and it will gradually rise to 67 for those born in 1960 or later.

Year of Birth	Minimum Retirement Age for Full Benefits
1937 or Before	65
1938	65 + 2 months
1939	65 + 4 months
1940	65 + 6 months
1941	65 + 8 months
1942	65 + 10 months
1943 to 1954	66
1955	66 + 2 months
1956	66 + 4 months
1957	66 + 6 months
1958	66 + 8 months
1959	66 + 10 months
1960 or After	67

Source: Social Security Administration

If your client is eligible, they may begin receiving Social Security retirement benefits once they reach age 62. The amount of their benefits, however, will be reduced if they begin collecting before their full retirement age—and their benefits will continue at the reduced amount, even after they reach their full retirement age. Likewise, your client may also choose to delay taking Social Security benefits until after their full retirement age has passed—up through age 70. If they choose to do so, the amount of their benefits will be increased to an amount that is more than what they would have received at their full retirement age. Your client never has to take their Social Security benefits, i.e. there is no Required Minimum Distribution (RMD) like there is with certain retirement plans. However, they will receive no additional increase in their monthly payment amount by waiting to file after age 70.

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**Q. How can my client calculate their future Social Security benefits? For example, what if my client had enough Social Security credits to retire, but they had several years with lower earnings amounts? Is there a way to determine when would be an optimal time for them to start taking benefits and how much those benefits would be based on current and/or future earnings?**

**A.** The Social Security Administration offers an online benefit calculator on their website. This calculator is located at: [www.ssa.gov/estimator](http://www.ssa.gov/estimator). This calculator will give your client estimates that are based on their actual Social Security earnings record.

Your client is able to use the Social Security Retirement Estimator if they currently have enough Social Security credits at this time to qualify for benefits and they are NOT:

- Currently receiving benefits on their own Social Security record
- Waiting for a decision about their application for Social Security or Medicare benefits
- Age 62 or older and receiving benefits on another Social Security record
- Eligible for a pension based on work not covered by Social Security

**\*Note:** It is important to note that the figures in the benefit estimator are only estimates, as Social Security cannot provide your client with an exact benefit amount until they apply for their benefits. The amount of their benefit may differ from the estimates that are provided due to the following circumstances:

- Their earnings may increase or decrease in the future
- After they begin receiving their benefits, the amounts may be adjusted for cost-of-living increases
- Their benefits may change in the future based on whether or not the amount of payroll taxes collected from then-current workers is enough to fund the full amount of recipients' benefits
- Their benefit amount may be affected by military service, railroad employment, or pensions earned through work on which they did not pay Social Security tax

## **Benefit Calculation with Post-Retirement Wages**

**Q. If my client has already begun receiving Social Security benefits, and then goes back to work, what happens if their new wages are higher than their previous wages? Will this affect the amount of Social Security benefit that they can receive in the future?**

**A.** Social Security calculates your client's retirement benefit using their highest 35 years of earnings—regardless of when these years occur. Therefore, if your client returns to work—even after starting to receive Social Security retirement benefits—and their new earnings are higher than the lowest of the 35 years that had been used to calculate their original benefits, then Social Security will drop out the lowest years of prior earnings, plug in the new years of higher earnings, and it will result in a benefit increase for your client going forward. This ability continues beyond age 70 and applies regardless of your client's age.

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## Benefit Reduction

### Q. How much are my client's benefits reduced if they opt to take them prior to reaching their full retirement age?

A. The amount of benefit reduction will depend upon the actual type of Social Security benefit your client is receiving. These include:

1. Their individual retirement benefit is reduced by  $\frac{5}{9}$  of one percent (or 0.0056) for each month that they receive benefits prior to reaching their full retirement age (up to 3 years) and 5% for each year beyond that.
2. If they are receiving a spousal retirement benefit, this amount will be reduced by  $\frac{25}{36}$  of one percent (or 0.0069) for each month that they receive benefits prior to reaching full retirement age.
3. Widow(er)'s benefits are reduced for each month of entitlement between age 60 and full retirement age. The amount of the benefit reduction for each month is calculated by dividing 28.5% by the number of possible months of early retirement.
  - A person whose full retirement age is 65 may be entitled up to 60 months before his or her full retirement age. Each month is therefore calculated as 28.5% divided by 60 (or 0.00475).
  - If your client's full retirement age is 66, they may be entitled up to 72 months before their full retirement age. Each month is therefore calculated as 28.5% divided by 72 (or 0.00396).
  - Widow(er)'s benefits that are payable before age 60, based upon a disability, are not further reduced for months before age 60. Likewise, those benefits received prior to age 60, which are based on a disability, are not further reduced for months before age 60.
4. For those whose full retirement age is after age 65, both retirement benefits and spousal benefits are reduced by  $\frac{5}{12}$  of one percent (or 0.0042) for each month of reduction that is in excess of 36 months.

\*Source: Social Security Administration

***“Your individual retirement benefit is reduced by  $\frac{5}{9}$  of one percent (or 0.0056) for each month that you receive benefits prior to reaching your full retirement age.”***

**Primary and Spousal Benefits at Age 62**  
(Benefits based on a \$1,000 primary insurance amount)

Year of birth <sup>a</sup>	Full retirement age	Number of reduction months <sup>b</sup>	Primary		Spouse	
			Amount	Percent reduction <sup>c</sup>	Amount	Percent reduction <sup>d</sup>
1937 or earlier	65	36	\$800	20.00%	\$375	25.00%
1938	65 and 2 months	38	\$791	20.83%	\$370	25.83%
1939	65 and 4 months	40	\$783	21.67%	\$366	26.67%
1940	65 and 6 months	42	\$775	22.50%	\$362	27.50%
1941	65 and 8 months	44	\$766	23.33%	\$358	28.33%
1942	65 and 10 months	46	\$758	24.17%	\$354	29.17%
1943–54	66	48	\$750	25.00%	\$350	30.00%
1955	66 and 2 months	50	\$741	25.83%	\$345	30.83%
1956	66 and 4 months	52	\$733	26.67%	\$341	31.67%
1957	66 and 6 months	54	\$725	27.50%	\$337	32.50%
1958	66 and 8 months	56	\$716	28.33%	\$333	33.33%
1959	66 and 10 months	58	\$708	29.17%	\$329	34.17%
1960 and later	67	60	\$700	30.00%	\$325	35.00%

<sup>a</sup>If you are born on January 1, use the prior year of birth.

<sup>b</sup>Applies only if you are born on the 2nd of the month; otherwise the number of reduction months is one less than the number shown.

<sup>c</sup>Reduction applied to primary insurance amount (\$1,000 in this example). The percentage reduction is 5/9 of 1% per month for the first 36 months and 5/12 of 1% for each additional month.

<sup>d</sup>Reduction applied to \$500, which is 50% of the primary insurance amount in this example. The percentage reduction is 25/36 of 1% per month for the first 36 months and 5/12 of 1% for each additional month.

