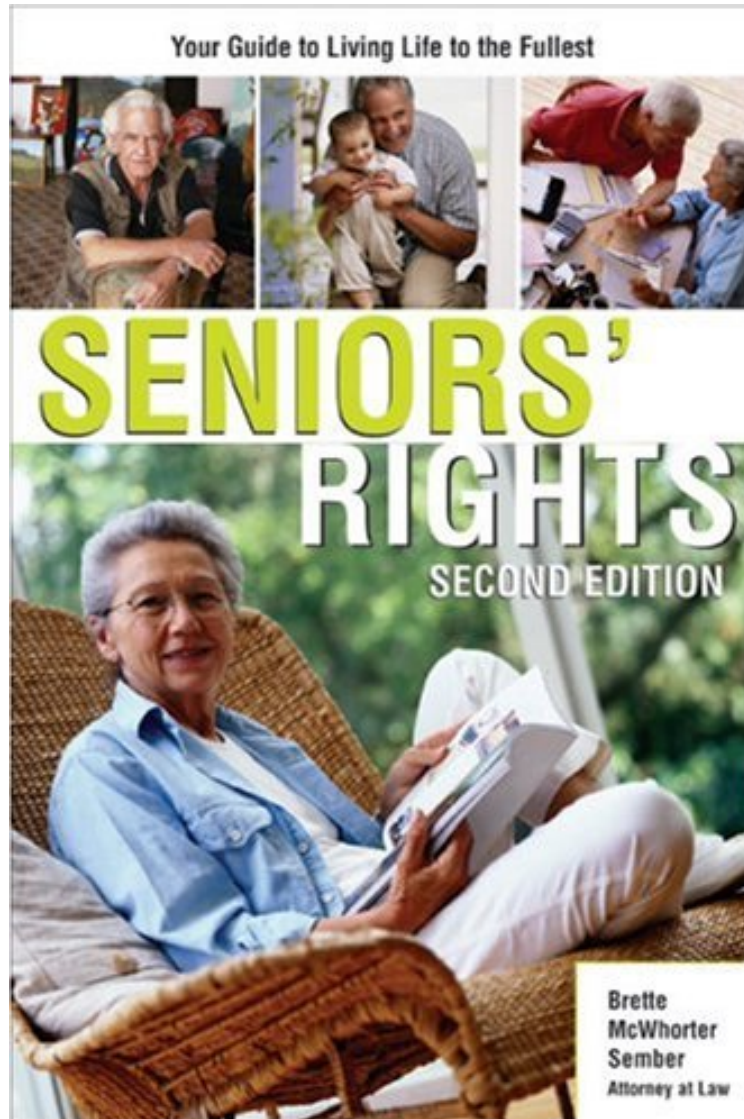


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Seniors' Rights: Your Guide to Living Life to the Fullest

Brette McWhorter Sember

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Brette McWhorter Sember : Seniors' Rights: Your Guide to Living Life to the Fullest before purchasing it in order to gage whether or not it would be worth my time, and all praised Seniors' Rights: Your Guide to Living Life to the Fullest:

SPEND THIS TIME ENJOYING LIFE-NOT WORRYING ABOUT THE FUTURE Admit it. Growing older has

some perks. Special discounts and exclusive benefits are just a few of the things you can now take advantage of. There are also several programs and government regulations that now play a bigger role in your life. Have you explored all the options available to you for a secure future? Seniors' Rights is designed to help you make the most of everything you are entitled to and maximize benefits to the fullest. It provides essential information on topics ranging from health care and health insurance to where to live and how to travel. This book details ways to make the golden years your best years, with helpful tips on:--Who are the best employers for seniors --What housing choice is best for you--When to apply for your Social Security benefits--Where to find tax assistance--How to protect yourself from fraud You have a lot of changes ahead of you. Be prepared to make the most of each and every one of them by using Seniors' Rights as your guide. SENIORS' RIGHTS PROVIDES CRUCIAL information on:--Financial Planning--Reverse Mortgages--Retirement--Social Security--Medicare--Home Safety--Property Tax Exemptions--Assisted Living--Scams--Discrimination--Grandparents' Visitation--Veterans' Benefits--Long-Term Care Insurance--Wills and Estates

