

SOCIAL SECURITY

The FSM social security program's purpose is to provide a means whereby employees may be ensured a measure of financial security in their old age and be given an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivors' insurance for wage earners and their dependents. 53 F.S.M.C. 602. The program is funded by joint contributions from employers and employees. FSM Social Sec. Admin. v. Weilbacher, 7 FSM R. 137, 141 (Pon. 1995).

The FSM Social Security Administration has the power to sue and be sued, and since its power to hold hearings is discretionary it may file suit without having held a hearing. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I), 7 FSM R. 280, 282-83 (Yap 1995).

Social Security's lofty public purpose is to provide for retirees, their dependents, and their surviving spouses and dependants. In re Engichy, 12 FSM R. 58, 65 (Chk. 2003).

Any person aggrieved by a Social Security Board final order may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. Andrew v. FSM Social Sec. Admin., 12 FSM R. 78, 79-80 (Kos. 2003).

While section 204 of Title 53 provides that the Social Security Board shall receive and maintain files and records of all employers and all employees subject to this Title, no specific Social Security rule or regulation requires that the Board's final decision take the form of an "order," or that it be "entered" in some specifically defined way. Andrew v. FSM Social Sec. Admin., 12 FSM R. 101, 103 (Kos. 2003).

Section 203(2) of Title 53 provides that the Social Security Board may hold hearings or make decisions upon hearings delegated to others for the purpose of determining any question involving any right, benefit, or obligations of any person subject to Title 53. Thus Social Security has in part a quasi-judicial function. Andrew v. FSM Social Sec. Admin., 12 FSM R. 101, 103 (Kos. 2003).

Since "enter" means to place anything before a court, or upon or among the records, in a formal and regular manner, and usually in writing, and since common sense must play a part in the way that an agency's statutorily mandated procedures are interpreted, a letter from the Social Security Board stating that it is a final decision by the Board, and that the petitioner has the option of appealing to the FSM Supreme Court, is a final, entered order within the meaning of 53 F.S.M.C. 208. Andrew v. FSM Social Sec. Admin., 12 FSM R. 101, 103-04 (Kos. 2003).

Since the Social Security Board has the power to delegate duties and responsibilities to such employees as it deems feasible and desirable to carry out the provisions of Title 53, a letter that begins with "[o]n behalf of the FSMSSA Board of Trustees" and continues with "the Board has denied your client's appeal," and which is signed by the Administrator, is properly signed. Andrew v. FSM Social Sec. Admin., 12 FSM R. 101, 104 (Kos. 2003).

The court will not add additional time for a petitioner to seek judicial review when the social security statute gives 60 days and this is a considerable amount of time, and when even given the exigencies of mail service in Micronesia, equitable considerations do not require that additional time be given. Andrew v. FSM Social Sec. Admin., 12 FSM R. 101, 104 (Kos. 2003).

An appeal from a Social Security Board decision will be determined on the record below and not on a trial de novo because, under 53 F.S.M.C. 708, the Board must certify and file in court a copy of the record. The Board's findings as to the facts, if supported by competent, material, and substantial evidence, will be conclusive. If either party applies for leave to adduce additional material evidence, and shows to the court's satisfaction that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives and that such evidence is competent, material, and substantial, the court may order the Board to take the additional evidence to be adduced upon the hearing in such manner and upon such conditions as the court considers proper. Clarence v. FSM Social Sec. Admin., 12 FSM R. 635, 636 (Kos. 2004).

By failing to respond to Social Security's motion in limine that seeks to preclude the plaintiff from adducing any further evidence on appeal beyond that which is part of the record of proceedings before the Social Security Board, the plaintiff has not shown that there were reasonable grounds for failure to adduce competent, material, and substantial evidence before the Board and that this evidence should be (but is not) part of the record of the proceedings, and thus the motion will be granted. Clarence v. FSM Social Sec. Admin., 12 FSM R. 635, 637 (Kos. 2004).

Although preserving the integrity of the FSM social security system is a matter of concern to all FSM citizens, when Social Security has offered no argument why the court should depart from the general rule that municipal entities are immune from garnishment, a motion for issuance of a writ of garnishment directed toward the assets of a municipality will be denied. FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 62 (Kos. 2004).

An appeal under 53 F.S.M.C. 708 to the FSM Supreme Court trial division from a Social Security Board final order is on the record except when a person aggrieved by such an order makes a showing that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives. In that event, the party may apply to the court for leave to adduce additional material evidence. When no such showing is made of a reasonable failure to elicit evidence, the question that remains is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence. If the court so concludes, then the findings of fact are conclusive. The trial court's disposition of the appeal on the record is final, subject to review by the Supreme Court appellate division. Clarence v. FSM Social Sec. Admin., 13 FSM R. 150, 152 (Kos. 2005).

Although, it would have been desirable for the claimant to have undergone vision testing as contemplated by the Board, the question under 53 F.S.M.C. 708 is whether there are now facts of record, supported by competent, material, and substantial evidence, sufficient for the findings of the Board to be deemed conclusive and when on a review of the record, the court finds that there is sufficient evidence in the record to deny the disability claim, it will affirm the Board's final decision in its entirety. Clarence v. FSM Social Sec. Admin., 13 FSM R. 150, 153 (Kos. 2005).

