

Social Security, Medicare, and Medicaid

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Andrew H. Hook, CFP, CELA[®], AEP[®]

Jessica A. Hayes, Attorney at Law

Hook Law Center

<http://www.hooklawcenter.com>

757-399-7506

- **SOCIAL SECURITY**

- Currently, over 55.6 million people (1 in 6 Americans) receive Social Security. This number will be over 80 million by 2030.
- The system is about to be flooded by Baby Boomers. For the next 20 years, 10,000 people per day will become eligible for Social Security.
- 4 basic categories of Social Security: Retirement, Disability, Dependents, and Survivors benefits.
- Social Security also includes a disability insurance system, the Supplemental Security Income (SSI) program, designed to cover lower-income disabled, blind, and elderly individuals.
- 15.3% of an employee's compensation needs to be paid into the system (Employer and Employee both pay 7.6%; self-employed individuals pay the full amount). Some government employees are not covered by Social Security, as they are covered by their own pension system.
- To be eligible for Social Security:
 - Must have paid into the system by earning 40 "credits"
 - Each \$1,120 in earnings gives you one credit.
 - Earn up to 4 credits per year.
 - Must meet the age requirements for retirement, or the medical requirements for disability and blindness.
- Amount you receive depends on credits earned, age at time of application, and what level of participation you reached. There is no wealth test, but other income (ex: government pension) might affect your benefits.
- **Retirement Benefits**
 - Eligible if you're at least 62 & have amassed at least 40 credits.
 - Your age at the time you elect to take Retirement Benefits affects the amount of your monthly benefits.
 - If you retire before your Full Retirement Age (FRA), you will receive a reduced monthly payment.
 - At your FRA, you get your full benefit amount.
 - You get an even higher monthly payment (Delayed Retirement Credits, or DRCs), if you start collecting after your FRA (up until age 70).
 - About 8% more per year of additional benefit
 - For example, if you were born between 1943 and 1954:

- FRA is 66 years old.
- If you begin collecting at age 62, you will receive 75% of your benefit.
- If you begin collecting at age 66, you will receive 100% of your benefit.
- If you begin collecting at age 70, you will receive 132% of your benefit.
- Amount of monthly benefit is also determined taking into account the following:
 - How much did you pay in?
 - Social Security uses the monthly average of your 35 highest earning years to find your “average indexed monthly earnings.”
 - What is your Primary Insurance Amount (PIA)?
 - PIA is the benefit a person would receive if he elects to begin receiving retirement benefits at his normal retirement age. At this age, the benefit is neither reduced for early retirement nor increased for delayed retirement.
 - How many beneficiaries are collecting on your record?
- Everyone receives an annual statement describing his or her work history. Check it for mistakes; there’s about a 3-year deadline for correcting mistakes.
- If you were born between 1943 and 1954 and you take a reduced benefit at 62, you’re “ahead” of someone who waited until 66 (FRA) for about 15 years, and then you fall behind.
 - Despite this, the most popular age for claiming benefits is age 62.
- You can work and still receive Social Security benefits. However, if you have not yet reached your FRA, your benefits will be reduced (by \$1 for every \$2 earned if under your FRA, and by \$1 for every \$3 earned during the year you are to reach your FRA).
- In deciding when to start collecting, consider your needs and your health; age of your spouse.
- Generally, if you were born between 1943 and 1954 and you wait until age 66, your benefit will be 1/3 greater than if you took it at age 62; if you wait until 70, it will be 76% greater than at age 62.
- You should apply within 90 days of your eligibility in order to begin collecting on your 62nd birthday.
 - If you wait until later, no retroactive benefit.
- If you’re totally disabled and you’re in the system, you can get your benefits early; need to have 20 credits within 10 years of your disability. If your disability ends, your benefits end.
- **When to Begin Collecting? Factors to Consider:**
 - Financial need
 - Life expectancy

