



CYPEN & CYPEN
NEWSLETTER
for
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Never Forget September 11, 2001

and

Always Remember May 2, 2011

1. SOCIAL SECURITY MATTERS -- 2015 THE YEAR IN REVIEW:

2015 was a special year for Social Security -- the very first blog, "Social Security Matters" was launched. The blog has helped the SSA cover the issues and concerns that are most important to beneficiaries and their families. Here are the top ten Social Security Blog posts for 2015:

- **Medicare Open Enrollment: Five Things You Need to Do.** The Medicare open enrollment period ran from October 15 through December 7. This was the time to make changes to your current Medicare coverage for 2016. To get a jump-start on open enrollment season, SSA has offered five helpful tips to make sure you were prepared to make a change on your Medicare coverage.
- **Extra Services for Employers.** Social Security helps employers too. Business Services Online provides services for employers that make managing employee information quick, easy and secure. Once you register, you can interact directly with SSA through its online services to meet many of your needs.
- **Disability Benefits: The Numbers Tell the Story.** The SSA released two new online data resources based on disability benefits: the state disability fact sheet and a national disability issue paper. Both of these online resources show how Social Security continues to fulfill its promise of support to America's workers and their families.
- **myRA, U.S. Treasury's New Retirement Savings Option.** If you are you looking for a simple, safe and affordable way to save for your retirement, the U.S. Treasury now offers a retirement savings account called myRA. This account is designed for people who do not have access to a retirement savings plan through their job.

- **Reporting Changes is Your Responsibility.** If you receive benefits from SSA, you have a legal obligation to report changes that can affect your eligibility for benefits. These changes must be reported no later than 10 days after the end of the month in which the change is occurred. You can find a full list of reporting responsibilities in the SSA's blog post.
- **Replacing Your Medicare Card -- Know Before You Go (Online).** Have you lost or damaged your Medicare card? You can order a replacement card easily with my Social Security account. All you need is internet access and your card will arrive in the mail in about 30 days.
- **The Best Age for YOU to Retire.** Retirement is a very exciting time in a person's life. When to retire is a personal decision that you should base on your own personal factors, such as health, family, current cash needs and your future financial needs. You can retire as early as age 62 but the longer you wait, the more your benefit amount will be.
- **Ex-Spouse Benefits and You.** Finally, some good news about getting divorced. If you are age 62, unmarried and divorced from someone entitled to Social Security retirement or disability benefits, you may be eligible to receive benefits based on your ex-spouse's record.
- **No Cost-of-Living Adjustment for 2016:** This was disappointing news for SSA's audience. The Consumer Price Index did not rise since the last cost-of-living adjustment in 2015. As a result, Social Security benefit amounts will stay the

same in 2016.

2. FIVE THINGS TO KNOW ABOUT THE NEW SOCIAL SECURITY

CLAIMING RULES: If you are married and turning at least 62 this year, it is crunch time. According to time.com, the budget bill, recently signed by President Obama, included perhaps the most significant change in Social Security benefits since 1983. Back then, Federal Reserve chairman Alan Greenspan led public hearings that helped usher in key reforms. The changes, which ended two major Social Security claiming strategies for married couples, occurred with virtually no public government review or hearings. All of which has left a lot of pre-retirees scrambling. To help you make sense of these changes, and to help you decide how to respond, here are five key points to know:

- **Married couples will have fewer claiming options.** By Friday, April 29, 2016 -- about six months after the bill's signing -- if you have not yet filed for Social Security benefits will no longer be able to use the program's "file and suspend" rule. This claiming strategy has permitted one member of a married couple to file for Social Security, thereby enabling a husband or wife to file for a spousal benefit. (Or other family members to file for ancillary benefits.) The spouse, meanwhile, could suspend his or her own retirement benefit, which then could grow due to delayed retirement credits by 8% a year. The changes also will end the ability of anyone born in 1954 or later to file what is called a restricted application and collect only a spousal benefit while

letting their own retirement benefits rise by 8% a year for up to four years, until age 70. Instead, filing for spousal benefits will be deemed by Social Security to also trigger a person's own retirement benefit. The agency will pay only an amount that is roughly equal to the greater of the two benefits. Right now, deeming only applies to benefits claimed before age 66, but the new law will eventually extend it to older filers as well.