The existence of employees without social security numbers cannot relieve an employer of liability for social security contributions for those employees. Ensuring that all employees have, or acquire, properly issued social security numbers, is the employer's responsibility. An employer cannot avoid liability for social security contributions by not reporting an employee's social security number or by employing someone without a social security number. FSM Social Sec. Admin. v. Fefan Municipality, 14 FSM R. 544, 547 (Chk. 2007).

When the court reviews appeals from Social Security decisions, the findings of the Social Security Board as to the facts will be conclusive if supported by competent, material, and substantial evidence. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 276 (Kos. 2009).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. These Administrative Procedures Act provisions apply to all agency action unless Congress by law provides otherwise and it applies to the Social Security Administration appeals because no part of the Social Security Act provides otherwise. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 276 (Kos. 2009).

A claims denial made before the due date to submit supporting documents is arbitrary and capricious and will be vacated by the court and remanded for further proceedings. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 277 (Kos. 2009).

The timeframe in which to appeal a decision of the FSMSSA Board is governed by 53 F.S.M.C. 708, which provides that any person aggrieved by a final order of the Board may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. Palikkun v. FSM Social Sec. Admin., 19 FSM R. 314, 316 (Kos. 2014).

When the Social Security Board's decision was entered on August 27, 2013, and was received by the plaintiff on September 17, 2013, the 60-day deadline would fall on October 26, 2013, which would have given the plaintiff 39 days to file her claim after service of the Board's decision. She thus had adequate time to file her claim, and when she failed to file her claim in time pursuant to 53 F.S.M.C. 708, the court is unwilling to extend the timeframe to file a claim when the statute's language is clear, and the complaint will be dismissed based on its filing being untimely under 53 F.S.M.C. 708. Palikkun v. FSM Social Sec. Admin., 19 FSM R. 314, 317 (Kos. 2014).

When three of the five appointed Social Security Board members are present this constitutes a valid quorum or a simple majority, and when, in adding the *ex officio* administrator, four out of the six total members are in attendance, it gives the Board valid authority to transact business. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

The Social Security Board is competent to execute its duties and responsibilities with the absence of two of the total five members. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

The FSM social security program's purpose is to provide a means whereby employees may be ensured a measure of financial security in their old age and be given an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivors' insurance for wage earners and their dependents. It is funded by joint contributions from employers and employees. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

Social Security's public purpose is to provide for retirees, their dependents, and their surviving spouses and dependents. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

The power to appoint and confirm members of the Social Security Board is vested in the national government's Executive and Legislative branches. To halt the Board's function when all vacancies are not filled would adversely affect the Social Security's function as a whole, and would be detrimental to the livelihood of social security benefit recipients. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

When three members are present along with the Administrator, the Social Security Board is competent to transact business. Neth v. FSM Social Sec. Admin., 19 FSM R. 639, 643 (Pon. 2015).

Under 53 F.S.M.C. 708, an appeal to the FSM Supreme Court trial division from a Social Security Board final order is on the record except when a person aggrieved by the order makes a showing that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives. In that event, the party may apply to the court for leave to adduce additional material evidence. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 199 (Pon. 2015).

When no showing is made of a reasonable failure to elicit evidence before the Social Security Board, the question that remains is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence. If the court so concludes, then the findings of fact are conclusive. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 199 (Pon. 2015).

The trial court's disposition of a Social Security appeal on the record is final, subject to review by the appellate division. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 199 (Pon. 2015).

When the court reviews appeals from Social Security decisions, the Social Security Board's findings as to the facts are conclusive if supported by competent, material, and substantial evidence. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 200 (Pon. 2015).

Under 53 F.S.M.C. 708, an appeal to the FSM Supreme Court trial division from a Social Security Board final order is on the record except when the person aggrieved by the order makes a showing that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives. In that event, the party may apply to the court for leave to adduce additional material evidence. Louis v. FSM Social Sec. Admin., 20 FSM R. 268, 271 (Pon. 2015).

When no showing is made of a reasonable failure to elicit evidence before the Social Security Board, the question that remains is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence, and if the court so concludes, then the findings are conclusive. The trial court's disposition of the appeal on the record is final, subject to review by the appellate division. Louis v. FSM Social Sec. Admin., 20 FSM R. 268, 271 (Pon. 2015).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the

procedures required by law. These APA provisions apply to all agency action unless Congress by law provides otherwise and they apply to the Social Security Administration appeals because no part of the Social Security Act provides otherwise. Louis v. FSM Social Sec. Admin., 20 FSM R. 268, 271 (Pon. 2015).

When the court reviews appeals from Social Security decisions, the Social Security Board's findings as to the facts are conclusive if supported by competent, material, and substantial evidence. Louis v. FSM Social Sec. Admin., 20 FSM R. 268, 272 (Pon. 2015).

Social Security regulations allow wage earners to adopt after their 55th birthday under extremely limited circumstances. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 365 n.1 (Pon. 2016).