- Availability of other benefits (you may claim one benefit while delaying another)
 - (This applies for all Social Security benefits)
- **Disability Benefits**
- To be eligible for Social Security disability benefits:
 - (1) You must have a physical or mental disability that is expected to last (or has lasted) at least one year, or to result in death; and
 - (2) You must be unable to perform substantial gainful work – considered to be any work from which you earn \$1,010 per month or more.
 - The number of work credits you’ll need to qualify for disability benefits depends on your age when you become disabled.
 - Benefits are equal to your primary insurance amount (again, based on age, number of credits, etc.).
 - If you’re a widow or widower of a disabled person, you must be age 50 to collect on the record of your deceased spouse.
 - Workers’ compensation may reduce your disability benefit (but not your retirement benefit).
 - Tip: Apply for benefits upon diagnosis. As soon as the condition is disabling and a doctor can predict that it is expected to last a year, you may qualify.
- **Dependents Benefits**
- Spouses and minor or disabled children may be entitled to benefits based a retired or disabled worker’s earning record. This is true whether or not they actually depend on the worker for support.
 - Benefits available for spouses:
 - Spouse must be age 62 or older and married at least 1 yr. to the worker to collect on his record. Spouse can collect at any age if caring for a child under age 16 or disabled.
 - Spouse’s benefit is 50% of worker’s benefit.
 - Reduction for early retirement
 - If spouse’s own benefit is less than 50% of the worker’s, the benefits are combined
 - Does not reduce payment to worker
 - Ex-spouses can even collect on your record, if you were married at least 10 years and the ex-spouse is 62 or older and unmarried.
 - Ex-spouse’s benefit amount has no effect on the amount you or your current spouse receives.
 - There’s no penalty for marriage or divorce. Your current spouse can always get the spousal benefit, even if you have multiple ex-spouses who are collecting on your benefit.
 - Benefits available for children:

- Child's benefit is 50% of worker's benefit if worker is alive; 75% if deceased. (Can collect if parent retires, becomes disabled, or dies). Even a grandchild might collect.
 - Child must be unmarried and under age 18 (or under 19 if still in high school), OR unmarried and disabled before age 22.
- **Survivors Benefits**
 - Your child can receive if unmarried and under age 18, or under 19 and in high school.
 - Your widow(er) can receive:
 - At FRA, 100% of deceased worker's unreduced benefit
 - At age 60, 71.5% of deceased worker's unreduced benefit
 - Reduced benefits on one record at age 60, reduced or unreduced benefit on other record at age 62 or older
 - Full benefits to both widow or widower and divorced widow or widower
- **Your Benefits Can be Taxable**
 - Applies to those with a Modified Adjusted Gross Income (MAGI) above \$25,000 (individual) or \$32,000 (married filing jointly).
 - Up to 85% of the benefits received could be treated as ordinary income for federal tax purposes.
 - At the end of each year, you'll receive a *Social Security Benefit Statement* (Form SSA-1099) for use in calculating taxes.
 - About 1/3 of people who receive Social Security pay income taxes on their benefits.
- **Social Security Planning Strategies**
 - Tip: You can choose the program from which to claim Social Security benefits. You may meet the eligibility rules for more than one type of Social Security benefit (for example, you might be technically eligible for both retirement and disability benefits, or your own and your spouse's retirement benefits). You can collect whichever one of these benefits is higher, *but not both*.
 - If you start collecting early, you can pay it all back and start over, in order to receive larger monthly checks. You will not owe any interest; you give Social Security back the exact amount they paid you.
 - If you're collecting your benefit and your spouse is collecting his own, then he dies, you can start collecting his (a survivor's benefit) or stay on your own, but you can't get both.
 - If both you and your spouse can collect, the higher earner might want to wait until 70 to start collecting; when he passes away, the spouse collects his much higher benefit.
 - "File and Suspend" strategy: First spouse at FRA (ex: age 66) files for benefits; other spouse at least age 62 files for spousal benefit. 66-year-

old then requests his benefits be suspended; other spouse keeps getting spousal benefit on the 66-year-old's record. 66-year-old can now wait until 70, apply for benefits, and then get a much higher check every month. At that point, the spouse who was collecting the lower benefit is now eligible for the higher benefit. The younger spouse gets half of the 70-year-old's benefit.

- Strategy for two high earners: When both spouses reach full retirement age, they should both claim the other's benefit, and they'll receive ½ of the full benefit. If they keep working until 70, they file for their own benefit and receive the maximum payment available.
- Strategy: "Viagra College Fund" – A minor child of any person collecting Social Security can claim about ½ of his or her parent's benefits.
- Might be smarter to start taking distributions from your IRA before age 70 and holding off on collecting Social Security.

- **MEDICARE**

- A program for persons 65 or older, or permanently disabled (suffering disability of more than 29 months), or suffering from end-stage renal disease. Is not need-based.
- Enacted by President Johnson in 1965. Harry Truman received the first Medicare card. Now provides coverage for over 42M people.
- Covers limited medical care and treatment. Is being expanded to cover preventive care.
- If you're already enrolled in Social Security or Railroad Retirement Benefits, you're automatically enrolled once you reach 65. If you've accumulated less than 40 credits of Social Security coverage, you can purchase Medicare coverage by paying a monthly premium.
- Very important to apply at age 65 (apply no earlier than 3 months before 65 and no later than 3 months after 65). Delayed enrollment results in a premium charge.
- **Part A – Hospital insurance**
 - Pays much of the cost you incur directly for hospital stays; covers some of the costs for skilled nursing facilities, limited care offered by home health agencies, and hospice care.
 - Covers only skilled medical treatment of an illness or injury. Does *not* pay for a stay in a hospital or nursing facility, or for care from a home health agency, when the services you receive are primarily to make life more comfortable (to help with dressing, eating, bathing, or moving around).
 - Only covers Medicare-approved facilities or agencies.
 - Free for everyone who is eligible. Automatically eligible if you're 65 or older and on Social Security.