- **There are a few exceptions, though time is running out for some.** Depending on your age, you may have a window of opportunity. First, a person at least age 66 can continue to file and suspend until April 29, 2016. By doing so, your spouse and qualifying family members may be eligible to receive benefits after the law becomes effective. Plus you can continue to receive delayed retirement credits for up to four years. Clearly, if you are 66 or older and intend to do this, you should start the process soon. Second, people who are 62 or older as of the end of this year are grandfathered and will not be subject to the expanded deeming rules. This means that if you filed (or filed and suspended) for your own retirement benefits (or do so in the next six months), your spouse can still file a restricted application for just spousal benefits. But to qualify for this exception, your spouse will need to be at least 62 by the end of 2015. Deeming will not apply to a widow or widower, who will still be able to claim a survivor benefit while deferring individual retirement benefits and letting them rise in value. This assumes the survivor has not already filed for individual retirement

benefits. It also assumes that benefit would be larger than the survivor benefit -- otherwise, there would be no reason to defer and later switch.

- **What happens after the six months are up?** After the new rules take effect, if you voluntarily suspend your benefit (which now can only be done after reaching age 66) you will not be able to claim benefits based on anyone else's earnings record and no one will be able to claim benefits based on your record. This will have a significant effect on decisions people need to make about when to claim their benefits. It also will sharply reduce the ability to claim ancillary benefits for spouses, dependent children and others. The changes also will end the option to suspend your benefits and later claim a cumulative lump-sum, or retroactive payment, equal to all of your suspended benefits. If you suspend your benefits before the end of April, however, you can still unsuspend them and collect retroactive payments. For those who have already suspended benefits, you can get retroactive payments for up to one day shy of four years. If you do not claim a retroactive payment, you can continue to earn delayed retirement credits for up to four years.
- **Why did the Social Security changes happen so suddenly?** Good question. Instead of holding a public debate, Congress tacked these changes onto an emergency bill to avoid a U.S. debt default, bail out Medicare from enormous premium increases next year, and extend the life of Social Security's disability insurance program, which had been scheduled to run

out of money in less than a year. There was no public evaluation or discussion of these changes, and there are still no publicly identified authors of these reforms.

- **Are online tools available to help me sort out a new claiming strategy?** Many online advice tools are still being updated. Two leading providers of Social Security claiming software, Maximize My Social Security and Social Security Solutions, have posted partial explanations of the changes and urged people to proceed carefully before making any new claiming decisions. Social Security has not yet posted any notice about the changes on its public site. It is expected to update its formal rules, but this process could take some time.

3. STATE AND LOCAL GOVERNMENTS' FISCAL OUTLOOK: 2015

UPDATE: State and local government sector continues to face fiscal challenges that contribute to the nation's overall fiscal challenges, according to an analysis by the Government Accountability Office. In its report, *State and Local Governments' Fiscal Outlook 2015 Update*, GAO's simulations suggest that the sector could continue to face a gap between revenue and spending during the next 50 years, and that state and local governments would need to make substantial policy changes to avoid these fiscal imbalances in the future. The simulation assumes that the tax structure is unchanged in the future and that the provision of real government services per capita remains relatively constant. In the long term, the model suggests that at current rates, total tax revenues for the sector -- as a percentage of gross domestic

product will not return to the 2007 historical high until 2047. This long term outlook reflects an increase in state and local tax receipts in recent years. Specifically, from the second quarter of 2009 to the second quarter of 2015, total tax receipts increased 14% in real dollars. Income and sales taxes accounted for most of the growth, increasing 37% and 18% respectively, in real dollar terms during the same period. Furthermore, during the last year, from the second quarter of 2014 to the second quarter of 2015, total tax receipts increased 3% and income tax receipts increased 10% in real dollars. However, real estate values remain suppressed and property tax receipts continued to lag, decreasing 3% in real dollars from the second quarter of 2009 to the second quarter of 2015. A primary driver of the sector's operating balance in the long term is the rising health-related costs of state and local expenditures on Medicaid and the cost of health care compensation for state and local government employees and retirees. Since most state and local governments are required to balance their operating budgets, the fiscal conditions indicated by GAO's simulations continue to suggest that the sector would need to make substantial policy changes to avoid fiscal imbalances in the future. That is, absent any intervention or policy changes, state and local governments are facing, and will continue to face, a gap between receipts and expenditures in the coming years. Declines in state and local pension asset values stemming from the 2007 to 2009 economic recession could also affect the sector's long-term fiscal position. Using real dollars, pension asset values increased almost 4% from 2013 through 2014, from approximately \$2.82 trillion

in 2013 to \$2.92 trillion in 2014. Pension assets for 2014 now exceed the 2007 historical high of \$2.91 trillion. In our past work, we reported that while most state and local government pension plans have assets sufficient to cover benefit payments to retirees for a decade or more, plans have experienced a growing gap between assets and liabilities. In response to this gap, state and local governments are taking steps to manage their pension obligations, including reducing benefits and increasing employees' contributions. GAO-16-260SP.