Any person aggrieved by a final order of the Social Security Board may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition must be served on the Board, by service on its secretary or other designated agent, and thereupon the Board must certify and file in court a copy of the record upon which the order was entered. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 366 (Pon. 2016).

The Social Security Board's findings as to the facts, if supported by competent, material, and substantial evidence, is conclusive. If either party applies to the court for leave to adduce additional material evidence and shows to the court's satisfaction that there were reasonable grounds for failure to adduce the evidence in the hearing before the Board or its authorized representatives, and that such evidence is competent, material, and substantial, the court may order the Board to take additional evidence to be adduced in the hearing in such manner and upon such conditions as the court considers proper. The Board may modify its findings and order after receipt of further evidence together with any modified or new findings or order. The court's judgment on the record shall be final, subject to review by the Supreme Court appellate division on any aggrieved party's petition, including the Board's, within 60 days from judgment. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 366, 372 (Pon. 2016).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. These Administrative Procedures Act provisions apply to all agency action unless Congress by law provides otherwise and it applies to Social Security Administration appeals because no part of the Social Security Act provides otherwise. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 366 (Pon. 2016).

In a matter of first impression, the court may look to case law of other jurisdictions, particularly the United States, for comparison and guidance. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 367 (Pon. 2016).

Regulations may be promulgated to assure efficiency, accuracy, and proficiency in carrying out the objectives of Title 53. These regulations also provide restrictions to prevent abuse and to regulate violations in order to protect the Social Security system. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 368 (Pon. 2016).

FSM Social Security's statutory scheme is not unconstitutional. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 369 (Pon. 2016).

Parties who appeal decisions of the Social Security Board may enter additional evidence for the court's consideration. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 370 (Pon. 2016).

The Social Security Administrator is responsible for the general administration of the Social Security System, and has a wide range of discretion as part of his or her administrative powers. Decisions made pursuant to the Administrator's discretionary power are also subject to the Social Security Board's review. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 371-72 (Pon. 2016).

Any person aggrieved by a final order of the Social Security Board may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 478 (Pon. 2016).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. This applies to all agency action unless Congress by law provides otherwise and it applies to the Social Security Administration appeals since no part of the Social Security Act provides otherwise. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 478 (Pon. 2016).

Social Security's statutory scheme is not unconstitutional, and the exercise of its investigatory functions, which would include the request for evidence of dependency in adoption matters, is lawful as long as it is authorized by law. Thus, Social Security regulations are not *ultra vires*. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 479 (Pon. 2016).

Parties who appeal Social Security Board decisions are allowed to enter additional evidence for the court's consideration. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 480 (Pon. 2016).

The Social Security Administrator is given a wide range of discretion as part of his or her administrative powers. Decisions made under the Administrator's discretionary power are also subject to the review by the Board, as well as the FSM Supreme Court. In addition to this discretionary authority, the regulations detail different criteria that the Administrator may follow in forming a decision. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 481 (Pon. 2016).

An appeal from a Social Security Board decision will be determined based on the administrative hearing record, other documents as submitted by the parties, and the oral arguments as presented before the court and not on a trial de novo. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 482 (Pon. 2016).

Under 53 F.S.M.C. 708, the court's review of Social Security decisions is limited to issues determined on the record at the administrative level. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 482 (Pon. 2016).

Since, by statute, the findings of the Social Security Board as to the facts, if supported by competent, material, and substantial evidence, are conclusive, the statute thus requires that the court use the "substantial evidence" or "reasonableness" standard of review. Thalman v. FSM Social Sec. Admin., 20 FSM R. 625, 628 (Yap 2016).

The Administrative Procedures Act provisions apply to all agency action unless Congress by law provides otherwise, and it applies to the Social Security Administration appeals because no part of the Social Security Act provides otherwise. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 209 (Pon. 2017).

Summary judgment will be denied when there is a genuine issue of material fact to be determined through trial on the issue of light work available to the disability applicant, and because of the conflicting findings in the reports, abstracts, and testimonies on the applicant's disability. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 213 (Pon. 2017).

Anyone aggrieved by a Social Security Board final order may obtain a review of the order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 266 (Pon. 2017).

Under the Administrative Procedures Act, the court must, on an appeal from an FSM administrative agency, hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. These provisions apply to all agency action unless Congress by law provides otherwise, and it applies to Social Security Administration appeals because the Social Security Act does not provide otherwise. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 266 (Pon. 2017).

Since the Administrative Procedures Act applies to all agency action unless Congress by law provides otherwise, it applies to the Social Security Administration because no part of the Social Security Act provides otherwise. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 415 (App. 2018).

Statutory authority for judicial review of a Social Security Board decision provides that the Board's findings as to the facts, if supported by competent, material and substantial evidence, are conclusive. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 415-16 (App. 2018).

Generally there are three possible standards of review for administrative decisions: 1) arbitrary and capricious or abuse of discretion; 2) reasonableness or substantial evidence; and 3) de novo or agreement review. Judicial review of social security law cases, because the statute expressly uses the words "reasonableness" and "substantial," uses the intermediate standard. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 416 (App. 2018).

