



Social Security & Divorce: How the New Claiming Rules Impact Your Divorcing Clients

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Presented by:
Rita Medaglio-Barrera, CDFA[®], CSA
Financial Planner & Certified Divorce Financial Analyst[®]

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History Behind America's Retirement Safety Net



Social Security

- Signed into law in 1935 during the Great Depression
- *Single largest source* of retirement income for **64%** of retirees
- About **22%** of married couples and **47%** of single people (ages 65+) receive **90%** or more of their incomes from Social Security





Divorce and Social Security Disability

- Social Security Disability payments begin after 5 full months of being disabled. Eligible for Medicare after 24 months (2 years).
Family receives benefits as long as:
 - Spouse or ex-spouse is age 62 or older
 - At any age, if spouse or ex-spouse is caring for your child under age 16. Benefits end when child turns age 16
 - Children receive monthly benefits as long as they are:
 - Unmarried
 - Younger than age 18
 - 18-19 years old and a full time student no higher than grade 12
 - 18 and older and disabled before age 22
 - Children may receive up to one-half of the parent's disability payment
 - Child Support obligation applies





Social Security Disability Income Family Benefit

- Family maximum payment is determined as part of every Social Security benefit computation and can be from **150** to **180** percent of the parent's full benefit amount. If the total amount payable to all family members exceeds this limit, each person's benefit is reduced proportionately except the parent's until the total equals the maximum allowable amount.





Social Security Disability

- Worker's Compensation and other public disability benefits may reduce the Social Security benefit. Total amount cannot exceed **80 percent** of the worker's current earnings before becoming disabled.
- Other public disability payments that may affect the amount of Social Security disability benefit are those paid by a federal, state or local government and are for disabling medical conditions that are not job related. Examples are:
 - civil service disability benefits
 - state temporary disability benefits
 - state or local government retirement benefits that are based on disability





Divorce and Social Security Disability Case Study

Social Security Disability Income Case Study:

- Mark became disabled and his average current earnings were \$4,000 a month. Mark, his ex-spouse, Susan and their two children, Jake age 8 and Olivia, age 11, are eligible to receive a total of \$2,200 a month in Social Security Disability benefits.
- However, Mark also receives \$2,000 a month from worker's compensation. Since the total amount of benefits Mark would receive (**\$4,200**) is **more than 80 percent (\$3,200)** of his average current earnings (**\$4,000**), Mark's Social Security family benefits will be reduced by \$1,000. Mark's Social Security benefit will be reduced until the month he reaches full retirement age.





Who Is Eligible for Social Security Retirement Benefits?

- A worker who has accumulated a minimum of **40 work credits** (about 10 years of work)

*Benefit is based on an average of the **highest 35 years of earnings** in which the worker paid payroll taxes*

- Spouse of eligible worker
- Ex-spouse married for at least 10 years to an eligible worker and not remarried



Your Social Security Statement

Prevent identity theft—protect your Social Security number

Your Social Security Statement

Prepared especially for Wanda Worker

WANDA WORKER
450 ANYWHERE AVENUE
MAYTOWN, USA 11111-1111

See inside for your personal information

www.socialsecurity.gov

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What Social Security Means To You

This Social Security Statement can help you plan for your financial future. It provides estimates of your Social Security benefits under current law and updates your latest reported earnings.

Please read this Statement carefully. If you see a mistake, please let us know. That's important because your benefits will be based on our record of your lifetime earnings. We recommend you keep a copy of your Statement with your financial records.

Social Security is for people of all ages...
We're more than a retirement program. Social Security also can provide benefits if you become disabled and help support your family after you die.


Work to build a secure future...
Social Security is the largest source of income for most elderly Americans today, but Social Security was never intended to be your only source of income when you retire. You also will need other savings, investments, pensions or retirement accounts to make sure you have enough money to live comfortably when you retire.

Saving and investing wisely are important not only for you and your family, but for the entire country. If you want to learn more about how and why to save, you should visit www.irs.gov, a federal government website dedicated to teaching all Americans the basics of financial management.

About Social Security's future...
Social Security is a compact between generations. For decades, America has kept the promise of security for its workers and their families. Now, however, the Social Security system is facing serious financial problems, and action is needed soon to make sure the system will be sound when today's younger workers are ready for retirement.

In 2017 we will begin paying more in benefits than we collect in taxes. Without changes, by 2041 the Social Security Trust Fund will be exhausted* and there will be enough money to pay only about 75 cents for each dollar of scheduled benefits. We need to resolve these issues soon to make sure Social Security continues to provide a foundation of protection for future generations.

