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## Social Security Disability Insurance (SSDI): The Five-Month Waiting Period for Benefits

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## Social Security Disability Insurance (SSDI): The Five-Month Waiting Period for Benefits

### Abstract

[Excerpt] Social Security Disability Insurance (SSDI) is authorized by Title II of the Social Security Act and provides income replacement for eligible individuals who are unable to work due to a long-term injury or illness that is expected to last at least one year or result in death. Current eligibility requirements include (1) verification of an applicant's disability, (2) filing a claim, (3) a "recent work" and "duration of work" test, (4) verification that an individual has not reached normal retirement age, and (5) a five-month waiting period from disability-onset.

In implementing the five-month waiting period for SSDI benefits, Congress sought to set a time frame that would be long enough for a short-term injury or illness to be corrected, but would also deter individuals who can work from applying for benefits. The first month counted as part of the waiting period can be no more than 17 months before the month of application, and benefits can be applied retroactively for up to 12 months. The Social Security Administration (SSA) encourages eligible individuals to apply for benefits as soon as possible after the onset of a disabling condition.

The waiting period does not apply to individuals who have been previous recipients of SSDI in the five years prior to any current disability. Several other programs, such as Supplemental Security Income (SSI), temporary disability insurance, workers' compensation, unemployment compensation, and private disability insurance, can provide funds for eligible SSDI applicants facing financial hardship during the five-month wait period.

This report explains the five-month waiting period and its legislative history and will be updated to reflect legislative activity

### Keywords

Social Security Disability Insurance, SSDI, waiting period, disability benefits

### Comments

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# Social Security Disability Insurance (SSDI): The Five-Month Waiting Period for Benefits

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## Summary

Social Security Disability Insurance (SSDI) is authorized by Title II of the Social Security Act and provides income replacement for eligible individuals who are unable to work due to a long-term injury or illness that is expected to last at least one year or result in death. Current eligibility requirements include (1) verification of an applicant's disability, (2) filing a claim, (3) a "recent work" and "duration of work" test, (4) verification that an individual has not reached normal retirement age, and (5) a five-month waiting period from disability-onset.

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The waiting period does not apply to individuals who have been previous recipients of SSDI in the five years prior to any current disability. Several other programs, such as Supplemental Security Income (SSI), temporary disability insurance, workers' compensation, unemployment compensation, and private disability insurance, can provide funds for eligible SSDI applicants facing financial hardship during the five-month wait period.

This report explains the five-month waiting period and its legislative history and will be updated to reflect legislative activity.

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## The Five-Month Waiting Period for Social Security Disability Insurance Benefits

Title II of the Social Security Act provides that certain individuals may be entitled to Social Security Disability Insurance (SSDI) benefits under the federal Old Age, Survivors, and Disability Insurance (OASDI) program if they meet the following statutory requirements:<sup>1</sup>

- The individual’s medical condition meets the definition of disability as specified in Section 216 of the act;<sup>2</sup>
- The individual has filed a claim for disability benefits;
- The individual is insured, generally requiring either a work history or the work history of a parent or spouse, as specified in Section 214 of the act;<sup>3</sup>
- The individual has not reached normal retirement age as provided in Section 216 of the act;<sup>4</sup> and
- The individual has completed a five-month waiting period.

### The Five-Month Waiting Period

The waiting period for SSDI benefits consists of five consecutive calendar months beginning with the first full calendar month in which a covered individual satisfied the test of disability. If an individual’s disabling condition began before he or she met the insurance requirements, the waiting period would begin with the first full calendar month after insured status was gained. During this waiting period, SSDI benefits cannot be paid. It is important to note that this waiting period begins at the onset of the disabling condition and is not affected by the date a worker applies for SSDI benefits. Workers are encouraged by the Social Security Administration (SSA) to apply for benefits at the onset of their disability. The first month counted as part of the waiting period can be no more than 17 months before the month of application and thus, retroactive benefits are limited to 12 months from the date of application.

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<sup>1</sup> For more information on the SSDI program, see CRS Report RL32279, *Primer on Disability Benefits: Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI)*, by Umar Moulta-Ali.