Since 53 F.S.M.C. 703 expressly grants Social Security rule-making power, judicial review is limited to determining whether the promulgated regulations exceed the statutory authority, which is an issue of law reviewed de novo on appeal. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 416 (App. 2018).

53 F.S.M.C. 703 delegates to the Social Security Administration authority to promulgate

regulations and provides that the Board may, pursuant to the Administrative Procedures Act, adopt, amend, or rescind regulations for the administration of the Social Security law. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 416 (App. 2018).

The FSM Social Security Act is patterned after United States statutes, and it is well settled rule of statutory construction that a statute adopted from another jurisdiction is presumed to have been adopted as construed by that jurisdiction's courts. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 417 (App. 2018).

An appeal under 53 F.S.M.C. 708 to the FSM Supreme Court trial division from a Social Security Board final order is on the record except if the aggrieved person shows that there were reasonable grounds for failure to adduce the evidence in the Board hearing. When no showing is made of a reasonable failure to elicit evidence, the question that remains is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence. If so, then the findings of fact are conclusive, and the trial court's disposition of the appeal on the record is final, subject to review by the Supreme Court appellate division. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 492 (Kos. 2018).

On an appeal from an FSM administrative agency, the court, under the Administrative Procedures Act, must hold unlawful and set aside agency actions and decisions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; or contrary to constitutional right, power, privilege, or immunity; or without substantial compliance with the procedures required by law. This applies to all agency action unless Congress by law provides otherwise, and it applies to the Social Security Administration appeals because the Social Security Act does not provide otherwise. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 492-93 (Kos. 2018).

Businesses are required by law to maintain both gross revenue and wage and salary information records. FSM Dev. Bank v. Salomon, 22 FSM R. 175, 182 (Pon. 2019).

Although the Social Security Administrator is required to receive and maintain files and records of all employers and all employees, such records shall not be disclosed to any person except as may be required to administer the FSM Social Security laws. FSM Dev. Bank v. Salomon, 22 FSM R. 175, 183 (Pon. 2019).

– Claims and Benefits

Social Security benefits are not subject to execution, attachment, or garnishment and are not assignable except as provided in the FSM Social Security Act. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 377 (App. 2003).

When the judgment-debtor's Social Security retirement benefits are received by him and have not been subjected to any sort of direct levy, allotment or garnishment or any execution, attachment, or assignment of these benefits and when these benefits may be commingled with any other income the debtor may have available to him, and from these funds he meets his living expenses and his other obligations, the trial court's order in aid of judgment does not require that the payment come from any particular source of income. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 379 (App. 2003).

When 53 F.S.M.C. 604 does not contain the broader language of, "or other legal processes," it cannot be interpreted in a manner identical to the U.S. statute that does. The FSM provision is more restrictive than the U.S. provision, as it protects Social Security benefits only from execution, attachment, garnishment, and assignment and not from other legal processes. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 379 (App. 2003).

There is no violation of the 53 F.S.M.C. 604 susceptibility of benefits rule, when there has been no execution, attachment, garnishment, or assignment of the judgment-debtor's Social Security retirement benefits and when the trial court's order in aid of judgment specifically found that the judgment-debtor would have sufficient funds for his and his dependents' basic support. Rodriguez v. Bank of the FSM, 11 FSM R. 367, 380 (App. 2003).

Social security benefits are not subject to probate, as the Social Security Board, not the court, has initial jurisdiction over applications for social security benefits, whether by a surviving spouse or surviving children. The procedure for such applications is set forth in the Social Security Act. In re Estate of Manas, 15 FSM R. 609, 611 (Chk. S. Ct. Tr. 2008).

Actual dependency upon the adoptive parent is a prerequisite for the adopted minor to receive surviving child Social Security benefits after the adoptive parent's death. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 276 n.2 (Kos. 2009).

Social Security does not have to wait 2½ years for claimants to supply supporting documentation for a benefits claim before it may rule on an application. Nor is Social Security to be at the mercy of claimants who promise supporting documents at some indefinite future date but fail to provide them with reasonable promptness. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 277 (Kos. 2009).

If it is determined that the father and mother lived in the same household as the grandfather and grandmother and that the father's income was greater than the grandfather's and the father contributed to the support of the household, Social Security would be completely justified in finding that there was no dependency by the grandsons upon the grandfather. Alokoa v. FSM Social Sec. Admin., 16 FSM R. 271, 277 (Kos. 2009).

The FSM social security non-assignment of benefits statute, 53 F.S.M.C. 604, does not bar legal process such as orders in aid of judgment from reaching FSM social security benefits. Dison v. Bank of Hawaii, 19 FSM R. 157, 161 (App. 2013).

If the trial court had taken the large step of making U.S. military retirement and U.S. social security benefits paid to FSM citizens in the FSM exempt from all legal process, that would be a judicial encroachment on Congress's power to enact laws and set public policy because those recipients would then (along with U.S. veterans) have greater judicial protection than Congress has legislated for persons (regardless of citizenship) who receive FSM social security benefits. Whether foreign retirement benefits should carry equal or greater protection from legal process than FSM social security benefits is a public policy decision to be made by the people's elected representatives in Congress, not by the unelected court. Dison v. Bank of Hawaii, 19 FSM R. 157, 161-62 (App. 2013).

