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IN FOCUS

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The Social Security Fairness Act of 2023

The Social Security Fairness Act of 2023 (P.L. 118-273) was signed into law on January 5, 2025. The legislation repeals two provisions under Social Security—the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP)—for monthly benefits payable after December 2023. This In Focus provides summary information on how the two provisions worked, who will be affected by the act, and how the legislation may interact with other components under Social Security and other programs. Finally, this In Focus discusses recent issues related to the implementation of the act.

Background

Social Security is a work-related federal insurance program that provides monthly cash benefits to workers and their eligible family members in the event of a worker's retirement, disability, or death. A worker's employment or self-employment is considered covered by Social Security if the services performed in that job result in earnings that are taxable and creditable for program purposes. Although participation in Social Security is compulsory for most workers, about 6% of all workers in paid employment or self-employment are not covered by Social Security and thus not subject to its payroll tax (e.g., about one-quarter of state and local government employees and most civilian federal employees who were hired before 1984). The GPO and the WEP were two separate provisions designed to place Social Security beneficiaries who had some noncovered earnings in approximately the same position they would have been in had *all* their earnings been covered by the program.

The GPO, enacted in 1977 (P.L. 95-216), adjusted the Social Security *spousal or widow(er) benefits* of most people who also received federal, state, or local government pensions based on earnings not covered by Social Security. The GPO was intended to replicate the *dual entitlement rule* for beneficiaries whose entire careers were covered by the program. Under the dual entitlement rule, a person's Social Security spousal or widow(er) benefit is reduced by the amount of his or her own Social Security retired- or disabled-worker benefit (i.e., a 100% offset). The GPO reduced certain individuals' Social Security spousal or widow(er) benefits by two-thirds of their noncovered government pensions (i.e., a 67% offset). The GPO was designed to place spouses and widow(er)s who received noncovered government pensions in approximately the same position as spouses and widow(er)s whose entire careers were covered by Social Security.

The WEP, enacted in 1983 (P.L. 98-21), reduced the Social Security benefits of certain *retired or disabled workers* (and their family members) who were also entitled to pension benefits based on earnings from noncovered jobs (including certain foreign pensions). The Social Security benefit formula is intended to help workers who spend their careers in low-paying jobs by providing them with relatively higher benefits in relation to their career-average earnings in covered employment than the benefits for workers with high career-average earnings. However, the formula could not differentiate between those who worked in low-paid jobs throughout their careers and other workers who appeared to have been low paid because they worked many years in jobs not covered by Social Security. (These years are shown as zeros for Social Security benefit calculation purposes.) The WEP was intended to remove this unintended advantage or windfall that these latter beneficiaries would otherwise have received from Social Security.

Supporters of the GPO and the WEP said that the provisions were reasonable means to prevent overgenerous benefits to certain people due to their noncovered employment. However, critics pointed out that these provisions were not well understood. They argued that many people affected by the provisions were unprepared for smaller Social Security benefits than they had expected in making retirement plans. They further pointed out that affected individuals considered the provisions to be unfair and somewhat arbitrary with respect to how the benefit reductions were computed. Some lawmakers regularly introduced legislation to repeal or modify these provisions.

Beneficiaries Affected

The Social Security Fairness Act of 2023 repeals the GPO and WEP. The act may affect both current and future Social Security beneficiaries.

As of January 2025, SSA says about 3.2 million individuals had their Social Security benefits reduced or eliminated by the GPO, the WEP, or both. Under the new law, those affected beneficiaries are expected to receive an increase in their monthly benefits and may also receive retroactive payments for benefits payable dated back to January 2024.

All 50 states, the District of Columbia, outlying areas (including American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, the U.S. Virgin Islands, and U.S. overseas military bases), and foreign countries had Social Security beneficiaries affected by the GPO/WEP, but the number of affected beneficiaries varied widely by state. Nine states (California, Texas, Ohio, Illinois, Florida, Massachusetts, Colorado, Louisiana, and Georgia) accounted for nearly 60% of affected beneficiaries in December 2023.