<sup>2</sup> 42 U.S.C. §416(i). A person is disabled under the terms of the act if he or she is unable to engage in any substantial gainful activity (SGA) because of a medically determinable physical or mental impairment. The SGA thresholds for 2012 are earnings of \$1,010 per month for non-blind persons and \$1,690 per month for blind persons. This impairment must be expected to result in the impaired person’s death, or be expected to last at least 12 consecutive months. In addition, this impairment must prevent a person from engaging in their previous work or in any other work that exists in the national economy. The Supreme Court held in *Barnhart v. Thomas* 124 S. Ct. 376 (2003) that the previous work test does not require that an individual’s prior job exist in the national economy.

<sup>3</sup> 42 U.S.C. §414. For a detailed explanation of the insurance requirements, see “Disability Planner—How Many Credits You Need,” at <http://www.ssa.gov/dibplan/dqualify3.htm>.

<sup>4</sup> 42 U.S.C. §416(l). For a table of retirement ages by year of birth, see “Social Security Benefits—Normal Retirement Age,” at <http://www.ssa.gov/OACT/ProgData/nra.html>.

## **Retroactive Benefits**

SSA provides retroactive SSDI benefits when the onset of disability occurred before an application for benefits was filed. In such cases, a beneficiary is entitled to benefits retroactive to five months after the date of disability onset provided that this date is within one year of the date of application.<sup>5</sup>

## **Exception to the Five-Month Waiting Period**

Section 223 of the act provides one exception to the five-month waiting period.<sup>6</sup> A person who, in the five years immediately preceding the onset of a current disability, had either received SSDI benefits or had a disabling condition that met the requirements set forth in Section 216 of the act (42 U.S.C. §416), is entitled to immediate benefits paid from the onset of disability.

## **Legislative History of the SSDI Waiting Period**

A waiting period from the onset of disability to eligibility for benefits has been part of the SSDI program from its inception. In 1954, Congress made the first provisions for loss of work due to disability and included language that exempted a period of disability from being counted when determining retirement benefits.<sup>7</sup> Two years later, Congress authorized the payment of SSDI benefits to persons over the age of 50 after a six-month waiting period.<sup>8</sup> The age requirement was removed in 1960.

## **Congress's Justification for Instituting a Waiting Period**

In 1955, the House Ways and Means Committee recommended passage of the proposed Social Security Amendments and discussed the rationale for a six-month waiting period between the onset of disability and eligibility for federal benefits. A committee report cited the unique nature of the federal definition of disability and called its requirement that a disabling condition be expected to result in either death or long duration “more exacting” than the disability definitions commonly used by commercial insurance carriers at the time, many of which had their own six-month waiting periods. In addition, the Ways and Means Committee expressed that the six-month waiting period was “long enough to permit most temporary conditions to be corrected or to show definite signs of probably recovery” and would be of sufficient length to make it “unprofitable for a person who can work not to do so.”<sup>9</sup>

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<sup>5</sup> 42 U.S.C. §423.

<sup>6</sup> Ibid. P.L. 86-778. This exception was part of the Social Security Amendments of 1960.

<sup>7</sup> P.L. 83-761. This measure, found in the Social Security Amendments of 1954, is commonly referred to as the “Disability Freeze.” For more information, see Edward D. Berkowitz, “Supporting Disability: An Historical Perspective,” *American Rehabilitation*, vol. 25, no. 1, (1999), pp. 2-8.

<sup>8</sup> P.L. 84-880, Social Security Amendments of 1956.

<sup>9</sup> U.S. Congress, House Committee on Ways and Means, *The Social Security Amendments of 1955*, report to accompany H.R. 7225, 84<sup>th</sup> Cong., 1<sup>st</sup> sess., H.Rept. 1189 (Washington: GPO, 1995), pp. 5-6. The Senate Finance Committee did not include a provision for disability benefits in its report.

## Changes to the SSDI Waiting Period

Two significant changes to the original six-month waiting period have been passed as part of the creation of the SSDI program. The first change eliminated the waiting period for disabled workers who were previous SSDI recipients or who had a previous disabling condition in the five years prior to the onset of their current disability. To be exempted from the waiting period, the previous disabling condition must have met the statutory definition of disability as provided in Title II of the act.<sup>10</sup>

In their reports to the House and Senate on the 1960 Amendments, the Ways and Means and Finance Committees affirmed that the six-month waiting period for those with previous disabilities as a possible barrier to return to work efforts stating that