About the Author Brette McWhorter Sember is a former New York state attorney and skilled mediator. She was on the Law Guardian panel in four counties and acted as a volunteer mediator for the Better Business Bureau. Sember is an expert at explaining and simplifying legal concepts. She has written more than 30 books, including File for Divorce in New York, Tenant's Rights in New York, Landlord's Rights in New York, The Complete Legal Guide to Senior Care, The Complete Credit Repair Kit, The Infertility Answer Book, The Adoption Answer Book, How to Parent with Your Ex, Gay Lesbian Legal Rights, How to Form a Corporation in New York, Child Custody, Visitation, and Support in New York, Seniors' Rights and many more. Her web site is www.BretteSember.com. Excerpt. Reprinted by permission. All rights reserved. Seniors' Employment Rights Excerpted from Seniors' Rights, 2E by Brette McWhorter Sember 2007 Continuing to work is an important right for many seniors. Laws against age discrimination in employment do exist, but there are some allowable mandatory retirement situations. Many seniors are interested in finding other work after retirement. Other seniors are ready to leave the workforce, or have already done so. Volunteering is an option some seniors wish to explore as well. This chapter explains your rights and limitations with regard to employment. WORKING AFTER RETIREMENT Choosing to work after retirement is a way to stay active and involved. For many seniors, this can be the beginning of a new career, or it can be a way to explore other interests and meet new people. Employment Discrimination The Age Discrimination in Employment Act is a federal law that prohibits employers from making hiring, firing, compensation, or promotion decisions based on age. Employers also cannot use age to limit, segregate, or classify employees so that they would be deprived of employment opportunities or negatively affected in their employment status. (For example, it would be against the law to move workers of a certain age to a separate building.) The law protects anyone age 40 or older who works for an employer with twenty or more employees. The law does not prohibit an employer from asking a potential employee his or her age or date of birth. There are some exceptions to the law that have to do with mandatory retirement ages. Currently, mandatory retirement ages can be as low as age 55. The law allows employers to set mandatory retirement ages in two situations: 1. for bona fide executives or high policy-making positions that carry a retirement benefit of at least \$44,000; or, 2. positions in which age can affect job performance and public safety is involved in some way, such as with police officers or pilots. The employer must show that all or nearly all workers above the mandatory retirement age lack the qualifications for the job, or that it would be very difficult for the employer to be able to test each person to determine if he or she still has the necessary job qualifications. Another federal law, the Older Workers Benefit Protection Act, prohibits employers from denying benefits to workers because of age. Employers can reduce a worker's benefits because of his or her age only if the cost of the reduced benefits is equal to the cost of benefits currently provided to younger workers. Examples of discrimination include being given a lower salary than someone in an equivalent position with equivalent experience; being denied an interview or not hired because of age; or, being fired because of age. If you believe that you have been discriminated against by an employer or potential employer because of age, contact an employment attorney and file a complaint with the Equal Employment Opportunity Commission (EEOC) within 180 days of the incident. Job Assistance If you are looking for part-time work, the federal Senior Community Service Employment Program provides part-time employment and training opportunities to low-income seniors age 55 and up. The program places seniors in government and community agencies and pays minimum wage, but offers training and the opportunity to move to other higher paying positions. For more information, contact the following agencies. U.S. Department of Labor Employment and Training Administration Division of Older Worker Programs 200 Constitution Avenue, NW Room N-4641 Washington, DC 20210 877-US-2JOBS www.doleta.gov/seniors AARP SCSEP National Office 601 East Street, NW Washington, DC 20049 202-434-2020 www.aarp.org/scsep-locate (to locate a local office) Senior-Friendly Employers Many employers have become more senior-friendly in recent years. You may have seen commercials from well-known companies such as McDonald's and Wal-Mart featuring senior employees. Finding a senior-friendly employer can be difficult. The American Association of Retired Persons (AARP) publishes a yearly list of fifty employers they determine to be the best employers for seniors. Read it online at www.aarp.org/bestemployers. Social Security Benefits and Working Some seniors feel that laws discourage them from working once they begin to collect Social Security benefits. The law actually only affects some seniors. Your benefits

are only affected until you reach the full retirement age of 65 and two months. If you begin receiving benefits before full retirement age, for every \$2 you earn above the income limit (which was \$12,480 in 2006), you lose \$1 in benefits. In the year you will reach full retirement age, you lose \$1 in benefits for every \$3 you earn over the income limit for this group (which was \$33,240 in 2006) in the months before you reach the full retirement age. Once you are 65 and two months, you can earn anything you want and will lose no benefits at all. For the purposes of this rule, only your salary (or your net as a self-employed person) will count as earnings. This does not include benefits. There is one small exception to the rule. In the year you retire, you will receive your full benefits without any deductions for the months you are retired in that year.