- If you are 65 or older but not automatically eligible, you can still enroll in Part A by paying a monthly premium (amount based on your work credits and your age).
 - Tip: Compare costs. If you are considering enrolling in and paying for Medicare Part A, it may be cheaper for you to do so through an HMO or health plan.
 - If you enroll in paid Part A hospital insurance, you must also enroll in Part B medical insurance, for which you pay an additional monthly premium. However, you may enroll in Part B without Part A.
 - For hospital stays, you pay a \$1,100 deductible for the first 60 days.
 - If you're re-admitted w/in 60 days of your discharge, no new period begins and the days are added to the prior days.
 - Beyond 150 days, you're on your own.
 - Part A provides home health visits, up to 35 hours per week.
- **Part B – A voluntary supplemental medical insurance plan**
- Helps pay medical bills for treatment either in or out of the hospital, as well as many of the other medical expenses you incur when you are not in the hospital.
 - Covers physician visits, outpatient services, clinics and laboratories, ambulance transportation, and durable medical equipment.
 - Tip: Medicare pays for a second opinion before surgery. If the second doctor's opinion conflicts with the original doctor's recommendation for surgery, Medicare will pay for a third opinion.
 - To be eligible, you must be 65 or older and either a U.S. citizen or a resident of the U.S. who has been lawfully here for 5 consecutive years. You do not have to be eligible for Medicare Part A to enroll.
 - You pay a premium for this, taken out of your SS or Railroad Retirement check. If your income is < \$85K, premium is about \$100/mo. If you have a higher income, you'll pay a higher premium.
 - The premium increases on January 1 of each year.
 - There's a \$155 deductible and 20% co-pay. Medicare pays 80% of a doctor's "reasonable" charge.
 - You can waive your right to be covered under Part B.
- **Part C – Medicare Advantage Plan**
- Health plan offered by private companies that contract with Medicare to provide you the equivalent of Part A and Part B coverage, plus additional benefits.
 - People with Medicare Parts A and B can choose to receive all of their health care services through these provider organizations rather than through "original" Medicare.

- You pay more money, but get more coverage. Costs about \$40-74 more a month than regular Medicare. Can switch back and forth to and from regular Medicare once a year.
 - **Part D – Prescription Drug Coverage**
 - Voluntary enrollment; Medicare operates the overall program, but you must choose one of the specific Part D prescription drug plans offered by private insurance companies in your state.
 - Eligible if already enrolled in Part B, or if you're entitled to Part A.
 - If you are already receiving benefits from Medicaid, you are automatically enrolled in Medicare Part D.
 - Premium varies by region (\$0 to \$50 per month).
 - 3 categories:
 - PDP (Prescription Drug Plan) – drug coverage only
 - Medicare Advantage Plan
 - Fallback plans – if no plan is offered where you are. This has not happened yet.
 - All plans cover some, but not all, prescription drugs in every category of medications. Generally covers FDA-approved prescription drugs, insulin, anti-smoking drugs.
 - Deductible of about \$310; 25% co-pay up, to \$2,830.
 - Apply when you turn 65. There are late penalties for late enrollment.
 - **Medicare Supplemental Insurance – Medigap Plans**
 - Even for people who are covered under Medicare Part A and Part B, a serious illness or injury can cause financial hardship because of the bills Medicare leave unpaid. Over half of all Medicare recipients age 65 and older respond to this risk by buying a private supplemental health insurance policy known as Medigap or med-sup insurance.
 - Sold by private insurance companies.
 - Some give you better deductibles or eliminate co-pays.
 - Unfortunately, most Medigap coverage is not nearly as complete as its advertising would lead you to believe.
 - Does not cover long-term care.
 - Medigap policies are standardized, meaning that every policy in each lettered plan category must offer the same minimum coverage regardless of which insurance company offers it.
 - Beware of mail order and limited-offer policies.
- **MEDICAID**
 - Government-provided healthcare assistance. A joint federal and state program.
 - Rules vary from state to state.
 - Administered at the federal level by CMS (Centers for Medicare and Medicaid Services).
 - Income-based.

