Congress Ends "Apply and Suspend" Strategy to Maximize SSA Benefits

By Theresa M. Varnet, MSW, JD

On November 2, 2015, President Obama signed the recently passed 'compromise' budget which avoided a shutdown of the Government. This bipartisan compromise budget bill was worked out by members of Congress and officials in the Obama Administration. Each side won some and lost some in the negotiations to pass a budget that will keep the government running and avoid a shut down for the next two years. The bill raises the debt ceiling through March 2017 and lifts spending limits through September 2017.

The Treasury Department had set Nov. 3, 2015 as the deadline for Congress to come to agreement on the debt ceiling or risk a default.

The bill is a complicated one but several terms impact the lives of persons with disabilities.

Congress has closed what is a perceived 'loophole' in maximizing Social Security benefits. Under current rules, a worker who reaches full retirement age can apply for his/her own SSA retirement benefits, and then immediately suspend them. This allows the worker to keep earning quarters until age 70 when s/he would receive a larger payout (approximately 8% more each year the worker delays retirement). Once the worker has applied and suspended his own benefits, a Disabled Adult Child (DAC) or a spouse can apply for the working spouse or parent's benefits. A DAC is entitled to 50% of the parent's SSA when the working parent retires. If spouse was also age 66, s/he could also receive a separate check under the work record of the spouse who applied and suspended his/her own SSA while allowing his/her own SSA to keep growing until age 70. For spouses this was basically a "claim now and claim more later" strategy.

Under the recent budget legislation compromise that was worked out in Congress and avoided a government shutdown, the opportunity to 'apply and suspend' will be lost six months from now. A worker who has a disabled adult child (DAC) or a spouse who is 66 years old will no longer be able to apply for SSA benefits and then suspend his/her own benefits to allow a DAC to apply for SSDI and Medicare 2 years later as well as for spouse to begin receiving SS based on the working spouse's work record. The "Apply and Suspend" strategy allowed a DAC to start receiving Childhood Disability Benefits and Medicare while the working parent continued to work and earn more SS (8% more each year) and not take his or her own SSA until age 70. Because a DAC is only entitled to what the parent would receive at age 66 which is full retirement age, when a parent later retires at 70, the DAC will receive benefits but s/he only gets 50% of what they would have gotten had the parent retired at 66. They do not get half of the higher SSA benefit that the worker gets by delaying collecting his/her own benefits until age 70. The worker parent is enriched by a higher check by waiting until age 70 but the DAC still receives only what s/he would have received at the parent's full retirement age and will lose out on the option to start receiving benefits 4 years earlier and receive Medicare.

The purpose of this change was to prevent a windfall for wealthier families who can afford to wait until age 70 to retire to get 'free money' for their spouse for 4 additional years. The 'apply and suspend' strategy greatly benefited wealthier two income families who could afford to wait for their higher SS income levels by allowing their own benefits to grow and their spouse to collect SS for an additional 4 years.

Congress may not have realized the harmful impact of the elimination of "apply and suspend" will have on DACs. Qualifying for SSDI DAC benefits and Medicare when working parent reaches 66, applies and then suspends his or her benefits is extremely helpful to get the DAC better medical care 4 years earlier. In order to obtain Medicare, one has to receive SSDI for two years. It appears now that the working parent will actually have to start taking his/her benefits at 66 for the DAC to be able to collect benefits and start the 2-year clock ticking for Medicare. In trying to close the loophole that unjustly enriched wealthy families, thousands of DACs will miss out on the opportunity to qualify for SSDI & Medicare prior to their parent actually receiving SSA.

On a positive note, the new budget removes the threat of a substantial cut in benefits for millions of persons currently receiving SSDI benefits due to an increase in funds as well as heads off an increase in Medicare payments for many individuals who will begin receiving retirement and/or Medicare benefits in 2016.

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Theresa M. Varnet
P: 508.459.8079
F: 508.459.8379
E: tvarnet@fletchertilton.com

FletcherTilton PC
Attorneys at law

FletcherTilton.com