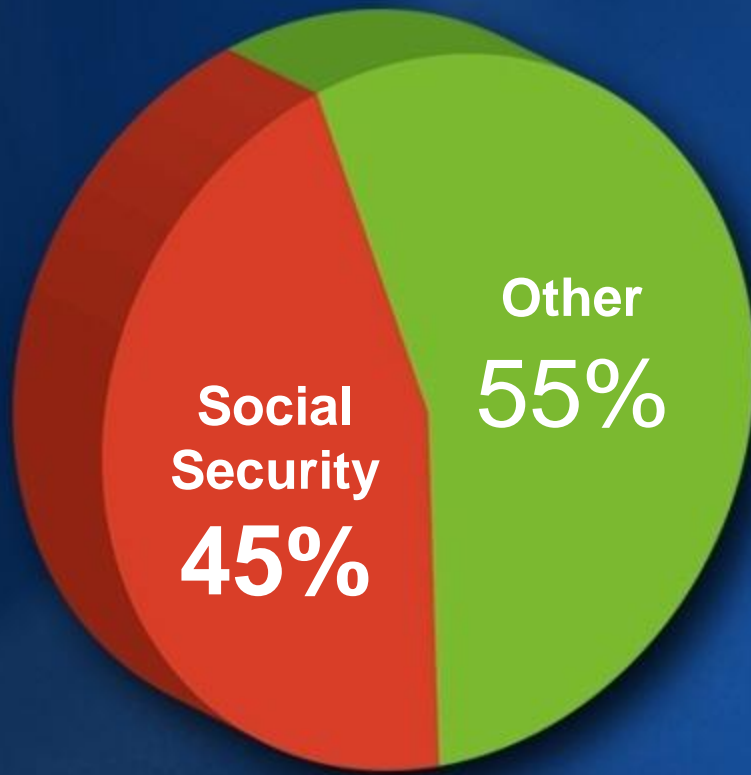
Social Security on the Net...
Visit www.socialsecurity.gov on the Internet to learn more about Social Security. You can read our publications, use the Social Security Benefit Calculators to calculate future benefits or use our easy online forms to apply for benefits.


Michael J. Astrue
Commissioner

* These estimates are based on the intermediate assumptions from the Social Security Trustees' Annual Report to the Congress.

Visit
www.ssa.gov/myaccount/
to create an account
and review your
Social Security Statement
online.

What Percentage of Income Could Social Security Provide?



For Americans aged 65 and older who have a household income of \$63,648 or more, Social Security provides about **45%** of income.

Source: Income of the Population 55 or Older, 2012, Social Security Administration, 2014 (most current data available)





Understanding COLAs

Years	COLA
Since 1975	4.0% average
2009	5.8%
2010	0%
2011	0%
2012	3.6%
2013	1.7%
2014	1.5%
2015	1.7%
2016	0%

Inflation was too low to trigger COLA for 2016. The average retired worker's monthly benefit is estimated to be **\$1,341** in 2016, up **\$13**.





When Can You Claim Social Security Retirement Benefits?

Benefits are based on the age when you claim them:

- Earliest age: **62***
- “Full retirement” age: **66 to 67**
(depending on year of birth)
- Latest age: **70**

*Surviving spouses can claim survivor benefits at age 60.



How Does Initial Claiming Age Affect Monthly Benefit?

- **At age 62:**

Monthly benefit could be reduced by **25%** to **30%**, depending on the year you were born

- **At “full retirement” age (66 to 67):**

Entitled to **100%** of full benefit

- **At age 70 (latest age):**

Monthly benefit would be **132%** of full benefit (depending on year of birth)





Reduction in Benefits at Age 62

Year of Birth	Full Retirement Age	Percentage reduction at age 62: Worker
1943-1954	66	25.00%
1955	66 and 2 months	25.83%
1956	66 and 4 months	26.67%
1957	66 and 6 months	27.50%
1958	66 and 8 months	28.33%
1959	66 and 10 months	29.17%
1960 & later	67	30.00%



Benefits for Same-Sex Married Couples

- Same sex couples who are legally married are entitled to the same Social Security benefits as other married couples.



Spousal Benefit

- You must be **age 62** or older to qualify
- You must have been married for at least **one year**
- Your spouse must first file for Social Security benefits
- If claimed at your full retirement age, the spousal benefit would be **one-half** of your spouse's Primary Insurance Amount*



*The spousal benefit is permanently reduced if you claim it before reaching full retirement age.



Deemed Rule Changes

Resulting from the Bipartisan Budget Act of 2015

Under the new deeming rules, once you file for Social Security, you will be deemed to be applying for the highest benefit to which you are entitled, whether it's a retired worker benefit or a spousal benefit. You will not be able to switch later from one benefit to another.



*The new deeming rules will not affect people who turned age 62 before the end of 2015 and do not affect survivor benefits.




In the Event of Divorce...

