



DISABILITY NEWS

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Introduction

We created our newsletter, Disability News, to keep our current and former clients informed about new rules and regulations affecting social security, long-term disability, and disability insurance claims. All of our past newsletters can be found on our website at www.buchanandisability.com

Benefits for Survivors: What Happens When a Social Security Beneficiary Dies? - By Julie E. Moya

Having a loved one become disabled and unable to work can be very stressful, and dealing with the social security system can add even more stress to a disabled person's family. At Eric Buchanan & Associates, we understand the system, and we know how to help someone win the benefits he or she deserves.

Unfortunately, sometimes a loved one with a disability claim passes away before the claim is decided. Dealing with that horrible situation is bad enough for the family without wondering what will happen to the person's social security claim. Our disability team is ready to help the family of a client who passes away by ensuring all of the benefits that should be paid to the family are paid.

In order to understand the rules, and to make the process less stressful, we would like to explain under what circumstances a family can continue the claim of a loved one who has passed away, so that our clients and friends can understand what rights a family has, should the worst happen. If this happens in your family, and we are representing you or a fami-

ly member, a surviving family member should contact our office right away to let us know what has happened, so we can protect the rights of our client and of his or her family.

Question 1. I have a claim for disability benefits under DIWC or Title II (the programs for someone who has worked five of the last ten years) and I pass away while my claim is pending or after I win but before I am paid. Can my family collect my back pay?

According to the Social Security Administration's rules, certain people can continue to pursue the claim if they notify social security and can be substituted for the claimant. Our office will help the family to do that, once we are notified that a client has passed away. Under the Social Security Administration's rules, there is a list of who can be substituted and then later collect the back pay.¹ If the person passes away after winning the claim, but before the benefits are paid, the Social Security Administration will attempt to pay the entire amount to the first person in the list below. If that person does not exist,

then Social Security will try to pay the next person(s) on the list until a suitable person(s) is found:

1. The surviving spouse who was either: a) living in the same household as the deceased at the time of death, or b) who, for the month of death, was entitled to a monthly benefit on the same record as the deceased spouse. **NOTE:** A surviving divorced spouse **does not** qualify under this provision.
2. The child who, for the month of death, was entitled to a monthly benefit on the same earnings record as the deceased.
3. The parent who, for the month of death, was entitled to a monthly benefit on the same earnings record as the deceased.
4. The surviving spouse not qualified under #1.
5. The child not qualified under #2.
6. The parent not qualified under #3.
7. The legal representative of the deceased person's estate.

Benefits for Survivors: ... continued from page 1

If more than one person fits into the highest priority category (for example, multiple children), then the underpayment/back pay is divided equally between them.² If a person with a claim passes away, the family should contact our office, and we will help them fill out the correct form (such as form SSA-1724) and will contact the correct field office so that the family is paid.

Question II. I have a claim for SSI (the disability benefits program for people who meet certain income and resource requirements, but did not necessarily work five of the last ten years) and I pass away while my claim is pending or after I win but before I am paid. Can my family collect my back pay?

The Supplemental Security Income (“SSI”) program is a type of social security benefit that disabled people can qualify for, even if they have not worked long enough to earn credits, if they are poor enough to meet certain income and resource requirements. Under the SSI program, when a beneficiary dies, his/her back pay can be awarded to someone else, but not to as many people as are available for regular disability benefits for people who have worked enough. Specifically, it can be paid to a surviving spouse, and/or the parents of a child who was receiving SSI based on the deceased child’s disability.³

All possible recipients, other than an SSI eligible spouse, must request payment within 24 months of the deceased’s death.⁴ SSA will also require proof of the deceased’s death and proof of the eligible recipient’s relationship to the deceased.⁵

Question III. What if my spouse died before becoming disabled? Can I draw benefits off of my spouse’s earnings if I become a widow(er)?

If your spouse passes away before applying for disability, you can apply for benefits on your spouse’s account once you turn 60 or if you are disabled after age 50, you can receive widow(er)s benefits if:

1. You are 60; however, any benefits you receive are reduced. Full benefits are available at full retirement age or older. Remarriage will not affect your eligibility under these circumstances.
2. You are 50; however, you must be disabled. Further, your disability must start before or within seven years of your spouse’s death (or within seven years from when your child turned 16, and for whom you were receiving benefits based on your spouse’s account for caring for the child). Whether or not you are “disabled” is defined by, and decided by, social security. Social security uses the same definition of “disabled” for widow(er)s as for workers. Remarriage will not affect your eligibility under these circumstances.
3. You can receive benefits at any age if you care for your deceased spouse’s child who is under age 16 or is disabled and receives benefits on your deceased spouse’s record. However, remarriage will prevent eligibility in this circumstance.