*Source: Social Security Administration*

## Benefit Increases

**Q. If my client waits until after their full retirement age to begin taking Social Security benefits, how is their benefit increased based on Delayed Retirement Credits (DRC)?**

**A.** If your client opts to delay taking their Social Security retirement benefits, their benefits will be increased by a certain percentage (depending on their date of birth). The percentage of increase is calculated using simple interest (not compounded). The increase will cease once your client reaches age 70 even if they have not yet taken receipt of their benefits.

Increase for Delayed Retirement		
Year of Birth	Yearly Rate of Increase	Monthly Rate of Increase
1933–1934	5.5%	11/24 of 1%
1935–1936	6.0%	1/2 of 1%
1937–1938	6.5%	13/24 of 1%
1939–1940	7.0%	7/12 of 1%
1941–1942	7.5%	5/8 of 1%
1943 or later	8.0%	2/3 of 1%

**Note:** If you were born on January 1st, you should refer to the rate of increase for the previous year.

*Source: Social Security Administration*

## Survivor and Family Benefits

The family maximum benefit is the maximum amount of monthly benefit that can be paid on a worker's earnings record. There is also a special formula for computing the maximum benefits that are payable to the family of a worker who is disabled.

The formula that is used to compute the family maximum benefit is similar to that which is used to compute your client's retirement benefit amount, or Primary Insurance Amount (PIA). This formula sums four separate percentages of portions of your PIA.

For 2022 these portions are: the first **\$1,308**, the amount between **\$1,308**, and **\$1,889**, the amount between **\$1,889** and **\$2,463**, and the amount over **\$2,463**. These dollar amounts are the "bend points" of the family-maximum formula.

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**Therefore, the family maximum bend points for 2022 are: \$1,308, \$1,889 \$2,463.**

For the family of a worker who either turns age 62 or who dies in 2022 before attaining age 62, the total amount of Social Security benefits payable will be computed so that the benefit amount will not exceed:

- 150% of the first \$1,308 of the worker’s PIA, plus
- 272% of the worker’s PIA over \$1,308 through \$1,889, plus
- 134% of the worker’s PIA over \$1,889 through \$2,463, plus
- 175% of the workers PIA over \$2,463

**\*Note:** The total amount is then rounded down to the next lower multiple of \$.10 if it is not already a multiple of \$.10.

<b>Determining of family-maximum bend points for 2022</b>	
<b>Amounts in formula</b>	<p style="text-align: center;"><b>Average wage indices</b></p> <p style="text-align: center;">For 1977:      \$9,779.44</p> <p style="text-align: center;">For 2020:     \$55,628.60</p> <hr/> <p style="text-align: center;"><b>Bend points for 1979</b></p> <p style="text-align: center;">First:            \$230</p> <p style="text-align: center;">Second:         \$332</p> <p style="text-align: center;">Third:            \$433</p>
<b>Computation of bend points for 2022</b>	<p><b>First bend point</b>  <math>\\$230 \times \\$55,628.60 \div \\$9,779.44 = \\$1,308.31</math>,            which rounds to \$1,308</p> <p><b>Second bend point</b>  <math>\\$332 \times \\$55,628.60 \div \\$9,779.44 = \\$1,888.52</math>,            which rounds to \$1,889</p> <p><b>Third bend point</b>  <math>\\$433 \times \\$55,628.60 \div \\$9,779.44 = \\$2,463.04</math>,            which rounds to \$2,463</p>

# Spousal Benefits

Many people are not aware that they may be eligible to receive Social Security benefits based on their spouse's earnings record—even if they themselves have never worked. As long as an individual is age 62 or older and their spouse (or ex-spouse) is either eligible for or is currently collecting Social Security benefits, they may be able to apply. Such individuals may also be eligible to apply for Medicare at age 65.

Spouses are entitled to benefits based on the other spouse's earnings record, provided that the spouse is legally married to the worker at the time the application is filed and for at least one continuous year immediately before the day of the application. To collect ex-spousal benefits, the marriage must have lasted at least 10 years. **As of June 26, 2015, this now includes same-sex couples.**

However, if an unmarried couple resides together for 10 or more years, they will not be able to collect Social Security benefits based on the other's record. If, however, a state recognizes common law marriage, Social Security will defer to that state's law and these couples will be eligible for benefits.

If a spouse is at his or her own full retirement age, or they are caring for a child under age 16, this spouse will be entitled to a benefit amount that is equal to one-half of the working spouse's full retirement benefit. **However, if the spouse begins receiving their spousal benefits prior to his or her own full retirement age, the spousal benefit will be permanently reduced.**

If an individual could receive more from Social Security based on their own earnings history than they could by collecting spousal benefits, the Social Security Administration will automatically provide this individual with the larger benefit amount.

Due to the passing of the Bipartisan Budget Bill of 2015, anyone **born on or after May 2, 1950** will no longer be able to file and suspend their retirement benefits and still allow others to collect auxiliary benefits based on their work record (i.e. spousal and child benefits). This means that your client is unable to collect spousal benefits if your client's spouse has suspended their own benefits.

In order for anyone **born on or before May 1, 1950** to allow auxiliary benefits to be claimed on his or her record while their retirement benefit is suspended they must have requested to suspend their benefits by **April 29, 2016**.

If your client was **born on or before January 1, 1954** they will still be able to file a restricted application at their full retirement age to collect only their spousal benefits, thus allowing your client's own retirement benefit to accrue Delayed Retirement Credits up until they reach age 70. Then, at a later time, they may switch from receiving spousal benefits to receiving their own benefits. In order to do this, however, your client's spouse must be collecting their own retirement benefit **OR** have already filed and suspended their benefit by April 29, 2016 (if they were born on or before May 1, 1950).

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For those **born on or after January 2, 1954**, “deemed filing” has been extended through **age 70**. “Deemed filing” is the requirement that if your client takes their retirement benefit and are eligible for a spousal benefit or a divorced spouse’s benefit, they need to also take their spousal benefit and vice versa. Your client will be unable to file a restricted application for only spousal benefits, effectively eliminating the possibility of accruing Delayed Retirement Credits on their own work record while still receiving spousal benefits. This leaves your client with roughly the larger of the two benefits at the time your client applies.

## Spousal Benefit Amount

### **Q. How much benefit will my client receive from Social Security under their spouse’s earnings record?**

**A.** In most cases, at your client’s full retirement age, they will receive 50% of their spouse’s full retirement age benefit amount. This amount does not increase if your client defers the collection of their spousal benefit past their full retirement age. If your client is under their own full retirement age and they qualify for Social Security based on their own earnings record, they will receive that amount first. However, if your client qualifies for a higher amount as a spouse, they will receive an amount that is a combination of benefits equaling that higher amount.

### **Q. How old must my client be in order to collect Social Security benefits based on their spouse’s earnings record?**

**A.** Your client must be at least age 62 in order to collect Social Security spousal benefits based on their spouse’s earnings record. However, your client can be any age if your client is caring for his or her child who is also receiving benefits. If your client’s spouse is deceased, they can begin collecting at age 60. In addition, if your client is over their full retirement age when their spouse dies, then they may collect 100% of their deceased spouse’s benefit—even if they had begun collecting Social Security retirement and/or spousal benefits before their full retirement age.