Ex-spouses are entitled to Social Security benefits based on ex's work record if:

- **Married for at least 10 years**
- **Are unmarried***
(it doesn't matter whether ex has remarried)
- **Ex-spouse is eligible, but has not applied for Social Security benefits and are divorced for 2 years**
- **Your own worker benefit would be lower than that of ex-spouse's benefit**

*If you remarry, you **cannot** collect retirement benefits on a former spouse's record unless your remarriage ends (by death, divorce or annulment). Remarriage after reaching age 60 does **not** affect eligibility for survivor benefits if ex is deceased.





Government Pension Offset: How it Can Affect the Spousal and Survivor Benefit

- The Government Pension Offset (GPO) rule reduces spousal and survivor benefits by two-thirds of the amount of the non-covered pension with no maximum limit.
- Social Security benefits as a spouse, widow, or widower will not be reduced if you:
 - Are receiving a government pension that is not based on your earnings or
 - Are a federal (including Civil Service Offset), state or local government employee whose government pension is based on a job where you were paying Social Security taxes or
 - Are a federal employee who elected to switch from the Civil Service Retirement System (CSRS) to the Federal Employees' Retirement System (FERS) after December 31, 1987





Windfall Elimination Provision (WEP)

- Some federal employees and employees of State or local government agencies may be eligible for pensions that are based on earnings **not** covered by Social Security.
- If a worker didn't pay Social Security taxes on his or her government earnings **and** she or he is eligible for Social Security benefits, the formula used to figure his or her benefit amount may be modified, giving him or her a lower Social Security benefit.
- If the worker paid Social Security tax on 30 years of **substantial earnings** she or he is not affected by the WEP.



