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### Social Security Spouse and Survivor Benefits 101: Practical Primer Part II (Or Another Reason to Put a Ring on It)

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# Social Security Spouse and Survivor Benefits 101

## Practical Primer Part II

(Or Another Reason to Put a Ring on It)

By Francine J. Lipman and James E. Williamson

**A**s the country and courts continue to debate the importance of marriage in a variety of contexts, when determining Social Security benefits it is clear that *marriage matters*. Marriage matters for Social Security benefits planning because of meaningful spouse and survivor benefits. Given the broad and deep devastation of a record recession on retirement and saving accounts, including the continuing demise of defined benefit plans with joint and survivor benefits protection, Social Security benefits, generally, and spouse and survivor benefits, specifically, have become and will continue to be a more significant percentage of retirees' income.

As a result of the interplay between recently phased-in changes under 1983 legislation and amendments under the

Senior Citizens' Freedom to Work Act of 2000 (2000 Senior Act), it is critical that Social Security benefits timing analysis becomes an important part of many retirement plans. In this article, we describe how to use these changes to devise strategies to maximize Social Security spouse and survivor benefits.

Despite enhanced Social Security benefits for married individuals (and formerly married individuals with a minimum 10-year marriage), the rate and length of marriage in the United States have been declining, especially for African-American women. For an excellent discussion of this issue, see Madonna Harrington Meyer, Douglas A. Wolf & Christine L. Himes, *Linking Benefits to Marital Status: Race and Diminishing Access to Social Security Spouse and Widows Benefits in the U.S.*, Center for

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Retirement Research at Boston College, 2004, available at [www.bc.edu/crr](http://www.bc.edu/crr). As a result, fewer women, who on average live longer and have lower lifetime earnings than their husbands, will qualify for these benefits, and we may experience greater gender and race income inequality among seniors in the future.

Gender and race income inequality among seniors is a tragic problem. Seventy percent of all poor seniors are women. While white married senior men have a poverty rate of only 3%, single senior women suffer a poverty rate of nearly 20%. At the intersection of gender and race the problem of poverty among seniors is staggering. African-American and Hispanic single senior women suffer poverty rates near 50%. Because elderly poverty is disproportionately a women's problem, it is not surprising that Social

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Security spousal and survivor benefits remain the leading source of income for senior women. Social Security benefits represent 90% or more of income for 21% of senior couples, but for single senior women and all African-American seniors the percentages skyrocket to 47% and 50%, respectively. Accordingly, Social Security benefits planning, which has become more important for many seniors, is critical for women and people of color.

#### **The Basics of Social Security Spouse and Survivor Benefits**

**Spousal benefits.** The spouse of an eligible worker can receive benefits based upon his own work record or based upon his spouse's work record. If taken before full retirement age (FRA), worker and spousal benefits are reduced permanently. For Boomers retiring at age 62 from 2008 to 2016, the worker benefit reduction is 25% and the spousal benefit

reduction is 30% increasing gradually to 30% and 35%, respectively, for individuals retiring at age 62 in 2022 or later. Before FRA, the spousal benefit is the excess of one-half of his spouse's worker benefit at FRA, the primary insurance amount (PIA), over his own benefit. If benefits are taken at or after FRA, the spousal benefit is 50% of the spouse's PIA. Worker benefits, but not spousal benefits, can receive delayed retirement credits (DRCs) of 8% per year (for retirees born after 1942; retirees born before 1943 enjoyed lower FRAs, but lower DRCs) together with any applicable cost of living adjustments (COLAs). For a detailed discussion of the Social Security Retirement benefits formula, see Francine J. Lipman & James E. Williamson, "Social Security Benefits Formula 101: A Practical Primer," *NewsQuarterly*, Summer 2010, at 14.