## Spousal Benefit Reduction

### **Q. What is the amount of benefit reduction if a spouse takes their Social Security spousal benefits at age 62?**

**A.** If your client’s full retirement age is older than 65 (if they were born after 1937), they will still be able to obtain their benefits at age 62. However, the reduction in their benefit amount will be greater than it is for people who are currently retiring.

A spouse can choose to retire as early as age 62, but doing so may result in a benefit as little as 32.5 percent of the worker’s primary insurance amount. A spousal benefit is reduced 25/36 of one percent for each month before normal 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. For a spouse who is not entitled to benefits on his or her own earnings record, this reduction factor is applied to the base spousal benefit, which is 50 percent of the worker’s primary insurance amount.

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For example, if the worker's primary insurance amount is \$1,600 and the worker's spouse chooses to begin receiving benefits 36 months before his or her normal retirement age, the Social Security Administration will take 50 percent of \$1,600 to get an \$800 base spousal benefit. Then they will compute the reduction factor, which is  $36 \times 25/36$  of one percent, or 25 percent. Applying a 25 percent reduction to the \$800 amount gives a spousal benefit of \$600. Thus, in this case, the final spousal benefit is 37.5 percent of the primary insurance amount.

**Q. Can my client's spouse's benefit be reduced because their spouse is earning too much money?**

**A.** Yes, if your client is receiving 50% of their spouse's Social Security benefit and their spouse is still earning an income from a job, it is possible that your client's amount of Social Security spousal benefits may be reduced.

## Length of Marriage

**Q. Does my client need to be married for a certain number of years in order to qualify for Social Security benefits based on their spouse's earnings record?**

**A.** In order to collect a spousal benefit, your client must be legally married to the worker at the time the application is filed and for at least one continuous year immediately before the day of the application. The application actually can be filed before the first anniversary of the marriage as long as the anniversary occurs prior to processing. (If, however, your client's spouse passes away, your client may be eligible to apply for Social Security widow or widower's benefits if their marriage to him or her lasted for at least 9 months prior to their death). Unmarried domestic partners do not qualify for Social Security spousal benefits. Same-sex spouses now qualify for spousal benefits in all 50 states.

With regard to common law marriage, Social Security follows the state laws. Therefore, in order to receive spousal benefits, you must generally live in a state that recognizes common law marriage. However, most states—even those that do not otherwise recognize common law marriage - will recognize such if that common law marriage was entered into in another state that does.

## Benefits for Spouses of Disabled Workers

**Q. Can my client apply for Social Security spousal benefits based on their spouse's earnings record if their spouse is currently disabled and he or she is receiving Social Security disability benefits?**

**A.** Similar to Social Security retirement benefits, spousal benefits may be paid if one member of a couple is receiving Social Security disability benefits. The non-working spouse may collect benefits as long as he or she is at least age 62 or over, or they are any age and is caring for at least one of the disabled worker's children who is under age 16.

If your client is a non-working spouse and they become disabled, they are not able to collect Social Security disability benefits due to their own disability because they have not worked and paid into the system.

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## Earning Income & Collecting Spousal Benefits

**Q. Is my client allowed to earn an income while also collecting Social Security spousal benefits?**

**A.** Your client may work and also collect Social Security spousal benefits at the same time. However, if your client is under their full retirement age, they may only earn up to a certain amount. Otherwise, their Social Security benefits will be reduced.

If your client is under full retirement age for the entire year (in 2022):

- Your client can earn **\$19,560** in gross annual wages or net self-employment and not lose any benefits.
- Social Security will deduct **\$1 for every \$2 in earned income above \$19,560/year.**

In this case, however, once your client reaches their full retirement age, their Social Security spousal benefits will be increased, which may account for the benefits that were previously withheld.

It is important to note that if your client is receiving Social Security spousal benefits because they have minor or disabled children in their care, their benefits **will not** increase when they reach their full retirement age.

# Divorced Spouses Benefits

If your client is going through a divorce, it is likely that their financial situation will change. Many are not aware, however, that divorce may also prompt a change in a person's Social Security benefits, provided that several criteria have been met—even if your client's former spouse gets remarried.

The factors for divorced spouse's benefit qualification include all of the following:

- Your client's marriage must have lasted for 10 years or longer
- Your client is not currently married (to their former spouse or to any other individual)
- Your client is age 62 or older
- Your client's ex-spouse is entitled to Social Security retirement or disability benefits, even if he or she has not yet applied for benefits, as long as your client's divorce has been finalized for at least two full years
- The Social Security benefit that your client is entitled to based on their own earnings record is less than the amount of the benefit that they would receive based on their ex-spouse's earnings record

*“As a divorced spouse, your benefit will be equal to 1/2 of your ex-spouse's full retirement amount if you begin receiving benefits at your own full retirement age.”*

It is important to note that if your client has remarried, they will not be eligible to collect Social Security benefits based on their former spouse's work record as long as their current marriage remains in effect. However, if your client's recent marriage also terminates either by death, divorce, or annulment, they may be able to once again collect benefits based upon their initial spouse's record.

As a divorced spouse, your client's benefit will be equal to one-half of their ex-spouse's full retirement amount (or their disability benefit, if they are receiving Social Security disability benefits) **if your client begins receiving benefits at their own full retirement age.**

If your client is eligible for Social Security retirement benefits based on their own earning record, they will receive that amount if such an amount is higher than their benefit would be as an ex-spouse. If, however, the benefit on your client's ex-spouse's earnings record is higher, then your client will receive a benefit amount that is a combination of benefits that equals that higher amount.

*Continued*

If your client was **born on or before January 1, 1954**, at the time they reach their full retirement age, they can choose to receive only their divorced spouse's benefit and delay receiving their retirement benefit until a later date. If your client's **birthday is on January 2, 1954 or later**, the option to take only one benefit at full retirement age no longer exists. If your client files for one benefit, they will be "deemed" to be filing for all retirement or spousal benefits, including ex-spousal benefits.

If your client gets married and begins receiving Social Security benefits one year later, and then a year after that your client get divorced, their benefits will cease if they were filed based upon your client's then-current spouse's earnings record. However, if your client filed their benefits based on their own earnings record, they will continue to receive them.

**Q. If my client is age 65 and was the higher wage earner, and their ex-spouse is age 62, can their ex-spouse collect 50% of their Social Security benefit at age 62 and then at his or her full retirement age collect 100% of his or her own benefit if it would be higher?**

**A.** No, in order for your client's ex-spouse to collect just as a divorced spouse, he or she must be at full retirement age. Because he or she is currently age 62 in this example, and is under full retirement age, he or she must collect on their own benefits first.

## Length of Marriage

**Q. How does Social Security calculate the 10 year marriage requirement? For example, if my client is married to a person for 8 years and their divorce proceedings take another 2 1/2 years before they are complete, how long does Social Security consider their marriage to be?**

**A.** Social Security will consider a couple to be married until a final divorce decree is received. In the above case, the couple is considered to have been married for 10 1/2 years (8 years of marriage, plus the additional 2 1/2 years before the final divorce decree is received). This 10 1/2 years will satisfy the 10-year marriage requirement between the date on the couple's marriage certificate and the date on the divorce decree to apply for divorced spouse's benefits.

