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Confusion abounds about the new Social Security laws

On November 2, 2015, the President signed the Bipartisan Budget Act of 2015 that among other things, made changes to the Social Security laws. The changes that are causing confusion have to do with “restricted” applications and the “file and suspend” strategy. A recent article in *Forbes* by Laurence Kotlikoff (who writes frequently on Social Security matters) highlights the issues with the law change especially since it seems that the Social Security Administration (SSA) has not trained the workers on the impact of the changed law. (<http://www.forbes.com/sites/kotlikoff/2016/02/21/social-security-qa-do-social-security-reps-know-this-about-the-new-law/#16dfccb32333>).

The confusion seems to be related to changes in some of the rules related to qualifying for benefits, particularly “restricted applications” and the “file and suspend” strategy for spouses. As people work longer and life expectancies increase, many individuals do not retire at age 62 or even at full retirement age (currently age 66). When there is a difference in age between spouses, work history and earning capacity, and even health status, there had been an option to take advantage of a strategy to claim benefits for one spouse on the other spouse’s work record. For instance, a married worker is eligible for benefits (albeit reduced) on their own work record and on the spouse’s work record. If this married worker filed a claim between age 62 and full retirement age (currently age 66), they would have been deemed as filing for the larger of the two benefits, theirs or the spousal benefit. However, if the worker waited until full retirement age, he or she could file a “restricted application” for spousal benefits only, and would continue to be eligible for their own benefit which increases by a rate of 8 percent a year until age 70. However, the new law eliminates the ability to choose or switch the benefit and will only permit the larger benefit of either the worker or the spouse, by applying the deeming rule to age 70. **NOTE: If the individual turned 62 by January 1, 2016, she or he can take advantage of the old rule.**

The law also eliminated the “file and suspend” strategy. When this was employed, the worker claimed his or her Social Security benefits at full retirement age (currently age 66 years) and then immediately suspended them to continue to accrue benefits until age 70. This permitted the spouse to claim the spousal benefit and the worker to earn delayed retirement benefits. Now the law only permits the spouse to claim based on the worker’s benefits if the worker is actually claiming benefits. The worker can still suspend benefits to accrue delayed retirement credits, however. **NOTE: The rule change does not go into effect if the application is submitted on or before April 29, 2016.**

Mr. Kotlikoff recommends that the applicants educate themselves and know exactly what is possible and not possible before talking with Social Security staffers. You need to be your own best advocate. The Social Security Administration has issued an emergency memo to their staffers that should be helpful. Mr. Kotlikoff’s article gives really good real life examples to help guide you. The new law has changed the landscape of Social Security in much the same way that working seniors have changed the rules. Do not give up money that you may need in your retirement years for lack of understanding the rules.