



*Do you want
to know who some
of the people
affected by the
marriage penalty are?*

*Well, it's
PEOPLE like ME!*

Marilyn Martinez
Disability Advocate
Albuquerque, New Mexico

My name is Marilyn Martinez and I've been fighting since 2000 to repeal the **marriage penalty** that exists against people with disabilities and seniors who receive SSI (Social Security Income).

The **marriage penalty** could cause me to lose 25% of my monthly SSI benefits and 25% of my ability to hold savings or other certain assets just because I choose to marry or live with someone that I love very much and want to form a life-long fulfilling relationship with. SSI benefits are barely enough to put food on the table and by reducing our monthly benefits and ability to save toward our future, we would be forced further into poverty.

EXAMPLE:

Single person's monthly benefit:	\$ 733	(x 2 persons should equal \$1,466)
Single person's total allowable assets:	\$2,000	(x 2 persons should equal \$4,000)

...BUT BECAUSE OF THE MARRIAGE PENALTY I COULD LOSE 25% OF MY BENEFITS:

Married person's monthly benefit:	\$ 550.00	(x 2 persons equals \$1,100, less 25%)
Married couple's total allowable assets:	\$3,000.00	(x 2 persons equals a loss of \$1,000, less 25%)

Therefore, a couple's annual income would be reduced from \$17,592 to \$13,200, a loss of \$4,392.

Of the three major public assistance programs, TANF, SNAP and SSI, SSI is the only program to use marital status to reduce the amount of an individual's benefit, thereby penalizing people like me for choosing to marry.

Thank you for passing SENATE MEMORIAL 3 and HOUSE MEMORIAL 15 during the 2015 Regular Session encouraging every member of Congress, every Governor and our President to repeal the marriage penalty. I urge you to continue supporting, and others like me, educate our leadership about this discrimination so that we may band together and share this urgent message.

SENATE MEMORIAL 3: REQUESTING CONGRESS TO REMOVE THE MARRIAGE PENALTY FOR PERSONS WITH A DISABILITY WHO RECEIVE SUPPLEMENTAL SECURITY INCOME

Passed in the 2015 Regular Session Sponsor: Senator Ortiz y Pino

HOUSE MEMORIAL 15: REMOVE THE MARRIAGE PENALTY FOR CERTAIN PERSONS

Passed in the 2015 Regular Session Sponsor: Representative C. Trujillo

1 A MEMORIAL

2 REQUESTING CONGRESS TO REMOVE THE MARRIAGE PENALTY FOR
3 PERSONS WITH A DISABILITY WHO RECEIVE SUPPLEMENTAL SECURITY
4 INCOME.

5
6 WHEREAS, individuals with disabilities have the same
7 needs as people without disabilities to develop and maintain
8 permanent loving relationships and want to marry and live as
9 full members of their communities; and

10 WHEREAS, individuals with disabilities often depend on
11 supplemental security income from the federal social security
12 administration, along with other government benefits to meet
13 their basic living requirements; and

14 WHEREAS, of the three major public income assistance
15 programs, the federal temporary assistance for needy
16 families, the supplemental nutrition assistance program and
17 the supplemental security income program, the supplemental
18 security income program is the only program to use marital
19 status to reduce the amount of an individual's benefit; and

20 WHEREAS, a person with disabilities who receives
21 supplemental security income benefits is penalized for
22 marrying; and

23 WHEREAS, effective January 1, 2015, an unmarried
24 individual who qualifies for supplemental security income
25 receives seven hundred thirty-three dollars (\$733) per month

1 in benefits, with strict limits on resources in the amount of
2 two thousand dollars (\$2,000) that individuals receiving
3 supplemental security income are allowed to hold in any given
4 month; and

5 WHEREAS, when two individuals with disabilities who are
6 both receiving supplemental security income marry or, in some
7 cases, cohabitate with a member of the opposite sex, hold
8 money in the same bank account or meet other criteria that
9 the federal social security administration follows to
10 recognize a couple as being married, social security
11 administration laws require that their supplemental security
12 income benefits be reduced by twenty-five percent; and

13 WHEREAS, this reduces a married couple's joint income by
14 three hundred sixty-six dollars (\$366) per month, thereby
15 diminishing the couple's joint benefit to one thousand one
16 hundred dollars (\$1,100) per month, representing an annual
17 loss of four thousand three hundred ninety-two dollars
18 (\$4,392); and

