

# JUSTICE IN AGING

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FIGHTING SENIOR POVERTY THROUGH LAW

## Social Security Basics

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FIGHTING SENIOR POVERTY THROUGH LAW

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

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- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to [trainings@justiceinaging.org](mailto:trainings@justiceinaging.org).
- Slides and a recording are available at Justice in Aging - Advocates Resources - Trainings: [justiceinaging.org/resources-for-advocates/webinars](https://justiceinaging.org/resources-for-advocates/webinars). See also the chat box for this web address.

# Key Lessons

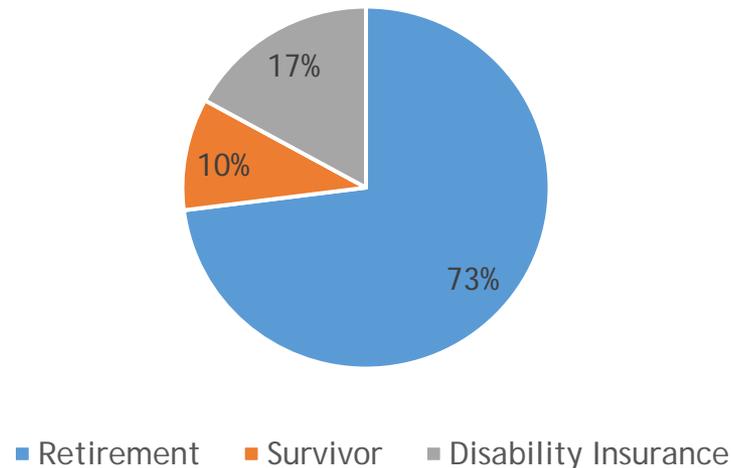
1. Social Security is a vital social insurance program for not just for retirees, but also for workers with disabilities, spouses, survivors and dependents.
2. To be eligible for Social Security based on their own work history, an individual must be over age 62, or meet the Social Security disability standard.
3. The rules surrounding Social Security can be complex, so it is important to do sufficient research to accurately advise clients and to adequately address any questions or issues that arise.

# What is Social Security?

# Social Security (OASDI)

“OASDI” → Retirement (“Old Age”), Survivor, and Disability Insurance

Social Security Beneficiaries  
(61 Million)