## Benefit Increases & Reductions

**Q. If my client's ex-spouse collects Social Security benefits based on my client's earnings record, will my client's benefit amount be affected?**

**A.** No, the amount of Social Security benefits that your client's ex-spouse receives based on your client's earnings record will not affect the amount of benefit that your client receives. Nor will it affect the amount that your client's new spouse may be eligible to collect.

*Continued*

**Q. If my client continues to work while receiving benefits will the amount be affected?**

**A.** If your client continues to work while receiving benefits, the retirement benefit earnings limit will apply. **If your client is under full retirement age for the entire year (in 2022):**

- Your client can earn **\$19,560** in gross annual wages or net selfemployment and not lose any benefits.
- Social Security will deduct **\$1 for every \$2 in earned income above \$19,560 per year.**

However, while your client is working, their earnings will reduce their benefit amount only until they reach their full retirement age. **If 2022 is the year that your client will reach full retirement age:**

- Your client can earn **\$51,960 per year** gross wages or net selfemployment prior to the month that your client reaches full retirement age and not lose any benefits.
- Social Security will deduct **\$1 in benefits for every \$3 that your client earns above \$51,960 per year.** Plus, only the months before your client reaches full retirement age count toward the total.

**Q. If my client is receiving divorced spouse's benefits from Social Security and they are also receiving a pension based on work that is not covered by Social Security, will the benefit on their ex-spouse's record be affected?**

**A.** If your client receives a pension from a government job in which they did not pay Social Security taxes, some or all of their Social Security ex-spousal benefits may be offset due to receipt of that pension.

## Earned Income Requirements for Ex-Spousal Benefits

**Q. If my client's ex-spouse who was married to my client for at least 10 years did not work outside of the house, can he or she collect Social Security benefits based on my client's earnings if he or she remarries?**

**A.** Your client's ex-spouse may **not** collect based on your client's Social Security earnings record if he or she remarries, as long as your client is alive and as long as your client's ex-spouse remains married to another person. However, if your client should pass away and your client's ex-spouse remarries after he or she turns age 60 (or age 50 if he or she is disabled), then they may be eligible for benefits under your client's earnings record even though he/she has remarried.

## When to File

**Q. If my client's ex-spouse has not yet filed for his or her Social Security benefits, can my client still file to collect ex-spousal benefits based on their ex-spouse's work record?**

**A.** As long as your client's ex-spouse is eligible to receive Social Security benefits—regardless of whether or not he or she has actually filed for them—your client may receive benefits on his or her earnings record if they have been divorced for at least two years or more and were married for a minimum of 10 years. This means that your client's ex-spouse must be at least age 62 or older, and they must have earned a minimum of 40 quarters of work credits (the equivalent of 10 years) in their lifetime.

*Continued*

## Remarriage and Divorced Spouses Benefits

**Q. If my client and their ex-spouse were married for at least 10 years, and my client's ex-spouse gets remarried and then subsequently divorces that spouse, can my client's ex-spouse again apply for ex-spousal benefits based on his or her marriage to my client?**

**A.** After your client's ex-spouse remarried, he or she should have reported their change/update in marital status. Therefore, if your client's ex-spouse remarries, he or she will no longer be eligible for a percentage of your client's Social Security benefits as long as they remain married to their new spouse. If, however, your client's ex-spouse divorces the new spouse or the marriage ends due to death or annulment, he or she may again be eligible for Social Security benefits based on your client's earnings record.

Your client's ex-spouse may also be able to immediately collect on their new spouse's benefits (while the new spouse is living) if both your client's ex-spouse and his or her new spouse had been collecting benefits in the month immediately preceding their marriage. In addition, if your client's ex-spouse divorces for a second time, he or she can pick the higher of their ex-spouses' benefits, provided that each of the marriages meets the rules for benefit eligibility. **Your client's ex-spouse cannot collect benefits based on your client's earnings record if he or she is currently married to another person.**

**Q. If my client was married for 10 years and they divorce that spouse, and then they remarry another individual for 5 years and then divorce that person, as a now-single individual can they receive divorced spouse's benefits based on their first spouse's earnings record since they were not married to their second spouse long enough to meet the 10 year marriage requirement?**

**A.** Yes, your client is eligible to file for benefits based on their first spouse's earnings record, provided that your client is not currently married to another individual even if their ex-spouse is remarried to another person.

# Survivors Benefits

If your client's spouse is deceased, your client may be able to collect Social Security benefits based on their spouse's earnings record. Although the eligibility requirements are the same, it is important to note that Social Security survivors benefits are not the same as Social Security spousal benefits.

There are two ways to view Social Security survivors benefits. One is to understand how your client may qualify as a survivor on someone else's Social Security record, and the other is to understand how your client's family members are protected if your client should pass away.

## Qualifying for Survivor's Benefits

### Q. How does my client's spouse qualify for Social Security survivor benefits?

A. The number of credits that are needed to provide benefits for survivors will depend on the worker's age when he or she dies. The younger a person is, the fewer credits he or she must have for family members to receive survivors benefits. However, nobody needs more than 40 total credits to be eligible for any Social Security benefit. Benefits can, however, be paid to your client's children and your client's surviving spouse who is caring for your client's children—even if your client doesn't have the required number of credits—if your client has credit for at least one and 1/2 years (or 6 total credits) in the three years just prior to their death.

### Q. How long must my client be married to their spouse in order to qualify as a surviving spouse for Social Security survivors benefits?

A. Although your client and your client's spouse must be married for at least one year to qualify for Social Security spousal benefits, your client only needs to be married for **at least 9 months just before the worker's death** in order to qualify for survivors benefits.

There are some exceptions to this 9 month rule in that your client does not need to be married for any specific length of time if:

- Your client is the mother or father of the deceased worker's biological child
- Your client has legally adopted the deceased worker's biological child while your client was married to him or her, and before the child reached age 18
- Your client is the parent of a child who was legally adopted by the deceased worker while your client and the worker were married and before the child reached age 18

*Continued*

- Your client and the deceased worker were married and both spouses adopted a child under age 18
- Your client was entitled or potentially entitled to spouse's, widow(er)'s, parent's, or childhood disability benefits on the record of a fully insured individual in the month before the month in which your client married the deceased worker
- Your client was entitled or potentially entitled to a widow(er)'s, child's (age 18 or over), or parent's insurance annuity under the Railroad Retirement Act (RRA) in the month before your client married the deceased worker
- The deceased worker was previously married to an institutionalized spouse, but was not allowed to divorce him or her under state law. After the worker's spouse died, he or she married your client within 60 days
- Your client was married to the deceased worker at the time of his or her death, and your client had previously married and divorced him or her whereby that marriage lasted at least 9 months
- The deceased worker's death occurred in the line of duty while he or she was a member of a uniformed service serving on active duty
- The deceased worker's death was accidental. (A worker's death will be considered to be accidental only if he or she received bodily injuries through violent, external, and accidental means and, as a direct result of the bodily injuries and independent of all other causes, he or she died within 3 months after the day he or she received such injuries.)

