



*Helping Older Persons With
Legal & Long-Term Care
Problems*

Social Security Retirement Benefits

1. How Do I Qualify For Social Security Retirement Benefits?

You are qualified based only on age. Because of longer life expectancies, the Social Security (SS) law was changed in 1993 to increase the full retirement age in gradual steps until it reaches age 67. This change started in 2003, and affects people born in 1938 and later.

When you work and pay SS taxes, called FICA, you earn SS credits. If you do not have 40 quarters of coverage when you reach retirement age you are not fully insured, but may be "currently insured." To be currently insured you must have at least six quarters of coverage in the 13 quarter period ending with the quarter you become eligible for benefits or die. Most people earn the maximum of four credits per year. The number of credits you need to get retirement benefits depends on your date of birth. If you were born in 1929 or later, you need 40 credits (10 years of work). *See question 3.*

2. When Do I Apply For Social Security Retirement Benefits?

Apply three months before you plan to retire to allow SS time to process your paperwork and start your checks. When you apply, take your SS card, a birth certificate for you and all dependents that will draw on your earnings and evidence of your most recent annual earnings. Note that SS's Full Retirement Age (FRA) is no longer age 65. However, because Medicare benefits still start at age 65, you should contact SS three months prior to reaching age 65 to apply for Medicare.

3. How Is The Amount Of My Monthly Social Security Benefits Check Determined?

Your benefit amount is determined based on years you worked and earnings averaged over most of your working career. Higher lifetime earnings result in higher benefits. If you have some years of no or low earnings, your benefit amount may be lower than if you had worked steadily. Computing the actual SS benefit is a complicated matter requiring detailed information about the worker, including his year-by-year earnings record, age and date of retirement, disability or death.

Whether the benefit is for the worker or for a spouse, child or other relative, SS computes a Primary Insurance Amount (PIA), which is the sum of three separate percentages of portions of the worker's average indexed monthly earnings. Based on the worker's earning record and his PIA, different categories of beneficiaries receive different percentages of the worker's PIA. This PIA is then converted to an actual benefit. However, the manner of computing benefits has changed over the years, and persons eligible for retirement before 1979 may use other formulas of computation. The annual cost of living increases for the eligibility years, and the years thereafter are added to the PIA amount. Call SS at 1-800-772-1213 to request a Personal Earnings & Benefit Estimate Statement or request it online at: <http://www.ssa.gov/online/ssa-7004.html>.

4. How Are My Monthly Benefits Affected If I Retire At 62?

In 1990, SS's age of retirement was 65, but by 2022, SS's full retirement age (FRA) will be 67. You can retire at any time between age 62 and your FRA. When you retire before reaching your FRA, your benefits, and any individual claiming benefits on your work record, are reduced a fraction of a percent for each month you retire before your FRA. For example, those born between 1943 and 1954 who retire at age 62 will have their monthly benefits reduced by 25%. See www.ssa.gov/retirechartred.htm to calculate your FRA and your reduction in benefits for early retirement.

5. What Happens To My Benefits If I Delay Retirement?

In a delayed retirement, your benefit will be increased by a certain percentage if you choose to delay receiving retirement benefits. These increases will be added automatically from the time you reach your full retirement age until you start taking your benefits, or you reach age 70. The percentage increase varies depending on your year of birth. For example, if you were born in 1943 or later, SS will add 8 percent per year (2/3 of 1% per month) to your benefit for each year you delay receiving SS beyond your full retirement age. See <http://www.ssa.gov/retire2/1959.htm>.

6. What Happens If I Work While Receiving Social Security Benefits?

Social Security withholds benefits if your earnings exceed a certain level but only if you are under your FRA. If you retire in 2010 between the ages of 62 and your FRA and earn more than \$14,160, your SS benefit is reduced by \$1 for each \$2 earned that exceeds \$14,160.

A different earnings test applies in the calendar year you reach your FRA, regarding your earnings in the months prior to the month you attain your FRA. For example, if you reach your FRA on your July 2010 birth date, if you earn more than \$37,680 between January and July, your SS benefit for that period is reduced by \$1 for each \$3 earned

that exceeds \$37,680. Earnings in or after the month of your FRA attainment (July) do not count toward the \$37,680.