- Differs from Medicare in that Medicare is available to most everyone age 65 and older, regardless of income or assets, while Medicaid is available to people of any age who are financially needy. (The definition of "needy" varies from state to state).
- If your income and assets are higher than the SSI or other state limits, but your medical expenses cancel much of this out, you may be considered "Medically needy" and eligible for Medicaid coverage. (This varies by state, but Virginia permits this). Medically Needy means your income and assets are over the eligibility levels for your state, but your current or expected medical expenses will reduce your income or assets to eligible levels.
- The process of subtracting actual medical bills from income and assets is called "spending down." This is because medical bills would force you to spend your extra money down to the point that you would meet eligibility levels.
- Services covered in every state:
 - Inpatient hospital or skilled nursing facility care
 - Nursing home care in approved facilities
 - Outpatient hospital or clinic treatment
 - Laboratory and X-ray services
 - Physicians' services
 - Home health care
 - Transportation - by ambulance, if necessary - to and from the place you receive medical services
- Was designed assist the most needy people, but middle class people have started impoverishing themselves to become eligible.
- To be eligible, must pass income test and asset test. You're allowed to retain limited assets (between \$2000-5000 if single; \$3000-6000 if married, depending on state).
- Countable resources: Cash, real estate, bank accounts.
- Be careful when leaving assets to a Medicaid recipient in your estate plan; might make that person ineligible. Can use a Special Needs Trust.
- Forum shopping – some people move to different states to become eligible. Countable resources vary by state.
- **Exempt assets:**
 - Principal residence (equity cannot exceed \$500K or \$750K, depending on your state)
 - Household goods (furniture, appliances, electronics, clothing, cooking utensils, dishes and tools having a value of up to \$2000)
 - One automobile (some states limit its value to \$4600)
 - Limited personal keepsakes and jewelry
 - Medical equipment and devices
 - A burial fund of \$1500 for each person
 - Life insurance having cash value of up to \$1500
 - Business and income-producing property essential for applicant's self-support

- **The Community Spouse**
 - The income and resources of one spouse are deemed to be available to the other spouse for the purposes of Medicaid eligibility. However, if the ill spouse is institutionalized, the other spouse is relieved of some of the “spend down” requirements.
 - MMMNA – minimum monthly maintenance needs allowance – the community spouse’s monthly allowance for expenses related to rent, mortgage, taxes, utilities. About \$1800/mo.
 - There’s also a community spouse resource allowance (CSRA)

- **Strategies for achieving Medicaid eligibility:**
 - Spend your assets, pay your bills, pay off your mortgage, credit cards, car loans. Fix up your house, buy a more expensive home, buy a car.
 - You can put a lien on your home using a reverse mortgage or home equity line of credit (to reduce your equity)
 - Can sell your home, and if you lived in it at least 1 out of the previous 5 years, \$250K of the proceeds are not countable.
 - Prepay your funeral expenses (no \$ limit)
 - Purchase an annuity (must meet certain requirements – must be immediate, not deferred; must be a reasonable life expectancy in the annuity)
 - Purchase a life estate in your child’s home. If you live in the home w/ them for at least 1 year, that’s not a transfer.
 - Pay your children to take care of you (must be comparable to what you’d pay a service)
 - Some loans to children are okay (w/ appropriate repayment schedule)
 - Community spouse divorces the ill spouse
 - Set up a Special Needs Trust
 - Note: It’s not a crime to counsel clients in these areas.

- **Transfers of Assets to Achieve Medicaid Eligibility**
 - Look back rule of 36 months was extended to 60 months (5 years).
 - If transfer made w/in last 5 years, you have a period of ineligibility that starts on the date you apply for Medicaid. (Under prior law, your period of ineligibility began on the date you made the transfer).

- **What are the legal limits of advice an EA or other tax professional can give?**
 - According to the Virginia State Bar’s Rules of Professional Conduct, the application of legal principles to facts, purposes, or desires is considered to be the practice of law. A non-lawyer shall not engage in the practice of law.
 - Avoid engaging in the unauthorized practice of law by not applying specific facts to the law. Keep all statements regarding the interpretation of Social Security, Medicare, and Medicaid laws as general as possible.

- **Helpful Resources**
 - www.socialsecurity.gov

- www.dmas.virginia.gov - Virginia's Dept. of Medical Assistance Services (administers Medicaid in Virginia)
- Matthews, Joseph, and Dorothy Matthews Berman, *Social Security, Medicare & Government Pensions: Get the Most Out of Your Retirement & Medical Benefits*. 17th ed. NOLO, 2012.
- <http://www.hooklawcenter.com>