ElderLaw: The Top Ten Social Security Questions

Andy Landis

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Elderlaw: The Top Ten Social Security Questions

What are the questions you are most likely to hear from clients regarding Social Security? This expert shares the top ten most common queries, along with the information you need to help your clients better understand this cornerstone of retirement finances.

By Andy Landis

Guess what the number-one source of retirement income is in the United States? If you guessed savings or pensions, you are mistaken. The correct answer is Social Security, by a two-to-one margin over the next runner-up.¹

Guess what major source of retirement income is the least understood by most taxpayers, financial planners, and attorneys? In my experience, the answer is Social Security again. If you answered the question incorrectly, do not feel alone. Social Security is little understood by anyone, even though we all pay for it.

Guess whom your clients will ask when they have a question about Social Security? The answer is their trusted advisor, you.

Now is the time to learn some good, solid, professional answers to client questions on Social Security, and to gain a better overall understanding of the cornerstone of retirement finances. Based on my thirteen years of traveling the country making Social Security presentations for individuals and professionals, here are the Top Ten Social Security Questions you are likely to hear from your clients.

Question #1: Will Social Security Be There for Me?
In short, yes, but there will be changes from today’s system. Changes will be focused on younger workers, rather than current retirees or near-retirees.

Overall, the Social Security system is in surprisingly good financial shape. Current features include:

- An annual operating surplus of over $150 billion and rising;
- Trust funds with a balance of over $1 trillion and growing; and

Andy Landis, owner of Thinking Retirement and author of Social Security, The Inside Story, is a nationally recognized speaker on Social Security issues. Dubbed “America’s Favorite Social Security Expert”, his speaking engagements include the American Institute of Certified Public Accounts as well as numerous Fortune 500 companies.
- Interest income on accumulated funds of over $65 billion per year and growing.²

What a positive picture! However, according to government projections, problems begin in 2025. By then the trust funds will contain nearly $6 trillion, but at that point surpluses end. Millions of Baby Boomers leaving the workforce and drawing Social Security will cause the trust funds to decline. If no changes are made, the trust funds will be exhausted in 2038. After that, payroll taxes will be sufficient to pay about seventy percent of promised benefits.³ That thirty percent shortfall is the cause of all the concern over Social Security. However, do not think for a minute that Congress will let this popular, vital program die. In fact, there are numerous reform options to keep it alive and well through the rest of the 21st Century. (See Chart: Options for Social Security Benefits, infra, for details.)

Currently, newspaper headlines are focusing on private Social Security accounts for younger workers. These accounts would be similar to IRA or 401(k) accounts, with 1 to 2 percent of paychecks being routed to the individual investment accounts.

### Options for Securing Social Security Benefits⁴

**Benefit Cuts.** With no other changes, a 30% cut in payments would make the system permanently solvent. Such an across-the-board cut is likely, but cuts could take the following forms:

- **Reduce cost-of-living adjustments** (COLAs) to gradually reduce outlays.
- **“Means-test” benefits** to reduce or deny benefits to wealthier retirees.
- **Raise the retirement age** to reduce or deny benefits to younger retirees (the retirement age is already rising from sixty-five to sixty-seven; see Question #5, infra).
- **Change benefit formulas** to reduce overall benefits, especially for higher-income retirees.

**Revenue Increases.** Another option would be to bring more money into Social Security. Again, there are several options available:

- **Raise the payroll tax.** With no other changes, a tax increase of 0.9% on both employer and worker would make the system permanently solvent. (This has been nicknamed the “2% solution”).
- **Increase the ceiling on taxable earnings.** The 2002 ceiling of $84,900 could be raised so that only wealthier workers would pay more.
- **Raise income tax on benefits.** Currently only one quarter of retirees pay income tax on Social Security benefits. This could be broadened by taxing Social Security the way other pensions are taxed.
- **Bring those outside the system into it.** Four percent of workers are currently outside the system—these are mostly certain state and local government workers. Bringing them into the system would improve the financial picture by increasing Social Security’s overall revenue.

**Privatize the system.** The idea here is to reduce or eliminate Social Security’s guaranteed benefits, and replace them with an investment system of individual savings accounts, similar to 401(k)s or IRAs.

**Who’s Affected:** Note that nearly all these proposals would affect only younger workers and future retirees, not current retirees. The most likely change for your current clients would be increased income tax on benefits.
Unfortunately, private accounts do nothing to help balance Social Security's long-term finances. In fact, these private accounts drain the system further because they divert part of Social Security's revenue stream off to individual accounts. By most estimates, privatizing could balloon the long-term shortfall to forty-six percent, costing roughly $1 trillion in transition costs.5

Congress will have its hands full sorting out the options. I predict that there will be an interesting mix of the ingredients described in the above table “Options for Securing Social Security Benefits”: minor tax increases, some benefit cuts, and a dash of privatized accounts.