Spousal benefits are also available to any former spouse from a marriage that lasted at least 10 years. However, if a former spouse remarries (anyone other than the former spouse) and remains married, he cannot claim spousal benefits on any former spouse's record. Spousal benefits from a current spouse can be taken only after the primary worker files for benefits. This requirement and the fact that spousal benefits do not accrue DRCs have motivated many retirees to claim Social Security spousal and worker benefits earlier than age 70. However, the 2000 Senior Act includes a provision that significantly changes this analysis. Under the 2000 Senior Act, upon reaching FRA, a worker can file for and then suspend her worker benefit, allowing her spouse to claim spousal benefits, while her worker benefit continues to accrue DRCs up to age 70. If her spouse is at least FRA and claims only his spousal benefit (and not his worker benefit), his worker benefit will continue to accrue DRCs up to age 70.

**Survivor benefits.** Surviving spouses of deceased workers are entitled to survivor benefits. The amount of the benefit (if claimed after the survivor reaches FRA) will be equal to 100% of the Social Security benefits the deceased spouse was entitled to at death. Therefore, if the deceased's benefits were reduced because of early claiming, the

survivor benefits will also be reduced. Alternatively, if the deceased's benefits were increased with DRCs and COLAs, the survivor benefits will be increased. If the deceased spouse had not yet claimed her benefits, survivor benefits will be determined as if the decedent had claimed her benefits at the later of her FRA or her date of death.

Survivor benefits are reduced if the surviving spouse claims the benefit before her FRA. Survivor benefits can be claimed as early as age 60 (age 50 if the surviving spouse is disabled). If survivor benefits are claimed at age 60, they are reduced by 28.5% permanently. This reduction is decreased to zero between age 60 and FRA. A surviving spouse can claim survivor benefits, but continue to let her worker benefits accrue DRCs through age 70. However, if a working survivor claims benefits before her FRA, she will have a payback penalty if her earned income exceeds the annual threshold amount.

Survivor benefits are also available to any former spouse from a marriage that lasted at least 10 years. However, if a former spouse remarries before age 60 and remains married, she cannot collect survivor benefits on any former spouse. If she becomes single again or remarries after attaining age 60, she will be able to collect survivor benefits on a former spouse. Any spouse receiving spousal benefits will automatically have her benefits increased to higher survivor benefits upon the spouse's (or former spouse's) death.

**Spousal and survivor Social Security benefit planning.** Given options under the Senior Act of 2000, later FRA, higher DRCs, and the record-breaking recession, retirees and their professional advisors should reevaluate Social Security retirement strategies. The Center for Retirement Research at Boston College and the Pension Research Council (*see* James I. Mahaney & Peter C. Carlson, *Rethinking Social Security Claiming in a 401(k) World*, The Wharton School, University of Pennsylvania (2008), available at [www.pensionresearchcouncil.org](http://www.pensionresearchcouncil.org)) have done extensive analysis regarding these and other Social Security timing decisions and determined that the most likely beneficiaries of this Social

Security spousal benefit strategy are two-earner couples with equal earnings records (the higher and the more equal the lifetime earnings, the greater the dollars of increased benefit). Moreover, given the longer life expectancy of women relative to men, the average age difference between spouses, and the



THE AVERAGE OPTIMAL RETIREMENT CLAIMING AGE IS 62 FOR MARRIED WOMEN AND 69-70 FOR MARRIED MEN (WITH THE HUSBAND CLAIMING ANY SPOUSAL BENEFITS WHEN HE REACHES FULL RETIREMENT AGE).

higher lifetime earnings of men relative to women, they have determined that the average optimal retirement claiming age is 62 for married (lower-wage earner, longer-living) women and 69-70 for married men (with the husband claiming any spousal benefits when he reaches FRA). This strategy ensures a generous survivor benefit for the longer-living widow and takes advantage of spousal benefits from the higher-wage earner for the lower-wage earner as well as from the lower-wage earner for the higher-wage earner.

However, as Garrison Keillor has recognized, most people are above average, so please consider the following other-than-average examples.