19 WHEREAS, the amount of resources allowed to be held by a
20 married couple at any one time is also reduced by twenty-five
21 percent, from four thousand dollars (\$4,000) to three
22 thousand dollars (\$3,000); and

23 WHEREAS, such laws not only penalize the couple, but
24 also mean that, as a couple, they will live further below the
25 poverty line than they already do as individuals; and

1 WHEREAS, if only one person in the marriage is disabled
2 and receives supplemental security income benefits, the
3 penalty still applies and the individual may lose benefits
4 altogether, depending on the couple's income and assets; and

5 WHEREAS, during the second session of the
6 one-hundred-thirteenth congress, the Supplemental Security
7 Income Restoration Act of 2014 was introduced by United
8 States Senators Sherrod Brown and Elizabeth Warren to amend
9 Title 16 of the federal Social Security Act to update
10 eligibility for supplemental security income; and

11 WHEREAS, this proposed legislation has been endorsed by
12 more than fifty organizations across many states; and

13 WHEREAS, this proposed legislation recognizes that
14 supplemental security income has not been updated since 1972
15 and includes a section that increases the amount of resources
16 allowed to be held from two thousand dollars (\$2,000) to ten
17 thousand dollars (\$10,000) per individual, but the proposal
18 still includes a twenty-five-percent marriage penalty by
19 reducing the allowable resources for a couple to fifteen
20 thousand dollars (\$15,000), when individually each, if
21 unmarried, would be allowed ten thousand dollars (\$10,000);

22 NOW, THEREFORE, BE IT RESOLVED BY THE SENATE OF THE
23 STATE OF NEW MEXICO that the United States congress be
24 requested to repeal the marriage penalty for people with
25 disabilities and others who rely on supplemental security

SM 3
Page 3

1 income; and

2 BE IT FURTHER RESOLVED that federal and state public
3 assistance programs not penalize individuals with
4 disabilities for fully participating in loving and supportive
5 relationships, including marriage; and

6 BE IT FURTHER RESOLVED that copies of this memorial be
7 transmitted to each member of the United States congress,
8 to each member of the New Mexico legislature, to the
9 governors of all fifty states and to the president of the
10 United States. _____

SM 3
Page 4

A MEMORIAL

REQUESTING CONGRESS TO REMOVE THE MARRIAGE PENALTY FOR PERSONS WITH A DISABILITY WHO RECEIVE SUPPLEMENTAL SECURITY INCOME.

WHEREAS, individuals with disabilities have the same needs as people without disabilities to develop and maintain permanent loving relationships and want to marry and live as full members of their communities; and

WHEREAS, individuals with disabilities often depend on supplemental security income from the federal social security administration, along with other government benefits to meet their basic living requirements; and

WHEREAS, of the three major public income assistance programs, the federal temporary assistance for needy families, the supplemental nutrition assistance program and the supplemental security income program, the supplemental security income program is the only program to use marital status to reduce the amount of an individual's benefit; and

WHEREAS, a person with disabilities who receives supplemental security income benefits is penalized for marrying; and

WHEREAS, effective January 1, 2015, an unmarried individual who qualifies for supplemental security income receives seven hundred thirty-three dollars (\$733) per month in benefits, with strict limits on resources in the amount of

two thousand dollars (\$2,000) that individuals receiving supplemental security income are allowed to hold in any given month; and

WHEREAS, when two individuals with disabilities who are both receiving supplemental security income marry or, in some cases, cohabitate with a member of the opposite sex, hold money in the same bank account or meet other criteria that the federal social security administration follows to recognize a couple as being married, social security administration laws require that their supplemental security income benefits be reduced by twenty-five percent; and

WHEREAS, this reduces a married couple's joint income by three hundred sixty-six dollars (\$366) per month, thereby diminishing the couple's joint benefit to one thousand one hundred dollars (\$1,100) per month, representing an annual loss of four thousand three hundred ninety-two dollars (\$4,392); and

WHEREAS, the amount of resources allowed to be held by a married couple at any one time is also reduced by twenty-five percent, from four thousand dollars (\$4,000) to three thousand dollars (\$3,000); and

WHEREAS, such laws not only penalize the couple, but also mean that, as a couple, they will live further below the poverty line than they already do as individuals; and