Surviving spouse benefit payments are paid for each month starting with the month of death of the fully insured spouse and ending with the month preceding the month in which the surviving spouse dies or remarries. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 199

(Pon. 2015).

When a woman, living together with a man for three years, has a title that is taken from the man's Pohnpeian title and that is derived from being his wife, the Social Security Board's decision to cease spousal survival benefit payments to her because she has remarried will be upheld when the evidence submitted on record, taken in its entirety, is competent, material, and substantial and supports the Board's findings in denying benefits to her based on her remarriage. Hadley v. FSM Social Sec. Admin., 20 FSM R. 197, 200-01 (Pon. 2015).

When the Social Security Board's final order denying the plaintiff benefits because of remarriage rests on findings of fact that are supported by competent, material, and substantial evidence and does not violate 17 F.S.M.C. 111(3)(b), its decision will be affirmed. Louis v. FSM Social Sec. Admin., 20 FSM R. 268, 274 (Pon. 2015).

A Social Security benefit is any retirement (old age), disability, dependent's, survivor's, or other insurance benefit prescribed in the Act. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 367 n.2 (Pon. 2016).

Social Security benefits are not vested in a property sense, in that they are subject to defeasance by act of Congress so long as that action is not arbitrary. Changing economic conditions may require that the program be modified. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 367 (Pon. 2016).

The current Social Security scheme does not automatically disburse benefits to a dependent of a wage earner who has been contributing to Social Security once a claim is made. A claimant becomes "entitled" to benefits once he or she has applied and has provided convincing evidence of entitlement. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 367 (Pon. 2016).

Because a claimant must go through the process of applying for benefits and meet certain requirements to be deemed eligible, Social Security benefits are not a property right. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 367 (Pon. 2016).

The FSM Social Security program's purpose is to provide a means whereby employees may be ensured a measure of financial security in their old age and be given an opportunity for leisure without hardship and complete loss of income, and, further, to provide survivors' insurance for wage earners and their dependents. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 368 (Pon. 2016).

A valid claim for Social Security benefits as an adopted child requires proof of adoption and of dependency of the adopted child on the wage earner. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 368 (Pon. 2016).

Changed circumstances may require the adopted child to move away and to no longer be dependent on the adopted parent. In these situations, the child no longer depends on the wage earner for support, and the child would fall outside of Social Security's statutory scheme. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 368 (Pon. 2016).

Since, if benefits are distributed by virtue of only an adoption decree, not only will this affect the financial stability and well-being of the Social Security program, Social Security would be

vulnerable to abuse, exploitation, and misconduct. Therefore, the Social Security regulations that limit when benefits can be paid to adoptees are not *ultra vires*. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 368 (Pon. 2016).

A claimant who alleges that he has a child in his care who is living with him must provide the Social Security Administration with a signed statement to that effect when applying for benefits. If the child is under 16 or mentally incompetent, Social Security will need no more information, unless it doubts the truth of the statement. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 370 (Pon. 2016).

Social Security has the regulatory authority to request additional proof of dependency and the claimant is required to submit such proof. Actual dependency upon the adoptive parent is a prerequisite for an adopted minor to receive surviving child Social Security benefits after the adoptive parent's death. Neth v. FSM Social Sec. Admin., 20 FSM R. 362, 370-71 (Pon. 2016).

Social Security benefits are not a property right and do not disburse automatically once a claim is filed. A potential beneficiary must fulfill the requirements as set forth in Title 53 of the FSM Code and Social Security regulations before being deemed eligible to receive benefits. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 479 (Pon. 2016).

FSM Social Security benefits are not a property right that automatically vests upon the wage earner's death and upon the filing of a claim. The proper procedure under Title 53 and the FSM Social Security Regulations must be adhered to before a claimant may be deemed eligible for benefits. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 479 (Pon. 2016).

A valid claim for adopted child benefits requires proof of adoption and of the adopted child's dependency on the wage earner. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 479 (Pon. 2016).

Social Security has the regulatory authority to request additional proof of dependency and the claimant is required to submit such proof. Miguel v. FSM Social Sec. Admin., 20 FSM R. 475, 480 (Pon. 2016).

For Social Security benefit purposes, a disability is the inability to engage in any substantial gainful employment by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. Substantial gainful employment is not only an inability to engage in the applicant's previous occupation or work, but also means that based on the applicant's education, experience, and limitations, there are no other occupations that the applicant could perform. Thalman v. FSM Social Sec. Admin., 20 FSM R. 625, 628 (Yap 2016).

Persons are entitled to Social Security disability benefits if they are currently and fully insured, are disabled and have been so for at least three full calendar months, and have filed a complete application with the Social Security Administrator for disability insurance. Thalman v. FSM Social Sec. Admin., 20 FSM R. 625, 628 (Yap 2016).

