

CRS Report for Congress

Received through the CRS Web

Social Security: The Government Pension Offset

Laura Haltzel
Specialist in Social Legislation
Domestic Social Policy Division

Summary

The Government Pension Offset (GPO) provision reduces Social Security benefits that a person receives *as a spouse* if he or she also has a government pension based on work that was not covered by Social Security. Its purpose is to replicate Social Security's "dual entitlement" rule, which requires that a Social Security benefit earned as a worker be subtracted from any Social Security spousal benefit for which the worker is eligible. Its intent is to remove an advantage these workers would otherwise receive if they could receive both a government pension and full Social Security spousal benefits. Opponents contend that the provision is basically inaccurate and often unfair. Six bills have been introduced in the 108th Congress that would modify or repeal the provision. This report¹ will be updated periodically.

Background

Generally, Social Security benefits are payable to the spouses of retired, disabled, or deceased workers covered by Social Security. However, the spousal benefit of a person who receives a pension from government employment (federal, state, or local) that was not covered by Social Security is reduced by a provision in the law known as the government pension offset (GPO).² The GPO reduction in Social Security spousal benefits is equal to two-thirds of the government pension.

The GPO is intended to place annuitants whose government employment was not covered by Social Security and who are eligible for a Social Security spousal benefit in approximately the same position as workers whose jobs were covered by Social Security. Social Security recipients are subject to an offset of spousal benefits under the program's "dual entitlement" rule. It requires that a Social Security benefit earned as a worker be subtracted from the Social Security spousal benefit, and only the difference, if any, is paid

¹ This report was written by former CRS staffer Geoffrey Kollmann.

² 42 U.S.C. § 402(b)(4).

as a spousal benefit. The rationale is that a Social Security spousal benefit is based on the concept of “dependency,” and someone who receives his or her own Social Security benefit as a retired worker is not financially dependent on his or her spouse.

Before the GPO was enacted in 1977, workers who received pensions from a government job not covered by Social Security could also receive full Social Security spousal benefits. The GPO is an attempt to afford similar treatment to spouses regardless of whether they are eligible for Social Security benefits as a worker or for a government pension. To do this, it is assumed that two-thirds of the government pension is basically equivalent to a Social Security benefit the spouse would receive as a worker if his or her job had been covered by Social Security. Thus, the GPO attempts to replicate the Social Security dual entitlement rule by requiring that two-thirds of the government pension be subtracted from the Social Security spousal benefit. The Social Security Administration (SSA) provides the following examples to explain why the law was changed.

Bill Smith collects a Social Security benefit of \$600 per month. His wife, Mary, is potentially eligible for a wife’s benefit of up to 50% of Bill’s, or \$300. However, Mary also worked and had paid into the Social Security, qualifying for her own retirement benefit of \$400. She will not receive any wife’s benefit because her \$400 retirement benefit, in effect, offsets her \$300 wife’s benefit.

Bill’s neighbor, Tom, also gets a Social Security benefit of \$600 a month. But his wife, Nancy, worked for the federal government, instead of a job where she paid Social Security taxes, and earned a civil service pension of \$800 a month. Before the government annuity offset provisions were in place, Nancy would have been eligible for both her \$800 civil service pension and a \$300 wife’s benefit on Tom’s Social Security record. With the offset provision in place, Nancy does not qualify for a wife’s benefit from Social Security, so now she is treated the same as Mary.

Using two-thirds of the government pension as the equivalent of a Social Security benefit was established by the Social Security Amendments of 1983 (P.L. 98-21). The original 1977 law provided that 100% of the government pension be subtracted from the Social Security spousal benefit. In considering the 1983 amendments, the House proposed that the amount used in calculating the offset be one-third of the government pension. The Senate version contained no such provision. The conferees adopted the House bill except that the offset would be two-thirds of the government pension.

