



Social Security Benefits and the Defense of Marriage Act (DOMA): Can I Do Anything Now to Preserve My Rights? YES!

The Defense of Marriage Act Section 3 (DOMA) erases the marriages of same-sex couples for all federal purposes, including Social Security.

A person married to someone of the same sex cannot currently claim the Social Security benefits that might otherwise be due to a spouse. DOMA can also limit a child's access to Social Security Benefits.

GLAD and others are challenging DOMA's constitutionality in court, and while there are no guarantees, there is reason to believe we *may* see the law overturned within the next year.

GLAD has published a guide for eligible married same-sex couples, and those who have lost a same-sex spouse, to act now to preserve their right to receive Social Security benefits once the law is gone.

The publication covers the following Social Security benefits:

The spousal retirement benefit

The spouse of a retired worker—assuming that she or he meets age and other requirements—is eligible to receive the greater of either her/his own Social Security retirement benefits or an amount equal to 50% of her/his retired spouse's benefit.

The spousal disability benefit

Social Security pays benefits to people who cannot work because they have a medical condition that is expected to last at least one year or result in death. A spouse may be eligible for a monthly benefit of up to 50% of the disabled worker's benefit.

The lump-sum death benefit

There is a one-time death benefit of \$255 payable to a surviving spouse, or, if there is no spouse, to a minor child—if certain conditions are met.

The survivor benefit

When a worker dies, the surviving spouse may be entitled to benefits based on the worker's earnings record. Specifically, an eligible surviving spouse is entitled to receive the greater of either his or her own Social Security retirement benefit or the deceased worker's Social Security benefit.

The child benefit

Children may be eligible for a Social Security benefit when one or both of their parents are disabled, retired or deceased.

For each category, GLAD explains the specific eligibility requirements and any circumstances that may cause a reduction in benefits.

The publication then explains how to apply for the benefit now, what to expect (a denial), and what to do once you are denied in order to keep your appeal alive in anticipation of DOMA being overturned.

The full publication can be downloaded free of charge on GLAD's website at www.glad.org. You can also obtain a free print copy – and get help with any specific questions you may have - by contacting GLAD's Legal InfoLine at 800-455-GLAD.