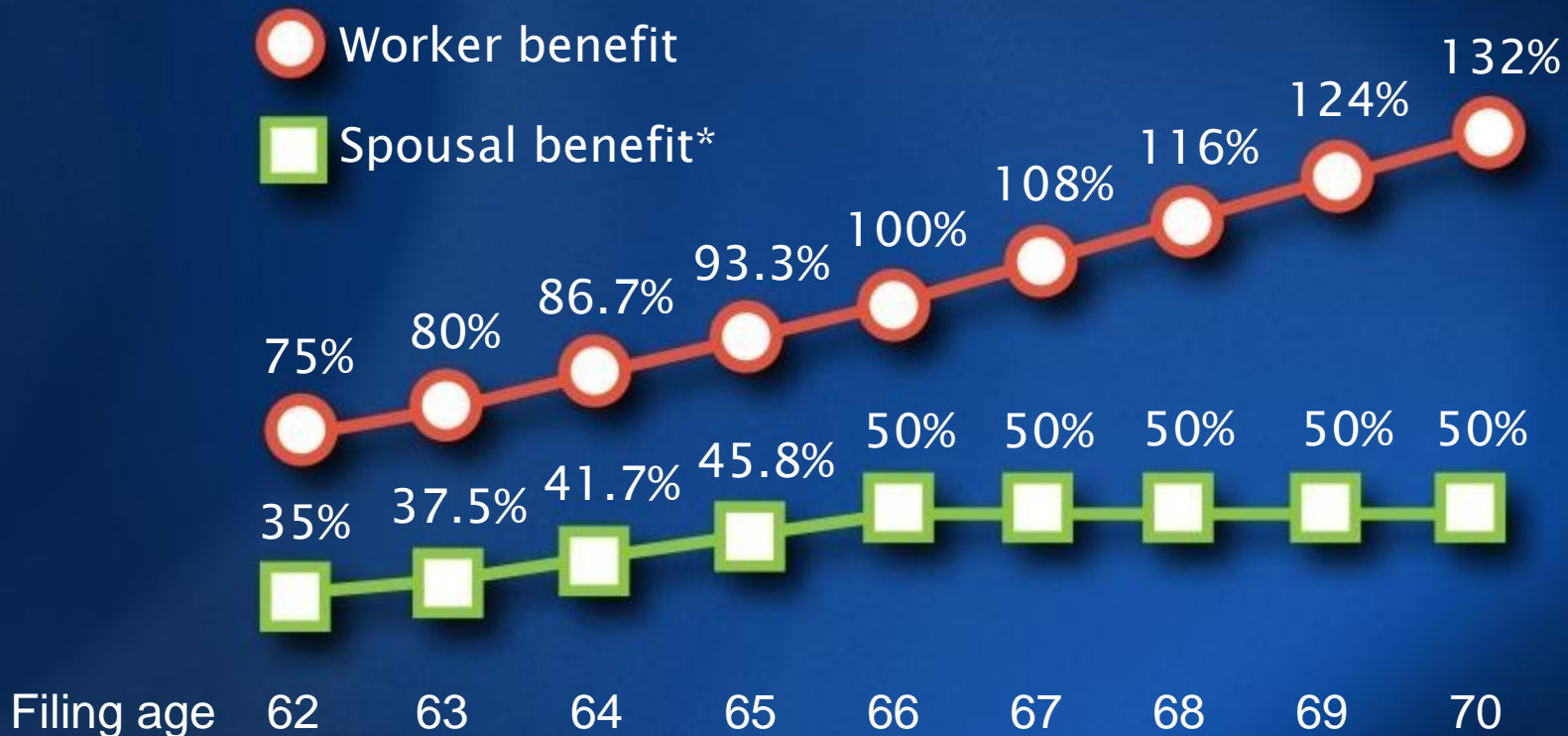


Special Payments After Retirement

- Divorcing clients may receive payments for work earned in a previous year before start of receiving Social Security retirement benefits and this does not affect their Social Security benefits.
- The income received after retirement counts as a special payment.
- Bonuses
- Vacation Pay
- Sales Commissions
- Sick Pay
- Severance Pay
- Back Pay
- Insurance Commissions
- Deferred Compensation



The Impact of Waiting

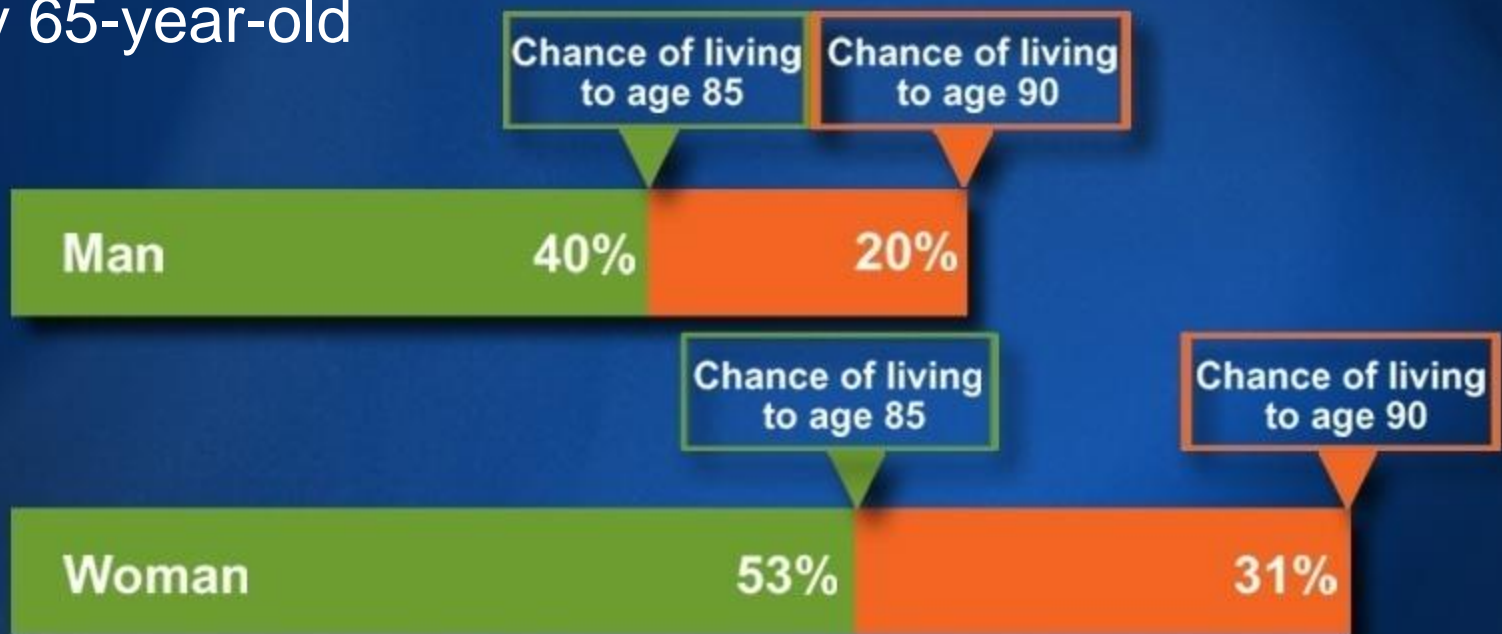


*The percentages for the spousal benefit are based on the primary worker's Primary Insurance Amount (benefit at full retirement age)