This leads to the question: what is the timeline for reform? As 2002 is an election year, it would be an unlikely time for benefit cuts and tax increases. Watch for possible reform legislation in 2003.

**Question #2: Is Social Security a Good Deal and Will I Get My Money Back?**

The short answer is yes, it is a good deal, especially when you remember that it is more like insurance or a pension than an investment. And most workers get all their money back, plus interest.6

Many people complain that they could get a better return on their dollar with private investments. They are forgetting several important points about Social Security:

- It may be a retirement program, but it is also a complete package of other benefits, including disability insurance, life insurance, family benefits, and health insurance.
- Benefits are guaranteed for life, for both the worker and spouse. That is quite different from such investments as IRAs.
- Benefits are fully inflation-proof. That is better than any other pension program I know of.
- It is an insurance program, not an investment, and it has high **insurance** value. It is illogical to ask for a high rate of return on auto insurance or on homeowners’ insurance. It is equally illogical to ask for a high rate of return on Social Security.
- Administrative costs are a low 0.9%.7 Compare that to 10%-20% administrative costs in the typical insurance company or charity.
- The average worker recoups all contributions in about three years. That rises to six years when the employer’s contributions are included.8 Yet, the average sixty-five year old will live for fifteen years (male) or twenty years (female),9 thus, easily recouping all contributions with interest.

**Payment Amount**

The average retirement check in 2002 will be $874 per month.10 The maximum retirement check for a sixty-five year old is $1,660 per month. To put that in perspective, it is the yield of a 5% investment of $398,000. The maximum for a worker with a non-working spouse, both aged sixty-five, is $2,490 monthly, or the same as the yield of a 5% investment of $597,000. And the maximum for a two-career couple is $3,320 monthly, equivalent to the yield of a 5% investment of $796,000.

Obviously, Social Security is not a go-go investment. All in all, it is safe to say that we are getting our money’s worth out of Social Security, especially in **insurance** value.

**Question #3: How Is My Payment Computed?**

Payments are proportional to lifetime earnings. Estimates of this ratio can be found within the annual Social Security statement. Another option to determine these estimates would be through working with Social Security’s online calculators.

Three factors are used to compute a payment:11

1. **Eligibility.** Ten years of work are required for retirement payments. If the client lacks ten years of work, they still may be eligible as the spouse of a worker. In the case of a mid-career disability or death, less work is required because there was less time to accumulate work credit.

2. **Average earnings.** The thirty-five years of work, during which the client earned the most income, are averaged to determine the payment amount. If the client does not have thirty-five years of work, then zeroes will be used for the missing years; thus reducing average earnings and the payment amount.

   But note that if the client retires a few years early, the reduction is usually small. After all, lifetime average earnings will not change much with an end-of-career “change
of course” such as early or partial retirement. Also, if the client has new earnings after the Social Security checks begin, the new earnings will often increase lifetime average earnings. The result is a Social Security raise the next year.

3. **Age.** When the payment is adjusted for age, the client has three choices:
   - Opt for payments to begin at “Full Retirement Age” (FRA, defined in Question #5, infra). The payment will then be called a “100% check.”
   - Opt for early retirement, which can be done as early as age sixty-two. The trade-off is a lower check, with a slight penalty for each month of early payments. (See chart entitled “Goodbye, Age 65”, infra, for exact age-sixty-two payment percentage.)
   - Opt for delayed retirement and receive up to a 130% payment at age seventy.\(^{12}\)

Bottom line: The client’s payment is roughly proportional to his or her lifetime average earnings and adjusted for his or her age at first payment.

**Question #4:**
**Is Applying at Age 62 Worthwhile?**
In short, yes. If the client is going to retire anyway, he or she should take the Social Security as early as possible.

Overall, there are two answers, one simple and one subtle. If the math is done in simple dollars, the late filer will win. Filing at FRA yields a higher payment that will eventually overtake the head-start advantage of the early filer (one who files at age sixty-two).

However, financial planners prefer a “present-value computation,” which takes into account the time value of money. Such a computation shows that the earlier a client files, the greater the return.\(^{13}\)

Intuitively, this makes sense. After all, the Social Security benefits are fully inflation-adjusted, they are tax-advantaged, and drawing Social Security will preserve valuable tax-deferred investments. In general, it is wise for the client to allow the retirement investments to continue to compound tax-deferred for a few more years, and then draw the Social Security early.