WHEREAS, if only one person in the marriage is disabled

and receives supplemental security income benefits, the penalty still applies and the individual may lose benefits altogether, depending on the couple's income and assets; and

WHEREAS, during the second session of the one-hundred-thirteenth congress, the Supplemental Security Income Restoration Act of 2014 was introduced by United States Senators Sherrod Brown and Elizabeth Warren to amend Title 16 of the federal Social Security Act to update eligibility for supplemental security income; and

WHEREAS, this proposed legislation has been endorsed by more than fifty organizations across many states; and

WHEREAS, this proposed legislation recognizes that supplemental security income has not been updated since 1972 and includes a section that increases the amount of resources allowed to be held from two thousand dollars (\$2,000) to ten thousand dollars (\$10,000) per individual, but the proposal still includes a twenty-five-percent marriage penalty by reducing the allowable resources for a couple to fifteen thousand dollars (\$15,000), when individually each, if unmarried, would be allowed ten thousand dollars (\$10,000);

NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF NEW MEXICO that the United States congress be requested to repeal the marriage penalty for people with disabilities and others who rely on supplemental security income; and

BE IT FURTHER RESOLVED that federal and state public assistance programs not penalize individuals with disabilities for fully participating in loving and supportive relationships, including marriage; and

BE IT FURTHER RESOLVED that copies of this memorial be transmitted to each member of the United States congress, to each member of the New Mexico legislature, to the governors of all fifty states and to the president of the United States.

TESTIMONY TO DISABILITIES CONCERNS SUBCOMMITTEE, September 25, 2015

UPDATE ON REPEALING THE MARRIAGE PENALTY FOR RECIPIENTS OF SSI

Ms. Marilyn Martinez, *Advocate for People with Disabilities*, Albuquerque, New Mexico
and

Ms. Nat Dean, *Disability Advocate*, Santa Fe, New Mexico

Madam Chair, members of the committee: We have been requested to provide an update on what has happened at the congressional level as the result of the passage of both a House Memorial (HM15) and a Senate Memorial (SM3) during the 2015 Regular Session of the 52nd Meeting of the New Mexico State Legislature. These memorials were concerned with repealing the marriage penalty that affects both people who have disabilities and some senior citizens who receive of federal SSI (Social Security Income) benefits. *(Copies of both memorials are in your packet.)* In our update we will also address selected portions of current congressional actions to address Social Security Reform and an effort to cut Social Security Benefits.

First, an overview of what the marriage penalty means. When two individuals of the opposite sex, (there is currently no penalty for same sex couples, whether married or in a "civil union"), either marry or even represent themselves in such a way that Social Security views the couple as married, (i.e. sharing a joint checking account, sharing a household, sharing utility bills and so on), and both individuals are receiving SSI benefits, one person within the couple will have their benefits reduced by 25%. In addition, when someone is receiving SSI benefits, they are not allowed to hold more than \$2,000 in assets (not including owning a primary residence, one car or other tools for daily living, but does include monies held in checking or savings, IRA's, 401K's, stocks and bonds in addition to life insurance or burial benefits with a face value of over \$1,500 per person, etc.). Under the marriage penalty, instead of allowing the couple recognized as married to hold \$4,000 in assets, the couple is only allowed to hold \$3,000 in combined assets... imposing another reduction of 25%. *(Included in your packet is a fact sheet from Marilyn indicating SSI 2015 benefit levels -- hardly enough to live on - and the exact impact of this penalty in dollars and cents.)*

In some cases, if an individual receiving SSI benefits marries someone who is not receiving SSI benefits, the SSI beneficiary's benefits will still be cut because the spouse who has other income or holds assets of more than the allowable limits will have part of their income or assets "deemed" to their partner, thereby either reducing their partners benefits or eliminating those benefits altogether. One especially harsh way around avoiding some amounts of income to be deemed is for the spouse to fill out a "spousal refusal form" promising that they will refuse to pay for certain aspects of their own partner's care such as a personal care attendant or medical equipment, leaving their partner to the their own devices.