Pension Benefits and Working Working after retirement can affect your pension benefits, but this varies from company to company, so be sure to check your pension benefits for any reduction or stoppage in benefits should you begin to work again.

Volunteering Many seniors find that volunteering provides them with the opportunity to stay busy, do good, and feel a sense of satisfaction about their lives. The Senior Corps is a federal program designed to help seniors locate volunteer opportunities. There are three main components to the program: foster grandparents, senior companions, and the retired and senior volunteer program (RSVP). The programs involve seniors in a wide range of activities with a wide range of people. For more information, contact: Senior Corps 1201 New York Avenue, NW Washington, DC 20525 202-606-5000 www.seniorcorps.org

SOCIAL SECURITY BENEFITS To qualify for Social Security benefits, you must have worked a certain number of years. Your eligibility is measured in credits. If you were born after 1929, you must accumulate forty credits or work for ten years to qualify. You earn one credit for each quarter of the year you work. You can begin to receive benefits as early as age 62, but you will need to carefully weigh this decision—up to a certain point, the longer you wait to receive benefits, the higher your payments will be once you begin to receive them. When you do decide you want to start receiving benefits, you should contact your local Social Security office and ask which month is best for you to begin receiving benefits. Depending on which month you begin, you may get a higher payment, because you may have earned an additional work credit. Full retirement age is 65 for those born before 1938, and up to age 67 for those born after 1960. Social Security benefits are taxable income. If your spouse is receiving benefits and you are over age 62, you may be eligible to receive benefits as well. The amount is about half of what your spouse receives. To apply for benefits, you will need the following documents: ? your birth certificate; ? your Social Security number; ? ?military discharge papers, if you were in the service; ? your spouse's birth certificate and Social Security number, if he or she is also applying; and, ? your bank account number and name of your bank, so payments can be deposited. When you apply, you must either bring original documents or send certified copies. You can find out what your monthly benefit amount would be through a yearly summary explaining your benefits. You can sign up to receive this summary automatically by mail each year. Your checks will be electronically deposited in your checking account each month. Check with your local office for sign-up information listed in the government pages of your phone book, or online at www.ssa.gov. If you believe your benefits have been erroneously calculated, you are missing a check, or you have some other problem, contact your local Social Security office for assistance filing a claim.

Divorce and Social Security A divorced spouse can receive Social Security payments based on the former spouse if the marriage lasted at least ten years. You can begin to receive these benefits when you are age 62, but only if you have not remarried. You may get benefits even if your former spouse has not yet retired if you have been divorced for at least two years, but your former spouse must have enough credits to retire.

Changes to Social Security When you are receiving benefits, you have the responsibility to notify Social Security of certain changes, including: ? address or phone number; ? bank account; ? amount of earned income; ? if you become unable to manage funds (Social Security has a program called representative payee, in which your benefits are sent to the relative or friend who is managing your funds for you); ? ?if you begin to receive a pension; ? ?if you get married; ? if you get divorced; ? if you change your name; or, ? if you travel for a long period of time to another country.

Appeals It is important to remember that you have the right to appeal all decisions made by the Social Security Administration. You can read about the appeals process at www.ssa.gov/pubs/10041.html. You have the right to be represented by an attorney at any stage in the process. The appeals process has four stages. Step 1: Reconsideration. You have sixty days to submit a form (which your local representative will help you complete) asking that your benefits be reconsidered. If you were already receiving benefits and benefits are denied, you have ten days. Step 2: Administrative Hearing. If you are not happy with the results of the reconsideration, you have sixty days from the date you received denial of the reconsideration to apply to have your case heard by an administrative law judge (ALJ). Step 3: Appeals Council. You have sixty days from the date you receive the ALJ determination to appeal to the Appeals Council. Step 4: Federal Court. If the Appeals Council will not take your case, you can appeal to a federal court. You will need an attorney to do so. If you should win an appeal, you will be entitled to receive any lost benefits from the date of denial.

Overpayments Overpayments are unfortunately a problem that does happen. If the Social Security Administration makes a mistake and pays you more than you are entitled to, you do have to pay it back, or it will be withheld from a future payment. You have the right to appeal an overpayment mistake. Go to your local office and tell them you want to request reconsideration of the overpayment.

Representative Payee Should you ever become unable to manage your own affairs, Social Security can appoint someone else to be in charge of handling your payments on your behalf. This can be a family member, a friend, or even a nursing home. If one is appointed for

you, you must be notified in writing first. You can challenge this by an appeal (contact your local office for details).