A Social Security claimant becomes entitled to benefits once he or she has applied and has provided convincing evidence of entitlement. A Social Security benefit applicant is responsible for providing the evidence needed to prove his or her entitlement to Social Security benefits. Thalman v. FSM Social Sec. Admin., 20 FSM R. 625, 628 (Yap 2016).

When a Social Security decision was supported by competent, material, and substantial evidence that the applicant was not disabled because he was capable of engaging in his former occupation or a similar occupation, that finding is conclusive as to the fact that, when Social Security and later the Social Security Board made their determinations, the applicant was not sufficiently impaired to qualify as disabled for Social Security disability benefits. Thalman v. FSM Social Sec. Admin., 20 FSM R. 625, 628 (Yap 2016).

Anyone aggrieved by a Social Security Board final order may obtain a review of that order in the FSM Supreme Court trial division by filing in court, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. The court may order the Board to take additional evidence in such manner and upon such conditions as the court considers proper, and the Board may thereafter modify its findings and order. The court's judgment on the record is final, subject to review by the FSM Supreme Court appellate division upon petition of any aggrieved party, including the Board, filed within 60 days from judgment. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 209 (Pon. 2017).

Under 53 F.S.M.C. 603(6) and FSM Social Security Regulation § 100.2 as amended in 2012, disability is defined as the inability to engage in any substantial gainful employment by reason of any physical or mental impairment that can be expected to last for a continuous period of not less than 12 months. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 209 (Pon. 2017).

A five-step sequential evaluation process is used to determine an applicant's eligibility for disability benefits. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 210 (Pon. 2017).

Social Security may deny a disability benefits application when the applicant is able to perform light and sedentary work. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 211-12 (Pon. 2017).

Once a disability applicant meets the burden of proof under the first four requirements of the five-step sequential evaluation process, the burden shifts to Social Security to show that the applicant can perform other jobs – Social Security must show that employment positions are available in the FSM that suit the applicant's experience and education before the denial of benefits can be upheld. Seiola v. FSM Social Sec. Admin., 21 FSM R. 205, 212 (Pon. 2017).

FSM Social Security benefits are not a property right, and all the proper steps and requirements must be fulfilled before an individual is eligible for benefits. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 266 (Pon. 2017).

The process by which spousal benefits cease is governed under § 100.16 of the Social Security regulations. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 267 (Pon. 2017).

If Social Security receives convincing evidence from any credible source that a surviving spouse who is receiving social security benefits has re-married, the surviving spouse benefits will cease unless the surviving spouse proves that he or she has not remarried. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 268 (Pon. 2017).

When, based on the administrative hearing and the evidence on the record, the Social

Security Board's decision to cease spousal benefits was supported by competent, material, and substantial evidence, it was therefore conclusive, and even though the plaintiff produced additional evidence to support her claim that she had not remarried, Social Security's discontinuance of spousal benefits will be affirmed. Celestine v. FSM Social Sec. Admin., 21 FSM R. 263, 268 (Pon. 2017).

When a plaintiff, since she lacks standing to sue, cannot identify any specific interests that her son would assert if her interest was transferred to him, the matter will be dismissed without prejudice to allow the son to assert any claims he may have against the FSM Social Security Administration. Welson v. FSM Social Sec. Admin., 21 FSM R. 348, 351 (Pon. 2017).

The statutory delegation of rule-making authority to Social Security implicitly recognizes its relative competence and expertise to ensure an efficient and equitable means to evaluate whether a claimant qualifies for benefits. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 416 (App. 2018).

Social security regulations are entitled to great deference because Congress has given Social Security full power and authority to promulgate regulations necessary or appropriate to carry out the agency's function and therefore Social Security regulations are not *ultra vires*. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 417 (App. 2018).

A child who is dependent upon a person entitled to old age benefits or who was dependent upon an individual who died fully insured or currently insured, is entitled, upon filing an application, to a child's insurance benefit, but actual dependency upon the adoptive parent is a prerequisite for an adopted minor to receive surviving social security benefits after the adoptive parent's death. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 417 (App. 2018).

Social Security's list of "preferred evidence" is not too restrictive because "preferred" does not connote exclusive and because it allows an applicant, at the Administrator's discretion, to adduce supplementary evidence – any other documents or evidence that will prove the child's dependency on the insured. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 419 (App. 2018).

The list of preferred evidence set forth in the Social Security regulations streamlines the decision-making process by providing a means to efficiently and equitably evaluate dependency and makes it easier for applicants to know what evidence they need to produce for a successful application. As such, pursuant to the statutory authority to implement the social security program, the promulgated regulations are consistent with the legislature's intent. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 419 (App. 2018).

When an applicant was notified that evidence of dependency was lacking and did not apply to adduce additional evidence, the Board's findings as to the facts, if supported by competent, material and substantial evidence, are conclusive since there was no further evidence of dependency proffered. Thus, the trial court's grant of summary judgment in Social Security's favor was proper, since the applicant failed to adduce sufficient evidence of dependency, as required by statute. Eliam v. FSM Social Sec. Admin., 21 FSM R. 412, 419 (App. 2018).

