Chapter 1

Social Security Benefits

John J. Campbell, Esq.
Law Offices of John J. Campbell, P.C.

SYNOPSIS

1-1. Retirement Benefits

When you work and pay Social Security taxes, you earn Social Security credits. 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). People born before 1929 need fewer than 40 credits (39 credits if born in 1928; 38 credits if born in 1927; etc.).

If you stop working before you have enough credits to qualify for benefits, your credits will remain on your Social Security record. If you return to work later on, you can add more credits so that you qualify. No retirement benefits can be paid until you have the required number of credits.

If you are like most people, you will earn many more credits than you need to qualify for Social Security. These extra credits do not increase your Social Security benefit. However, the income you earn while working will increase your benefit, as you will learn in the next section.

Your benefit amount is based on your earnings averaged over most of your working career. Higher lifetime earnings result in higher benefits. If you have some years of no earnings or low earnings, your benefit amount may be lower than if you had worked steadily.

Your benefit amount also is affected by your age at the time you start receiving benefits. If you start your retirement benefits at age 62 (the earliest possible retirement age), your benefit will be lower than if you waited until a later age.

Social Security will give you a personalized benefit estimate at your request. Call their toll-free number, (800) 772-1213, to ask for a *Request for Earnings and Benefit Estimate Statement*. Within four to six weeks of completing and returning the form to Social Security, you will receive a statement of your earnings record and estimates of your Social Security benefits for early retirement, full retirement, and retirement at age 70. Social Security will also give you an estimate of the disability benefits you could receive if you become severely disabled before you are eligible for full retirement, as well as the amount of benefits payable to your spouse and other eligible family members due to your retirement, disability, or death.

Full Retirement Age

The usual retirement age for people retiring now is age 65. Social Security calls this "full retirement age," and the benefit amount that is payable is considered the full retirement benefit.

Because of longer life expectancies, the full retirement age will be increased in gradual steps until it reaches age 67. This change started in the year 2003 and affects people born in 1938 and later.

Age to Receive Full Social Security Benefits	
Year of Birth	*Full Retirement Age*
1937 or earlier	65
1938	65 and 2 months
1939	65 and 4 months
1940	65 and 6 months
1941	65 and 8 months
1942	65 and 10 months
1943-1954	66
1955	66 and 2 months
1956	66 and 4 months
1957	66 and 6 months
1958	66 and 8 months
1959	66 and 10 months
1960 or later	67

Early Retirement

You can start your Social Security benefits as early as age 62, but the benefit amount you receive will be less than your full retirement benefit.

If you take early retirement, your benefits will be permanently reduced based on the number of months you will receive checks before you reach full retirement age. If your full retirement age is 65, the reduction for starting your Social Security at age 62 is about 20 percent; at age 63, it is about 13-1/3 percent; and at age 64, it is about 6-2/3 percent.

If your full retirement age is older than 65 (that is, you were born after 1937), you still will be able to take your retirement benefits at age 62, but the reduction in your benefit amount will be greater than it is for people retiring now.

As a general rule, early retirement will give you about the same total Social Security benefits over your lifetime, but in smaller amounts to take into account the longer period you will receive them.

Some people stop working before they reach age 62. In that case, it is important to remember that during years with no earnings, you miss the opportunity to increase your benefit amount by replacing lower earnings years with higher earnings years.

Delayed Retirement

Not everyone retires at full retirement age. You may decide to continue working full time beyond that time. In that case, you can increase your Social Security benefit in two ways.

Each additional year you work adds another year of earnings to your Social Security record. Higher lifetime earnings may result in higher benefits when you retire.

In addition, your benefit will be increased by a certain percentage if you delay retirement. These increases will be added in automatically from the time you reach your full retirement age until you start taking your benefits, or you reach age 70. The percentage varies depending on your year of birth. See the chart below for the increase that will apply to you.

If you plan to start your retirement benefits after age 62, it is a good idea to contact Social Security in advance to see which month is best to claim benefits. In some cases, your choice of a retirement month could mean additional benefits for you and your family.

It may be to your advantage to have your Social Security benefits start in January, even if you do not plan to retire until later in the year. Depending on your earnings and your benefit amount, it may be possible for you to start collecting benefits even though you continue to work. Under current rules, many people can receive the most benefits possible with an application that is effective in January.

If you are not working, or your annual earnings are under the Social Security earnings limits, or you plan to start collecting your Social Security when you turn 62, you should apply for benefits three months before the date you want your benefits to start.