4. INSTRUCTIONS FOR FORMS 1099-R AND 5498, DISTRIBUTIONS FROM PENSIONS, ANNUITIES, RETIREMENT OR PROFIT-SHARING PLANS, IRAS, INSURANCE CONTRACTS, ETC., AND IRA CONTRIBUTION INFORMATION: The Department of the Treasury, Internal Revenue Service, has issued 2016 Instructions for Forms 1099-R and 5498, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, *etc.*, and IRA Contribution Information. Here is what's new for 2016:

- **FATCA filing requirement check box.** A new check box was added to Form 1099-R to identify an FFI or a U.S. payer filing this form to satisfy its chapter 4 reporting requirement.
- **New early distribution exceptions.** Public Laws 114-26 and 114-113 added Federal law enforcement officers, Federal customs and border protection officers, Federal firefighters, air traffic controllers, nuclear materials couriers, members of the

United States Capitol Police or Supreme Court Police, and diplomatic security special agents of the Department of State to the definition of qualified public safety employees under 72(t)(10(B)) eligible for an early distribution exception for distributions made after separation from service in or after the year the employee has reached age 50. These changes are effective for distributions made after December 31, 2015.

- **Extension of tax-free distributions from IRAs for charitable purposes.** Public Law 114-113 permanently extends tax-free distributions from IRAs for charitable purposes, for distributions made in tax year 2015 and later.

To read the entire publication: <https://www.irs.gov/pub/irs-pdf/i1099r.pdf>.

5. CONTRIBUTIONS TO INDIVIDUAL RETIREMENT

ARRANGEMENTS: Internal Revenue Service has issued Publication 590-A, Contributions to Individual Retirement Arrangements (IRAs). Here is what is new:

- **Modified AGI limit for traditional IRA contributions increased.** For 2015, if you are covered by a retirement plan at work, your deduction for contributions to a traditional IRA is reduced (phased out) if your modified AGI is:
 - More than \$98,000 but less than \$118,000 for a married couple filing a joint return or a qualifying widower;

- More than \$61,000 but less than \$71,000 for a single individual or head of household, or
- Less than \$10,000 for a married individual filing a separate return.

If you either live with your spouse or file a joint return, and your spouse is covered by a retirement plan at work, but you are not, your deduction is phased out if your modified AGI is more than \$183,000 but less than \$193,000. If your modified AGI is \$193,000 or more, you cannot take a deduction for contributions to a traditional IRA. The link to the publication is: <https://www.irs.gov/pub/irs-pdf/p590a.pdf>.

6. DOL ISSUES UPDATED DISABILITY BENEFIT CLAIMS AND APPEALS PROCEDURES: The Department of Labor is proposing to amend the regulations that govern claims procedures for disability benefit plans under the Employee Retirement Income Security Act, according to towerswatson.com. The proposed regulations would extend certain procedural protections and safeguards for employer group health plans under the Affordable Care Act to disability benefit plans. As is the case under existing claim and appeal procedures, the updated regulations will also apply to pension plans that provide disability benefits. Compliance with the standards in the proposed regulations will not be required until sometime after final regulations are issued. In 2001, DOL issued regulations that updated claims and appeals procedures for employer benefits governed by ERISA, including health and disability benefits. These regulations established

new time frames for determining claims and updated the information plans had to give people whose claims were denied so they could make a timely appeal. DOL decided to again revise the disability benefit claims and appeals regulations because of the volume and constancy of litigation in this area, and in light of advancements in claim processing technology. DOL's changes are intended to better align the claims and appeals processes with the requirements for internal claims and appeals for group health plans. The proposed disability benefit claims and appeals regulations largely adopt the procedural protections for health care claimants under ACA, which set out to:

- **Ensure the independence and impartiality of adjudicators.** Plans would have to ensure that the procedure for adjudicating disability benefit claims is designed to safeguard the independence and impartiality of those who make the decisions.
- **Improve disclosures.** The proposed regulations would require that participants receive more information, such as why the employer plan disagrees with any disability determination by the Social Security Administration with respect to any adverse benefit determination.
- **Provide claimants with access to claim file/evidence and testimony during review.** Plans would have to grant claimants access to their entire claim file and allow them to present evidence and written testimony during the review process.
- **Add “minor errors exception” to the exhaustion of claims**

and appeals processes. Generally, if plans do not adhere to all claims processing rules, the claimant is deemed to have exhausted the plan's administrative remedies and therefore may file a lawsuit. A proposed "minor errors exception" would exempt a violation that was: (1) *de minimis*, (2) non-prejudicial, (3) attributable to good cause or matters beyond the plan's control, (4) in the context of an ongoing good-faith exchange of information, and (5) not reflective of a pattern or practice of noncompliance.

- **Expand definition of adverse benefit determinations and rescissions.** The proposed regulations would expand the definition of an adverse benefit determination to include a rescission of disability coverage, and define a rescission as a retroactive cancellation or discontinuance of coverage that is not due to nonpayment of premiums or contributions.
- **Provide culturally and linguistically appropriate notices.** The proposed regulations contain safeguards for people who are not fluent in English and require adverse benefit determinations to be provided in a culturally and linguistically appropriate manner.

Many employer retirement plans provide for benefits based on disability. For instance, some defined benefit plans allow for the immediate payment of accrued benefits upon a demonstration of disability, often with no reduction for early commencement. Other plans provide for ongoing accruals during the period of disability and

pay the accrued benefits at a future date, such as the plan's early retirement date, sometimes on an unreduced basis. In addition, defined benefit plans with disability benefits typically impose special age and service eligibility requirements on the benefits, such as being at least age 50 and having 10 or more years of service. Even savings plans such as 401(k) plans (which are "pension plans" under ERISA) may allow special distributions upon disability. Retirement plans with these and similar provisions generally will be subject to the new rules for disability claims. Existing claims procedures allow an exception for retirement plans that rely on a finding of disability by an outside party for purposes other than making a benefit determination. For instance, pension plans that rely on a determination by the SSA or the employer's long-term disability plan need not observe the special rules for disability claims. It appears that this exception will remain available under the updated claims procedures. Employers will want to review and update all relevant disability benefit plan documents, summary plan descriptions, claims forms, and other related plan documentation and systems to ensure they are complying with current ERISA claims and appeals requirements. They should also review the proposed regulations enhancing the ERISA claims and appeals process for disability benefits and be prepared to implement the necessary changes by the compliance deadline identified in the upcoming final guidance. To read all the proposed changes by the Department of Labor, visit: <https://s3.amazonaws.com/public-inspection.federalregister.gov/2015-29295.pdf>.

7. MAN ASKS JUDGE TO DELAY SENTENCING TO SAVE

MILITARY PENSION: According to abcnews.com, a man convicted of committing sex crimes against a child is asking a federal judge to delay his sentencing hearing for a few months so he can qualify for a military pension. A Wyoming Army National Guard officer was convicted in federal court in October of sexual exploitation of a child and other charges. He faces at least 15 years in prison, federal prosecutors say. One of defendant's lawyers at the Federal Public Defender's Office, recently asked U.S. District Judge Alan B. Johnson of Cheyenne to release the defendant from custody temporarily and push his scheduled sentencing hearing back until April so he can finish 20 years of military service necessary for a pension.

Defendant's attorney stated "as this court is aware, the defendant is a member of the armed services, he is a matter of months away from obtaining his twenty year retirement. If released, defendant could serve the necessary number of days to procure retirement. This is expected to be completed by late March, 2016. Defendant desires release to obtain this retirement in order to fulfill his financial obligations to his family while he is incarcerated." Federal prosecutors are urging Judge Johnson to deny defendants' request to be released for a few months pending sentencing. The prosecutor wrote to Judge Johnson last week, stating defendant, does not deserve any special consideration. "If his crimes have in fact cost him his twenty year retirement, he must bear that loss as a consequence of the choices he made. His detention pending sentencing remains appropriate." He also stated it is unclear that defendant would in fact have to be

released in order to qualify for the pension, and that his office consulted with the Wyoming Army National Guard, and understands that defendant will attain the required twenty years of military service this March even if he is not released.