The standard of review for social security cases is highly deferential. The appellate court must presume the trial court's finding that the Board's action was valid and affirm the decision if

a reasonable basis, or substantial evidence, exists for it. The appellate court's role is to determine whether the trial court was correct in upholding the Board's decision. In doing so, it reviews the Board's decision to make sure that it applied the correct legal standards and reviews the entire administrative record to ascertain whether its findings are supported by substantial evidence. Hadley v. FSM Social Sec. Admin., 21 FSM R. 420, 424 (App. 2018).

A court will consider additional evidence at the aggrieved party's motion only when supported by reasonable grounds for failure to adduce the evidence in the hearing before the Social Security Board, and when the claimant made no such showing of a reasonable failure to elicit evidence, the remaining question is whether the Board's final order rests on findings of fact that are supported by competent, material, and substantial evidence, and if the court so concludes, then the Board's findings of fact are conclusive. Hadley v. FSM Social Sec. Admin., 21 FSM R. 420, 424-25 (App. 2018).

When the applicant testified at the administrative level that the marriage was accepted by members of her community; that she and her partner had been living together for three years; that she has a sacred Pohnpeian title exclusively given to the wife of the second in chief, which is her partner's title; that her title is derived from being her partner's customary wife; and that she serves as her partner's wife at traditional feasts, Social Security's determination that she had remarried was valid since there was a reasonable basis, or substantial evidence, for its decision. Hadley v. FSM Social Sec. Admin., 21 FSM R. 420, 427-28 (App. 2018).

In reviewing the evidence in the record below, the court must recognize that it is primarily Social Security's task to assess the witnesses' credibility, the admissibility of evidence, and to resolve factual disputes since substantial evidence is a deferential standard, which is more than a scintilla or some evidence, but less than a preponderance of evidence. The court does not assume the fact-finder's role, since the issue is purely one of law. Hadley v. FSM Social Sec. Admin., 21 FSM R. 420, 428 (App. 2018).

When the court finds substantial evidence in the record supporting Social Security Board's findings, it must affirm the Board's decision that the applicant remarried and is thus not entitled to further social security survivor benefits as a result thereof. Hadley v. FSM Social Sec. Admin., 21 FSM R. 420, 428 (App. 2018).

An adopted child applying for benefits under the FSM Social Security system must complete an application and show dependency on the insured. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 493 (Kos. 2018).

A valid claim for Social Security benefits as an adopted child requires proof of adoption and of the adopted child's dependency on the wage earner. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 493 (Kos. 2018).

Social Security has the regulatory authority to request additional proof of dependency and the claimant is required to submit such proof since actual dependency upon the adoptive parent is a prerequisite for an adopted minor to receive surviving child Social Security benefits after the adoptive parent's death. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 493-94 (Kos. 2018).

When the immunization records that listed the children's natural mothers did not support the benefits claim because it did not show the children's dependency on the adoptive parents; when

no additional evidence was submitted after the hearing for the court to consider; and when the census records show the adopted children in the same household as the wage-earner adoptive parent and his daughters, the natural mothers, the court will remand the matter to the Board to determine whether the children were dependent on the wage-earner's disability payments; whether the children's mothers were employed at the time; and whether dependency would be presumed if the child lived with the adoptive parents. Robert v. FSM Social Sec. Admin., 21 FSM R. 490, 494-95 (Kos. 2018).

That the adoptive father is not identified as the children's parent on official forms may be of little significance in determining dependency. Some forms are necessarily confusing because the question of "parent" can be ambiguous, especially with respect to medical records. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 392 (Kos. 2019).

A child is deemed dependent upon his proven natural parent or adoptive parent unless such parent was not living in the same household with or contributing to the child's support. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 393 (Kos. 2019).

Regardless of arguments about the application of presumptions, case law requires a determination of the adoptive children's "actual dependency" on the deceased adoptive parent. This does not regard a presumption. It is a factual inquiry and primarily focused on documentary evidence. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 394 (Kos. 2019).

A valid claim for adopted child benefits requires proof of adoption and of the adopted child's dependency on the wage earner. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 394 (Kos. 2019).

Social Security has the regulatory authority to request additional proof of dependency and the claimant is required to submit such proof. Actual dependency upon the adoptive parent is a prerequisite for an adopted minor to receive surviving child Social Security benefits after the adoptive parent's death. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 394 (Kos. 2019).

A Social Security claimant becomes "entitled" to benefits once he or she has applied and has provided convincing evidence of entitlement. A Social Security benefit applicant is responsible for providing the evidence needed to prove his or her entitlement to Social Security benefits. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 394 (Kos. 2019).

Regulations provide Social Security with wide discretion in obtaining evidence that it considers determinative on the issue of an adopted child's dependency. The Social Security Administrator has the discretion to request any documents or evidence that will prove the child's dependency on the insured person. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 394-95 (Kos. 2019).

Based on the wide discretion granted to Social Security under regulation § 100.22 to determine dependency, a request for evidence of the adopted child's "economic dependency" is within the scope of the Board's authority. Robert v. FSM Social Sec. Admin., 22 FSM R. 388, 395 n.7 (Kos. 2019).