Most disability insurance beneficiaries who return to work do so despite severe impairments. Where a disabled person becomes employed without any improvement of his condition, a more or less slight change in his situation can result in the loss of his job and make him once again eligible for disability insurance benefits. Other disabled persons, whose medical conditions may improve sufficiently to require termination of benefits, may subsequently grow worse again and become reentitled to benefits. A new six-month qualifying period during which they receive neither earnings nor benefits imposes a hardship on them and their families, and may be a real bar to any further work attempts.<sup>11</sup>

The second change to the SSDI waiting period reduced the waiting period from six to five months.<sup>12</sup> The intent of this change was to reduce the financial burden on applicants and the Ways and Means Committee reported that “reducing the waiting period from six months to five months would diminish the financial hardships faced by those workers who have little or no savings or other resources to fall back on during the early months of long-term disability.”<sup>13</sup> The Senate Finance Committee went further than the House and recommended reducing the waiting period to four months.<sup>14</sup>

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<sup>10</sup> P.L. 86-778, the Social Security Amendments of 1960.

<sup>11</sup> U.S. Congress, House Committee on Ways and Means, *The Social Security Amendments of 1960*, report to accompany H.R. 12580, H.Rept. 1799 (Washington: GPO, 1960), pp. 13-14, and U.S. Congress, Senate Committee on Finance, *The Social Security Amendments of 1960*, report to accompany H.R. 12580, 86<sup>th</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 1856 (Washington: GPO, 1960), p. 17.

<sup>12</sup> P.L. 92-603. The Social Security Amendments of 1972.

<sup>13</sup> U.S. Congress, House Committee on Ways and Means, *The Social Security Amendments of 1971*, report to accompany H.R. 1, 92<sup>nd</sup> Cong., 1<sup>st</sup> sess., H.Rept. 92-231 (Washington: GPO, 1971), p. 56.

<sup>14</sup> U.S. Congress, Senate Committee on Finance, *The Social Security Amendments of 1972*, report to accompany H.R. 1, 92<sup>nd</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 92-1230 (Washington: GPO, 1972).



## Potential Income Supports During the Five-Month Waiting Period

### Supplemental Security Income

Title XVI of the act authorizes Supplemental Security Income (SSI) benefits for individuals that meet the statutory test of disability or are over the age of 65 and who fall below specific income and asset thresholds.<sup>15</sup> SSI beneficiaries need not have any prior work history or meet the insurance requirements of SSDI and there is no waiting period between the onset of a disability and eligibility for SSI benefits. In 2010, of the more than 9.3 million SSDI beneficiaries aged 18 to 64, more than 1.4 million or 15.5% also received SSI benefits.<sup>16</sup> Thus, SSI can be used by some disabled workers to lessen the economic hardship faced by the lack of earnings and benefits during the SSDI waiting period. SSI benefits are not available to residents of Puerto Rico, Guam, or the U.S. Virgin Islands.<sup>17</sup>

All SSI beneficiaries, regardless of disability or state of residence, receive the standard benefit of \$698 for an individual living independently and \$1,048 for a couple living independently in 2012. Forty-four states and the District of Columbia add a supplement to this benefit for their residents. The amount of the federal benefit, plus any state supplement, may be reduced or offset by some earned and unearned income.<sup>18</sup> Thirty-nine states, the District of Columbia, and the Commonwealth of the Northern Mariana Islands grant Medicaid eligibility to all SSI recipients or have Medicaid eligibility rules that are the same as those of the SSI program.

### Temporary Disability Insurance

California, Hawaii, New Jersey, New York, Puerto Rico, and Rhode Island currently administer Temporary Disability Insurance (TDI) programs that provide either state or private benefits to workers with disabilities who are not receiving SSDI benefits. In addition, employees of the railroad industry in all states are eligible for TDI benefits administered by the federal Railroad Retirement Board in accordance with provisions of the Railroad Unemployment Insurance Act. The seven TDI programs provide temporary benefits, with maximum durations of between 26 and 52 weeks, for those with an earnings history who are unable to work because of a disability and who are not receiving workers' compensation or SSDI benefits.<sup>19</sup>

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<sup>15</sup> 20 C.F.R. §416. For more information, see "Understanding Supplemental Security Income" at <http://www.socialsecurity.gov/ssi/text-understanding-ssi.htm>.