Generally, employees of the federal government hired before 1984 are covered by the Civil Service Retirement System (CSRS) and are not covered by Social Security; therefore, they are subject to the GPO. Most federal workers first hired into federal service after 1983 are covered by the Federal Employees’ Retirement System (FERS), which includes Social Security coverage; thus, although FERS retirees are not subject to the GPO,³ they are subject to the Social Security dual entitlement rule.

³ Workers who switch from CSRS to FERS must work for 5 years under FERS in order to be exempt from the GPO.

As of December 2002, 376,000 government annuitants had their Social Security spousal benefits affected by the GPO (not counting those who were eligible for spousal benefits but were deterred from filing for them because of the GPO). Of these 60% were spouses; 40% were widows and widowers. About 73% of everyone affected were women. In December 1999, the average offset caused by the GPO was \$276 a month for men and \$391 for women. The SSA estimates that, in 1993, 4.8% of those affected by the GPO had incomes below the poverty line. For comparison purposes, at that time 15% of the general population had incomes below the poverty line. The Congressional Budget Office (CBO) has projected the savings produced by the GPO to be \$33 billion over the next 10 years (hence, the 10-year cost of repealing the provision would be \$33 billion).

Issues

Critics of the GPO say that it is not well understood and that many affected by it are unprepared for a smaller Social Security benefit than they had assumed in making retirement plans. They also argue that the provision especially hurts low-income workers such as teachers, and is in some circumstances sufficient to throw these workers into poverty. They maintain that the original purpose of the GPO was to prevent higher-paid workers from reaping windfall benefits, and it was not intended to have such a drastic effect on lower-paid workers. They question why the provision applies only to government workers and not to workers in the private sector who also receive pensions from their employers. They also point out that whatever the rationale, reducing everyone's spousal benefit by two-thirds of their government pension is an imprecise way to estimate what the spousal benefit would be had the government job been covered by Social Security. They say this procedure has uneven results and that it is especially disadvantageous for surviving spouses and low-paid workers. Ideally, the way to compute the offset to replicate the dual entitlement rule would be to apply the Social Security benefit formula to an individual's total earnings, including the noncovered portion, and reduce the resulting Social Security benefit by the proportion of total earnings attributable to noncovered earnings.

Defenders of the GPO maintain that it is an effective method to curtail what otherwise would be an unfair advantage for government workers. The provision was phased in over six years and now has been in the law for 26 years; therefore, they say, there has been ample time for people to adjust their retirement plans. They maintain that it is not true that the measure was intended to apply particularly to higher-paid workers, nor does analysis support the position that the measure disproportionately affects lower-paid workers, pointing out that, if these workers had been covered by Social Security, in many cases Social Security's dual entitlement rule would produce a higher reduction in spousal benefits than does the GPO.⁴ Thus, they say, to weaken or eliminate the GPO would be unfair to other workers, including many government workers whose jobs are

⁴ For an analysis of the accuracy of the GPO in replicating the equivalent of a Social Security benefit for government workers, see archived CRS report 90-324, *What Amount of a Civil Service Retirement System (CSRS) Benefit is Equivalent to a Social Security Benefit?* by Geoffrey Kollmann. Among its conclusions, the report found that "the GPO is basically imprecise, but in many cases this has little practical effect on considerations of equity. Those likely to be adversely affected by its inaccuracy are likely to be surviving spouses of high-paid workers, and those who may partially escape its intended effect are shorter-term, lower-paid workers."

covered by Social Security and therefore are subject to Social Security's dual-entitlement rule. They maintain that the fact that the GPO does not apply to private sector pensions is irrelevant, because the employment on which the private pension is based would be covered by Social Security, and thus Social Security's dual entitlement rule (which the GPO is meant to replicate) would reduce any spousal benefits for which the workers would be eligible. They also argue that weakening or eliminating the GPO would be costly at a time when neither Social Security nor the federal budget is in sound financial condition. Finally, because administrative considerations have precluded applying the Social Security benefit computation rules to government employment, the GPO is defended as a practical way to prevent undue Social Security benefits from going to government annuitants.

