

FOR IMMEDIATE RELEASE

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Media Advisory

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(NOTE TO EDITORS: Due to the nature of their testimonies, people at this event may wish to remain anonymous. We ask your cooperation in maintaining their confidentiality by not revealing their images/names to the public. Please ask us for assistance to arrange interviews with the people affected by this issue.)

Couples with Disabilities Take on SSI Marriage Penalty

Who: People First of Montana

What: Present personal testimony on the SSI “Marriage Penalty,” and a petition with 2500 signatures to Montana’s Congressional delegation. The testimony and petition ask for Congress to change SSI policies that discriminate against people with disabilities who marry, and that punish them for celebrating marriage and family values.

Where: Downstairs Large Room, Jorgensons Inn

When: 3 p.m., Friday, September 26, 2008

Why: Many people with disabilities live on a \$637/month federal SSI benefit, an amount that is about 75% of the poverty level. When two unmarried SSI recipients live in the same household and share expenses, each continues to receive a full \$637/month SSI benefit. However, when two people with disabilities of the opposite sex marry, and one or both receive SSI, their combined benefit as a couple (\$956/month) is reduced to 75 percent of the total of their two individual benefits ($\$637/\text{mo} + \$637/\text{mo} = \$1274/\text{month}$).

As a result, SSI recipients with disabilities who wish to marry like their typical peers, in accordance with social convention and/or their faith, hesitate to do so, or choose not to marry at all rather than risk the loss of precious dollars needed for basic food and shelter, as well as for disability related expenses.

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Seeking to challenge this policy that treats people who share households differently based on their marital status, People First of Montana enlisted the assistance of several other groups to form a Montana Marriage Penalty Task Force. Members of the Task Force come from Disability Rights Montana, People First of Montana, the Montana Advocacy Coalition, the State Independent Living Council, the disability rights organization ADAPT, the Rural Institute at the University of Montana, and the general citizenry.

Why is there a marriage penalty?

The original reduction in benefits for a married couple, or a couple deemed to be married under Social Security rules, was put into place on the premise that there are “economies of scale” when two or more people live together. This “economies of scale” premise in SSI was patterned on the “economies of scale” present in the TANF program (originally ADC/AFDC) for families. When Congress implemented this “economies of scale” concept for married SSI recipients, they did so with no consideration for the extra costs faced by people with disabilities because of their disabilities.

And since SSI monthly benefit amounts have not kept up with the steadily rising costs of food, shelter and transportation, etc., an SSI dollar buys less and less every year. “Priced Out in 2006,” a national housing study published in 2007, found that the national average rent for a studio/efficiency apartment was **less** than a full SSI monthly benefit.

A further complication exists for people with disabilities because the definition of “married” under the SSI program is broader than the common definition. The Social Security Administration (SSA) may deem a couple to be “married” for SSI purposes if they “hold themselves out as husband and wife to their community,” even though they do not meet the legal definition for marriage in the state in which they live. The expanded definition of marriage applies to situations where either one or both members of a couple are receiving SSI.

Typically when applying for SSI, proof of marital status is not required if the person does not live with an unrelated person of the opposite sex, and claims not to be married. However, if a person lives with an unrelated person of the opposite sex, each must explain their relationship and answer certain questions. Some of these questions include what names the two are known by, whether they introduce themselves as “husband and wife,” what names they use on their mail, who owns or rents their home, and if there are any bills, installment contracts, tax returns or other papers that show them as husband and wife.

How people answer those questions, along with other factors, is used by SSA to determine whether two individuals have “held themselves out to the community as married.” Therefore, SSA can consider a couple to be married even if the couple has never been *legally* married.

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Too often, people with disabilities who rely on SSI choose to live secretly with a partner to maintain vital benefits at amounts that barely cover basic food and shelter costs..

The U.S. Supreme Court has found that SSA's marriage penalty does not violate the Due Process Clause of the Fifth Amendment, which prevents the government from depriving citizens of property, without due process. Unless another avenue for legal challenge emerges, Congress is the remedy for any potential "fix" that would change SSA regulations so that each beneficiary is treated as an individual.

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Disability Rights Montana is the federally mandated civil rights Protection & Advocacy System for Montana. Our mission is to protect and advocate for the human, legal and civil rights of Montanans with disabilities while advancing dignity, equality, and self-determination.