It is important to note that if the deceased worker was not reasonably expected to live for 9 months at the time that your client married him or her, then your client will not qualify for Social Security survivors benefits under the last three conditions listed above.

## Age Requirements for Survivors Benefits

### **Q. Must a survivor wait until they are age 60 to collect Social Security survivors benefits?**

**A.** No, survivors do not necessarily have to be age 60 to start collecting these benefits. However, there are some rules that must be followed in order to qualify for Social Security survivors benefits. If your client passes away, certain members of their family may be eligible for survivors benefits.

These individuals can include your client's widow or widower—including a divorced widow or widower, your client's children, and their parents—if they are claimed as a dependent on your client's tax return and are age 62 or older. Your client's surviving spouse who is caring for your client's children may receive the spouse's benefit, regardless of what his or her age may be.

Your client's unmarried children who are younger than age 18 (or up to age 19 if they are attending elementary or secondary school full-time) can also receive benefits. Your client's children can get benefits at any age if they were disabled before age 22 and they remain disabled. Under certain circumstances, benefits can also be paid to your client's stepchildren, grandchildren, step-grandchildren, or adopted children.

*Continued*

**Q. If my client is the primary wage earner and they pass away before reaching age 62, will their widow or widower be able to collect Social Security survivors benefits?**

**A.** Your client's widow or widower can receive the following if your client passes away prior to reaching age 62:

- A reduced amount of benefits as early as his or her age 60, or full benefits at his or her full retirement age or older
- Benefits as early as age 50 if he or she is disabled and their disability started before or within 7 years of your client's death

**Q. If my client dies at age 55 and their widow or widower works until after his or her full retirement age, can he or she collect survivors benefits based on my client's earnings record and defer his or her retirement benefit until age 70—and then switch over to his or her retirement benefit at that time if it is higher than the amount of the survivors benefit?**

**A.** The extension of the “deemed to be filing” rule to age 70 for anyone **born on or after January 2, 1954** does **not** apply to survivors benefits. Widow(er)s will still be able to choose which benefits they collect at which time. **The amount of survivors benefits received is generally based on 100% of what the deceased spouse was collecting in benefits at the time that they passed away, or what they would have been collecting had they started drawing benefits the month that they passed away.**

**Widows and widowers can start to collect as early as age 60.** A widow or widower who is disabled, their benefits can begin as early as age 50. If they start to collect survivors benefits before their full retirement age, they will receive a smaller amount each month. If they start to collect at age 60, they get 71.5% of the amount they would have received if they had waited until full retirement age. If they wait to collect survivors benefits until full retirement age, they will receive 100% of their survivors benefits. **Your client is not able to collect both survivors benefits and their own retirement benefits simultaneously. They must choose one or the other.**

Taking a reduced survivors benefit payment does not preclude survivors from getting a full, non-reduced retirement benefit, or perhaps even accruing delayed retirement credits on their own work record if they wait until age 70 to collect it. The reverse is true, as well. They can start to collect a reduced retirement benefit at 62, and then at full retirement age, receive a full survivors benefit. However, survivors benefits do not accrue Delayed Retirement Credits, so the amount does not grow if someone waits beyond their full retirement age to begin to collect.

*Continued*



# Surviving Spouse Benefit Amount

## Q. How much will a surviving spouse receive in Social Security survivors benefits?

**A.** As a general rule, survivors benefits based on age will be about the same total Social Security benefits over a lifetime, whether they start early or at full survivors retirement age. If monthly benefits start before full retirement age, the amount is smaller in order to take into consideration the longer period in which a person receives such benefits.

Widows or widowers benefits that are based on age may start any time between age 60 and full retirement age as a survivor. If the benefits start at an earlier age, they will be reduced a fraction of a percent for each month before full retirement age. Therefore, your client’s widow or widower may receive:

- Permanently reduced benefits as early as age 60, or full benefits at his or her full retirement age or older
- Benefits as early as age 50 if he or she is disabled AND their disability began before or within 7 years of your client’s death
- Benefits at any age if he or she takes care of your client’s child who is receiving Social Security benefits and is younger than age 16 or disabled

If a person receives widow’s or widower’s benefits, and they also qualify for a retirement benefit then he or she may switch to their own retirement benefit as early as age 62 or as late as age 70. They may not, however, collect both benefits at the same time.

Year of Birth <sup>1</sup>	Full Retirement Age of Survivor <sup>2</sup>	At age 62 <sup>3</sup> a \$1000 survivors benefit would be reduced to	Months between age 60 and full retirement age	Monthly % reduction <sup>4</sup>
1939 or earlier	65	\$829	60	.475
1940	65 and 2 months	\$825	62	.460
1941	65 and 4 months	\$822	64	.445
1942	65 and 6 months	\$819	66	.432
1943	65 and 8 months	\$816	68	.419
1944	65 and 10 months	\$813	70	.407
1945-1956	66	\$810	72	.396
1957	66 and 2 months	\$807	74	.385
1958	66 and 4 months	\$805	76	.375
1959	66 and 6 months	\$803	78	.365
1960	66 and 8 months	\$801	80	.356
1961	66 and 10 months	\$798	82	.348
1962 and later	67	\$796	84	.339

1. If the survivor was born on January 1st of any year, use the information for the previous year.
2. If someone was born on the 1st of the month, we figure the benefit (and full retirement age) as if his or her birthday was in the previous month.  
**Note:** The full retirement age may be different for retirement benefits.
3. The \$1000 benefit would be reduced to \$715 for anyone who started receiving survivors benefits at age 60.
4. Monthly reduction percentages are approximate due to rounding. The maximum benefit is limited to what the worker would receive if he or she were still alive. Survivors benefits that start at age 60 are always reduced by 28.50%.

Source: Social Security Administration

**Q. If my client's widow or widower takes a reduced amount of Social Security retirement on his or her own earnings record, will this reduction apply to the full benefit of their deceased spouse?**

**A.** No. If your client's widow or widower waits until full retirement age to begin collecting their survivors benefits, the amount of that payment will not be reduced.

**Q. If a husband dies and his surviving wife did not collect spousal benefits, will she get back pay from the years in which she did not collect?**

**A.** No. Survivors benefits are not necessarily retroactive to the date of death. They may, however, be retroactive for up to 6 months prior to filing the application for benefits.

## Earned Income and Survivors Benefits

**Q. Will a widow(er)'s earned income affect the amount of his or her Social Security survivors benefits?**

**A.** If your client is receiving Social Security survivors benefits and they are also working, Social Security will use one of the formulas below to figure the amount of their reduced benefit:

- If your client is under their full retirement age when they start getting Social Security survivors benefit payments, Social Security will deduct \$1 in benefits for each \$2 they earn above the annual limit.  
**For 2022, the limit is \$19,560.**
- In the year that your client reaches their full retirement age, Social Security will deduct \$1 in benefits for each \$3 they earn above the annual limit, until the month they reach their full retirement age.  
**For 2022, the limit is \$51,960.**
- Starting with the month your client reaches their full retirement age, they will get their Social Security survivors benefits with no limit on their earnings.