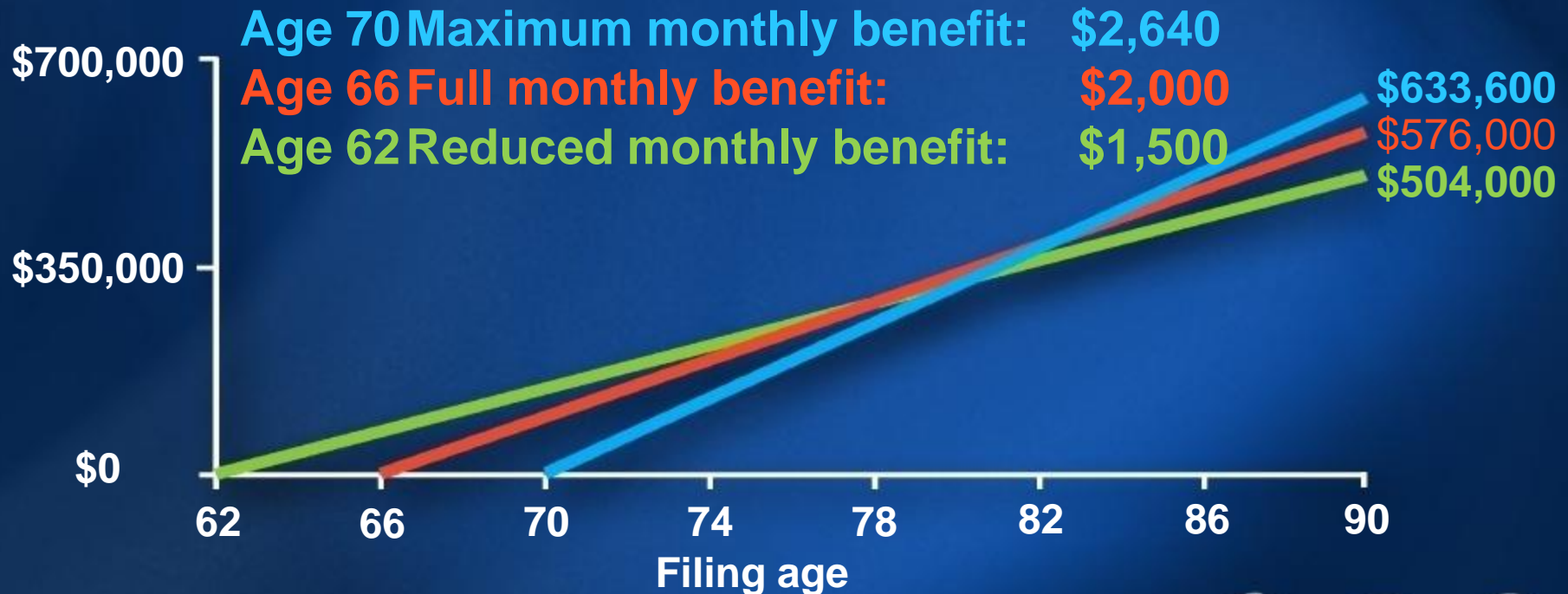
How Long Might You Spend in Retirement?

Life expectancies for a healthy 65-year-old



Lifetime Benefits

If you delay filing for Social Security, you might increase not only your *monthly* benefits but also your *lifetime* benefits, depending on how long you live.



This hypothetical example is used for illustrative purposes only.
Actual benefits and results will vary.



Breaking Even

Retirement Ages
(collecting benefits early vs. later)

Breakeven Age

62 vs. 66

81 and 8 months

62 vs. 70

81 and 5 months

66 vs. 70

81 and 4 months

These hypothetical examples are used for illustrative purposes only and are based on 2016 figures. Actual situations will vary.





New Rules in Benefit-Enhancement Strategies

1. “Restricted application” for spousal benefit
2. “File and suspend” (voluntary suspension)
3. “Do over” or “reset”
4. “Start, stop, start again”

Use of strategies 1 and 2 is restricted by the Bipartisan Budget Act of 2015.



“Restricted Application” for Spousal Benefit

The Bipartisan Budget Act of 2015 limits eligibility for this strategy to those who attained age 62 before the end of 2015.

By claiming a restricted application for the spousal benefit upon reaching full retirement age, you can delay receiving benefits based on your own work history and later switch to the potentially higher benefit amount.

If claimed before reaching full retirement age, the spousal benefit is permanently reduced, and you cannot later switch to your own worker benefit.



Spousal Benefit Case Study

John and Mary Both age 66

Mary: Eligible for \$2,000 monthly benefit at age 66 or \$2,640 at age 70

John: Eligible for \$1,600 monthly benefit at age 66

If both claim benefits at age 66, they could receive a total of \$1,036,800 over the next 24 years, if they both live to age 90.

If John claims his worker benefit at age 66, Mary could claim a restricted application for a spousal benefit of \$800 at age 66 and delay her own worker benefit.

Then at age 70, Mary could switch to her own maximum monthly worker benefit of \$2,640.

This strategy could yield a total of \$1,132,800 over 24 years. **That's \$96,000 more!**

The Bipartisan Budget Act of 2015 limits eligibility for the “restricted application” strategy to those who attained age 62 before the end of 2015.

This hypothetical example is used for illustrative purposes only. Actual situations will vary.



Spousal Benefit Case Study

**Mary, age 66 and
John, age 62**

Mary: Eligible for \$2,000 monthly benefit at age 66 or \$2,640 at age 70

John: Eligible for \$1,600 monthly benefit at age 66

Mary, age 66 and John, age 62 are married for 40 years.

If both claim benefits at age 66, they could receive a total of **\$1,036,000** over 24 years, if they both live to age 90.