What repealing the marriage penalty would mean is that the same rights and privileges would be afforded to everyone who wishes to fulfill the desire to share their life with someone else in a meaningful relationship without these punitive restrictions. People with disabilities feel particularly affected by the marriage penalty because it sends a message that discourages the formation of a family unit, creates a situation of enforced poverty and forces an inability to better their lives. Of the three benefits afforded to low income individuals; TANF (Temporary Assistance to Needy Families), SNAP

(Supplemental Nutritional Assistance Program) and SSI: SSI is the only program that enforces a marriage penalty on couples.

The two New Mexico marriage penalty memorials of 2015 – which passed unanimously on the floor of the House and passed unanimously in two Senate committees and on the floor of the Senate in a showing of bi-partisan support - both expressed a commitment to repealing the SSI marriage penalty and requested that the New Mexico House of Representatives and the New Mexico Senate each transmit letters with a copy of the respective memorials to every member of Congress, every Governor in the United States and to the President of the United States. Within approximately two weeks after the close of the 52nd Session of the New Mexico State Legislature, both the Clerk of the House and the Clerk of the Senate mailed out over 600 letters encouraging the repeal of the marriage penalty affecting SSI recipients who simply wish to have the same freedoms as everyone else. *(Please request of copy if you would like one.)* New Mexico is not the only state to speak out on this issue, 25 plus other states and many, many advocacy organizations that support the rights of people with disabilities and seniors have been champions for repeal of these discriminatory measures.

Unfortunately, there has not been any direct action thus far in Congress reflecting the outcry coming from so many entities who are advocating for this important change, so our work must continue. Outreach through calls, letters, visits to Capitol Hill, media and beyond remain steady in hopes that repeal will occur. What has happened over the past few years in Congress are several things that we, and many others, are following very closely concerning possible cuts to Social Security and the reform of Social Security. Social Security is a complicated beast with many complex ins and outs that we can only scratch the surface in our time today, but we hope that the committee will come away this morning with some understanding of just a few congressional actions where the presence of the marriage penalty continues to be of great concern.

Later this morning you will also hear details about some other financial instruments such as Special Needs Trusts and Pooled Trusts, plus Congress passing the ABLE Act of 2014 (Achieving a Better Life Experience) allowing states to set up ABLE 529 savings accounts (similar to a 529 college savings plan) if New Mexico joins a number of other states in passing state legislation permitting New Mexico banks to operate ABLE 529 savings accounts. There is also the PASS (Plan to Achieve Self-Support) which is a savings plan under Social Security crafted by typically working with a consultant via DVR (Department of Vocational Rehabilitation) allowing certain monies to be set aside from counting toward asset limits to pay for items such as education, an accessible vehicle or other certain approved future expenses with a goal to return to work. These are all avenues that allow for a person with disabilities to set aside certain assets under strict guidelines, but we are here before you now to address the freedom of choice to marry or cohabitate without having your income or assets be penalized for this personal and private life decision.

In January of 2015 during the 114th Congress there was a proposed rule change by Representative Tom Reed (R-NY) in the House that would have resulted in about a 20% cut to Social Security benefits in 2016 by preventing lawmakers from reallocating some payroll tax revenue from the retirement program to disability benefits, a historically non-controversial measure that Congress has taken 11 times in the past. Avoiding this would potentially force a debate to address even more wide-reaching changes to Social Security. In part, the proposed rule change would have prevented lawmakers from transferring funding from the Social Security retirement and survivors trust (aka: Old Age and Survivors Insurance or OASI) fund to the Disability Insurance (DI) trust fund. In part of an attack on Social Security Disability, public statements were made by Senator Rand Paul (R-KY) that, among

other claims, "Over half the people on disability are either anxious or their back hurts." We know this not to be true from the factual statistics reporting the demographics of people who receive disability benefits - disabled workers, disabled widow(ers) and adult disabled children. *(Please request the chart if you would like a copy.)* A proposed rule change would have bypassed a full congressional vote.