Also, you do have to meet several other technical requirements. For example, social security may require that your marriage lasted at least nine months or that you and your spouse were the natural parents of a child under 18 (20 C.F.R. § 404.335). You cannot apply for widow(er)s benefits online; call 1-800-772-1213 to apply.

Question IV. My children received benefits through their other parent who has died. Can my children still receive benefits?

Your child can get benefits if he or she is the deceased parent’s biological child, adopted child or dependent stepchild. (In some cases, a child also could be eligible for benefits on his or her grandparents’ earnings.). The deceased parent must have died after having worked long enough in a job where he or she paid social security taxes.

The child also must be:

1. Unmarried
2. Younger than age 18
3. 18-19 years old and a full-time student (no higher than grade 12); or
4. 18 or older and disabled. (The disability must have started before age 22.). Again, “disability” is defined by, and decided by, social security. This type of claim is referred to as a “disabled adult child” (“DAC”) claim.

Thus, the back pay of a deceased claimant does not always die with them. If we are handling your claim or a family member’s claim, it is important for the family to call us if our client passes away, so we can help ensure that the family receives all the benefits that should have been paid.

¹This information is found in Social Security’s Program Operations Manual System (“POMS”), specifically POMS GN 02301.030. The POMS is a primary source of information used by Social Security employees to process claims for Social Security benefits.

²POMS GN 02301.070.

³POMS SI 02101.003.

⁴POMS SI 02101.003.

⁵POMS SI 02101.003.

Get to Know our Attorneys & Staff

Casie has been with Eric Buchanan and Associates, PLLC for three years. She has ten years experience in customer service and a Bachelor's Degree in Business Marketing from Trevecca Nazarene University. She uses her education and experience as she assists our potential clients.

Her organizational and multi-tasking skills are very useful in overseeing all potential clients and assuring them that getting started with the disability process will be as

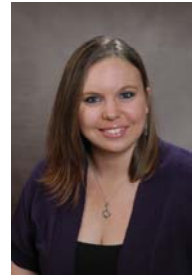
stress-free as possible.

Reading is something Casie enjoys each day after work. She likes daily devotionals and personality assessments. She finds that the first step in helping others is understanding yourself.



She is engaged to Joshua Witherspoon and is planning a wedding to take place later this year.

Both Casie and Joshua are members of the Greater Chattanooga Darting Association and enjoy participating in league, which consists of throwing steel tip dart matches each week. They also travel to dart tournaments to compete in other doubles and singles matches across the southeast. Casie believes that participating in these events helps clear her head and distinguish any stress that may have built up throughout the week. "Who needs yoga when you have darts".



Casie Reynolds
Intake Paralegal

Social Security Update



In an emergency, you may need the services of social security. To assist when severe weather or other emergencies occur, social security maintains a special web page to share important information about their services.

social security's emergency page keeps the public up to date on social security office closures. It also gives information on signing up for direct deposit. With electronic payments, people who have been displaced don't have to worry about where their next payment will be mailed to — it will show up in their bank account on schedule.

The site also provides information

on emergency payments and links to the websites of other organizations that provide emergency services such as FEMA, Ready America, Federal Employee Education & Assistance Fund, and the U.S. Postal Service.

Acquaint yourself with the emergency page at

www.socialsecurity.gov/emergency.

"In an emergency, you may need the services of social security."



Photo Gallery

Eric Buchanan & Associates

Annual Christmas Party at Maggiano's in Nashville.



Eric Buchanan thanking our disability team for all the hard work in helping our clients pursue their disability benefits this past year.



Left, Front: Jeremy Bordelon, Barbara Stone, Casie Reynolds, Katelyn McChesney, Julie Moya, Meg Buchanan, Molina Haynes, and Jessica Geselbracht.

Left, Back: Brittany Dicorato, Jaime Styles, Eric Buchanan and Scott Wilson.

Eric's Answers



Who can get long-term disability benefits?

Long-term disability insurance is a type of employee benefit that employers may provide. About 30% of American companies offer long-term disability coverage to their employees.

If you work for a company that offers long-term disability insur-

ance, you should sign up for that program and enroll for those benefits. In some cases, the person working has to pay the insurance premiums and sometimes the employer will pay the premiums.

If someone is covered by long-term disability insurance and they become disabled, the covered person can then apply for those benefits.

Long-term disability benefits are often a supplement to social security disability benefits alt-

hough in some cases they may pay a benefit in addition to social security benefits.



Eric L. Buchanan
President

"If someone is covered by long-term disability insurance and they become disabled, the covered person can then apply for those benefits. "



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