#### **Examples of Social Security Strategies**

**Harry and Wendy (The Two-Wage-Earner Couple).** Harry is three years older than Wendy (the average age difference between spouses). When Wendy reaches age 66, her FRA, Harry will be age 69 (older than his FRA of age 66). One strategy is for Harry to file for and then suspend his retirement benefits when Wendy reaches FRA. This allows Wendy to file for her spousal benefit while her worker benefit continues to accrue DRCs and COLAs. This strategy is available even if Harry and Wendy get divorced as long as they were married for at least 10 years and have not remarried (unless to each other). If they are divorced, Wendy is eligible for her spousal benefit whether or not Harry has filed

for his worker benefit as long as they have been divorced for at least two years and they are both at least 62.

One year later when Harry reaches age 70, he should take his maximum worker benefit of 132% of his PIA (plus COLAs). When Wendy reaches age 70, after four years of spousal benefits, she should switch to her higher maximum worker benefit of 132% of her PIA (plus COLAs).

Upon the death of either Harry or Wendy, the surviving spouse will be entitled to receive the greatest Social Security worker benefit as of the date of death (but not both Social Security benefits). This survivor benefit is available to either Harry or Wendy even if they get divorced as long as they were married for at least 10 years. If the survivor remarries before age 60, she cannot collect survivor benefits with respect to any former spouse while remarried.

**David (The Divorcé).** David was married for 20 years to Sandy. Ten years after their divorce, when Sandy is age 62 and David reaches age 67, his FRA, in 2027, he can elect to claim spousal benefits of 50% of Sandy's PIA without stopping the DRC and COLA accruals on his own worker benefit whether or not Sandy has claimed any benefits. If Sandy dies while David is receiving a spousal benefit based upon her work record, his spousal benefit will automatically be increased to 100% of the benefit she was receiving (or could receive) without stopping the DRC and COLA accruals on David's worker benefit. When David reaches age 70, he can switch to his maximum worker benefit of 124% of his PIA (plus COLAs). If Sandy dies after he has reached age 70 he can receive her worker benefit at the date of her death as a surviving spouse if it exceeds his worker benefit at that time.

**Maria and John (The Working Mom and Stay-at-Home Dad).** Maria and John were described in detail in *Social Security Benefits Formula 101: A Practical Primer*. Maria has paid the maximum Social Security tax for more than 35 years, and her PIA is \$2,413. John quit his job after their second child was born. He paid in the maximum Social Security tax for each year that he worked, but only for 10 years; his PIA is \$1,168.

**Early, Full, and Deferred Worker Retirement Benefits for Maria and John (excluding COLAs)**

Age	62	66	70
Maria	\$1,810	\$2,413	\$3,185
John	\$ 876	\$1,168	\$1,542

If John decides to retire at age 62, he will receive a reduced worker benefit of only \$876. When both he and Maria reach age 66, their FRA, Maria can elect and suspend (so that her worker benefit continues to accrue DRCs and COLAs), allowing John to claim his spousal benefit of \$914. His spousal benefit includes an additional \$38 (determined by the excess of \$1,206 (50% of Maria's PIA of \$2,413) over \$1,168 (his PIA)). Alternatively, if he had waited until age 66, his FRA, to claim his benefits, he would have received an unreduced spousal benefit of \$1,206 and his worker benefit could have continued to accrue DRCs up to \$1,542 (plus COLAs) at age 70. If Maria predeceases him, his benefit will increase automatically to the amount of the benefit she was receiving at her death, which could be as great as \$3,185 plus COLAs (if she deferred claiming her worker benefit to age 70).

#### **Increased Focus on Social Security**

Social Security retirement benefits will likely be an increasingly meaningful source of retirement income for millions of retirees. For too many women and people of color, these benefits can mean the difference between life and death. Changes under the 2000 Senior Act and 1983 legislation as well as the declining length of marriage and the complicated facts and circumstances of many individuals and their current and former family units make the timing decisions even more complex. As tax professionals we should be conversant in strategies to maximize retirement income, which will be increasingly focused on Social Security benefits for millions of clients. Additionally, understanding these nuances will help us mitigate Social Security benefit confusion and misinformation when Social Security reform reemerges. ■