

# **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.

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.

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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)*.

<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 2014 are earnings of \$1,070 per month for non-blind persons and \$1,800 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. In recent years, Congress has introduced a variety of legislative initiatives to reduce or eliminate the five-month waiting period.<sup>9</sup>

## **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

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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> For example, H.R. 2263, introduced as the Disability Equity Act by Rep. Betty Sutton in the 111<sup>th</sup> Congress, sought to eliminate the waiting periods for people with disabilities for entitlement to disability benefits and Medicare. H.R. 723 and S. 366, concurrently introduced in the 111<sup>th</sup> Congress as the Social Security and Medicare Improved Burn Injury Treatment Access Act of 2009, attempted to eliminate the waiting periods for DI and Medicare benefits in the cases of individuals with disabling burn injuries. H.R. 160, introduced as the Fairness for the Terminally Ill Act of 2011 by Rep. Heath Shuler in the 112<sup>th</sup> Congress, sought to eliminate the waiting period in the DI program for those individuals determined to be terminally ill by a physician (i.e., a life expectancy of 6 months or less). S. 1311, introduced as the Expedited Disability Insurance Payments for Terminally Ill Individuals Act of 2013 by Sen. John Barrasso in the 113<sup>th</sup> Congress, attempted to provide phased-in SSDI payments during the waiting period for individuals with terminal illnesses. H.R. 160, introduced as the Disability Benefits Fairness Act of 2013 by Rep. Mike McIntyre in the 113<sup>th</sup> Congress, sought to eliminate the five-month waiting period for an individual to be eligible for benefits based on disability.

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 probable recovery” and would be of sufficient length to make it “unprofitable for a person who can work not to do so.”<sup>10</sup>

## 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>11</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>12</sup>

The second change to the SSDI waiting period reduced the waiting period from six to five months.<sup>13</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>14</sup> The Senate Finance Committee went further than the House and recommended reducing the waiting period to four months.<sup>15</sup>

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<sup>10</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, 1955), pp. 5-6. The Senate Finance Committee did not include a provision for disability benefits in its report.

<sup>11</sup> P.L. 86-778, the Social Security Amendments of 1960.

<sup>12</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>13</sup> P.L. 92-603. The Social Security Amendments of 1972.

<sup>14</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>15</sup> U.S. Congress, Senate Committee on Finance, *The Social Security Amendments of 1972*, report to accompany H.R. 1, (continued...)

# 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 who meet the statutory test of disability or are over the age of 65 and who fall below specific income and asset thresholds.<sup>16</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 December 2012, of the 8.4 million disabled-worker beneficiaries aged 18-64 receiving SSDI benefits, 1.1 million or 13.1% also received federally administered SSI benefits.<sup>17</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>18</sup>

The maximum federal SSI payment, referred to as the federal benefit rate, is \$721 per month for an individual living independently and \$1,082 for a couple living independently in 2014. 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>19</sup> Since most SSI recipients have other income, the average monthly SSI payment is less than the federal benefit rate. In December 2013, the average federally administered SSI payment was \$546.38 for adults aged 18 to 64.<sup>20</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

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92<sup>nd</sup> Cong., 2<sup>nd</sup> sess., S.Rept. 92-1230 (Washington: GPO, 1972).

<sup>16</sup> 20 C.F.R. §416. For more information, see CRS Report 94-486, *Supplemental Security Income (SSI)*. See also “Understanding Supplemental Security Income” at <http://www.socialsecurity.gov/ssi/text-understanding-ssi.htm>.

<sup>17</sup> Social Security Administration, *Annual Statistical Report on the Social Security Disability Insurance Program, 2012*, Table 66, November 2013, [http://www.ssa.gov/policy/docs/statcomps/di\\_asr/](http://www.ssa.gov/policy/docs/statcomps/di_asr/) (hereinafter cited as “SSDI Annual Report 2012”).

<sup>18</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>19</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*.

<sup>20</sup> Social Security Administration, *Monthly Statistical Snapshot, December 2013*, January 2014, Table 3, [http://www.ssa.gov/policy/docs/quickfacts/stat\\_snapshot/](http://www.ssa.gov/policy/docs/quickfacts/stat_snapshot/).

workers with disabilities who are not receiving SSDI benefits. The six 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>21</sup> In addition to state TDI, 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.<sup>22</sup>

## **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.<sup>23</sup> The federal government administers workers' compensation for its employees under the Federal Employees' Compensation Act.<sup>24</sup> 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,<sup>25</sup> the Black Lung Benefits Program, and the Energy Employees' Occupational Illness Compensation Program.<sup>26</sup>

## **Unemployment Compensation**

In each state, workers covered by state unemployment insurance (UI) 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>27</sup>

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<sup>21</sup> For more information on TDI programs, see Social Security Administration, *Annual Statistical Supplement to the Social Security Bulletin, 2013*, scheduled release date: February 2014, <http://www.ssa.gov/policy/docs/statcomps/supplement/2013/tempdisability.html>.