**Question #5:**
**What Is My Full Retirement Age?**
The answer is if the client is a younger worker, then he/she will have a higher retirement age.

The long answer is that the “Full Retirement Age” (FRA) has been changed from age sixty-five to age sixty-seven. The new retirement ages are being phased in on a schedule based on the client’s date of birth. (See table “Goodbye, Age 65”, below).\(^{14}\)

Clearly, this will not affect the typical elderlaw practice—yet.

Note that age sixty-two for early retirement has not changed, but early retirees are now more heavily

<table>
<thead>
<tr>
<th>Year of Birth</th>
<th>Full Ret. Age (FRA)</th>
<th>Age 62 Payment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1937 or earlier</td>
<td>65</td>
<td>80.00%</td>
</tr>
<tr>
<td>1938</td>
<td>65 &amp; 2 months</td>
<td>79.17%</td>
</tr>
<tr>
<td>1939</td>
<td>65 &amp; 4 months</td>
<td>78.33%</td>
</tr>
<tr>
<td>1940</td>
<td>65 &amp; 6 months</td>
<td>77.50%</td>
</tr>
<tr>
<td>1941</td>
<td>65 &amp; 8 months</td>
<td>76.67%</td>
</tr>
<tr>
<td>1942</td>
<td>65 &amp; 10 months</td>
<td>75.83%</td>
</tr>
<tr>
<td>1943-1954</td>
<td>66</td>
<td>75.00%</td>
</tr>
<tr>
<td>1955</td>
<td>66 &amp; 2 months</td>
<td>74.17%</td>
</tr>
<tr>
<td>1956</td>
<td>66 &amp; 4 months</td>
<td>73.33%</td>
</tr>
<tr>
<td>1957</td>
<td>66 &amp; 6 months</td>
<td>72.50%</td>
</tr>
<tr>
<td>1958</td>
<td>66 &amp; 8 months</td>
<td>71.67%</td>
</tr>
<tr>
<td>1959</td>
<td>66 &amp; 10 months</td>
<td>70.83%</td>
</tr>
<tr>
<td>1960 and later</td>
<td>67</td>
<td>70.00%</td>
</tr>
</tbody>
</table>
penalized than in the past. A person with an FRA of sixty-seven will receive only a seventy percent payment at age sixty-two, compared with the traditional eighty percent payment for those with an FRA of age sixty-five. Why? Remember that each month of early retirement yields a lower payment. And thanks to the new FRAs, age sixty-two is now more than thirty-six months earlier.

**Question #6:**
**Will Social Security Pay Benefits to My Family Members, Such As My Spouse, My Former Spouse, My Child, or My Dog?**

The simple answers to these questions are yes, yes, yes and no, respectively. Social Security has always been a family protection package. Therefore, immediate family members may be eligible on a worker's record, if:

- The family member is retired (in other words, their work must be limited—see Question #9, infra); and
- The family member is not eligible for a higher payment on his or her own work record.

A **spouse** is eligible for up to fifty percent (at FRA) of the worker's full payment. The spouse can draw a lower percentage as young as age sixty-two (about thirty-six percent in 2002). The spouse may be eligible at any age if he or she is caring for the worker's eligible child (see below for definition of child). However, to qualify, the worker must already be receiving Social Security.  

In 2002, the average worker and spouse will receive $1,454 monthly. As noted in Question 2, supra, the maximum for a 65-year-old couple is $2,490 with only one worker, or $3,320 with two workers.

A **former spouse** is eligible for the same payment amount as the spouse. The former spouse must meet these three special rules:

- The marriage to the worker must have lasted at least ten years;
- The former spouse must be currently unmarried; and
- The worker must be at least sixty-two years old, but not necessarily retired or on Social Security.

A **child** is eligible for 50% of the worker's full payment. To qualify, the worker must be receiving Social Security and the child must meet these rules:

- The child must be the worker's legitimate child, stepchild, adopted child, or acknowledged natural child; and
- The child must be either under age eighteen, or under age nineteen and still in high school; or any age if totally disabled before age twenty-two.

Asking for pet benefits would be barking up the wrong tree!

**Dual Entitlement**

Your client may be eligible for Social Security in two ways at one time: as a worker or as the spouse of another worker. If this is the case, the payment will be the greater of the two. A single client may have several former ten-year-marriages, each ending by divorce. In that case, they can choose the highest payment available, which may change from year to year.

*Example:* The client may be drawing $500 per month on the record of her first ex-husband. Then, her second ex-husband reaches age sixty-two, making her potentially eligible on his record as well. She should contact the Social Security Administration (SSA) to see if a higher payment could be made on the second record and, if so, apply to receive the second payment at that time.

