Marriage Equality Annotated Bibliography

November 17, 2022

Media Coverage


- Discusses the Lori Long’s story and additional information about SSA marriage penalties.


- Discusses Lori Long’s story (including her loss of Medicare if she were to marry), but mentions marriage penalties affecting disabled people on federal benefits more generally.


- Discusses the SSDI/DAC marriage penalty but mentions marriage penalties affecting disabled people on federal benefits more generally.

“Disabled Americans Are Punished for Getting Married,” VICE News (Nov. 9, 2022), https://www.youtube.com/watch?v=0q-gJXauP3Y&t=71s.


- Discusses the SSI marriage penalties, including the 25% penalty and spousal deeming


- Discusses the SSDI/DAC marriage penalty.

- Discusses the DAC and SSI 25% penalties, mentions the potential loss of Medicare post-marriage.


- Discusses Lori Long’s story, DAC, and SSI marriage penalties


- Discusses the SSI and DAC marriage penalties, “holding out,” the Medicaid eligibility cap, and the potential loss of Medicaid post-marriage for disabled people on federal benefits.


- Discusses Lori Long and disability marriage penalties.

Reports, Articles, and Papers


- A report by the SSA on marriage penalties for those on SSI (includes “holding out”) and potential solutions


- A working paper exploring Social Security marriage penalties in the context of the broader issue of marriage equality.

David Weaver, Marriage and Social Security: The Case of Disabled Adult Child Beneficiaries (December 20, 2019). Available at SSRN: https://ssrn.com/abstract=3507766 or http://dx.doi.org/10.2139/ssrn.3507766

- Discusses the characteristics of the overall DAC population and the DAC population that marries

Dmitry Tumin, Marriage trends among Americans with childhood-onset disabilities, 1997-2013,

- Comparative study showing that Americans with childhood-onset disabilities are less likely to marry.


- Law Student Comment that discusses marriage penalties for those on SSI/SSDI and discusses the potential loss of Medicaid post-marriage. Discusses potential solutions

Factsheets


- DREDF factsheet on the DAC marriage penalty and laws that were proposed to address it. Discusses the loss of Medicaid/Medicare


- DREDF factsheet discussing the SSI 25% marriage penalties, including laws that were proposed to address them


- DREDF factsheet about the SSI “spousal deeming” marriage penalty, including laws that were proposed to address it. Discusses the potential loss of Medicaid post-marriage


- JIA factsheet that discusses the spousal impoverishment protection program, which “makes it possible for an individual who needs a nursing home level of care to qualify for Medicaid as a household of one, while allowing their spouse to keep income and assets so they will not become impoverished.” This protection expires in December 2023

Presentations

Consortium for Constituents with Disabilities working group provided a policy briefing hosted by SSAB on marriage penalties in SSA programs. Participants discussed how marital status affects Social Security benefits and Supplemental Security Income payments.

Presenters included:

- Claudia Center, Legal Director, Disability Rights, Education, and Defense Fund (DREDF)
- Ayesha Elaine Lewis, Staff Attorney, DREDF
- Kate Lang, Senior Staff Attorney, Justice in Aging
- David Goldfarb, Director of Financial Security Policy, The Arc

Proposed Legislation


- This act would eliminate consideration of spouse's income and assets and disregard marital status for SSI recipients with intellectual and developmental disabilities


- This act would:
  - Eliminate the 25% marriage penalty (stipend and asset cap) on SSI-SSI couples
  - Allow individual SSI recipients to have up to $10,000 in assets and married couples to have up to $20,000
  - Raise SSI's sub-poverty-level monthly benefits, currently $794 per month, to 100% of the federal poverty level
  - Allow individuals to earn up to $416/month through working and receive up to $128/month from other sources
  - And more


- This act would eliminate the statutory marriage penalty for DAC recipients, and would protect SSI recipients in DAC-SSI marriages


- This act would allow individual SSI recipients to have up to $10,000 in assets and married couples to have up to $20,000

Social Security Disability Insurance: disabled adult child benefit, SJR-8, California Legislature (2021-
2022), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SJR8

● This bill would eliminate marriage penalties for DAC recipients in California

Applicable Laws, Regulations, and Guidance Documents

42 U.S.C. § 402(d)

● Social Security Act provision allowing for Childhood Disability (including Disabled Adult Child, aka “DAC) benefit

42 CFR 406.12(a)

● SSA Regulation regarding eligibility for Medicare

20 CFR § 416.1165

● SSA regulations on income deeming to disabled children from their ineligible parents

20 CFR § 416.1163

● SSA regulations on income deeming to disabled people from their ineligible spouse

20 CFR § 416.1161

● SSA regulations on determining the income of an ineligible spouse, ineligible parent, or essential person for deeming purposes

42 U.S. Code § 1382

● SSI rules on eligibility for benefits for individuals and couples

42 U.S. Code § 1382c

● Continued: SSI rules on eligibility for benefits for individuals and couples

42 U.S. Code § 1396r–5

● More information on spousal impoverishment protection

P.L. 116–3, SEC. 3

● More information on spousal impoverishment protection


● Guidance document that includes information about the special path to medicaid through SSI for DAC beneficiaries.
Testimonies:


- The Arc’s story about a couple who was impacted by SSI marriage penalties


- Discusses the experience of Gabriella Garbero with marriage penalties


- Article from the University of Minnesota’s Institute on Community Integration briefly describing the SSI/Medicaid marriage penalties and stories about three people who were impacted by them

SSA-Provided Resources


- Explanation of what SSI is


- Information on SSI benefits


- Information on how SSI defines “resources” and the asset limit


- Data on Disability Insurance (DI) and SSI recipients in 2013. Over 40% of people receiving SSI live below the federal poverty line

• A report by the SSA on marriage penalties for those on SSI (includes “holding out”) and potential solutions