If Mary claims her worker benefit at age 66, John would no longer be eligible to claim a “restricted application” for a spousal benefit at age 66, as he was born in 1954, and it would be lower than his own work benefit. At age 66, he can collect **\$1,600**.

The Bipartisan Budget Act of 2015 limits eligibility for the “restricted application” strategy to those who attained age 62 before the end of 2015.

This hypothetical example is used for illustrative purposes only. Actual situations will vary.



Spousal Benefit Case Study: The Gray Divorce

**John, age 66 and
Mary, age 62**

John: Eligible for \$2,000 monthly benefit at age 66 or \$2,640 at age 70

Mary: Eligible for \$1,600 monthly benefit at age 66

John is age 66 and Mary is age 62. They are married for 40 years and decide to get divorced.

If both claim benefits at age 66, they could receive a total of \$1,036,000 over 24 years, if they both live to age 90.

If John claims his worker benefit at age 66, Mary would no longer be eligible to claim a “restricted application” for a spousal benefit, at age 66, as she was born in 1954, and it would be lower than her own work benefit. At age 66, she can collect a monthly benefit of **\$1,600**.

The Bipartisan Budget Act of 2015 limits eligibility for the “restricted application” strategy to those who attained age 62 before the end of 2015.

This hypothetical example is used for illustrative purposes only. Actual situations will vary.





“File and Suspend” Strategy

The Bipartisan Budget Act of 2015 effectively eliminates use of this strategy as of April 30, 2016.

- Higher-earning or older spouse reaches **full retirement age**
- Files for Social Security benefits to enable his or her spouse (often the lower-earning spouse) to claim a spousal benefit

The Spousal benefit could be as high as 50% of higher earner's Primary Insurance Amount

- Higher-earning or older spouse would then **voluntarily suspend his or her own benefits** and could continue to work, earning additional retirement credits



File and Suspend Case Study

Bill and Alice
Both age 66
Before April 30, 2016



**Bill: Eligible for \$2,000 monthly benefit at age 66
or \$2,640 at age 70**

Alice: Eligible for \$600 monthly worker benefit at age 66

If Bill applies for benefits at age 66, Alice could receive a **spousal benefit of \$1,000** at age 66. This is higher than the amount she would receive based on her own earnings history.

Bill immediately suspends his own benefit and continues working while earning delayed retirement credits.

At age 70, Bill could receive his maximum benefit amount.

The Bipartisan Budget Act of 2015 effectively eliminates use of this strategy as of April 30, 2016.

This hypothetical example is used for illustrative purposes only. Actual situations will vary.

File and Suspend Case Study: The Gray Divorce

Bill and Alice

Both age 66

May 1, 2016 and thereafter



**Bill: Eligible for \$2,000 monthly benefit at age 66
or \$2,640 at age 70**

Alice: Eligible for \$600 monthly worker benefit at age 66

If Bill applies for benefits at age 66, Alice could receive a **spousal benefit of \$1,000** at age 66. This is higher than the amount she would receive based on her own earnings history.

Bill and Alice are getting divorced. Bill immediately suspends his own benefit and continues working while earning delayed retirement credits. Alice's spousal benefits are suspended. At age 70, Bill could receive his maximum benefit amount and Alice could receive her spousal benefit.

This hypothetical example is used for illustrative purposes only. Actual situations will vary.



How to Receive Retroactive Benefits

Before the Bipartisan Budget Act of 2015 change:

If you “file and suspend” benefits after reaching full retirement age

- Could later request a lump-sum payment of **six months** of retroactive benefits (equal to benefits you would have received since filing)
- Your future benefit would be based on the lower amount

After April 30, 2016, you no longer have the ability to receive any retroactive payments when you “file and suspend” benefits upon reaching full retirement age.*

*Based on changes in the Bipartisan Budget Act of 2015

Note: Retroactive benefits are not available for any month before full retirement age.



“Do Over” or “Reset” Strategy

- Available only **once** in your lifetime
- Application to withdraw benefits must be made **within 12 months** of making original claim for benefits
- Must **repay** all benefits you and your spouse received
- Social Security Form SSA-521
- **60 days** to change your mind

REQUEST FOR WITHDRAWAL OF APPLICATION

IMPORTANT NOTICE - This is a request to cancel your application. If we approve it, the decision made on your application will have no legal effect. You will forfeit all rights attached to an application, including the rights of appeal. You will have to return any payment we made to you or else on the basis of that application. You must then reapply if you want a determination of Social Security rights at any time in the future. Any subsequent application may not involve the inactive period. We intend for you to use this procedure only when your decision to file has either resulted in a disadvantage to you or when your local Social Security office has advised you that, and how, this procedure will help you. Your local Social Security office will be glad to help you.