**Remember: Your client cannot collect survivors benefits and their own retirement benefits simultaneously.**

## Remarriage and Survivors Benefits

**Q. Does remarriage of a surviving spouse affect the receipt of widow(er)'s benefits?**

**A.** Yes, remarriage will terminate the surviving spouse's eligibility for widow(er)'s benefits, provided that the widow(er) is under age 60 (or age 50 if disabled). However, should the widowed spouse remarry after he or she reaches age 60 (or 50 if disabled), the remarriage will not affect their eligibility for survivors benefits.

**Q. Does remarriage of a surviving spouse affect the receipt of a child's survivors benefits?**

**A.** No, remarriage by the surviving spouse will not impact the child's benefits.

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## Citizenship and Survivors Benefits

**Q. If my client's surviving spouse is not a U.S. citizen (but is a U.S. resident)—regardless of his or her age—how will this affect the collection of Social Security survivors benefits?**

**A.** If your client's surviving spouse is not a U.S. citizen, but is a U.S. resident, then he or she may still collect survivors benefits. By a change in the immigration law in 2009, a non-citizen widow may apply for permanent residency status, no matter how long he or she was married to a U.S. citizen. Social Security survivors benefits are payable to non-citizens who are in the country legally, either as permanent or temporary residents. The technical term used by Social Security for legal status is "lawful presence," and includes non-immigrants such as refugees or those claiming political asylum. There is no requirement for a survivor—citizen or non-citizen—to have worked and paid in to Social Security on her own.

It is important to note here that if he or she is also collecting a pension (and did not pay into the Social Security program via his or her wages), then he or she will be subject to the Government Pension Offset (GPO) whereby his or her widow(er)'s benefits will be reduced by 2/3 of the amount of his or her public pension.

# Children's Benefits

Social Security is among the nation's largest program serving children, just over 4 million children receive approximately \$2.8 billion each month because one or both of their parents were disabled, retired or deceased.

Your client's child can get benefits if he or she is their biological child, adopted child or dependent stepchild. (In some cases, your client's child also could be eligible for benefits on his or her grandparents' earnings.)

To get benefits, a child must have:

- A parent(s) who is disabled or retired and entitled to Social Security benefits
- A parent who died after having worked long enough in a job where he or she paid Social Security taxes

The child also must be:

- Unmarried
- Younger than age 18
- 18-19 years old and a full-time student (no higher than grade 12)
- 18 or older and disabled (The disability must have started before age 22)

When your client applies for benefits for their child, they will need their birth certificate, their child's birth certificate, and their child's Social Security number. Depending on the type of benefit involved, other documents may be required.

## Qualifying for Children's Benefits

**Q. How can my client's child qualify for benefits if my client (or the child's alternate biological or adoptive parent) has passed away?**

**A.** In order to qualify for benefits, your client's child must be younger than age 18 (or age 19 and be a full-time student). He or she must also be unmarried and have either:

- A parent who died after having worked long enough in a job where he or she paid Social Security taxes; or
- A parent who is disabled or retired and is/was entitled to Social Security benefits.

**\*Note:** Your client's child may receive benefits after age 18 if he or she is disabled, provided that the disability started before he or she reached age 22.

*Continued*

## Amount of Surviving Children's Benefits

**Q. What is the maximum monthly payment that my client's surviving child or children may receive via Social Security survivor benefits?**

**A.** The amount of benefits that are paid to a surviving child or children will depend upon your client's average lifetime earnings. The higher your client's earnings history, the greater the available benefits will be. Social Security calculates a basic amount as if your client had reached their full retirement age at the time of their death. However, if your client was already receiving reduced benefits when they die, the survivor benefits will be based on that amount. In the case of your client's surviving children, the amount would be 75% of such benefit. The family maximum amount (see Survivor and Family Benefits) might also affect the benefit amount depending on the number of individuals collecting.

## If Both of a Child's Parents Are Deceased

**Q. Are there any special rules with regard to a child who has both parents that are deceased?**

**A.** If both of a child's parents are deceased, the child will collect benefits based on one parent's account or the other. The child's benefit amount will typically be based upon the higher wage earner's record, but not on both at the same time.

# Disability Benefits

Social Security pays disability benefits to your client and certain members of your client's family, if they have worked long enough and have a medical condition that has prevented them from working or is expected to prevent them from working for at least 12 months or end in death.

Disability benefits based on your client's work record may be paid to:

- Spouse
- Divorced spouse
- Children
- Disabled child
- Adult child disabled before age 22

Each family member may be eligible for a monthly benefit of up to 50 percent of your client's disability rate. However, there is a limit to the amount that can be paid to your client's family (Maximum Family Amount).

The total depends on your client's benefit amount and the number of family members who also qualify on their record. The total varies, but in disability cases, the Maximum Family Amount is capped at **150 percent of your client's disability benefit**.

If the sum of the benefits payable on your client's account is greater than the family limit, the benefits to their family members will be reduced proportionately. Your client's benefit will not be affected.

## Qualifying for Disability Benefits

### Q. How does my client qualify for Social Security disability benefits?

**A.** To qualify for Social Security disability benefits, your client must have first worked in jobs that are covered by Social Security. Then your client must have a medical condition that meets Social Security's definition of disability. In general, Social Security pays monthly cash benefits to people who are unable to work for a year or more because of a disability.

These benefits are usually continued until your client is able to work again on a regular basis. There are also a number of special rules, called "work incentives," that provide continued benefits and health care coverage to help your client make the transition back to work.

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**Q. If my client worked for 10 or more years (and has enough earnings credits to qualify for Social Security retirement benefits), and they have been collecting Social Security disability benefits, will their retirement benefit amount at their full retirement age be impacted?**

**A.** If your client is receiving Social Security disability benefits and they then reach their full retirement age, nothing changes except the name. In other words, their disability benefits are then called retirement benefits. Your client's disability benefits automatically convert to retirement benefits, but the amount remains the same.

Starting the month in which your client reaches full retirement age, your client's Social Security disability benefits essentially become their Social Security retirement benefits. These benefits may be collected with no limit on any other earnings that your client may receive.

## Social Security Disability/Spousal Benefits

**Q. If my client is collecting Social Security disability benefits and their spouse later becomes disabled but does not have enough credits to qualify for Social Security disability benefits based on his or her own earnings record, can my client's spouse still collect some amount of benefit?**

**A.** Under Social Security, your client's disability benefits will be based on their personal earnings record. However, when your client begins to collect disability benefits, their spouse and certain other family members may also qualify for benefits under their record. Each qualifying family member may be eligible for a monthly benefit of up to 50% of your client's benefit amount (up to a Family Maximum Amount).

