

SRJ-8 Social Security Disability Insurance: disabled adult child benefit after marriage

Allison Cameron Gray, Peter Hong, Kayla Johari, Jenay Yuen

Introduction

Though the U.S. has demonstrated significant progress towards marriage equality for many groups, people with disabilities have remained hindered through federal Social Security Act policies. Currently, due to U.S. Code Title 42 § 402(d)(1), adults with disabilities are required to terminate their disability benefits upon marriage. These benefits, specifically the disabled adult child (DAC) benefit for eligible adults living with a disability that arose prior to 22 years of age, are crucial in providing funds for basic living expenses and health insurance coverage through Medicare and Medicaid. This issue is especially pertinent to California given that about 24% of its residents have a disability, with 869,110 Californians on SSI for disability or blindness.^{1,2} **Therefore, we support bill SJR-8 proposing an amendment to 402(d)(1) of Title 42 of the U.S. Codes, allowing DAC recipients to continue receiving benefits after marriage.**

Rationale

1. Restrictive marriage policies for people with disabilities do not accurately reflect the diversity and range of abilities in this unique community.

Prior laws restricting people with disabilities from marrying were originally designed for their protection, preventing forced marriages without consent or for people with disabilities to be taken advantage of. This appropriately protected individuals with intellectual disabilities who did not have the mental capacity to make a choice such as marriage. However, the disability community has people with a wide range of abilities, capacity, and independence. Many individuals with physical disabilities are able to maintain healthy, happy relationships, and yet remain discouraged from marriage in fear of losing their benefits. Therefore, these policies impacting the entire disability community regardless of individual abilities are no longer protecting the community as a whole, but rather restraining a subset of people that do possess the mental capacity for marriage.

2. There is significant harm in removing disability benefits from recipients upon marriage.

The current status quo discourages individuals with disabilities from getting married by the threat of potentially terminating their benefits, a devastating loss. Living with a disability is extremely expensive - it is estimated that a household with an adult with a disability unable to work requires approximately 28% more income (an additional \$17,690 per year) to achieve the same standard of living as a similar household without any disabilities.³ Without governmental assistance, individuals with disabilities would have difficulty accessing vital services such as home healthcare. This unfairly places the pressure on non-disabled partners in not only physically caring for their disabled spouse, but also monetarily. For many people with disabilities, losing benefits for essential living and medical expenses is simply not an option. Therefore, marriage is not an option.

3. There are proven benefits in marriage that people with disabilities should have greater accessibility to.

Prior studies have demonstrated the advantages of legal marriage - married people have a longer life expectancy in addition to better mental health, fewer health conditions, and quicker recovery from illnesses.⁴ Other benefits are subtler, like the affirmation of being seen as a family in the eyes of the government, or in specific situations, like hospitals only allowing legal spouses to visit. However, the current Social Security Act ending DAC benefits upon marriage inadvertently discourages people with disabilities from being wed. In fact, this forfeiture could even apply to couples not legally married as long as social security determines that they are living as if they were, regardless of legality. This can be incredibly dangerous for interabled couples living together, not only discouraging legal marriage but even cohabitation and romantic relationships themselves.

4. The removal of disability benefits is inherently discriminatory against the disability community.

When a healthy adult is injured from a work accident and receives social security disability insurance, those benefits are not terminated if he or she were to later marry. Yet, this unfairly occurs with DAC benefits for adults with childhood disabilities. This discourages specifically interabled relationships, for couples with both partners receiving DAC benefits are allowed to retain yet an interabled couple must forfeit and place the hefty monetary healthcare burden on the non-disabled spouse. Taking away DAC benefits forces people with disabilities to choose between their source of income and love. Marriage is a human right, and this exact right is at threat with the U.S. Code Title 42 § 402(d)(1).

Summary

The U.S. Code Title 42 § 402(d)(1) currently requires California residents with disabilities, 24% of the state population, to terminate their much-needed DAC benefits upon marriage. This policy, though likely designed to protect people with disabilities, rather discourages those in the disability community who do have the capacity to maintain healthy relationships from pursuing marriage in fear of losing their benefits. Many depend on these benefits for basic living and substantial healthcare expenses, unable to feasibly forfeit them and rely on their abled partner for monetary support. This specifically discriminates against the community of congenital and childhood disabilities, discouraging them from experiencing the benefits of marriage or even serious relationships regardless of legality while still allowing adults with work injuries to receive insurance regardless of marriage status. Marriage is a human right that should be available to all, regardless of someone's ability or lack thereof. Therefore, we support bill SJR-8 and the recommendation of amending 402(d)(1) to permit DAC recipients to continue receiving benefits after marriage.

References

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4. Adshade, M. (2019, November 6). *Does marriage really make us healthier and happier?* Institute for Family Studies.