Increases for Delayed Retirement	
Year of Birth	*Yearly Rate of Increase*
1917-1924	3.0%
1925-1926	3.5%
1927-1928	4.0%
1929-1930	4.5%
1931-1932	5.0%
1933-1934	5.5%
1935-1936	6.0%
1937-1938	6.5%
1939-1940	7.0%
1941-1942	7.5%
1943 or later	8.0%
Important Point: If you decide to delay your retirement, **be sure to sign up for Medicare at age 65.** In some circumstances, medical insurance costs more if you delay applying for it. Other information about Medicare is in Chapter 2.	

Retirement Benefits for Widow(er)s

Widow(er)s can begin receiving benefits at age 60 or age 50 if disabled. If you are receiving widows or widowers (including divorced widows or widowers) benefits, you can switch to your own retirement benefits as early as age 62, assuming you are eligible and your retirement rate is higher than your widow(er)'s rate. In many cases, a widow(er) can begin receiving one benefit at a reduced rate and then switch to the other benefit at an unreduced rate at full retirement age. The rules vary depending on the situation, so you should talk to a Social Security representative about the options available to you.

Family Benefits

If you are receiving retirement benefits, some members of your family also can receive benefits. Those who can include:

- Your wife or husband age 62 or older;
- Your wife or husband under age 62, if she or he is taking care of your child who is under age 16 or disabled;
- Your former wife or husband age 62 or older;
- Children up to age 18;
- Children age 18 to 19, if they are full-time students through grade 12; and
- Children over age 18, if they are disabled.

Spouse's Benefits

A spouse receives one-half of the retired worker's full benefit unless the spouse begins collecting benefits before age 65. In that case, the amount of the spouse's benefit is permanently reduced by a percentage based on the number of months before she or he reaches 65. However, if your spouse is taking care of a child who is under age 16 or disabled and receiving Social Security benefits, your spouse gets full benefits, regardless of age.

If you are eligible for both your own retirement benefits and for benefits as a spouse, Social Security always pays your own benefit first. If your benefit as a spouse is higher than your retirement benefit, you will receive a combination of benefits equaling the higher spouse benefit.

Maximum Family Benefits

If you have children eligible for Social Security, each will receive up to one-half of your full benefit. But there is a limit to the amount of money that can be paid to a family. If the total benefits due your spouse and children exceed this limit, their benefits will be reduced proportionately. Your benefit will not be affected.

Benefits for a Divorced Spouse

A divorced spouse can get benefits on a former husband's or wife's Social Security record if the marriage lasted at least 10 years. The divorced spouse must be 62 or older and unmarried. If the spouse has been divorced at least two years, he or she can get benefits, even if the worker is not retired. However, the worker must have enough credits to qualify for benefits and must be age 62 or older. The amount of benefits a divorced spouse gets has no effect on the amount of benefits a current spouse can get.

If You Work and Receive Social Security at the Same Time

You can continue to work and still receive retirement benefits. Your earnings in (or after) the month you reach your full retirement age will not affect your Social Security benefits. However, your benefits will be reduced if your earnings exceed certain limits for the months before you reach your full retirement age: age 65 for persons born before 1938 and gradually increasing to age 67 for persons born in 1960 or later.

If you are under full retirement age, $1 in benefits will be deducted for each $2 in earnings you have above the annual limit. In the year you reach your full retirement age, your benefits will be reduced $1 for every $3 you earn over a different annual limit until the month you reach full retirement age. Then you can work without any reduction in the amount of your monthly benefits, no matter how much you earn. These limits increase each year as average wages increase.

If other family members receive benefits on your Social Security record, the total family benefits will be affected by your earnings. This means Social Security will offset not only your benefits, but those payable to your family as well. If a family member works, however, the family member's earnings affect only his or her benefits.

Special Monthly Rule

A special rule applies to your earnings for one year, usually your first year of retirement. Under this rule, you can receive a full Social Security check for any month you are "retired," regardless of your yearly earnings. Your earnings must be under a monthly limit. If you are self-employed, the services you perform in your business are taken into consideration as well.

Your Benefits May Be Taxable

About 20 percent of people who get Social Security have to pay taxes on their benefits. This provision affects only people who have substantial income in addition to their Social Security.

At the end of each year, you will receive in the mail a *Social Security Benefit Statement* showing the amount of benefits you received. You can use this statement when you are completing your federal income tax return to find out if any of your benefits are subject to tax.