If your client is receiving Social Security disability benefits, benefits will also be payable to their spouse if their spouse is:

- Any age, if he or she is caring for your client's child who is under age 16, or if the child is disabled and is receiving Social Security benefits. Your client's spouse will receive these benefits until the child reaches age 16. At that time, the child's benefits will continue, but your client's spouse's benefits will stop—unless he or she is old enough to receive retirement benefits (at age 62 or older) or survivor benefits as a widow or widower.
- Age 62 or older, unless your client's spouse collects a higher amount of Social Security benefit based on his or her own earnings record. Your client's spouse's benefit will be permanently reduced by a percentage, based on the number of months up to his or her full retirement age.

If your client's spouse also worked under Social Security and is eligible for retirement benefits on his or her own record, that amount will always be paid first. But if your client's spouse's benefit that is payable based on your client's earnings record is a higher amount, then your client's spouse will get a combination of benefits that is equal to that higher amount. It does not matter if your client's spouse starts getting benefits before, after, or at the same time as your client. Both earnings records are checked in order to ensure that your client's spouse gets the higher amount whenever he or she is entitled to it.

*Continued*

If your client is under their full retirement age and is receiving Social Security disability benefits, and your client's spouse will be turning age 62, your client's spouse's benefit may not equal the full 50% of your client's benefit amount. **If your client's spouse is over his or her full retirement age when your client pass away, then he or she will collect 100% of your client's benefit.**

In the case of family benefits, the total amount of the family limit will depend on your client's benefit amount, as well as the number of your client's family members who also qualify based on your client's earnings record. Typically, the total amount of benefit that a family can receive is approximately 150 to 180% of your client's disability benefit. **If the total of the benefits payable on your client's account is greater than the family limit, then the benefits paid to their family members will be reduced proportionately. However, your client's benefit amount will not be affected.**

*“Each family member may be eligible for a monthly benefit of up to 50 percent of your disability rate.”*



# Government Pension Offset

If your client receives a pension from a government job (including federal, state, or local) in which they did not pay Social Security taxes, some or all of their Social Security spousal or widow(er)'s benefit may be offset due to receipt of that pension. This offset is referred to as the Government Pension Offset, or GPO.

The GPO will reduce the amount of your client's Social Security spousal or widow(er)'s benefits by 2/3 of the amount of their government pension. For example, if your client receives a monthly Civil Service Retirement System (CSRS) pension of \$600, then 2/3 of that—or \$400—must be used to offset their Social Security spousal or widow(er)'s benefits. If your client is eligible for a \$500 spouse's benefit, they will receive \$100 per month from Social Security (\$500–\$400 = \$100).

There are some individuals who are exempt from the offset. Generally, your client's Social Security benefits as a spouse or widow(er) will not be reduced if they:

- Are receiving a government pension that is not based on their earnings
- Are a federal (including Civil Service Offset), state or local government employee whose government pension is based on a job where they were paying Social Security taxes, **AND:**
  - They filed for and were entitled to spouse's or widow(er)'s benefits before April 1, 2004;
  - Their last day of employment (that their pension is based on) is before July 1, 2004; or
  - They paid Social Security taxes on their earnings during the last 60 months of government service. (Under certain conditions, fewer than 60 months may be required for people whose last day of employment falls after June 30, 2004, and before March 2, 2009).

*“If you receive a pension from a government job in which you did not pay Social Security taxes, some or all of your Social Security spouse’s or widow(er)’s benefit may be offset due to receipt of that pension.”*

*Continued*

**Q. If my client is receiving a payment from their deceased spouse's pension that was under GPO, what happens to their own Social Security benefits?**

**A.** The only time that your client needs to factor in GPO is if the government pension is based on their own work in the public sector. Therefore, the receipt of a survivor annuity that is based on the work and earnings of their deceased spouse will not trigger the GPO and will therefore not reduce their own Social Security retirement **benefits**.

GPO will, however, reduce the amount if your client is receiving Social Security spousal or widow(er)'s benefits. These benefits will be reduced by 2/3 of the amount of their government pension.

**Q. If my client receives government pension benefits from another country, will that affect their Social Security benefits?**

**A.** If your client works for an employer who does not withhold Social Security taxes from their salary—including a government agency or an employer in another country—then the pension that they receive based on that work may reduce their Social Security benefits.

## **Military Benefits and GPO**

**Q. Will my client be subject to reduced Social Security benefits under the GPO if they are retired from the military?**

**A.** Your client is allowed to get both Social Security benefits and military retirement benefits. Typically, there is no offset of Social Security benefits because of your client's military retirement because active duty military members do pay into Social Security. Therefore, your client will be able to receive their full Social Security benefits based on their earnings.

However, the amount of your client's Social Security benefit may be reduced if they also receive a government pension that is based on a job in which they did not pay Social Security taxes.

## **The Windfall Elimination Provision**

**Q. If my client receives a government pension and they are therefore subject to Windfall Elimination Provision (WEP) and GPO, would the spousal benefit that my client's husband or wife is entitled to be based off my client's decreased Social Security benefit or off of the benefit before the WEP reduction is applied?**

**A.** The Windfall Elimination Provision (WEP) will affect how the amount of your client's retirement or disability benefit is calculated if your client receives a pension from work where Social Security taxes were not taken out of their pay. A modified formula is used to calculate your client's benefit amount, resulting in a lower Social Security benefit than your client otherwise would receive, which also applies to your client's spouse, but not your client's survivors.

The GPO also reduces Social Security benefits paid to spouses or survivors when the spouse or survivor earned a pension from a government job that was not covered by Social Security.

*Continued*

The Windfall Elimination Provision will **not** apply if:

- Your client is a federal worker who was originally hired after December 31, 1983
- Your client was employed on December 31, 1983, by a non-profit organization that did not withhold Social Security taxes from your client's pay at first, but then began to withhold Social Security taxes from their pay
- Your client's only pension is based on railroad employment
- The only work your client did where your client did not pay Social Security taxes was before 1957
- Your client has 30 or more years of substantial earnings under Social Security

In addition, while your client is still alive any benefit paid to your client's spouse or children will be calculated after factoring in the WEP. **However, the WEP does not apply to survivor's benefits—even though such benefits may be reduced for widows or widowers because of another provision of the law.**

# Civil Service Retirement System

The Civil Service Retirement System, or CSRS, was organized in 1920 and has provided retirement, disability, and survivor benefits for most civilian employees in the United States federal government. It is a defined benefit plan, similar to a pension.

Up until 1984, however, employees of the U.S. federal government were not covered under Social Security. Therefore, if your client worked for an agency of the federal government during the time prior to 1984, they did not pay Social Security tax on their earnings—and thus, those earnings would not be shown on their earnings record.

If your client was hired by a government agency in 1984 or after, it is required that they be covered by a new program called the Federal Employees Retirement System, or FERS. This is a 3-tiered system with a smaller defined benefit pension that also includes Social Security and a 401(k)-style system called the Thrift Savings Plan, or TSP.

If your client began working for the federal government in 1984 or later, they are covered by FERS instead of CSRS. Those eligible government employees who were hired prior to 1984 are still provided with CSRS retirement benefits. Some workers who had been initially covered by CSRS have also chosen to switch to the FERS program.