# OASDI vs. SSI

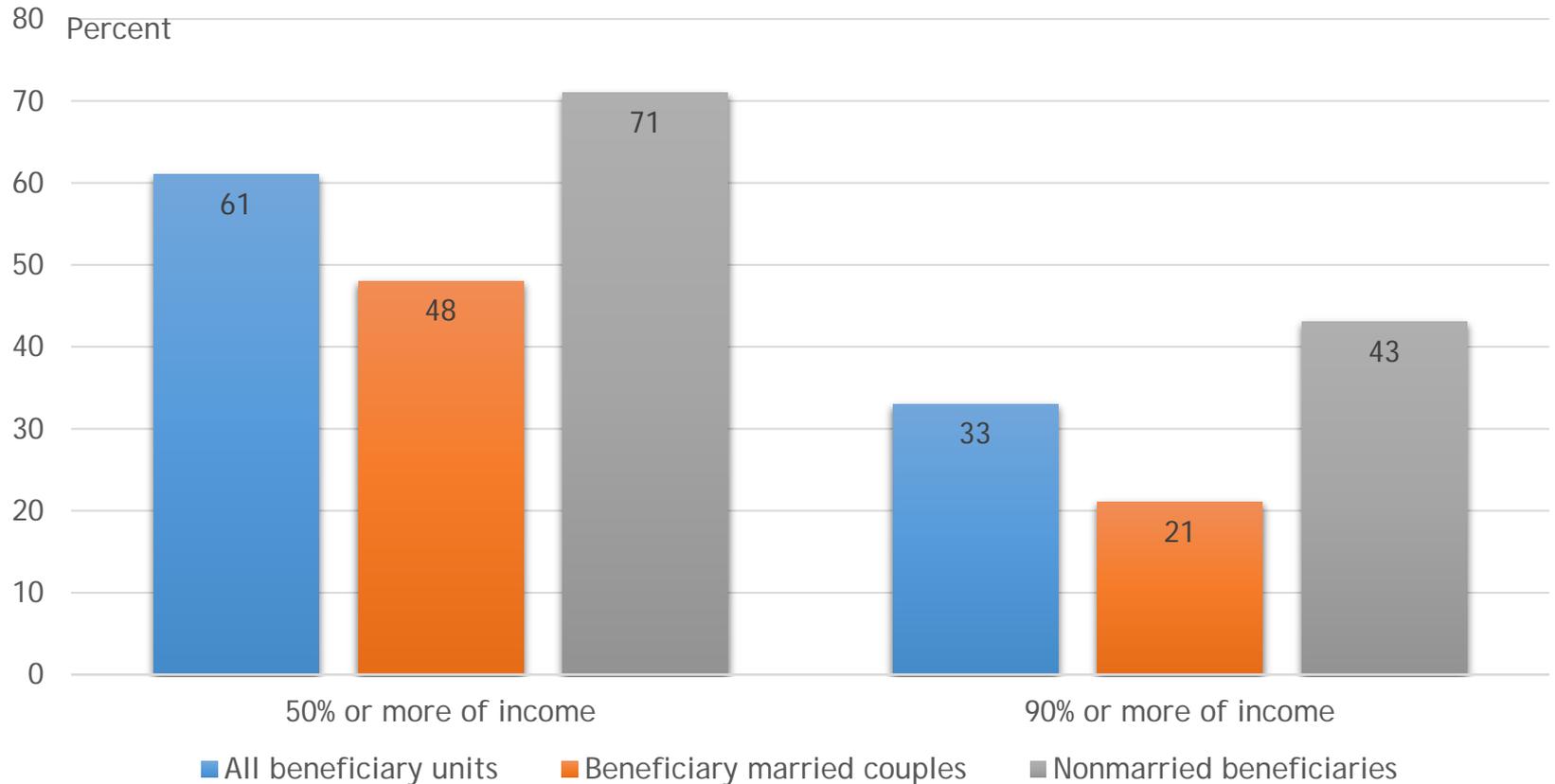
## OASDI

- Administered by Social Security Administration (SSA)
- Disability standard used to determine eligibility for Social Security Disability Insurance (SSDI)
- Employment-based social insurance program
- Funded through payroll (FICA) taxes, paid into Social Security trust funds
- Title II of the Social Security Act

## Supplemental Security Income (SSI)

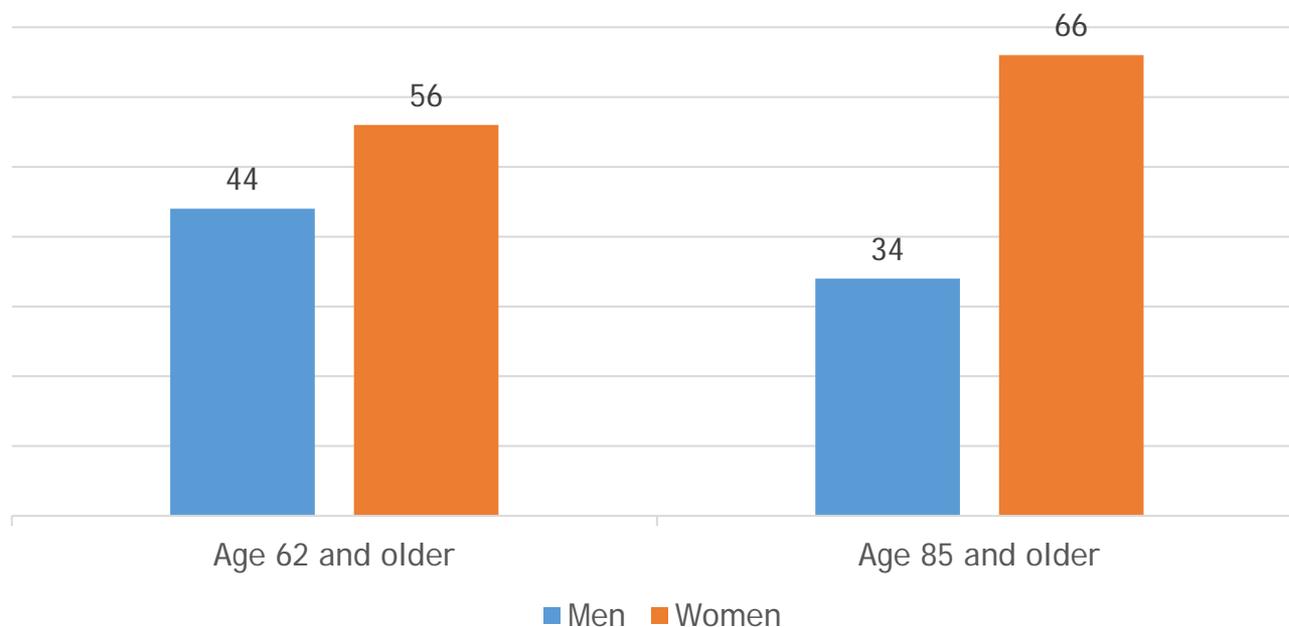
- Administered by Social Security Administration (SSA)
- Disability standard used to determine eligibility for SSI disability
- Strictly need-based, “means-tested” program
- Funded by general fund taxes
- Title XVI of the Social Security Act

