

## Disabled Adult Child (DAC) Marriage Penalty

### What is DAC?

The “Disabled Adult Child” or DAC benefit is a Social Security Administration (SSA) disability benefit. It is a “secondary” benefit, meaning it is based on another person’s work record (in this case, the parent of the beneficiary). A DAC beneficiary must be a dependent “adult child” with a qualifying disability that began before age 22. Recipients must be unable to engage in “substantial gainful activity” due to their disability. There are about 1.1 million DAC recipients.

DAC recipients receive a monthly stipend and Medicare. In addition, many DAC beneficiaries have Medicaid based upon their status as a DAC. Medicaid covers personal attendant care and other disability-related services and devices that are not covered through private insurance.

### What happens if DAC recipients marry?

Individuals receiving DAC benefits lose their monthly stipend and Medicare if they marry; they can also lose their Medicaid. The only exceptions are if the DAC beneficiary marries another DAC, a person on Social Security Disability Insurance, a person entitled to “old age” SSA benefits (earliest age 62), or a person receiving another “secondary” benefit. The loss of Medicare, Medicaid, and the stipend would be life-threatening for many people with significant disabilities. As a result, many DAC recipients cannot marry the person of their choice.

### Is DAC the only SSA benefit with marriage penalties?

No. Recipients of Supplemental Security Income (SSI) can lose their stipend and Medicaid if they marry a person with an ordinary (or higher) income or level of assets, because the SSA counts the spouse’s income and assets. If two SSI recipients marry, both individuals face a 25% reduction in benefits and the assets cap.

And every beneficiary of a secondary benefit – not only DAC beneficiaries – can lose their eligibility for benefits through marriage.

### Why are the marriage penalties affecting DAC and other disabled recipients of SSA benefits particularly unfair?

The penalties that prevent DAC and other disabled recipients of SSA benefits from marrying are particularly unfair:

- People with qualifying disabilities are by definition unable to work at a “substantial gainful activity” level, meaning that disabled beneficiaries cannot readily take affirmative steps to make up for the stipends and health benefits they lose if they marry.

- DAC is the only secondary benefit based upon the disability of the beneficiary. Further, unlike other secondary benefits, the DAC benefit is associated with young age (disabilities beginning before age 22), which means that the marriage penalty applies throughout the years and ages during which many people wish to marry and start families.
- Our country has historically organized its systems for the delivery of medical care and support services to disabled people through Medicare and Medicaid, making the losses of these benefits untenable for people with significant disabilities.

Recipients of DAC and SSI disproportionately live in poverty. More than 40% of SSI recipients and nearly 36% of DAC recipients have incomes below poverty-- the two highest poverty rates of any category of SSA beneficiaries.

### **Is there any way to change the law to give disabled people marriage equality?**

Rep. Jimmy Panetta (CA-20) and Rep. Zoe Lofgren (CA-18) have introduced [H.R. 6640](#) which, if passed, would change current law to allow DAC recipients to freely marry without losing their benefits. A resolution passed by the California legislature, [SJR 8](#), supports the elimination of DAC marriage penalties.

Other legislation, including [S. 2767](#), The SSI Savings Penalty Elimination Act introduced by Sen. Sherrod Brown (OH), would help eliminate some of the penalties that prevent SSI recipients from freely marrying.

### **References:**

42 U.S.C. § 423(d)(1), (5)

42 U.S.C. § 1382(a), (b)

Benefits Paid By Type Of Beneficiary, <https://www.ssa.gov/OACT/ProgData/icp.html> (select “Child of retired worker”, “Child of deceased worker”, and “Child of disabled worker”; DAC recipients appear in column labeled “Disabled”).

U.S. Dep’t of Health & Hum. Servs., Centers for Medicare & Medicaid Services, Groups Deemed to be Receiving SSI for Medicaid Purposes (June 12, 2002), <https://www.hhs.gov/guidance/document/2002groups-deemed-be-receiving-ssi-medicaid-purposes>.

Characteristics of Noninstitutionalized DI and SSI Program Participants, 2013 Update, <https://www.ssa.gov/policy/docs/rsnotes/rsn2015-02.html>