*Example:* There may be several people eligible on one worker's record. The worker may be drawing $1,000 per month from Social Security. In addition, his wife and two former wives could *each* be drawing $500 per month.

**Referrals**

If you are not sure whether the client is eligible under one of these categories, be sure to call the SSA for more information. (The phone number and Web site appear at the end of this article.)

**Question #7:** If I Die, Can My Family Receive Social Security?

Yes, even if the client or his/her family are not yet at retirement age. This question plays a central role
when doing life insurance planning. However, you need to know what the government will provide the client’s survivors, and where the gaps are so that you know what the client’s insurance needs are.

First, the client may die in mid-career, before Social Security payments are made or eligibility is met. In that case:

- The deceased worker is probably covered by Social Security even without ten years of work under the system. Less work is required for younger deceased workers.
- A full payment amount is computed based on average earnings up to the time of death.

Whether death occurs mid-career or in retirement, surviving family members can count on these payments:  

- Surviving children will each be paid seventy-five percent of the deceased worker’s full payment amount (up to a cap called the “family maximum”). Children are defined as in Question #6, supra.
- A surviving spouse may draw a seventy-five percent payment at any age if caring for an eligible child under age sixteen and his/her earnings are low.
- A surviving spouse will be eligible for regular widow(er) payments starting at age sixty (not age sixty-two as for regular retirement). Payment amounts range from 71.5% of the full amount at age sixty to 100% at Full Retirement Age.
- A surviving former spouse will be eligible at age sixty. Payment amounts are the same as the surviving spouse, immediately above, and marriage requirements are the same as the former spouse’s payments in Question #6, supra.

Note the gap for the surviving spouse. Once the youngest child turns age sixteen, the spouse’s payments stop until age sixty. That is a large gap that insurance can help fill.

By the way, if the spouse remarries before age sixty, the benefits are blocked for as long as the marriage lasts. Remarriage after age sixty will not block payments.

**Referrals**

Your client may be the worker doing estate planning, or the spouse, former spouse, or child of a deceased worker. Workers should understand that Social Security will pay surviving family members. Family members who appear to be eligible (child under age nineteen, disabled child, spouse or former spouse over age sixty) should always be referred to Social Security to assess eligibility. This is true even if the individual already receives Social Security. It is possible the widow(er) could receive a raise by switching to the decedent’s work record.

The most typical situation for elderlaw practitioners is a married couple, both receiving Social Security when one dies. In that case, SSA should be notified of the death and survivor payments should be explored. In most cases all necessary changes are made without paperwork.

In short, the family is covered when a worker dies, but there are still insurance needs.

**Question #8: When Can I, Or When Should I, Enroll in Medicare?**

The answer to this is that it truly depends on whether the client works past age sixty-five. Medicare age continues to be age sixty-five, even as FRA for Social Security purposes climbs above age sixty-five.

If the client is already on Social Security before age sixty-five, Medicare enrollment is automatic. The Medicare card comes in the mail the month before the sixty-fifth birthday. Just to make sure, it is wise for the client to call a month or two before the birthday to make sure all is well.

On the other hand, if the client has health coverage through work (or their spouse’s work), why take Medicare? It costs money and there are penalties for signing up too early, as well as too late. Most people in this situation enroll in Part A only, which covers hospitalizations and is without premium. They can delay Part B, which covers doctor bills and has a monthly premium, until the health coverage from work stops. All in all, this is a tricky situation. Perhaps the best recommendation for the client or spouse who might be working past age sixty-five is to call SSA for instructions.

Remember that Medicare is more like a Yugo than a BMW. It covers the basics. It does not cover all bills or all procedures. The client will need to shop
for supplemental coverage, either through traditional "Medigap" insurance, or through an HMO-type managed care company. (Believe me, their mail will be full of insurance offers as they approach Medicare age.)

Question #9: Can I Work and Still Receive Social Security?

Yes, especially if the client is FRA or over; however, the client may lose some Social Security benefits if he/she is below the FRA or has earnings that are too high. Social Security payments are retirement payments, so SSA needs some way to separate the retirees from the workers. It does this with earnings limits.

Earnings limits apply only if the client is working and under FRA (defined in Question #5, supra). Once FRA is reached, the client can work at any level with no Social Security penalty. Under FRA, the certain limits apply (see above). 21

The way this works is easier to understand with an example. Let's say the client is aged sixty-three and has a job earning $17,280 per year. How much will he or she be penalized?