While the court recognizes the difficulties a Social Security claimant may have in substantiating her claim, the burden of proof remains with the applicant as a matter of law and does not shift to the Social Security Administration. Robert v. FSM Social Sec. Admin., 22 FSM

R. 388, 396 (Kos. 2019).

– Taxes, Liens, and Penalties

For Social Security purposes, wages means payment, salary, or compensation for employment, whether received in cash or a medium other than cash, such as meals. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I), 7 FSM R. 280, 284 (Yap 1995).

Social Security contributions are taxed from both employer and employee, and the employer is responsible for assessing the employee's contribution and withholding it from wages as and when paid. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I), 7 FSM R. 280, 285 (Yap 1995).

The cash value of meals provided by the employer, even if provided for the convenience of the employer, constitute wages subject to the social security tax. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (I), 7 FSM R. 280, 288 (Yap 1995).

Both employer and employee must pay a tax or contribution to the social security trust fund. It is the employer's responsibility to deduct the employee's contribution from the wages it pays. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II), 7 FSM R. 365, 367 (Yap 1996).

Social security taxes are a percentage calculated from the wages actually received by the employee not from the amount in the employment contract. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II), 7 FSM R. 365, 367 (Yap 1996).

The maximum statutory penalty that may be assessed for failure to pay social security taxes is \$1000. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II), 7 FSM R. 365, 368 (Yap 1996).

Interest on unpaid social security taxes is assessed at 12% from date due until paid even if part of a court judgment and even though court judgments normally bear a 9% interest rate. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II), 7 FSM R. 365, 370 (Yap 1996).

The Social Security Administration is entitled to its reasonable attorney's fees and costs when a court determines that a contribution is due. FSM Social Sec. Admin. v. Kingtex (FSM), Inc. (II), 7 FSM R. 365, 370 (Yap 1996).

Under 53 F.S.M.C. 605(3) an employer is delinquent each quarter that it fails to both file a report and pay within ten days after the end of the quarter. Therefore an employer may be subject to the maximum penalty of \$1,000 each time (quarter) it is delinquent. FSM Social Sec. Admin. v. Kingtex (FSM) Inc., 8 FSM R. 129, 132 (App. 1997).

Both interest, 53 F.S.M.C. 605(4), and penalties, 53 F.S.M.C. 605(3), may be applied to an employer who is delinquent, as was intended by Congress. FSM Social Sec. Admin. v. Kingtex (FSM) Inc., 8 FSM R. 129, 132-33 (App. 1997).

When Congress has specifically given Social Security, not the courts, the discretion to levy a penalty and limited that discretion to \$1,000 a quarter and Social Security has exercised its discretion by levying a penalty less than that allowed by the statute, the court is generally bound to enforce it. The courts cannot usurp the power Congress granted to another governmental

body. FSM Social Sec. Admin. v. Kingtex (FSM) Inc., 8 FSM R. 129, 133 (App. 1997).

A trial court may, pursuant to 53 F.S.M.C. 605(4), award attorney's fees and collection costs, including fees for a successful appeal, to the Social Security Administration. FSM Social Sec. Admin. v. Kingtex (FSM) Inc., 8 FSM R. 129, 134 (App. 1997).

Social security taxes, although imposed on actual earned income, are levied pursuant to a constitutional authority other than that to impose taxes on income. Thus, although social security taxes are an "income" tax, they are not "national taxes" that the national government must pay half of to the state where collected. Chuuk v. Secretary of Finance, 9 FSM R. 424, 434-35 (App. 2000).

Although income-related, neither the fishing fees levied under Article IX, section 2(m) nor the social security taxes levied under Article IX, section 3(d) are income taxes within the meaning of Article IX, section 2(e) or national taxes within the meaning of section 5. Chuuk v. Secretary of Finance, 9 FSM R. 424, 435 (App. 2000).

The social security tax lien arises by operation of law whenever social security taxes become due and are not paid. In re Engichy, 12 FSM R. 58, 64 (Chk. 2003).

Under 53 F.S.M.C. 607, Social Security taxes specifically take priority over other tax liens. In re Engichy, 12 FSM R. 58, 65 (Chk. 2003).

As Congress clearly intended, social security tax liens must be given priority over all other claims and liens and paid first. In re Engichy, 12 FSM R. 58, 66 (Chk. 2003).

Interest on unpaid social security taxes continues to accrue at 12% until paid, even though a judgment normally bears interest at 9%. FSM Social Sec. Admin. v. Lelu Town, 13 FSM R. 60, 62 (Kos. 2004).

Social Security taxes do have a priority over all other claims and liens. FSM Social Sec. Admin. v. Yamada, 18 FSM R. 88, 89 (Pon. 2011).

Even when the court is reluctant to refer the dispute for prosecution on contempt and social security tax evasion charges, Social Security itself may direct the matter to the FSM Department of Justice's attention for investigation and further action, including possible prosecution. FSM Social Sec. Admin. v. Reyes, 20 FSM R. 128, 130 (Pon. 2015).