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Security, retirement payments

A disclosure by former Rep. Jesse Jackson Jr.'s lawyers is prompting questions about what federal payments the ex-congressman is receiving as he awaits sentencing Wednesday for misusing \$750,000 in campaign cash.

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WASHINGTON — A disclosure by former Rep. Jesse Jackson Jr.'s lawyers is prompting questions about what federal payments the ex-congressman is receiving as he awaits sentencing Wednesday for misusing \$750,000 in campaign cash.

In a court filing this month, defense lawyers said vaguely that Jackson has no income “other than Social Security payments and Federal Employee Retirement System payments.”

His lawyers did not answer questions from the Tribune about the payments, but the newspaper found Jackson may be eligible for federal disability payments of as much as \$8,700 a month — or 60 percent of his congressional pay.

The South Side Democrat reportedly has bipolar disorder. He pleaded guilty to a lengthy spending spree involving misusing about \$750,000 in campaign cash. He quit Congress in November, amid an FBI and Internal Revenue Service probe, and struck a plea deal with prosecutors in February.

Jackson, 48, is too young to receive retirement benefits from Social Security. He would have to be at least 62.

His age and his tenure in Congress — almost 17 years — are short of the mark for a standard retirement annuity from the Federal Employees Retirement System, or FERS. Members of Congress can collect a pension from FERS starting at age 50 if they

have completed 20 years of service, or at any age after 25 years of service, according

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Any payments are subject to income taxes, according to officials at the Federal Office of Personnel Management. Citing privacy rules, OPM officials would not talk about Jackson Jr. but provided general information about FERS benefits.

Under the rules, whatever FERS "disability retirement" benefits a lawmaker receives are adjusted downward if he or she begins collecting Security Social disability payments.

Government agencies contacted by the Tribune would not confirm that Jackson is receiving disability money. One official who declined to discuss the matter called Jackson a "private citizen." Others cited privacy laws. But no expert consulted by the Tribune offered an alternative theory of what the payments might be, other than disability payments.

Prosecutors want Jackson Jr. sent to prison for four years. Defense lawyers are asking for leniency, saying he could not get suitable mental health care in prison.

Defense lawyers, in their general description of Jackson Jr.'s income, said the federal payments would be "suspended" if he goes to prison.

The notion that a disgraced lawmaker, staring at a possible prison term after a spending binge with campaign cash, might be collecting hefty benefits rankles some experts.

David Autor, a professor at the Massachusetts Institute of Technology who has written about the unsustainable explosion in disability rolls in the U.S., said the idea of a "recently shamed-out-of-office congressman applying for public benefits" was "sheer chutzpah."

Bipolar disorder is a serious impairment, Autor said, but he did not think most people with the condition applied for disability benefits since the illness is

“reasonably treatable with modern psycho pharmaceuticals.”

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Separate reform measures were passed in 2007 and 2012, and Jackson Jr. voted for both of them.

Those laws, according to OPM, call for stripping both FERS pension and disability benefits upon a felon's "final conviction" for one of several specified offenses. "Final conviction" means the time for an appeal has lapsed or appeals were lost.

Craig Holman, an official with Public Citizen, a watchdog group, helped write the legislation to strip pensions from lawmakers convicted of abusing the public trust. "I suspect Congress never even considered something like disability payments," he said.

When asked about the prospect of Jackson Jr. pocketing disability payments now, Holman said: "It would seem to run contrary to the spirit of the law."

Brittney Manchester, of the Office of Personnel Management, provided a citation from federal law on how a federal lawmaker is deemed eligible for retirement disability:

"A member who completes at least 18 months of service as a member and is found by the (OPM) to be disabled for useful and efficient service as a member (of Congress) because of disease or injury shall be retired on the member's own application."

A lawmaker may file a disability claim within one year of "separation from service," the OPM said.

OPM would not discuss Jackson Jr. without a signed waiver from him. His lawyers did not respond to a Tribune request for a waiver.

Jackson Jr., the son of civil rights leader the Rev. Jesse Jackson Sr., last earned \$174,000 in office. He resigned soon after winning re-election Nov. 6 to a two-year term. Before stepping down, he had been on a medical leave of absence from

Congress for more than five months, undergoing periods of treatment in Arizona and

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Prosecutors want staggered prison terms for the couple — 18 months for her and four years for him — so their children, ages 9 and 13, would not be without a parent.

She is asking to be put on probation, while prosecutors urge that she go to prison first, then Jackson Jr. The ex-congressman has said through his lawyers that he'd like to serve his term first.

Glimpses of Jackson Jr.'s financial straits emerged in a court filing by defense lawyers on June 17. They argued against Jackson Jr. paying too high a financial price for his misdeeds.

Prosecutors are seeking from Jackson Jr. both a forfeiture of \$750,000 and restitution of \$750,000. He also could be hit with a fine as high as \$100,000. Sandi Jackson, in her plea deal, agreed to pay \$168,550 in restitution.

Jackson Jr.'s lawyers said his family is "in significant financial peril" and that he and his wife "have a negative monthly cash flow."

They said the couple's net worth is lower than his agreed-upon forfeiture of \$750,000 and argued that he should not pay both a forfeiture and restitution.

The lawyers said the couple's net worth was made up largely of the equity in their two homes — one on Chicago's South Side and another in the DuPont Circle area of Washington, D.C. — and two retirement accounts and their automobiles.

Prosecutors on Friday asked for a judge's permission to seize the Jacksons' homes and a retirement account worth nearly \$80,000 if he is unable to pay the forfeiture.

In their June 17 court pleading, his defense lawyers asserted that Jackson Jr.'s health issues prevent him "from working at this time." They also said: "Due to his health

issues and the possibility of incarceration, Mr. Jackson has no earning capacity and

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An agency guide says regular disability payments are not paid for the months a convicted person is “confined” for a crime, “but any family members who are eligible for benefits based on that person’s work may continue to receive benefits.”

Another agency guide says people suffering from “affective disorders” — “characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome” — may be evaluated for benefits.

Finally comes the question of Jackson Jr.’s potential annual pension, which is worth just over \$45,000, according to an estimate by Pete Sepp at the National Taxpayers Union, a watchdog group.

In 2007, Congress passed ethics reforms in the Honest Leadership and Open Government Act. The law carries a provision to strip pension benefits from lawmakers found guilty of one of several crimes, including bribery, witness tampering and perjury.

Conspiracy to commit wire fraud — to which Jackson Jr. has pleaded guilty — was another violation written into the law to cancel a lawmaker’s pension.

No member of Congress has lost a pension since the 2007 measure was enacted, according to the OPM.

Last year, Congress again came down hard on lawmakers who become lawbreakers by passing the STOCK Act, which added more crimes to trigger to loss of a pension.

The act also broadened the government’s reach by stipulating that lawmakers could lose congressional pensions even if they had left the Congress and committed one of the enumerated felonies while serving as president, vice president, or in a state or local elected office.

The law was toughened in part because of former congressmen such as Rod

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And even if a pension were stripped from a lawmaker, the Office of Personnel Management in some cases may convey the benefits to an “innocent” spouse or to children, the agency said.

A spokesman for the U.S. attorney's office for the District of Columbia said it was not up to prosecutors to decide if Jackson Jr. keeps his pension. “The plea agreement reached with Mr. Jackson was designed to hold him criminally accountable consistent with federal prosecution guidelines,” the spokesman said.

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