The retirement earnings test described above applies only to people who retire prior to their FRA. For further information see <http://www.ssa.gov/OACT/COLA/rtea.html>.

7. Who Is Entitled To My Retirement Benefits?

- (a) The retired worker, age 62 or over;
- (b) Spouse of a retired worker who has a child under age 16 or a disabled child in his or her care, or who is at least 62 years old (this applies to a divorced spouse if the marriage lasted at least 10 years); and
- (c) Child of retired worker who is a minor, high school student under age 19 or disabled.

8. Who Is Entitled To Survivor's Benefits?

- (a) Aged widow(er), age 60 or over;
- (b) Young widow(er) if caring for a child age 15 or under or disabled;
- (c) Disabled widow(er) if aged 50 or over;
- (d) Minor child of deceased worker, high school student under age 19 or disabled; and
- (e) Dependent parent, age 62 or over.

For further information see: <http://www.ssa.gov/OACT/ProgData/types.html>.

9. What Are The Most Frequent Causes Of Social Security Overpayment?

The most frequent causes of overpayment are:

- (a) Failure to report earned income that exceeds the applicable earnings limitation, see *question 6*;
- (b) a minor who is disqualified from continued benefits because he or she is too old; and
- (c) the termination of schooling upon which certain minor's benefit payments depend.

SS must send written notice to the "overpaid" individual and any other individual against whom the overpayment is to be recovered.

10. What Should I Do If I Receive An Overpayment Notice?

As soon as you receive the notice, file a Request for Reconsideration to stop SS from withholding the overpayment during the appeal process. Then request a conference with the local SS office to review the circumstances that SS claims caused the overpayment. If you are not satisfied with the conference results and the Reconsideration decision is against you, you may request an Administrative Law Judge hearing within 60 days from the date you are notified of the Reconsideration decision.

Even if you do not question the accuracy of the overpayment, you may still file a Request for Waiver of Overpayment. This request must be granted if you were without fault concerning the overpayment, and repayment of the overpayment will deprive you of income needed for ordinary and necessary living expenses. You may request a waiver at any time.

See: <http://www.ssa.gov/online/ssa-632.html> and Pro Seniors' *Social Security Overpayments* pamphlet for further information.

11. How Can I Appeal A Social Security Administration Decision?

SSA must give you a written determination on your application. You may appeal the determination on your application or any SSA adverse determination made after you have been awarded benefits. You have 60 days from date of the written SSA determination to file a Request for Reconsideration from someone other than the person who made the SSA determination.

If you are dissatisfied with the reconsideration decision, you may request an ALJ hearing. This request must be filed within 60 days of date the reconsideration determination is mailed. If you are dissatisfied with the ALJ decision, you may appeal to the SSA Appeals Council within 60 days of receiving the dated ALJ's decision. If you are dissatisfied with the Appeals Council decision, you may sue SSA in federal court within 60 days of receiving the dated Appeals Council decision.

© Copyright 2010

Pro Seniors provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If a matter cannot be resolved over the phone, seniors are referred to other Pro Seniors' staff or community resources for more in-depth assistance.

In southwestern Ohio, Pro Seniors' staff attorneys handle matters that many private attorneys do not, such as Medicare, Medicaid, SSI, financial abuse and landlord/tenant problems. Pro Seniors may also refer seniors to a private attorney

on our referral panel. Many of these attorneys have agreed to handle cases at a fee seniors can afford.

Pro Seniors' long-term care ombudsmen work with residents of southwestern Ohio to protect their rights and resolve complaints about nursing facilities and home care.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Hotline or consult an attorney in elder law.

Copyright © 2010 by:

Pro Seniors, Inc.
7162 Reading Rd.
Suite 1150
Cincinnati, Ohio 45237

Switchboard: 513.345.4160
Clients Toll-Free: 800.488.6070
Fax: 513.621.5613
TDD: 513.345.4160
E-mail: proseniors@proseniors.org
Web Site: www.proseniors.org