

Marriage Equality for People with Disabilities: A Virtual Briefing on Personal Stories and Pending Legislation



Who are we talking about and what is at stake?

Supplemental Security Income

- Supplemental Security Income (SSI) is a Social Security Administration (SSA) program for disabled people, blind people, and older adults who have little to no income and assets. Recipients younger than 65 must have a qualifying disability. SSI provides a modest monthly stipend and in most states SSI recipients receive Medicaid. As of December 2023, there are approximately 7.4 million SSI recipients, most of whom have a qualifying disability.

Disabled Adult Child

- The Disabled Adult Child (DAC) benefit is a Title II SSA disability benefit that provides a monthly stipend, access to Medicare, and a pathway to Medicaid. DAC is a “secondary” benefit based on the work record of a parent who is deceased, disabled, or retired. A person receiving DAC must be a dependent “adult child” aged 18 or older with a qualifying disability that began before age 22. Although DAC is technically a kind of “Child’s Insurance Benefit,” everyone who receives DAC is an adult. As of December 2023, there are 1.1 million people receiving DAC benefits.

Qualifying Disability

- A qualifying disability is a disability that the federal government determines prevents someone from maintaining “substantial gainful employment.” A person may be able to do some work, but the disability seriously limits their ability to maintain paid employment. SSA applies strict rules and standards for determining whether a person has a qualifying disability.

Disabled Adult Child (DAC) Marriage Penalty

DAC beneficiaries who marry lose DAC

- Exceptions to rule: spouse is another DAC, a person receiving SSDI, a person entitled to “old age” SSA benefits (earliest age 62), or a person receiving another “secondary” Title II benefit;
- Note: SSI spouse is not within exception

Citations: 42 U.S.C. §§ 423(d)(1), (5), 1382(a), (b);

<https://www.hhs.gov/guidance/document/2002groups-deemed-be-receiving-ssi-medicaid-purposes>

Two Married SSI Beneficiaries – 25% Reduction

- Under federal statute, two married SSI beneficiaries get a joint stipend and joint asset limit that is **25% lower** than for two unmarried SSI beneficiaries
 - Stipend:
 - Two unmarried SSI beneficiaries: \$943 + \$943 or \$1,886 total
 - Two married SSI beneficiaries: \$1,415 total
 - Asset Limit:
 - Two unmarried SSI beneficiaries: \$2000 + \$2000 or \$4000 total
 - Two married SSI beneficiaries: \$3000 total

Citations: 42 U.S.C. § 1382(a) & (b); <https://www.ssa.gov/ssi/text-benefits-ussi.htm>;
<https://www.ssa.gov/ssi/text-resources-ussi.htm>; <https://www.ssa.gov/oact/cola/SSI.html>

Two Unmarried SSI Beneficiaries “Holding Out” As Married – Same 25% Reduction

- SSA can decide that two SSI beneficiaries are **“holding out”** as married, even if the couple is not legally married
- A finding of “holding out” means the couple is subject to the same **25% reduction** in stipend level and asset limit

Citations: 42 U.S.C. § 1382c(d)(2); 20 C.F.R. §§ 416.1806(a)(3), 416.1826(c), 416.1832(d)

SSI Beneficiary Married to Non-SSI Spouse – “Spousal Deeming” of Income and Assets

- SSI beneficiary married (or found “holding out”) to non-SSI spouse:
 - Portion of income of non-SSI spouse is allocated to SSI spouse
 - Can reduce monthly benefit amount or make SSI spouse ineligible
 - Countable assets of non-SSI spouse are allocated to couple
 - If value exceeds \$3,000, then SSI beneficiary no longer eligible
 - Example: bank account of non-SSI spouse holds \$3,100
 - Overall eligibility and monthly benefit amount of SSI spouse affected

Citations: 42 U.S.C. § 1382c(f); 20 C.F.R. §§ 416.1163, 416.1165; POMS SI 01310.160, SI 00501.150

SSI Beneficiary Married to Non-SSI Spouse – “Spousal Deeming” (Continued)

- Small income by non-SSI spouse – less than \$1,200 a month (below the federal poverty level) – can cause SSI stipend to decrease
- Modest income by non-SSI spouse – about \$35,000 a year (less than half the US median) – brings federal portion of the **SSI stipend to zero**, and makes their spouse **ineligible for SSI**
- These examples presume no other source of income, limits could be lower in many circumstances, such as:
 - SSI spouse also works
 - SSI spouse also receives SSDI benefits

Citations: 42 U.S.C. § 1382c(f); 20 C.F.R. §§ 416.1163, 416.1165; POMS SI 01310.160, SI 00501.150

In-Kind Support and Maintenance

- If unmarried SSI beneficiary lives with non-SSI partner, contributions by non-SSI partner to household living can decrease SSI benefits under In-Kind Support and Maintenance (ISM) rules. For example:
 - Household expenses paid by non-SSI partner can reduce stipend by up to one-third of FBR + \$20 (\$331.19 for 2024) under “Presumed Maximum Value” (PMV) rule
 - If SSI beneficiary lives with their partner and is not on the lease, SSA could find that SSI beneficiary does not pay their “fair share” of housing expenses and reduce stipend by one third under the Value of the One-Third Reduction (VTR) rule

Citations: 42 U.S.C. § 1382a(a)(2); 20 C.F.R. §§ 416.1130 – 416.1148; POMS SI 00835.000 et seq.; see also SI 00835.300; SI 00835.200

Poverty Rates of SSI and DAC Beneficiaries

- More than 40% of SSI beneficiaries live below the federal poverty level
- Nearly 36% of DAC beneficiaries live below the federal poverty level
- SSI and DAC beneficiaries have highest poverty rates of all SSA beneficiary groups

Citations: <https://www.ssa.gov/policy/docs/rsnotes/rsn2015-02.html>;
https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3507766

Medicare and Medicaid = Access to Disability Supports

- SSI typically provides Medicaid and DAC provides a pathway to Medicaid
- DAC beneficiaries are eligible for Medicare after 24 months
- Medicaid and Medicare are the primary or exclusive vehicles in our society for many services and supports needed by people with significant disabilities, such as:
 - Primary and preventive health care
 - Medical services for illnesses and chronic conditions
 - Durable medical equipment including wheelchairs and lifts
 - Coverage for extended hospital stays
 - Personal attendant care services and other home- and community-based services
 - Supportive housing services and employment services
- Medicaid and Medicare enable many disabled individuals to be integrated members of their communities

Additional Harms Imposed by Marriage Penalties On Disabled Constituents & Loved Ones

- Limitations on forming families
- Lack of social recognition of important relationships
- Inability to engage in religious practices/conflict with religious beliefs
- Disconnection from community

Eliminating or Reducing Marriage Penalties

Bills Introduced in 118th Congress

- [S.2767](#) & [H.R.5408](#) - SSI Savings Penalty Elimination Act
 - Would eliminate 25% asset penalty
 - Would increase SSI asset limits
- [H.R.6640 - Marriage Equality for Disabled Adults Act](#)
 - Would eliminate DAC penalty
 - Ends SSI holding out rule
- Additional bills:
 - [H.R.7138 - The Supplemental Security Income Restoration Act](#)
 - [H.R.7055 - Eliminating Marriage Penalties in SSI Act](#)