# Relative Importance of Social Security



# Social Security and Women

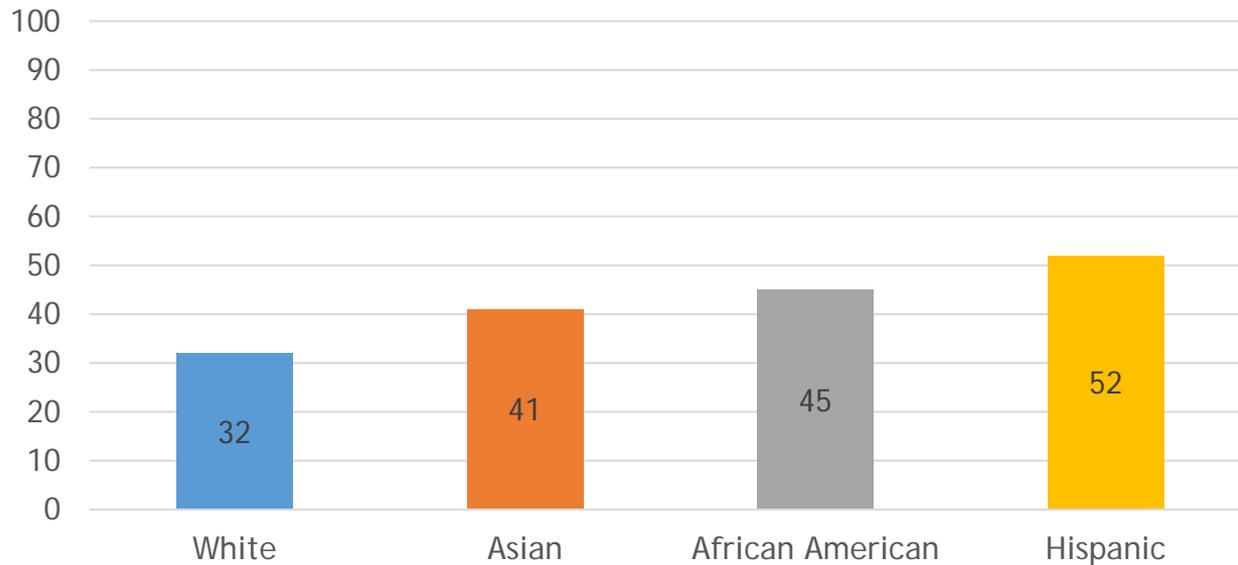
Percentage of Older Adult Beneficiaries by Gender in 2014\*



\*Source: SSA Fact Sheet "Social Security is Important to Women (September 2016)

# Social Security and Communities of Color

Percent of Beneficiaries Who Depend on Social Security for 90% or More of Their Income by Race/Ethnicity



