

## **Supplemental Security Income (SSI) Marriage Penalty**

### **What is the SSI Marriage Penalty?**

#### **Overview**

Supplemental Security Income (SSI) is a major benefit program created by the Social Security Administration for low-income persons with disabilities and senior citizens. SSI places income and resource limitations on individuals and married couples for the purpose of determining their eligibility for benefits. To become and remain eligible for SSI benefits, single individuals may not have countable resources valued at more than \$2,000 and married couples may not have countable resources valued at more than \$3,000.

In some cases, marriage may result in an individual being denied SSI benefits or seeing his or her SSI benefits reduced because of an increase in family assets or income that result from marriage. A reduction in SSI benefits can occur if an SSI beneficiary marries another SSI beneficiary or a person not in SSI program. This potential effect on the SSI eligibility and benefits of SSI beneficiaries has been called the “marriage penalty” by the National Council on Disability.

#### **Marriage Defined under the SSI Program**

##### **Opposite-sex marriages**

Two opposite-sex individuals are married for SSI purposes if they are:

- Legally married under the laws of the state where they make their permanent home; or
- Married for Title II purposes, meaning one member of the couple is entitled to Title II social security benefits (such as SSDI) on the record of the other member of the couple; or
- Living together in the same household and holding themselves out as an opposite-sex married couple to the community in which they live.

*COPYRIGHT 2015 by Disability Rights NC. All rights reserved. This document contains general information for educational purposes and should not be construed as legal advice. It is not intended to be a comprehensive statement of the law and may not reflect recent legal developments. If you have specific questions concerning any matter contained in this document or need legal advice, we encourage you to consult with an attorney.*

## Same-sex marriages

Two same-sex individuals are married for SSI purposes if they are legally married under the laws of the state where they make their permanent home.

### **Marriage of an SSI Beneficiary to another SSI Beneficiary**

- When two SSI beneficiaries marry, they are considered a beneficiary couple.
- In 2015, the couple is entitled to up to \$1100 per month and may have countable resources up to \$3,000. The combined countable income is used to reduce the monthly benefit. Compare this to two unmarried SSI recipients who each receives \$733 per month, which would be \$1466 per month for the household and each is allowed \$2000 in assets, or \$4000 for the household. Marrying would cause this couple to have their benefit decreased to 75% of the total of their two benefits, or \$1100 per month.

### **Marriage of an SSI Beneficiary to a Non-Beneficiary**

- When an SSI Beneficiary marries a Non-Beneficiary, a portion of the ineligible spouse's income is assigned to the SSI Beneficiary and is used to determine SSI eligibility and the amount of monthly benefits.
  - The amount of the ineligible spouse's income that is assigned to the beneficiary is determined through a multi-step process set up by regulation.
  - The regulated steps include:
    - Determining the countable income of the ineligible spouse;
    - Allocating income for ineligible children and sponsored aliens; and
    - Determining the SSI eligibility of the beneficiary.

## **How does the SSI Marriage Penalty negatively affect people with disabilities?**

### **Marriage Deterrence**

- The marriage of two SSI beneficiaries can have a negative effect on SSI eligibility and the amount of SSI benefits.
- Both beneficiaries are assumed to have access to the couple's shared income and resources.
- Two married SSI beneficiaries have a lower resource limit, lower maximum federal benefit, and a lower amount of excluded income than two single SSI beneficiaries.

- As a result, SSI beneficiaries are deterred from marrying because it will cause a reduction in crucial benefits that are already hardly enough for basic food, shelter, and disability related expenses. For example, a national housing study published in 2007 found that the national average rent for a studio/efficiency apartment was more than a full SSI monthly benefit. (“Priced Out in 2006”).
- The marriage penalty also has negative social consequences among SSI beneficiaries with disabilities. The marriage penalty puts an undue burden on the usually joyful covenant of marriage enjoyed fully by SSI beneficiaries’ non-eligible peers.

### **Disparate Impact on those with Disabilities**

- With the rising cost of living expenses every year, the amount of SSI benefits becomes more and more inadequate.
- SSI beneficiaries with disabilities have the additional cost of disability-related expenses that were not taken fully into account when Congress created SSI legislation.

### **The Future of the SSI Marriage Penalty**

#### **Due Process**

The U.S. Supreme Court has held that the SSA’s marriage penalty for SSI beneficiaries does not violate the Due Process Clause of the Fifth Amendment, which prohibits the government from depriving citizens of property without due process of law.

#### **Recent Action by Disability Advocacy Organizations**

Advocacy organizations for people with disabilities have begun petitions and organized public discussions of the marriage penalty. This includes offering testimony before political bodies and lobbying for changes to the rules.

---

Disability Rights North Carolina is a 501(c)(3) nonprofit organization headquartered in Raleigh. It is a federally mandated protection and advocacy system with funding from the U.S. Department of Health and Human Services, the U.S. Department of Education, and the Social Security Administration.

Its team of attorneys, advocates, paralegals and support staff provide advocacy and legal services at no charge for people with disabilities across North Carolina to protect them

from discrimination on the basis of their disability. All people with disabilities living in North Carolina are eligible to receive assistance from Disability Rights NC.

Contact us for assistance or to request this information in an alternate format.

**Disability Rights North Carolina**

3724 National Drive, Suite 100

Raleigh, North Carolina 27612

[www.disabilityrightsn.org](http://www.disabilityrightsn.org)

919-856-2195

877-235-4210 (toll free)

888-268-5535 (TTY)

919-856-2244 (fax)