A burgeoning controversy has arisen with the recent revelation that a growing number of state and local government workers have been making use of a little-known provision of the law that allows them to escape the application of the GPO if they switch jobs at the end of their government careers. They can do this because the law grants an exception to the GPO if, on the last day of one's government service, he or she works in a position that is covered by Social Security. On August 15, 2002, the General Accounting Office (GAO) released a report that found that, as of June 2002, 4,819 individuals in Texas and Georgia have switched to Social Security-covered positions to avoid the application of the GPO to their Social Security spousal benefits. The GAO projected that the cost to the program for these cases could be about \$450 million. The GAO stated that possible remedies to these potential abuses of the last-day exception clause could be to lengthen the time period to qualify for the exemption or to prorate the reduction in benefits to the proportion of time spent in the noncovered job compared to the covered one. On February 11, 2004, the House of Representatives agreed to Senate amendments and passed H.R. 743, the Social Security Protection Act of 2003.⁵ H.R. 743 eliminated the last-day exception clause by requiring those workers switching from noncovered positions to Social Security-covered positions to work in the covered position for at least 60 months (5 years) before being exempt from the GPO.⁶

Recent Legislation. Four bills were introduced in the 106th Congress that would have affected the GPO. H.R. 1217, H.R. 1590, S. 8, and S. 717 would have eliminated the application of the provision to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension is \$1,200 or less. Under H.R. 1217, for those whose monthly combination of a Social Security spousal benefit and government pension is more than \$1,200, the reduction in their benefit would be the lesser of (1) the excess of the combined benefits over \$1,200 or (2) two-thirds of the government pension. Under H.R. 1590, S. 8, and S. 717, the reduction would be equal to the lesser of (1) two-thirds of the amount by which the combined benefits exceeded \$1,200 or (2) two-thirds of the government pension. Under all bills, the \$1,200 threshold would rise in the future in proportion to the rate of inflation. The CBO and the SSA estimated that the cost of H.R. 1217 would be \$4.9 billion, and \$5.9 billion, respectively, over the next

⁵ For more information on H.R. 743, see CRS Report RS21448, *The Social Security Protection Act of 2003 (H.R. 743)*, by Dawn Nuschler.

⁶ This 5 year period for GPO exemption is consistent with that required of Federal employees converting from CSRS to FERS.

10 years. They agreed that the long-range cost (over the next 75 years) would be negligible (less than 0.005% of taxable payroll).

On June 27, 2000, the Social Security Subcommittee of the House Committee on Ways and Means held a hearing on the GPO, in which Members and witnesses discussed H.R. 1217 and other approaches to modifying the provision. The SSA testified that under H.R. 1217: (1) 50% of recipients now affected by the GPO would have their benefits increased, including 29% for whom the offset would be removed completely; (2) Of women receiving benefit increases, 64% would be wives and 36% would be widows; and (3) 90% of those receiving increased benefits would have income above the poverty line and more than 80% would have family income above 150% of poverty.

The CBO testified that if one-half rather than two-thirds of the government pension were used to calculate the GPO, about 40% of those currently affected by the GPO would receive an increase in benefits, at a cost of at least \$2 billion over the next 10 years.

In the *107th Congress*, Rep. Jefferson introduced H.R. 664, which was essentially the same bill as H.R. 1217 in the *106th Congress*. Similarly, Sen. Mikulski introduced S. 611 which was essentially the same as S. 717 from the *106th Congress*. Rep. McKeon and Sen. Feinstein introduced H.R. 2638 and S. 1523, both of which would eliminate the provision entirely. As part of a major reform bill (H.R. 3497), Rep. Shaw proposed that the offset be reduced to one-third of the government pension.