# Who is Eligible for Social Security?

# Social Security Retirement Benefits for Wage Earners

- Calculation based on person's lifetime earnings, age at retirement
  - Primary Insurance Amount (PIA)
  - Average monthly benefit (April 2017): \$1365
- Quarters of Coverage
  - Fully insured = 40 quarters of coverage
    - (20 out of last 40 to be "disability insured")
  - 2017: \$1300 = one quarter of coverage
  - Only 4 quarters can be earned per year

# Examples

**Question:** Sam works in 2017 for two months and earns \$4,500 before taxes. How many quarters of coverage has he earned?

**Answer:** Sam earned **three** quarters of coverage

- $\$4,500/\$1,300 = 3.46$
- So Sam earned more than enough for 3 quarters ( $\$1,300 \times 3 = \$3,900$ ), but not enough for four, which would require \$5,200 ( $\$1,300 \times 4$ )

# Examples

**Question:** Jamie works for eight months in 2017 in covered employment at \$3,000 per month (for a total of \$24,000 income that year). How many quarters of coverage has she earned?

**Answer:** Jamie earned **four** quarters of coverage

- Maximum number of credits in one year is **FOUR**
- $\$1300 \times 4 = \$5,200$

# Full Retirement Age

Age To Receive Full Social Security Benefits (Called "full retirement age" or "normal retirement age.")

Year of Birth*	Full Retirement Age
<u>1937 or earlier</u>	65
<u>1938</u>	65 and 2 months
<u>1939</u>	65 and 4 months
<u>1940</u>	65 and 6 months
<u>1941</u>	65 and 8 months
<u>1942</u>	65 and 10 months
<u>1943--1954</u>	66
<u>1955</u>	66 and 2 months
<u>1956</u>	66 and 4 months
<u>1957</u>	66 and 6 months
<u>1958</u>	66 and 8 months
<u>1959</u>	66 and 10 months
<u>1960 and later</u>	67

Note: Medicare eligibility still begins at 65

# Retirement Age

- **Early Retirement**
  - Age 62 = reduced benefits (20-30%)
- **Full Retirement Age (FRA)**
  - 65 to 67 = regular benefits
- **Delayed retirement**
  - 67+ = increased benefits (up to 32% more)
- **Effect of early or late retirement:**
  - [ssa.gov/oact/quickcalc/early\\_late.html](https://ssa.gov/oact/quickcalc/early_late.html)

# Social Security Benefits for People with Disabilities

- Social Security Disability Insurance (SSDI)
  - “Unable to engage in substantial gainful activity because of a medically determinable impairment which is expected to last twelve months or result in death”
  - Physical, mental, or combination of impairments

# Eligibility Rules - Disability Standard

- Medically determinable physical or mental impairment(s)
- Preventing from working
- Expected to last at least 12 months/to result in death

# Eligibility Rules - Continuing Disability Review

- Continuing Disability Review (CDR)
- Determines whether individual is still disabled
- Frequency depends on the nature of the impairment and whether improvement is expected
- Burden is on the agency to show that there has been medical improvement related to the ability to work and that the individual no longer meets the disability standard

# Social Security Benefits for Spouses and Widows

- Spouses
  - Age 62 or older
  - At least 12 months of marriage
  - Divorced spouse married at least 10 years to wage earner
- Widow(er)s
  - Spouse over age 60
  - Disabled spouse over age 50 and disability started before or within 7 years of worker's death
  - At least 9 months of marriage
    - Exception: accidental death or death in line of duty
- Equal treatment of marriages between same-sex and opposite-sex couples

# How Much does a Spouse Receive?

- Up to 50% of the Primary Insurance Amount
- Can be claimed if worker is entitled to benefits:
  - The worker has begun benefits OR
  - If eligible as divorced spouse, eligible even if worker not actually receiving benefits
  - No more file and suspend

