

How Social Security Benefits May Reduce Your Workers' Compensation Payments



Washington State Department of
Labor & Industries
Workers' Compensation Services

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Overview

If you are receiving payments from Labor and Industries (L&I) due to a job-related injury or illness, you may also apply for Social Security Disability or Retirement benefits.

If you begin receiving payments from both the Social Security Administration (SSA) and L&I, your benefits may be reduced. This reduction in benefits is referred to as an “offset.”

Either L&I or SSA may offset your benefits if you receive benefits from both agencies. The maximum amount you will receive from both agencies combined may be higher than what you would be entitled to from either agency individually. You shouldn't be offset from both agencies at the same time.



Why your benefits may be reduced

Since 1965, SSA has been required by law to reduce your social security disability benefits when you are receiving workers' compensation payments.

Washington State is a “reverse offset state.” This means that your workers' compensation payments can be reduced instead of your social security payments based on Washington State laws and federal law.

- RCW 51.32.220 gives L&I authority to reduce workers' compensation benefits when a worker is receiving social security disability benefits.
- RCW 51.32.225 gives L&I authority to reduce workers' compensation benefits when a worker is receiving social security retirement benefits.

The amount you can receive from both L&I and SSA combined is limited, and the reason why one of your benefits may be reduced.

SSA can offset your Social Security Disability benefits between the ages of 62 and your receipt of retirement benefits. You must contact SSA if you have questions regarding your federal benefits.

How your offset is calculated

Combined Benefit Limit (workers' compensation & social security)

Your offset is calculated based on:

1. 80% of your average current earnings (ACE). Your ACE is based on a specified period of your highest monthly earnings. SSA may provide us with your ACE.
2. Your monthly Social Security Benefit for ALL members of your household, also called your Total Family Benefit (TFB).
3. Your time-loss or pension rate from L&I.

Your combined benefit limit is the highest of the three numbers above. We will reduce your workers' compensation benefit to meet the combined benefit limit.

Average Current Earnings (ACE)

SSA typically provides the ACE figure. In the event that they haven't, please provide any of these documentation types to help us establish your ACE figure:

- W2 forms
- Income tax records
- Social Security documentation of wages reported to the Internal Revenue Service (IRS) for tax purposes.
- Or, you may contact your local Social Security office and ask for an "Earnings Record," also called a "SEQY."
- Go to www.ssa.gov, select Online Services, then "Get your Social Security Statement." You will need to create an account if you do not already have one. Once you are logged in, use the "Print/Save Your Full Statement" option to create your personalized statement. Please write your claim number on your earnings history before submitting it to L&I.

Questions you may have about ACE

May I submit proof of higher wages to increase my average current ACE?

Yes. If you disagree with our decision, you must send in a written protest with proof of higher wages within 60 days of the order being communicated to you. You may also file an appeal through the Board of Industrial Insurance of Appeals.

If my social security rate changes or my federal entitlement date changes, what happens to my workers' compensation benefits?

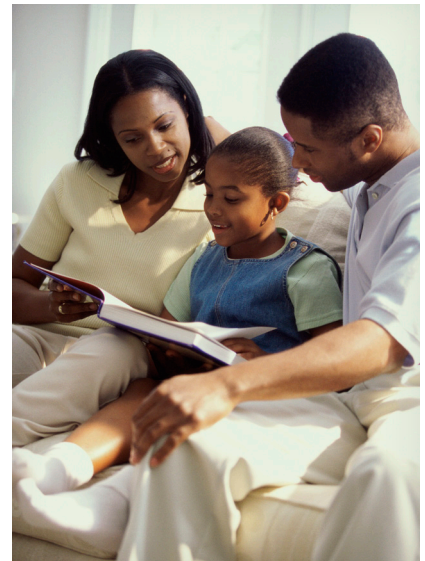
Your offset is calculated based on the social security rates in effect during the first month your offset is considered. If new information is received from SSA, your offset may be recalculated. Please contact L&I if your situation changes.

Total Family Benefit (TFB)

TFB is your monthly social security payment before deductions, including payments for your spouse or child(ren) living in the same household.

Your TFB may decrease when your youngest child, who is receiving social security benefits, turns 18.

