

# Title II Auxiliary Benefits: Social Security Benefits You've Never Heard of & Who is Eligible for Them

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May 11, 2021

# Housekeeping

- 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 CLASI

Founded in 1946, Community Legal Aid Society, Inc. (CLASI) in Wilmington, Delaware is a statewide nonprofit law firm whose mission is to combat injustice through creative and persistent civil legal advocacy on behalf of vulnerable and underserved Delawareans.

CLASI is also Delaware's designated Protection and Advocacy agency for individuals with disabilities.

# 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.

# Key Lessons

1. For those receiving **Social Security retirement benefits**, some family members may also qualify to receive benefits, including spouses, ex-spouses, and children of the retired worker.
2. Certain family members of those receiving **Social Security disability benefits** may also qualify to receive benefits, including spouses, ex-spouses, and children of the disabled worker.
3. When a worker dies, certain family members may be eligible for **survivors benefits**, including widows, widowers, surviving divorced spouses, children, and dependent parents.

# Social Security Benefits

- Also referred to as “RSDI” or “OASDI” (Retirement/Old Age, Survivors, and Disability Insurance)
- Benefits based on an individual’s work history
- Can provide auxiliary benefits for the worker’s spouse, children, and other dependents

# RSDI vs. SSI

## Retirement, Survivors, and Disability Insurance (RSDI)

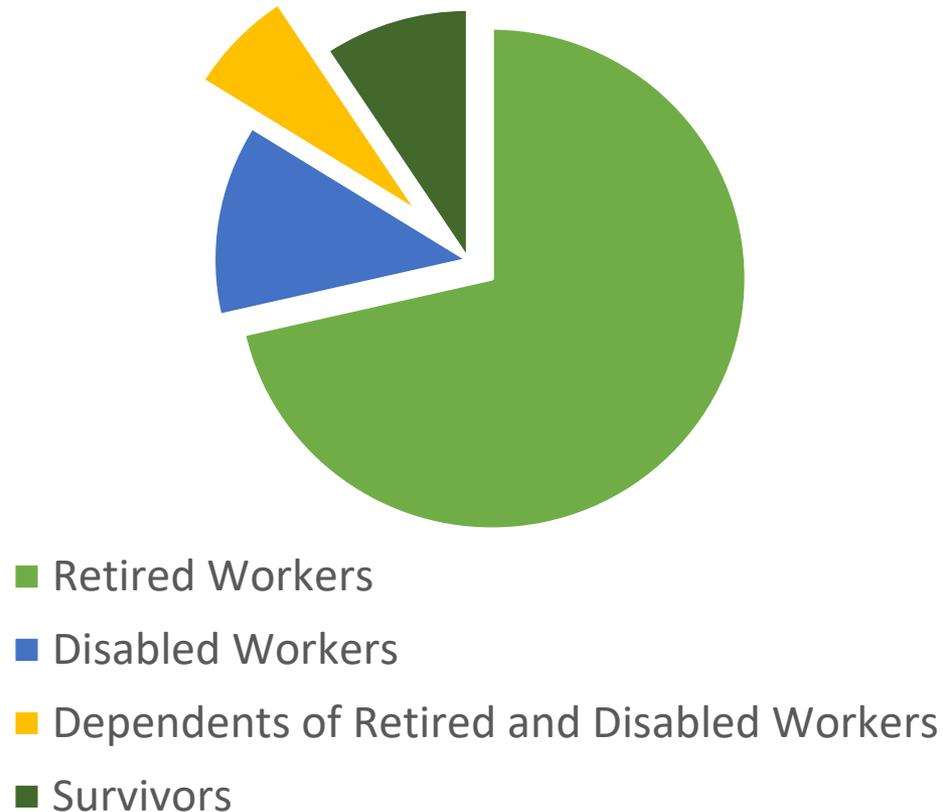
- Administered by Social Security Administration (SSA)
- Disability standard used to determine eligibility for Social Security Disability Insurance (SSDI)
- Retirement (62-70)
- Employment-based social insurance program
- Funded through payroll (FICA) taxes, paid into Social Security trust funds
- Title II of the Social Security Act

## Supplemental Security Income (SSI)

- Administered by Social Security Administration (SSA)
- Disability standard used to determine eligibility for SSI disability
- Age (65)
- Strictly need-based, “means-tested” program
- Funded by general fund taxes
- Title XVI of the Social Security Act

# RSDI Beneficiaries By Type

65 million total



# Glossary

- **Family Maximum:** Benefits to dependents are subject to a maximum monthly amount to the family members. Worker's benefits are unaffected.
- **Full retirement age (FRA):** full retirement age is the age at which a person is first entitled to unreduced retirement benefits. For those born before 1960, FRA is gradually increasing from 65 to 67.
- **Primary Insurance Amount (PIA):** Benefit amount a worker receives if they elect to start receiving retirement benefits at their full retirement age.