# How Much do Widow(er)s Receive?

- If widow(er) reaches full retirement age before applying, 100% of deceased worker's benefit amount
- Less if widow(er) retires between age 60 and full retirement (generally 71.5-99% of benefit amount)
- Less if 50-59 (due to disability) (generally 71.5% of benefit amount)
- Less if decedent took early retirement

# Example

- **Amy (61)** is married to **Helen (64)**. At full retirement age (66 for both) **Amy** will be entitled to **\$600** in monthly benefits while Helen will be entitled to **\$1000** in monthly benefits.
- **Question:** When **Amy** retires at age **66**, what is her maximum retirement benefit assuming that **Helen** is still alive?
- **Answer:** \$600

# Example

- Amy (61) is married to Helen (64). At full retirement age (66 for both) Amy will be entitled to \$600 in monthly benefits while Helen will be entitled to \$1000 in monthly benefits.
- Question: If Helen starts claiming benefits at 66, and dies at age 67, what is Amy's maximum retirement benefit if she retires at age 66?
- Answer: \$1,000

# Social Security Benefits for Child Dependents

- Wage earner must have worked long enough to qualify for benefits or be in “currently insured” status
- Eligible dependents/survivors
  - Unmarried children under 18 (or 19 if still in high school) or adult disabled children
- How much do children get?
  - Generally 50% of PIA if wage earner is alive, 75% if deceased

# Social Security Benefits for Dependents (Childhood Disability Benefits)

- The disabling impairment must have started before age 22, and;
- He or she must meet the definition of disability for adults.
- Must be unmarried
- Must not have substantial earnings (\$1170 per month in 2017)

# Other Potential Beneficiaries

- Dependent Parents
- Adopted and Equitably adopted children
- Stepchildren
- Grandchildren
- Maximum Family Amount
  - 150-180% of the basic benefit rate
  - Benefits paid to a divorced spouse won't count toward this maximum

# Where are these rules?

- Code of Federal Regulations
  - 20 C.F.R. §§ 404.310 - 404.384
  - 20 C.F.R. §§ 404.1505-404.1511
- POMS
  - RS § 00201.000 et seq. (retirement)
  - DI § 10100.000 et seq. (disability)
  - RS § 00202.000 et seq. (spouses)
  - RS § 00203.000 et seq. (child)
  - RS § 00207.000 et seq. (widow(er)s)
  - RS § 00208.000 et seq. (mothers/fathers)
  - RS § 00209.000 et seq. (parents)

# Appeals Process

- Initial Determination
- Steps in the Appeals Process:
  - Reconsideration
  - Administrative Law Judge hearing
  - Review by the Appeals Council
  - Federal court review

# Other Common Issues, Questions, and Factors to Consider

# Social Security - Immigrant Eligibility

- Non-US citizens authorized to work in the U.S. can get Social Security numbers and receive benefits, but must be “lawfully present”
  - RS 00204.010 Lawful Presence Payment Provisions
  - RS 00204.025 Evidence Requirements for Establishing U.S. Lawful Presence (categories of lawfully present aliens)
- Undocumented immigrants are not eligible for Social Security benefits unless they filed before Dec. 1, 1996

# Social Security Overpayments

- Mostly affects people receiving SSI
- SSDI beneficiaries may encounter it because of SGA
- More detailed training and chapter summary on the Justice in Aging website at:  
[justiceinaging.org/webinar-social-security-overpayments/](https://justiceinaging.org/webinar-social-security-overpayments/)

# Social Security and Taxes

- Some people pay federal income taxes on their Social Security benefits.
- No one pays federal income tax on more than 85% of Social Security benefits, based on IRS rules.

# Medicare

- Not until age 65 (or disabled)
- Initial Enrollment Period (IEP)
  - 7 month time period beginning 1<sup>st</sup> day of 3<sup>rd</sup> month before eligibility date, and ending last day of the 3<sup>rd</sup> month following the first month of eligibility
  - POMS HI § 00805.015
- Medicare eligibility through spouse

# Case Consultations

- Case consultation assistance is available for attorneys and professionals seeking more information to help older adults.
- Contact NCLER at [NCLER@justiceinaging.org](mailto:NCLER@justiceinaging.org)



# Questions?

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