TFB does not increase with the cost of living adjustments you receive from the SSA. In most cases, once we have determined your TFB, it does not change. However, special circumstances may apply, so it is important to notify us of any changes to your social security benefits other than cost of living adjustments.



Triennial redeterminations and cost of living adjustments (COLA)

Once an offset is in place, your claim will be reviewed every three years on January 1 to determine if you are eligible for a higher compensation rate. This is called a “Triennial Redetermination.”

If you do not benefit from a Triennial Redetermination, you may receive a COLA each year on July 1, if granted by state legislation.

For more information, visit www.ssa.gov/news/cola.

Age 62 and full federal retirement

If you are receiving Social Security Disability benefits and have reached age 62, SSA can take jurisdiction over your offset until you have reached full federal retirement age. This means that instead of L&I reducing your workers’ compensation benefits, SSA can reduce your Social Security Benefits.

Both agencies cannot reduce both benefits at the same time (referred to as “double offset.”)

If you receive notice from SSA they plan to reduce your social security benefits at age 62, please contact us **immediately** so we can temporarily remove our offset of your workers’ compensation benefits. L&I will reduce your workers’ compensation benefits again when you start receiving Social Security Retirement benefits.

You may want to check with SSA to determine benefit levels.



Overpayments

If SSA is recovering an overpayment from your federal benefits, L&I considers the total amount of social security benefits you would receive without the overpayment deduction.

Questions you may have about overpayments

Can there ever be an overpayment of my workers' compensation benefits because of my receipt of social security benefits?

Yes. L&I may begin reducing your workers' compensation benefits after the month L&I is notified that you are receiving SSA benefits. However, L&I must also give you written notice of the reduction of benefits during the month before the reduction begins. These requirements may result in an overpayment of benefits.

For example, L&I receives verification of your benefits from SSA on Oct. 15, so your offset is effective on Nov. 1. However, L&I notifies you of the planned offset on Nov. 3 and may not begin reducing your benefits until Dec. 1. By then, a one-month overpayment would have accrued for the month of November.

What happens if there is an overpayment in my workers' compensation benefits?

L&I must notify you when you have an overpayment and let you know you are required to make repayment. RCW 51.32.220 limits the SSO overpayment to a six month period prior to the offset order.

If L&I overpays benefits to you, we will recover the overpayment from future benefit payments. The amount we deduct will not exceed 25% of the amount of the payment. The exception to this rule occurs if you receive permanent partial disability (PPD) benefits. In that instance, L&I may recover the overpayment up to the full amount of the PPD benefit.

L&I's Director has the authority to waive any offset overpayment (in whole or in part) at his or her discretion, where recovery would be against equity and good conscience.

Questions you may have about benefits, spouse and dependents

How is my offset affected if my spouse, dependent, or both receive benefits under my social security number?

Social security benefits paid to your spouse, dependent or both are used in the offset calculation.

If my spouse, dependent or both receive social security benefits under their own or another person's social security number are my benefits effected?

No. When your spouse, dependent or both receive social security benefits under social security numbers other than yours, your benefits are not affected. We only consider an offset of benefits under your social security number.

If I receive social security benefits under another person's social security number are these offset?

No. If you receive all your social security benefits under a social security number other than your own we don't offset those benefits.

Special situations

Can I get credit against my offset for my attorney's fees?

No. L&I does not offset or give offset credit for attorneys' fees paid for any reason.

What if I have a lien against my workers' compensation benefits for current or back due child support?

L&I is required by law to honor Division of Child Support (DCS) liens which may request and receive up to 50% of your workers' compensation benefit entitlement.

How to notify L&I

The most important thing to remember is that you must notify L&I if you have applied for, or are receiving, Social Security benefits. In most cases, timely notification can help you avoid an overpayment assessment.

To notify L&I:

- Call 360-902-5119, or
- Fax 360-902-6455, or
- Send a secure message using Claims & Account Center at www.Lni.wa.gov/CAC, or
- Write us at:
Pension Benefits
Dept. of Labor & Industries
P.O. Box 44281
Olympia, WA 98504-4281

Once we are notified that you may be receiving social security benefits, we will work with SSA to confirm your status and obtain the information we need to determine any potential offset amount.