In the *108th Congress*, Sen. Mikulski has introduced S. 363, which is essentially the same as S. 611 from the *107th Congress*. Similarly, Rep. McKeon and Sen. Feinstein have introduced H.R. 594 and S. 349, both of which would eliminate the provision entirely, effective in 2004. H.R. 887, by Rep. Jefferson and 109 co-sponsors, would eliminate the application of the provision to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension is \$2,000 or less. For those whose monthly combination of Social Security spousal benefits and other government benefits is more than \$2,000, the reduction in their benefit would be the lesser of the excess over \$2,000 or two-thirds of the government pension. The \$2,000 threshold would rise in the future in proportion to the rate of inflation. Rep. Shaw has introduced H.R. 75, essentially the same bill as H.R. 3497 in the *107th Congress*, which would reduce the offset to one-third of the government pension.

According to the CBO and the Office of the Actuary of the SSA, elimination of the GPO would cost \$32.7 b. over 10 years, and in the long run would cost 0.06% of taxable payroll, which would increase Social Security's long-range deficit by about 3%. They estimate that enactment of S. 363, which would eliminate the application of the GPO to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension is \$1,200 or less, would cost \$8.5 b. over 10 years, and in the long run would cost 0.01% of taxable payroll (causing an increase in Social Security's long-range deficit of about 0.5%). They estimate that enactment of H.R. 887, which would eliminate the application of the GPO to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension is \$2,000 or less, would cost \$19.2 b. over 10 years, and in the long run would cost 0.02% of taxable payroll, (causing an increase in Social Security's long-range deficit of about 1.0%).

On May 1, 2003, the Social Security Subcommittee of the House Committee on Ways and Means held a hearing on the GPO, in which Members and witnesses discussed approaches to modifying the provision. The SSA testified that if any action were taken affecting the GPO, it should be done in the context of overall reform of the Social Security system.

To address the last-day rule controversy, Rep. Shaw introduced H.R. 743, a bill to enhance protection of Social Security benefits, which includes a provision that would require government workers who switch from non-Social Security-covered jobs to covered ones must work for five years under the covered job in order to be exempt from the GPO (i.e., it would repeal the “last-day” rule). The CBO estimates that the change to the last-day rule in H.R. 743 would save \$185 million over 10 years. On March 5, 2003, H.R. 743 did not receive enough votes to pass the House under suspension of the rules. Opposition to the repeal of the last-day rule was generally credited as the key reason the bill failed to be approved.

On March 13, 2003, the House Ways and Means Committee held a markup on H.R. 743, during which Rep. Jefferson offered an amendment that would incorporate into H.R. 743 the provisions of his bill (H.R. 887) that would eliminate the application of the GPO to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension is \$2,000 or less. However, unlike H.R. 887, the Jefferson amendment would fund the cost of modifying the GPO from general revenues instead of from the Social Security trust funds. Following the defeat of the Jefferson amendment by a vote of 14-21, Rep. Stark offered an amendment that would incorporate into H.R. 743 the provision of Rep. Shaw’s bill (H.R. 75) that would reduce the offset from two-thirds to one-third of the government pension. The cost of the Stark amendment also would be paid from general revenues. Following the defeat of the Stark amendment by a vote of 15-22, H.R. 743 was passed by the Committee by a vote of 35-2.

On April 2, 2003, the House again considered H.R. 743. Rep. Green of Texas offered an amendment that would have stricken the provision in the bill repealing the last day rule. The Green Amendment failed by a vote of 196-228. A motion by Rep. Green to recommit the bill to the House Ways and Means Committee with instructions to report the bill back to the House with an amendment that would address the concerns of government workers with respect to the GPO also failed by a vote of 203-220. The House then passed H.R. 743 by a vote of 396-28.

On December 9, 2003, the Senate passed H.R. 743, with amendment, by Unanimous Consent. In regard to the repeal of the GPO last day rule, the Senate differed from the House in that it would exempt workers from the 5 year (60 month) rule if their last day of government service occurs before July 1, 2004. If the last day of government service occurs after June 30, 2004, and within five years of enactment, the required 60-month period of Social Security-covered employment would be reduced by the number of months in Social Security-covered employment performed under the same retirement system on or before the date of enactment.

On February 11, 2004, the House of Representatives agreed to the Senate amendments and passed H.R. 743 by a vote of 402-19, clearing the measure for the President’s signature.