# Benefits for Dependents of Retired Workers

# Spouses

- Spouses (POMS RS 00202.001)
  - Generally at least 12 months of marriage
  - Age 62 or older OR
  - Caring for child who is under 16 or disabled
- Divorced spouses (POMS RS 00202.005)
  - Eligible if married at least 10 years to worker
- Equal treatment of marriages between same-gender and opposite-gender couples

# Common-Law Marriage

- SSA looks to laws of state where worker is living when application for spousal benefits filed
- Relationship can also be established if person would inherit as wife/husband under state law if worker dies without leaving a will
- Also relevant for widow(er)s benefits and mothers/fathers benefits when worker is deceased

POMS GN 00305.005, 00305.060, 00305.065

# How Much Does a Spouse Receive?

- 50% of PIA (reduced if claim before FRA)
- Can be claimed if worker is entitled to benefits:
  - The worker has begun receiving retirement benefits OR
  - As divorced spouse, eligible even if worker not actually receiving retirement benefits
- No more “file and suspend”

# Example—Spousal Benefits

- Maria (62) is married to Joe (65). At their FRAs, Maria will be eligible for \$700/month on her work record, Joe will be eligible for \$1,600/month on his work record.
- When Maria files at her FRA, what will her monthly benefit amount be, assuming that Joe is alive and receiving retirement benefits?
  - ANSWER: \$800/month
  - \$700 in retirement + \$100 in spousal benefits, equal to 50% of Joe's retirement benefits

# Children

- Eligible dependent (POMS RS 00203.001)
  - Unmarried child under 18 (or 19 if still in high school); or
  - Adult disabled child – Childhood Disability Benefits (CDB) or Disabled Adult Child (DAC)
- How much do children get?
  - Generally 50%, subject to Family Maximum rules; increases to 75% when worker dies

# Childhood Disability Benefits

- The child must be over age 18;
- Their disabling impairment must have started before age 22;
- They must meet the disability standard for adults;
- They must be unmarried; and
- They must never have had substantial earnings after age 22 (\$1,310 per month in 2021).

POMS RS 00203.080

## Example—Child's Benefits

- Antonia (62) works as a home health aide and is now raising her granddaughter Gabrielle (6), whom she has adopted.
- Antonia decides to begin receiving her retirement benefits early, which enables her to claim a child benefit for Gabrielle.
- Although Antonia's retirement benefits will be reduced for the rest of her life because she is claiming them early, the family will also receive an additional 50% of her unreduced PIA until Gabrielle turns 18 (or 19 if still in high school).

# Grandchildren

- Legally adopted OR
- Parents are deceased or disabled AND
- Lives with grandparent and received at least ½ support from grandparent for entire year

POMS GN 00306.235

# Benefits for Dependents of Disabled Workers

# Dependents of Disabled Beneficiaries

- Generally, same rules for spouses, ex-spouses, and children as those for dependents of workers receiving retirement benefits, described above
- Dependents can each receive up to 50% of the worker's PIA
- More restrictive rules for the Family Maximum apply to disability beneficiary families

# Example—Dependents of Disabled Beneficiaries

- Louis is married to Dolores, who receives \$1,200/month in Social Security Disability Insurance benefits. They have two children, Simon (11) and Christine (9).
- How much will Louis and the children receive each month as Dolores' dependents?
  - Louis, Simon, and Christine will each receive \$200/month as her dependents, not \$600 each.
  - Because of the Family Maximum rules, the family's benefits cannot exceed \$1,800/month (150% of Dolores' monthly benefit).

# Survivors Benefits for Dependents of Deceased Workers

# Widow(er)s

- Widow(er)s Benefits
- Spouse or divorced spouse over age 60
  - Disabled spouse or divorced spouse over age 50 and disability started before/within 7 years of worker's death
  - Divorced surviving spouses: married for at least 10 years before divorce and currently unmarried
  - At least 9 months of marriage for surviving spouses
    - Exceptions: accidental death or death in line of duty
    - Discriminatory state marriage laws barring benefits to same-gender partners and spouses?

POMS RS 00207.001

# How Much Do Widow(er)s Receive?

- If widow(er) applies at their FRA, 100% of deceased worker's benefit amount
- Less for widow(er) is between age 60 and FRA (71.5-99% of benefit amount)
- Less for widow(er) age 50-59 (due to disability) (71.5% of benefit amount)
- Less if decedent took early retirement

# Example—Widow(er)s Benefits

- Returning previous example of Maria and Joe: Joe dies when he is 70; Maria is 67.
- How much will Maria receive?
  - Maria will now start receiving \$1,600/month in survivors (widows) benefits.

# Mothers/Fathers

- Widow(er) of deceased worker
- Not currently married
- Caring for child of deceased worker, who is under age 16 or Disabled Adult Child
- Receive 75% of worker's PIA

POMS RS 00208.001

# Survivors Benefits—Children

- Eligible dependents
  - Unmarried child under 18 (or 19 if still in high school) OR
  - Disabled Adult Child
- Decedent was “fully insured” or “currently insured”
- How much do children get?
  - 75% of deceased worker’s PIA, subject to Family Maximum rules

POMS RS 00203.001

# Dependent Parents

- Age 62 or older
  - Unmarried\* (RS 00209.005)
  - Was receiving at least ½ support from deceased worker
- ❖ With exceptions: can be married to an individual entitled to benefits as widow(er), mother/father, parent, disabled adult child or divorced spouse

# Lump Sum Death Benefit

- \$255, paid to surviving spouse, or child(ren)

# Benefits Paid After Death

- Post-death benefit payments posted to beneficiary's bank account
- Financial institution must return all direct deposit payments that arrive from Treasury **after** the financial institution learns of the death of a beneficiary

POMS GN 02408.650

# Additional Resources

- Code of Federal Regulations
  - [20 C.F.R. §§ 404.330 – 404.374](#)
- POMS
  - [RS § 00202.000](#) et seq. (spouses)
  - [RS § 00203.000](#) et seq. (children, students, childhood disability benefits)
  - [RS § 00207.000](#) et seq. (widow(er)s)
  - [RS § 00208.000](#) et seq. (mothers/fathers)
  - [RS § 00209.000](#) et seq. (parents)

# Additional Resources Cont.

- SSA Website:
  - [Retirement Benefits: Benefits for Your Family](#)
  - [Disability Benefits: Family Benefits](#)
  - [Planning for Your Survivors](#)

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# Case Consultations

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