Pensions from Work Not Covered by Social Security

If you get a pension from work where you paid Social Security taxes, it will not affect your Social Security benefits. However, if you get a pension from work that was not covered by Social Security — for example, the federal civil service, some state or local government employment, or work in a foreign country — your Social Security benefit may be lowered or offset.

Leaving the United States

If you are a United States citizen, you can travel or live in most foreign countries without affecting your eligibility for Social Security benefits. However, there are a few countries — Cambodia, Cuba, North Korea, Vietnam, and many of the former Soviet republics (except Estonia, Latvia, Lithuania, and Russia) — where Social Security cannot send Social Security checks.

If you work outside the United States, different rules apply in determining if you can get your benefit checks.

Most people who are neither U.S. residents nor U.S. citizens will have 25.5 percent of their benefits withheld for federal income tax.

1-2. Disability Benefits

Social Security Disability Insurance Benefits (SSDIB), formerly known as Social Security Disability Income (SSDI), is a federal entitlement program in which eligibility does not depend upon financial need. SSDIB is an income benefit from Social Security available to blind or disabled persons under age 65 who have earned a sufficient number of qualifying quarters of work.

Disability is determined according to the criteria in § 1382c(a)(3) of the Social Security Act. To be considered "disabled," you must have a diagnosed medical condition (including mental illness) that is expected to last at least 12 months or to result in death. Further, you must be unable to engage in substantially gainful activity due to your medical condition. Generally, you are deemed to be engaging in substantially gainful activity if you are able to earn at least $1,170 per month ($1,950 if you are blind).

The number of work quarters needed to qualify for SSDIB benefits depends upon your age when you become disabled. If you are age 31 or older, you will need at least 20 qualifying quarters within the 10-year period immediately before your application for SSDIB. If you are under age 24, you will need only six qualifying quarters; if you are between the ages of 24 and 31, you will need enough qualifying quarters to account for having worked half of the time between age 21 and your age at the onset of your disability. There is a five-month waiting period from the date of the onset of disability before payment of SSDIB benefits begins.

SSDIB does not pay for medical care. However, after you have maintained SSDIB eligibility for at least 24 consecutive months, you will automatically become eligible for Medicare. If you are disabled with amyotrophic lateral sclerosis (ALS), you do not have to wait 24 months to become eligible for Medicare.

If you are an SSDIB recipient who wishes to return to the work force, you may earn in excess of $840 per month during a nine-month trial period without losing benefits. After that, you can continue to be eligible for SSDIB while working for an additional 36 months. If you are also entitled to Medicare benefits, those Medicare benefits can continue for up to 8-1/2 years after you return to work.

Children may also receive SSDIB benefits, but only from a disabled, retired, or deceased parent who was eligible for Social Security benefits. Sometimes benefits are also available to the spouse or divorced spouse of an insured disabled person.

SSDIB Offset

If you are a disabled worker under age 65 and you receive workers' compensation benefits for lost wages (indemnity), it is possible that your indemnity payments could cause your SSDIB benefits to be reduced if your combined SSDIB and workers' compensation indemnity benefits total more than 80 percent of your "average current earnings." Social Security will determine your average current earnings and the amount of your SSDIB offset, if any. This reduction stops when you reach age 65 and your disability benefits are replaced by Social Security retirement benefits.

1-3. Supplemental Security Income Benefits

Supplemental Security Income (SSI) is a financial needs-based public benefit program, which provides income to the elderly, blind, or disabled. SSI is federally funded and governed solely by federal law. SSI does not pay for medical care. However, in Colorado, if you are eligible for SSI, you will also be eligible to have medical benefits through the

Medicaid program. An individual applying for SSI must meet strict income and resource tests to qualify.

The monthly income limits for SSI are identical to the maximum federal SSI benefit: $735 for an individual and $1,103 for a married couple. Generally, any asset that is spent or disposed of by the individual in the same calendar month as it is received is considered "income." Income under SSI regulations consists of both earned and unearned income.

Earned income consists of your wages, as well as net earnings from self-employment. Unearned income consists of your income from other sources, including support and maintenance furnished in cash or in kind; payments from an annuity, workers' compensation, old-age pension, survivors and disability insurance, and unemployment benefits; payments occasioned by the death of another (which would include payments from an inheritance, life insurance policy, or wrongful death action); support and alimony payments; and earnings of and additions to a non-exempt trust of which you are a beneficiary.