RETIREMENT BENEFITS

Retirement benefits are a significant portion of many seniors' income. Understanding your rights about your benefits and how to enforce them is essential if you receive these benefits. You are eligible for your employer's pension plan if you have worked there for one year and at least one thousand hours. Employers offer two basic types of retirement accounts—defined contribution plans or defined benefit plans. Defined contribution plans are characterized by an annual contribution being made for each employee. The contribution can be up to 15% of the amount the employee puts into the plan. The benefit you receive is the vested amount (amount that you fully own—some plans have a gradual vesting approach) plus investment income. Examples of this kind of plan are 401(k)s, 403(b) plans, employee stock ownership plans, profit-sharing plans, and money purchase pension plans (in which the employer must contribute a specific amount each year). You will ultimately receive the balance in your account, which is based on contributions plus or minus investment gains or losses. The value of your account will fluctuate due to changes in the value of your investments. Defined benefit plans are characterized by employer contributions, which are determined by actuarial tables based on your salary and years of employment. This plan offers a monthly benefit once you retire and is considered a traditional retirement plan. Specific kinds of retirement accounts you might have include the following:

- Simplified Employee Pension Plan (SEP)—the employee sets up an Individual Retirement Plan (IRA) and the employer makes contributions to it (up to 15% of your pay).
- 401(k)—the employee defers receiving part of his or her salary, which is then placed in the account of payment and is untaxed at the time.

Pension and retirement plans are governed by the federal Employee Retirement Income Security Act (ERISA). Each year, you must be given the plan's summary annual report, which will show you how the money is being invested and the type of return on it.

Vesting

To be able to receive your retirement benefits, you must become vested, which means you must have worked the required number of years or hours specified by your plan to obtain ownership of your money in the plan. Once you are vested, the funds in the account are yours, even if you leave before reaching the full retirement age. (However, if you access the funds before retirement age, you will pay a tax penalty—rolling the funds over is the best choice.) Vesting is a gradual process. For example, after working three years you may become 20% vested, meaning that 20% of the funds in the account will be yours. It usually takes five to seven years to become completely vested. If you leave your job before you are fully vested, you lose the portion that is not yet vested. A break in service—a time period where you temporarily leave your job—can cancel pension credits earned before you leave. Each plan is different, so you need to determine the rules under your plan.

Receiving Benefits

You must start to be paid from the account within sixty days of turning 65 or the normal retirement age for your plan, whichever is earlier; the end of the tenth year after you began participation in the plan; or, when you leave your job, whichever happens last. To receive benefits, you must first file a claim, which is simply a form saying you want to begin to receive payment. Information about how to do this must be included in the summary plan description, which you are entitled to receive within thirty days of requesting it. You are also entitled to receive a statement of your personal benefit account, which explains what is in your account and how vested you are. If, for any reason, information about the filing of a claim has not been provided, you may give notice that you have a claim by writing to an officer of your employer, the unit where claims are normally filed, or the plan administrator. Within ninety days after you have filed a claim for benefits, your plan must tell you whether or not you will receive the benefits. If your claim is denied, the plan administrator must notify you in writing and explain in detail why it was denied. If you receive no answer after ninety days—or 180 days if an extension of time was needed—the claim is considered a denial and you can use the plan's rules for appealing the denial. The Employee Retirement Income Security Act (ERISA) guarantees that pension rights cannot be unfairly decided or taken away from you. If you are denied benefits, your plan must give you the reason for denial in writing and in a manner you can understand. It also must give you a reasonable opportunity for a fair and full review of the decision by the plan trustees. You have at least sixty days (the plan may provide you with more time) in which to request a review (instructions for how to request it will be in the plan summary). The Act also prohibits employers from firing employees to avoid paying a pension. If this happens to you, get an attorney and file a case in federal court. If you have problems receiving payments from your plan, starting payments, or understanding your benefits, talk to your plan administrator. If you are unable to get problems resolved, contact the Department of Labor at www.dol.gov or 866-4-USA-DOL. You are entitled to seek legal representation to assist you with any problems you encounter.

Spouses' Rights

Under ERISA, your plan must provide for survivors—such as spouses—by allowing you to choose to receive survivor benefits or to select higher benefits for yourself that end at your death. The Retirement Equity Act requires that your spouse sign a written consent if he or she agrees to waive survivor benefits. When you decide which way to go, you should consider your spouse's age, health, and life expectancy compared with yours. If your spouse is much older or in poorer health, it may make more sense to receive higher benefits now and place some of the funds in an investment account to allow a reserve if your spouse does survive you.