TOE 420 Form Approved OMB No. 0960-0015 Do not write in this space

PRINT YOUR NAME (First name, middle initial, last name)

DATE OF APPLICATION

SOCIAL SECURITY NUMBER

YOUR SOCIAL SECURITY NUMBER

IF APPLICABLE, DO YOU WANT TO KEEP MEDICARE BENEFITS? Yes No

I understand that (1) this application, if approved, will result in the cancellation of my application and all other related material will remain a part of the records of the Social Security Administration and that this will affect the proper crediting of wages or self-employment income to my Social Security earnings record.

I further understand that the application I want withdrawn, and all other related material will remain a part of the records of the Social Security Administration and that this will affect the proper crediting of wages or self-employment income to my Social Security earnings record.

(If you need more space, use the reverse of this form.)

I have been advised of the alternatives to withdrawal for applicants under full retirement age and still wish to withdraw my application.

SIGNATURE OF PERSON MAKING REQUEST

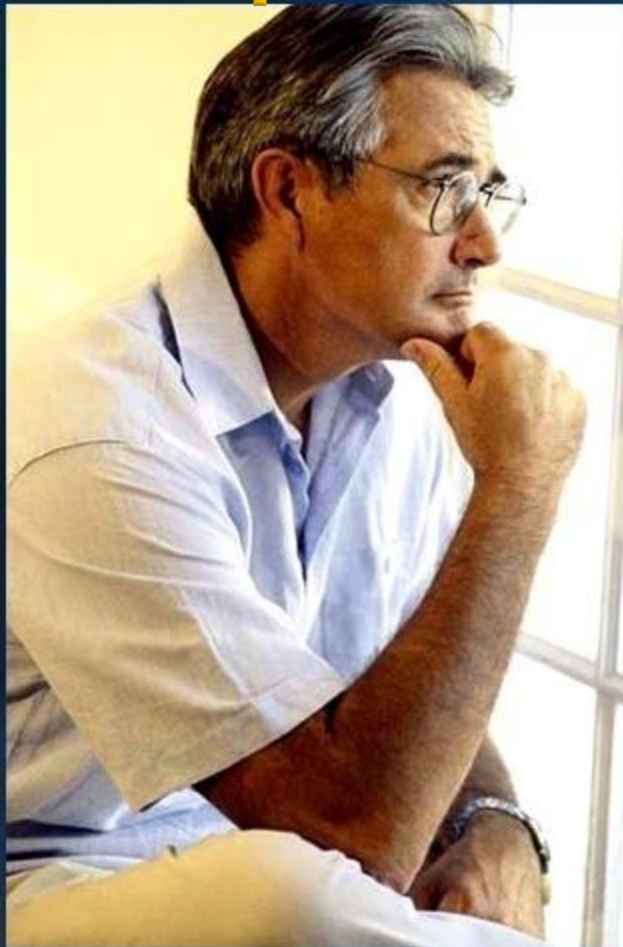
Date (Month, day, year)

Continued on reverse





“Start, Stop, Restart” Strategy – Impact on the Gray Divorce



Must reach **full retirement age** (or later) in order to voluntarily suspend benefits and restart them later

After April 30, 2016, when one spouse suspends Social Security benefits, his or her spouse will not be eligible to receive spousal benefits during the time when benefits are suspended. Nor would an eligible dependent child be able to receive dependent benefits during the suspension.





Survivor Benefit

- Survivor benefit is based on the earnings of the person who died
- Reduced survivor benefit at age 60
- Full survivor benefit at full retirement age
- If you remarry before age 60, you will forfeit survivor benefit (*while you are married*)*

*Unless remarriage has ended in divorce or annulment.



Switching from Worker to Survivor Benefits

You can switch from a survivor benefit to one based on your own work record, or vice versa





Odds of Widowhood

- Women are nearly **four times** more likely than men to become widowed¹
- About **one-fourth** of women who become widows are under age 65²
- On average, widowhood itself causes a decline in income: **22%** for a man and **37%** for a woman³
- **14.8%** of widows age 55 and older live below the poverty line⁴



Sources: 1–2) U.S. Census Bureau, 2013;
3) U.S. Government Accountability Office, 2012;
4) Social Security Administration, 2014



Before you make a decision...

Compare these two approaches to determine which one might enhance your lifetime benefits

1. Start survivor benefits as early as age 60 and switch to your own retirement benefit at full retirement age or later.
2. Start your own retirement benefit starting as early as age 62 and switch to a survivor benefit at full retirement age.





How Does Working Affect Social Security Benefits?

- **Retirement Earnings Test** applies when you claim benefits before reaching full retirement age and you continue to work
- If this occurs, \$1 in benefits is deducted for each \$2 you earn above the annual limit: **\$15,720** in 2016
- In the calendar year in which you reach full retirement age, \$1 in benefits is deducted for each \$3 you earn above a higher limit: **\$41,880** in 2016

Example:

- Amy claims benefits at age 64 in 2016
- She earns \$20,720 (\$5,000 over the limit)
- Her annual Social Security benefits would be reduced by \$2,500 (\$1 for every \$2 earned over the annual limit)





Will Your Social Security Benefits Be Taxed?