In the 113th Congress in 2013-2014 H.R. 1601, The Supplemental Security Income Restoration Act of 2013, was sponsored by Representative Raul M. Grijalva (D-AZ) and had 20 co-sponsors, none of who were from New Mexico. It was referred to the House Committee on Ways and Means. S. 2089, a companion bill to H.R. 1601, called The Supplemental Security Restoration Act of 2014, sponsored by Senator Sherrod Brown (D-OH) and co-sponsored by Senators Elizabeth Warren (D-MA) and Brian Schatz (D-HI) was referred to the Senate Committee on Finance. Both pieces of legislation requested, among other things, that there be an adjustment to monthly benefits and for our conversation today we will focus on the fact that the asset limit was proposed to be raised from \$2,000 per individual to \$10,000 per individual, but unfortunately the marriage penalty was still intact, reducing the income of one marriage partner's SSI benefits by 25% (or more if "deeming" were to occur) down to \$1,500 in addition to the combined asset limit reduction from \$20,000 for a couple to \$15,000 for a couple. Although such an increase represented progress on one front, the fact that the House Resolution and the Senate Bill both still upheld the marriage penalty was discouraging.

In the 114th Congress in 2014-2015, The Social Security Reform Act was reintroduced again in the Senate as S. 1387, again sponsored by Senator Sherrod Brown (D-OH), but this time with a large number of co-sponsors (11 Democrats and 1 Independent), including two Senators from New Mexico: Congressmen Tom Udall (D-NM) and Martin Heinrich (D-NM). The bill was read twice in the Senate and referred to Senate Finance on May 19, 2015, where committee membership consists of nine Democrats and 11 Republicans. The Chair is Senator Mike Inzi (R-WY) and the Ranking Member is Senator Bernie Sanders (I-VT). There is no one from New Mexico on Senate Finance. Unfortunately, the marriage penalty is again intact within the bill, although in past communications with staffers from and Senator Heinrich's and Senator Udall's office on Capitol Hill and directly the Congressmen themselves during their visits home, there appears to be an awareness of the impact the marriage penalty has had on SSI recipients. It is our hope that we can further nourish this understanding to bring more attention to the issue and perhaps propose a friendly amendment if the appears climate favorable to do so.

One of the actions prompted by the proposed rule change put forth in the House during the 114th Congress which we mentioned earlier, is a bill, S.20, titled The Social Security Lock-Box Act of 2015, sponsored by Senator David Vitter (R-LA) that has been referred to the Senate Committee on the Budget. (Committee membership consists of 11 Democrats, 10 Republicans and 2 Independents with no one from New Mexico.) It would amend the Congressional Budget Act of 1974 to establish a procedure to safeguard the Social Security trust funds. It would prevent the program's excess funds from being used for any purpose other than to provide retirement security.

Clearly Social Security reform is a complicated issue within government and is especially concerning both to people with disabilities and seniors - sometimes with concerns that are in competition with one another. In a world that is always fluid, many things occur throughout our county and the international scene that can quickly bounce congressional attention from one issue to another causing many issues to remaining quietly in the background, waiting for attention to return their way so there can be forward movement. As in any legislative process, be it state or federal, change usually happens in 'baby steps' and it's difficult, at best, not to become discouraged and/or confused when the attention never returns.

We must grasp every opportunity to keep taking those 'baby steps' forward and educate our congressional leaders about the impact that the public policy they create and cast their votes on has on the day-to-day lives of their constituents. It takes being present in any manner that each individual can muster, using whatever method is at hand to influence the making of public policy that will create the most positive benefit for all. It is especially important to represent the interests of those who do not have the ability to easily voice their own concerns.

We are very grateful that the New Mexico House and Senate took a huge bi-partisan leap of action together toward helping facilitate the change that many people seek in order to repeal the marriage penalty by taking a stand and passing HM15 and SM3. It is the responsibility of all of us to continue carrying on the momentum to see this through. Both of us before you today, in concert with many, many other advocates and advocacy groups both in New Mexico and nationwide, will keep writing letters, making calls, using media, traveling to Capitol Hill for face-to-face meetings with staffers or our congressional members, speaking with policy makers at special events, making visits to local field offices, giving public presentations to raise awareness at conferences and special events and anything else we can do to make contact wherever we can possibly try to create further dialogue and keep it going... we won't rest until there is tangible change and we meet our ultimate goal.

Isn't that what all of us are here for today? To support what works, improve what doesn't and create supports where there is recognized need.

With that we want to thank you for your time and attention and for your request to appear before the Interim Disability Concerns Subcommittee at today's hearing. If there is anything we have presented to you this morning that you would like further information about or things you would like us to research further for you, please let us know and we will get back to you in short order. We now stand for questions from the committee, thank you.

(The information contained herein is to the best of our knowledge and what was available on this date.)