<sup>16</sup> Table 3.C6.1 in the Social Security Administration, *2011 Annual Statistical Supplement*, at <http://www.socialsecurity.gov/policy/docs/statcomps/supplement/2011/3c.html#table3.c6.1>. There is no data available as to whether SSDI recipients actually received SSI benefits during the waiting period.

<sup>17</sup> Residents of these jurisdictions are eligible to receive federal benefits from their commonwealth or territorial government under the provisions of Title XIV and Title XVI of the act. These benefits are administered by the Department of Health and Human Services.

<sup>18</sup> Certain income sources are not counted by SSA when determining a monthly SSI benefit. For more information, see CRS Report RS20294, *Supplemental Security Income (SSI): Income/Resource Limits and Accounts Exempt from Benefit Determinations*, by Umar Moulta-Ali

<sup>19</sup> For more information on TDI programs, see Social Security Administration, "Temporary Disability Insurance," *Social Security Bulletin*, vol. 64, no.3, (2003), p.56.

## **Workers' Compensation**

Workers' compensation systems in each state provide wage replacement and medical benefits to workers unable to work because of an employment-related illness or injury and may be able to pay benefits during the SSDI waiting period. The federal government administers workers' compensation for its employees under the Federal Employees' Compensation Act. The federal government also administers workers' compensation systems for some private sector employees in the maritime, mining, and railroad industries through the Longshore and Harbor Workers Compensation Program, the Black Lung Benefits Program, and the Energy Employees' Occupational Illness Compensation Program.<sup>20</sup>

## **Unemployment Compensation**

In each state, workers covered by state unemployment insurance systems may be eligible to receive partial wage replacement in the event of a job separation. The states, however, require that those receiving unemployment compensation be able and willing to work, a condition that may exclude many waiting for SSDI eligibility (especially an individual who would earn in excess of the substantial gainful activity), since it is assumed that the individual is unable to work. Unemployment benefits are administered by the states within federal guidelines under Title III of the act, and unemployment compensation provisions for individuals who are ill or disabled vary by state.<sup>21</sup>

## **Private Disability Insurance**

Private disability insurance programs offered by employers can be used to provide wage replacement benefits during the five-month waiting period for SSDI benefits. In March 2010, 39% of private-sector workers participated in some form of short-term disability insurance plan while 31% of private-sector workers were covered by long-term disability insurance.<sup>22</sup> It has been estimated that up to 20% of SSDI beneficiaries have received payments from private disability insurance policies before being eligible for federal benefits.<sup>23</sup>

## **Impact of the Five-Month SSDI Waiting Period**

The five-month waiting period between the onset of disability and eligibility for SSDI may have a negative impact on the income of those seeking to enter the program. During this waiting period, persons with disabilities are either not working, or earning less than the substantial gainful

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<sup>20</sup> For more information on state and federal workers' compensation programs, see Charles B. Lewis, *Workers' Compensation Law and Strategy Guide* (New York: Aspen Publishers, 2005).

<sup>21</sup> For more information on unemployment compensation, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits*, by Julie M. Whittaker and Katelin P. Isaacs and *2010 Comparison of State Unemployment Insurance Laws* at <http://workforcesecurity.doleta.gov/unemploy/comparison2010.asp>.

<sup>22</sup> Department of Labor, Bureau of Labor Statistics, *Program Perspective on Life and Disability Insurance Benefits, Vol. 2 Issue 7*, Table 1, at <http://www.bls.gov/opub/perspectives/>.

<sup>23</sup> Todd C. Honeycutt, "Program and Benefit Paths to the Social Security Disability Insurance Program," *Journal of Vocational Rehabilitation*, vol. 21, no.2, (2004), pp. 83-94.

activity (SGA) threshold. In addition they are either not receiving monthly benefits to replace lost wages or are receiving only SSI benefits, which are usually lower than SSDI benefits.

One impact that may not be as clear, however, is the role that the waiting period plays in discouraging possible beneficiaries from applying for benefits. This waiting period, and its accompanying loss of income, lessen the overall generosity of the SSDI benefit. One study estimates that eliminating the waiting period would have the same positive effect on the number of SSDI applications as a 10% increase in the level of benefits.<sup>24</sup>

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<sup>24</sup> Brent Kreider, "Social Security Disability Insurance: Applications, Awards, and Lifetime Income Flows," *Journal of Labor Economics*, vol. 17, no.4, (1999), pp. 784-827.