If your client stayed under the CSRS program after 1983, they will not be covered by Social Security. They will, however, be eligible for Medicare benefits—and they therefore pay Medicare taxes on their federal earnings.

Your client's CSRS pension may affect their Social Security benefit amount if they:

- Had enough work to qualify for Social Security benefits
- Qualify for Social Security benefits as a spouse

# Social Security “Reset”

The Social Security “reset” or “do over” allows recipients to remove their original application for benefits and then re-file for benefits at a later age. The point of the do over option is to enable Social Security recipients who began receiving monthly benefits at an earlier time and who change their minds about collecting benefits to return funds—or pay back—money that was received from their Social Security benefits. This option allows Social Security recipients to then refile for benefits at a later date and therefore receive a higher monthly amount for as long as they live.

In December 2010, the Social Security Administration issued a ruling that now limits the ability of recipients to use this reset option. As of the time of this ruling, Social Security benefit recipients may now only cancel their benefits **once** during their lifetime—and **only within the first 12 months after they begin receiving benefits.**

**Your client must repay all the benefits** that they and their family received based on your client’s retirement application. Anyone who received benefits based on your client’s application must also consent in writing to the withdrawal. The key factor is that your client repays only the benefits received—**no interest is charged.**

## “Do Over” Eligibility

**Q. If my client started claiming their Social Security benefits prior to the 2010 ruling, will they still be subject to the re-do limitation, or will they be “grandfathered” from this ruling?**

**A.** If your client had not filed their request before December 8, 2010, then they will fall under the new ruling and will therefore need to file their request within 12 months of Social Security entitlement and only once in their lifetime.

**Q. If my client files for their benefits and then suspends them, can my client receive their suspended benefits in a retroactive lump sum payment, if they waited until their full retirement age to originally file?**

**A.** Due to the passing of the Bipartisan Budget Act of 2015, anyone who asked to have their benefits suspended after April 29, 2016 **will no longer be able to receive a lump sum repayment of benefits that have been withheld.**

After April 29, 2016, a person can ask to have their benefits suspended, then change their mind and ask to have payments resumed, but the resumption of payments will be effective with the month **after** the month the request has been received. **There will no longer be any repayment in a retroactive lump sum after April 29, 2016 regardless of age.**

However, **if someone who is already at least 66-years-old, asked to have their benefits suspended by April 29, 2016,** they retain the right, up until age 70, to ask that any and all of their benefit payments that had been withheld be repaid in a lump sum.

# Tax & Earning Issues

There are many people who receive Social Security retirement or survivors benefits and also work. While this can yield your client more overall income, there are some potential issues that may affect your client's Social Security benefits if they are younger than their full retirement age and they are earning more than a certain amount of income.

If your client loses benefits based on work earnings and total amount of income, however, such benefits will not be totally and permanently lost, as their Social Security benefit amount will be increased to make up for this loss when they reach their full retirement age.

The maximum taxable earnings amount will increase to \$147,000 in 2022 from \$142,800 in 2021, due to an increase in average wages. Earnings above this amount are not taxed by Social Security or used to calculate Social Security payouts in retirement.

\*Note: Those who are receiving spousal and/or survivors benefits because they have a minor or disabled child in their care will not receive increased Social Security benefits at their full retirement age if benefits are withheld because of work.

## Earnings Considerations

### **Q. What comprises exempt earnings while my client is under full retirement age and my client is receiving Social Security benefits?**

**A.** The Social Security Administration (SSA) determines the exempt amounts using procedures that are defined in the Social Security Act. If your client works for someone else, only your client's wages count towards the Social Security benefit limit. If your client is self-employed, Social Security will count only your client's net earnings from their self-employment income.

Social Security will not count income such as other government benefits, investment earnings, interest, pensions, annuities, and capital gains. Proceeds from a Home Equity Conversion Loan typically will also not apply as income. However, your client's contribution to a pension plan will be counted.

The money that your client earns as wages will be counted when it is earned (and not when it is actually paid to them). Conversely, the income that your client earns as a self-employed individual will be counted when it is actually paid to them and not when it is earned - unless that income is paid in the year after your client becomes entitled to Social Security and your client earned it before they became entitled to receive it.

*Continued*

## Q. How much can my client earn while collecting Social Security benefits and not be subject to benefit reduction?

A. Your client can get Social Security retirement or survivors benefits and work at the same time. But, if your client is younger than full retirement age, and earns more than certain amounts, their benefits will be reduced. The amount that their benefits are reduced, however, isn't truly lost. Your client's benefits will be increased at their full retirement age to account for benefits withheld due to earlier earnings. (Spouses and survivors, who receive benefits because they have minor or disabled children in their care, don't receive increased benefits at full retirement age if benefits were withheld because of work.)

## Benefit Withholding

### Q. If my client is working and receiving Social Security benefits, how much in benefits is withheld?

A. Social Security will withhold \$1 in benefits for every \$2 that your client earns in excess of the lower exempt amount. In the year that your client reaches their full retirement age, a higher threshold applies, and Social Security will withhold \$1 in benefits for every \$3 in earnings in excess of the higher exempt amount. Earnings that occur either in or after the month in which your client reaches their full retirement age will not count towards this benefit reduction.

In 2022, the benefit reductions are as follows:

- If your client is younger than full retirement age during all of 2022, and they earn income from work, Social Security will **deduct \$1** in benefits from **every \$2** that they earn above **\$19,560/year in 2022**.
- If your client reaches their full retirement age during 2022, then Social Security will **deduct \$1** from their benefits for each **\$3** that they earn above **\$51,960 in 2022** until the month in which they reach full retirement age.
- If your client was born on or before January 1, 1950, then they have already reached their full retirement age. If your client works, and is full retirement age or older, they **may keep all of their benefits, no matter how much they earn**.

Year	Under Full Retirement Age		Full Retirement Age	
	Yearly Amount	Monthly Amount	Yearly Amount	Monthly Amount
2022	\$19,560	\$1,630	\$51,960	\$4,330
2021	\$18,960	\$1,580	\$50,520	\$4,210
2020	\$18,240	\$1,520	\$48,600	\$4,050

An earnings test applies in the calendar year in which a beneficiary attains FRA, but only to the months prior to the month the beneficiary reaches FRA.

Source: Social Security Administration

Continued

**Q. What is the maximum percentage of Social Security benefits received that can be treated as general income for federal tax purposes?**

**A.** Up to **50%** of Social Security benefits are taxable if total provisional income (which includes adjusted gross income, tax-exempt interest and one-half of Social Security benefits) exceeds a **base amount of \$25,000** for **single taxpayers** and **\$32,000 for married taxpayers filing jointly**.

Up to **85%** of Social Security benefits received are taxable for **single taxpayers with a provisional income over \$34,000** or for **married taxpayers filing jointly with a provisional income over \$44,000**

**Q. If my client works and they also start collecting Social Security at age 62, how much of their reduced benefit (due to taking the benefit at an age below their full retirement age) will be taxed or penalized?**

**A.** Other than the reductions in benefits, there are no additional penalties that are imposed by Social Security. In this case, just the normal federal, state, and/or local taxes will still be due.



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