<sup>22</sup> For more information on railroad disability benefits, see CRS Report RS22350, *Railroad Retirement Board: Retirement, Survivor, Disability, Unemployment, and Sickness Benefits*.

<sup>23</sup> For more information on workers' compensation, see Social Security Administration, *Annual Statistical Supplement to the Social Security Bulletin, 2013*, scheduled release date: February 2014, <http://www.ssa.gov/policy/docs/statcomps/supplement/2013/workerscomp.html>.

<sup>24</sup> See CRS Report R42107, *The Federal Employees' Compensation Act (FECA): Workers' Compensation for Federal Employees*.

<sup>25</sup> See CRS Report R41506, *The Longshore and Harbor Workers' Compensation Act (LHWCA): Overview of Workers' Compensation for Certain Private-Sector Maritime Workers*.

<sup>26</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>27</sup> For more information on unemployment compensation, see CRS Report RL33362, *Unemployment Insurance: Programs and Benefits* 2012 Comparison of State Unemployment Insurance Laws at <http://workforcesecurity.doleta.gov/unemploy/comparison2012.asp>.



The Government Accountability Office (GAO) found that 117,000 individuals (less than 1.0% of all SSDI beneficiaries) received concurrent SSDI and UI cash benefits in fiscal year (FY) 2010.<sup>28</sup> SSA's Office of the Chief Actuary estimated that 0.4% of disabled-worker beneficiaries would be in receipt of both SSDI and UI benefits in 2014.<sup>29</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 2013, 39% of private-sector workers participated in some form of short-term disability insurance plan while 32% of private-sector workers were covered by long-term disability insurance.<sup>30</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>31</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 activity (SGA) threshold. In addition, claimants are either not receiving monthly benefits to replace lost wages or are receiving only SSI benefits, which are usually lower than SSDI benefits. A July 2012 analysis by the Congressional Budget Office (CBO) estimated that the elimination of the five-month waiting period would increase outlays to SSDI by approximately \$8.0 billion dollars in 2022 (about 4% of program outlays).<sup>32</sup>

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.<sup>33</sup> This waiting period, and its accompanying loss of income, lessen the overall generosity of the SSDI benefit.<sup>34</sup>

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<sup>28</sup> U.S. Government Accountability Office, *Overlapping Disability and Unemployment Benefits Should be Evaluated for Potential Savings*, GAO-12-764, July 2012, <http://www.gao.gov/assets/600/593203.pdf>. GAO defined concurrent receipt of SSDI and UI benefits as receipt of SSDI benefits in all three months of the quarter for which they received UI benefits in FY2010.

<sup>29</sup> Letter from Stephen C. Goss, Chief Actuary, to the Honorable Sam Johnson, Chairman, Subcommittee on Social Security, January 7, 2014, [http://www.socialsecurity.gov/OACT/solvency/SJohnson\\_20140107.pdf](http://www.socialsecurity.gov/OACT/solvency/SJohnson_20140107.pdf).

<sup>30</sup> U.S. Bureau of Labor Statistics, *Table 16. Insurance benefits: Access, participation, and take-up rates, 1 private industry workers, National Compensation*, March 2013, <http://www.bls.gov/ncs/ebs/benefits/2013/ownership/private/table12a.htm>. In March 2013, the median duration of benefit receipt on short-term disability insurance for all workers in private industry was 26 weeks. Long-term disability (LTD) insurance benefits can last anywhere from a year to a beneficiary's full retirement age. Once a beneficiary is in receipt of SSDI, insurers generally offset LTD benefits by the amount of SSDI benefits.

<sup>31</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.

<sup>32</sup> Congressional Budget Office, *Policy Options for the Social Security Disability Insurance Program*, July 2012, [http://www.cbo.gov/sites/default/files/cbofiles/attachments/43421-DisabilityInsurance\\_print.pdf](http://www.cbo.gov/sites/default/files/cbofiles/attachments/43421-DisabilityInsurance_print.pdf).

<sup>33</sup> Although the same analysis conducted by the CBO posited that an extension of the waiting period from five to twelve months might deter claimants from applying for benefits, the CBO chose not to speculate as to the number of possibly discouraged applicants.

<sup>34</sup> One study estimated that eliminating the waiting period would have the same positive effect on the number of SSDI (continued...)

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This report was originally written by Scott Szymendera and updated by . All questions should be directed to the current author.

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applicants as a 10% increase in the level of benefits. For additional information, see Brent Kreider, “Social Security Disability Insurance: Applications, Awards, and Lifetime Income Flows,” *Journal of Labor Economics*, vol. 17, no. 4 (1999), pp. 784-827.