Taxable portion of benefits	Combined income	
	Single or HHL D filer	Married joint filer
50%	\$25,000 to \$34,000	\$32,000 to \$44,000
85%	Over \$34,000	Over \$44,000

“Combined income” formula used by the IRS:

Adjusted gross income
+ Tax-exempt interest
+ 50% of Social Security benefits





Taxability of Social Security Benefits

Two Examples

Couple 1
(traditional IRA)

Couple 2
(Roth IRA)

Annual income:

Interest income (CDs)	\$ 5,000	\$ 5,000
Dividend income (stocks)	\$10,000	\$10,000
Tax-free bond interest income	\$ 5,000	\$ 5,000
IRA income	\$25,000	\$25,000*
Social Security benefit*	\$22,000**	\$22,000**
Total income	<u>\$67,000</u>	<u>\$67,000</u>

“Combined income” for purposes
of determining tax on benefits:

\$56,000

\$31,000

Taxability of benefits:

85%

0%

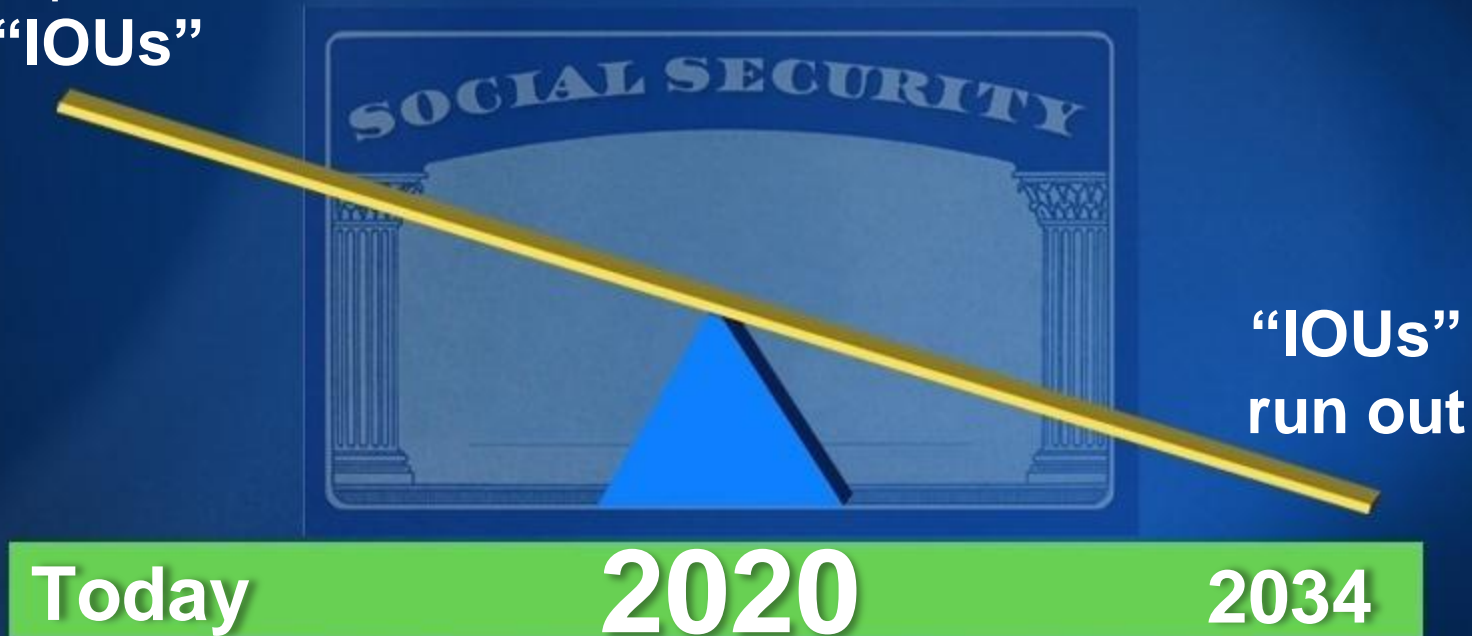
These hypothetical examples are used for illustrative purposes only. Actual results will vary. They assume two married couples filing jointly with similar incomes, but one couple has income from a traditional IRA and one couple has income from a Roth IRA.

***None of the Roth IRA income is used in the formula for “combined income.”**

****Only half of the Social Security benefit, \$11,000, is used in the formula for “combined income.”**

Social Security Has “Issues”

Surplus
or “IOUs”



Source: Social Security Administration, 2015



Uncertain Future of America's Retirement Safety Net

Active workers per Social Security recipient



Source: Social Security Administration, 2014