8. HOUSE VOTES TO GIVE FORMER PRESIDENTS A PENSION CUT:

The House has approved a measure to curb the taxpayer funded benefits former presidents receive each year after leaving the White House in order to tamp down on benefits afforded to those who make a considerable salary in the private sector, according to abcnews.com. The bill from House Oversight Committee Chairman Rep. Jason Chaffetz, R-Utah, would limit yearly presidential pensions to \$200,000 -- slightly less than they are allowed now -- but would cut that amount by a dollar for every dollar they earn over \$400,000 a year in the private sector. Sen. Joni Ernst, R-Iowa, has introduced a companion bill in the Senate. The Utah Republican says taxpayers should not be footing the bill for former presidents who have no trouble earning money. "It is pretty simple. You want a retirement and pension, it is there. But if you are going to go out and make enormous sums of money, then you do not need taxpayer subsidies," Chaffetz said in an interview. "The former presidents are making gobs of money speaking and writing books, more power to them, but that does not mean they need more taxpayer dollars on top of that, it is embarrassing that they take that money." Under the 1958 Former Presidents Act, previous commanders-in-chief are entitled to a pension equal to the annual salary of a Cabinet Secretary -- \$203,700

in 2015. They also receive stipends to pay for postage, office space and staff salaries. The measure was enacted after President Harry Truman left office, and had trouble paying his bills when he returned to Missouri. Former presidents now make comfortable livings running foundations, writing books and giving speeches. Chaffetz has introduced the bill in previous years, only to see it die in committee. Now, he has a buy-in from Rep. Elijah Cummings, D-Maryland, the top Democrat on his Oversight Committee. “We have got a good working relationship, and I think we have a mutual trust,” he said of Cummings’s support for the bill, adding that it would impact Republicans and Democrats equally. The bill does not affect funding for presidential security details, but does increase the annual compensation for presidential spouses from \$20,000 to \$100,000 a year, and tweaks the law’s language to include widowers. The government spent roughly \$3.2 million on presidential allowances in 2015, according to the Congressional Research Service, with President George W. Bush receiving the most taxpayer money (\$1.09 million), followed by President Bill Clinton (\$924,000).

9. INVESTORS SAY THEIR SPOUSE HAS THE GREATEST INFLUENCE ON RETIREMENT PLANNING, FOLLOWED BY THEIR FINANCIAL ADVISOR: Half of investors surveyed by John Hancock credit their spouse as the person who has the most positive influence over their retirement planning decisions, while four in ten investors say their financial advisor has been most influential. One quarter cite their father as the most important person in their retirement planning.

These findings were drawn from the fourth quarter 2015 John Hancock Investor Sentiment Survey, a quarterly poll of affluent investors. Nearly 48% of investors surveyed expect to remain in their current home when they retire. Close to three in ten plan to downsize and move to a smaller home, while three percent are planning to upgrade and move to a larger residence. Of those investors who plan to change their living situation in retirement, the survey found that 43% plan to move out of the state where they currently reside. Seventeen percent plan to remain in the same city or town, while 13% plan to move to a new city or town in the same state. Four percent say they plan to move out of the country, and twenty percent are unsure of where they will live in retirement. The investors in the survey are for the most part optimistic about their own retirement prospects, but less so for their children's. Sixty percent think their retirement experience will be better than their parents' was. A quarter of investors believe their children's quality of life in retirement will be better than theirs, yet this represents a significant decrease from one year ago (Q4 2014) when 33% thought so. More than a third of the investors surveyed think their children will have a worse quality of life in retirement than their own.

10. SO YOU THINK YOU KNOW EVERYTHING: No word in the English language rhymes with month, orange, silver or purple.

11. TODAY IN HISTORY: In 1960, U.S. Army promotes Elvis Presley to Sergeant.

12. KEEP THOSE CARDS AND LETTERS COMING: Several readers regularly supply us with suggestions or tips for newsletter items. Please feel free to send us or point us to matters you think would be of interest to our readers. Subject to editorial discretion, we may print them. Rest assured that we will not publish any names as referring sources.

13. PLEASE SHARE OUR NEWSLETTER: Our newsletter readership is not limited to the number of people who choose to enter a free subscription. Many pension board administrators provide hard copies in their meeting agenda. Other administrators forward the newsletter electronically to trustees. In any event, please tell those you feel may be interested that they can subscribe to their own free copy of the newsletter at <http://www.cypen.com/subscribe.htm>.

14. REMEMBER, YOU CAN NEVER OUTLIVE YOUR DEFINED RETIREMENT BENEFIT.