- The first $11,280 (the earnings limit from the table) is a freebie.
- The excess earnings above the limit are $6,000 ($17,280 - $11,280). One half of this excess, or $3,000, counts against the client's Social Security for the year.
- In practice, the Social Security check will be withheld until $3,000 is held back—perhaps four months' worth. Then full checks will be paid for the rest of the year.

If the client is already aged sixty-five, there will be no penalty, no matter the earnings level. I strongly suggest sixty-five-year-old clients apply for Social Security now, even if working full-time.

Note that only earnings count against Social Security—that means only wages and net earnings from self-employment. Interest income, rental income, IRA withdrawals, etc. will not cause reductions.

Question 10: How Do I Apply for Social Security?

The client can apply by phone (800-SSA-1213) or the Internet (www.ssa.gov) up to three months before eligibility. Clients can also visit a Social Security office. However, applying by phone or Internet is much easier than visiting the office. To avoid busy signals and long waiting periods, call between 7:00 and 10:00 a.m. or 3:00 to 7:00 p.m., avoiding the peak hours of 10:00 a.m. to 3:00 p.m. 22

Sometimes the claim will be taken at the initial phone call, but other times the claim may be scheduled for a later call back. The claims interview usually takes ten to twenty minutes and the claim form is then sent to the client for signature.

When the claim form is returned, the client must also enclose the requested documents, or proofs. A birth certificate is almost always needed, and sometimes a military discharge form, proof of marriage, or proof of death (for survivors' claims) will be required. Documents will be returned after they have been reviewed by SSA. Filing the claim is usually easier than renewing a driver's license.

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<th>Age</th>
<th>Earnings limit—2002</th>
<th>Penalty</th>
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<tbody>
<tr>
<td>Under age 65 (or other (FRA))</td>
<td>$11,280 per year</td>
<td>1/2 of “excess earnings” (earnings over the limit)</td>
</tr>
<tr>
<td>Turning 65</td>
<td>$30,000 (for months before birth month only)</td>
<td>1/3 of excess earnings (for months before birth month only)</td>
</tr>
<tr>
<td>Over age 65</td>
<td>None</td>
<td>None</td>
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Age Earnings limit—2002 Penalty

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</tr>
</tbody>
</table>
Conclusion
There you have them—the answers to The Top Ten Social Security Questions. For more information or more detail, see the “Sources of Information” box. My best wishes for successfully working with Social Security with your elder clients!

Endnotes
3. Id.
6. Even anti-Social Security literature supports this. See, e.g., Carrie Lips, *The Working Poor and Social Security Privatization*, at 4, at The Cato Institute, available at http://www.socialsecurity.org/pubs/articles/bp-040.pdf (last visited Nov. 15, 2001). (Ms. Lips finds a 2.75% rate of return for Social Security contributions, even though she erroneously counts the entire 12.4% employer/employee FICA tax, failing to account for the value of disability and survivors insurance also purchased by the contribution. Properly accounting for the entire insurance value of Social Security would yield a higher rate of return.)
## Information Resources

<table>
<thead>
<tr>
<th>Item</th>
<th>How to find</th>
<th>Cost</th>
<th>Notes</th>
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<tbody>
<tr>
<td>SSA Telephone</td>
<td>(800)SSA-1213</td>
<td>Free</td>
<td>Answers, info, publications, claims</td>
</tr>
<tr>
<td>SSA Website</td>
<td><a href="http://www.ssa.gov">www.ssa.gov</a></td>
<td>Free</td>
<td>General info, on-line publications, benefit estimates, claims, research</td>
</tr>
<tr>
<td>Apply for retirement benefits</td>
<td><a href="http://www.ssa.gov/applytoretire/">www.ssa.gov/applytoretire/</a></td>
<td>Free</td>
<td>Apply for Social Security retirement or spouse payments</td>
</tr>
<tr>
<td></td>
<td>Or (800)SSA-1213</td>
<td></td>
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<tr>
<td>Online Benefits Calculator</td>
<td><a href="http://www.ssa.gov/retire2/AnypiaApplet.html">www.ssa.gov/retire2/AnypiaApplet.html</a></td>
<td>Free</td>
<td>Compute estimates online</td>
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<tr>
<td>Medicare Hotline &amp; Website</td>
<td>(800)638-6833</td>
<td>Free</td>
<td>General info on Medicare including costs, deductibles, etc.</td>
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<td><a href="http://www.medicare.gov">www.medicare.gov</a></td>
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<tr>
<td>Book</td>
<td>Crisp Publications 1-800-442-7477</td>
<td>$18.95</td>
<td>General education, quick reference. Plain English.</td>
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