Income (and resources) can also be "deemed" under SSI regulations. That is, if you are living at home with your ineligible spouse or child, you will be deemed to have access to a portion of the spouse's or child's income. Generally, an individual under age 18 living with his or her family will also be deemed to have access to a portion of his or her ineligible parents' incomes. However, for individuals who do not live in the same home as their families, the income of a spouse, child, or parent is not deemed available. For individuals who have resident alien status and are eligible for SSI, the income and resources of a sponsor are deemed to the individual, regardless of whether they live in the same household.

SSI exempts the first $20 per month of your unearned income, the first $65 of your earned income, and one-half of your monthly earned income over $65. In Colorado, you may also receive a state benefit in addition to the federal SSI benefit. These state payments are also exempt, as are certain other types of income. These income exemptions are often referred to as the "income disregards."

Generally, to qualify for SSI you must have nonexempt income below $735. Earned and unearned income from sources other than SSI, after deducting the income disregards, will offset your SSI benefit on a dollar-for-dollar basis. An offset for other income that reduces your SSI benefit to $0 will make you ineligible.

There are also restrictions on resources. Resources are assets consisting of cash or other liquid assets that (1) could be converted to cash and (2) are not spent or disposed of in the month received. Certain exempt resources, including your house, one car, your personal property, household goods, a burial space, or a pre-paid burial plan are not counted. Nonexempt resources are restricted to a total of no more than $2,000 for individuals and $3,000 for married couples.

Transfers Without Fair Consideration

Individuals often consider making gifts of their excess resources to reduce those resources to eligibility levels. To prevent the abuse of this strategy, federal laws impose penalty periods for certain transfers without fair consideration during the "look-back period" of 36 months preceding the filing of the SSI application. During a resulting penalty period, the individual may not qualify for SSI.

To calculate the penalty period for any transfers of resources, the total uncompensated value of all transfers made during the look-back period is divided by the maximum SSI benefit plus any corresponding state payment. Under Medicaid law, the penalty period is calculated by dividing the uncompensated value of the transfer by the average monthly cost of nursing home care for an individual in the state in which the individual lives. The maximum penalty period is 36 months.

While transfers of resources are generally penalized under SSI law, certain transfers of resources are exempt and will *not* incur a penalty period. These exempt transfers are essentially the same as those for Medicaid long-term care and Home and Community Based Services (HCBS) benefits.

1-4. Statewide Social Security Offices

Social Security Offices

General information: (800) 772-1213
For updates: www.ssa.gov

Alamosa Office 602 Del Sol Dr., Ste. 1-A Alamosa, CO 81101 (888) 475-0297	**Durango Office** 103 Sheppard Dr., Ste. 120 Durango, CO 81303 (888) 472-6115	**Lakewood Office** 13151 W. Alameda Pkwy. Lakewood, CO 80228 (800) 772-1213
Aurora Office 14280 E. Jewell Ave., Ste. 250 Aurora, CO 80012 (800) 772-1213	**Ft. Collins Office** 301 S. Howes St., 4th Floor Ft. Collins, CO 80521 (866) 336-7385	**Littleton Office** 8000 Southpark Ln. Littleton, CO 80120 (800) 772-1213
Boulder Office 4949 Pearl E. Cir., Ste. 101 Boulder, CO 80301 (800) 772-1213	**Glenwood Springs Office** 201 14th St., Rm. 101 Glenwood Springs, CO 81601 (866) 220-7898	**Montrose Office** 1805 Pavilion Dr. Montrose, CO 81401 (866) 758-1317
Cañon City Office 115 N. 10th St. Cañon City, CO 81212 (866) 272-5728	**Grand Junction Office** 825 N. Crest Dr. Grand Junction, CO 81506 (866) 931-7120	**Pueblo Office** 3769 Parker Blvd. Pueblo, CO 81008 (888) 737-1761
Colorado Springs Office 2306 E. Pikes Peak Ave. Colorado Springs, CO 80909 (888) 880-0688	**Greeley Office** 5400 W. 11th St., Ste. A Greeley, CO 80634 (877) 405-9195	**Trinidad Office** 111 Waverly Ave. Trinidad, CO 81082 (866) 755-5009
Denver Office 1500 Champa St., 2nd Floor Denver, CO 80202 (800) 772-1213	**La Junta Office** 1314 E. 3rd St. La Junta, CO 81050 (888) 221-0429	