The Congressional Budget Office (CBO) estimated that eliminating the GPO would increase monthly benefits in

December 2025 by an average of $700 for affected spousal beneficiaries and by an average of $1,190 for affected widow(er) beneficiaries. CBO estimated that repealing the WEP would increase monthly benefits in December 2025 by $360 on average for affected worker beneficiaries and their dependents. The actual increases in monthly benefits will depend on each individual's case and other adjustments.

The act may also affect current workers who have work experience in jobs that are not subject to the Social Security payroll tax and are potentially entitled to pensions based on those noncovered earnings in the future. In the past, those workers might have been affected by the GPO and/or the WEP when they retire. Under the new law, their Social Security monthly benefits will no longer be reduced by the two provisions. Those future beneficiaries may include, for example, (1) about 5.9 million (data in 2021) state and local government employees covered by alternative retirement systems through their employers and (2) 32,200 (data in FY2023) permanent civilian federal employees covered by the Civil Service Retirement System (CSRS), who were generally first hired before January 1, 1984.

Railroad retirees whose only pensions are based on railroad employment were not previously affected by the WEP. Thus, they are unlikely to be affected by the legislation. However, spouses or widow(er)s of railroad workers could have been affected by the GPO if they also received benefits from noncovered government pensions. If the spousal or widow(er) benefits were reduced by the GPO provision, those spouses or widow(er)s may expect to see benefit increases and receive retroactive payments. Spouses or widow(er)s of railroad workers who have noncovered government employment and are potentially entitled to pensions based on those noncovered earnings in the future will no longer be subject to the GPO reduction.

Potential Interactions

Repealing the GPO and WEP can potentially affect other components in Social Security and other programs.

Social Security's Program Solvency

CBO estimated that the act would increase direct spending by about $196 billion over the period FY2024-FY2034. It also estimated that the act would advance the exhaustion date (FY2034 under 2024 baseline projections) of the combined Social Security trust funds by roughly six months. Following the trust funds' exhaustion, ongoing revenue from Social Security will be available to pay only a proportion of the scheduled benefits. CBO estimated that the act would reduce the proportion from 78.3% to 77.7%.

Social Security Overpayments

Incorrect application of the GPO and WEP policy has been a major cause of Social Security overpayments. Specifically, a lack of data on receipt of pensions based on noncovered employment contributed to the overpayments attributable to the GPO and WEP. The act removes one of the root causes of calculation errors of improper payments, and the Social Security Administration (SSA) no longer needs to collect benefit information on noncovered pensions for GPO/WEP purposes. Social Security beneficiaries who had overpayments due to the incorrect application of the GPO/WEP provisions may receive relief if the overpaid amounts occurred after December 2023.

The Social Security Statement

Current law requires the Social Security Statement to include an explanation in plain language of the GPO and WEP provisions, as well as the maximum potential effects of the two provisions on the individual's Social Security benefit amounts. SSA may consider revising the Statement accordingly based on the act.

The Social Security Special Minimum Benefit

Social Security's special minimum benefit provision is an alternative benefit formula that increases benefits paid to workers who had low earnings for many years and to their dependents and survivors. Since 2000, the provision has mostly benefited only newly entitled beneficiaries whose benefits were subject to the WEP. Among the 19,825 families who were receiving the special minimum benefit as of May 2020, about 71% were affected by the WEP. With the elimination of the WEP, the number of Social Security beneficiaries who receive payments under the special minimum benefit is expected to decline substantially.

Other Programs

The act may also affect entitlement under other programs. For example, CBO estimated that eliminating the GPO and WEP would increase the income of people who also receive benefits from the Supplemental Nutrition Assistance Program (SNAP), thus reducing spending on SNAP benefits by about $2.2 billion from FY2024 to FY2034.

In addition, the act is to affect the payment method of Medicare Part B premiums for some people. By law, the Medicare Part B premium is automatically deducted from benefit payments from Social Security, railroad retirement, or CSRS. Medicare may bill beneficiaries for the remaining balance if their monthly benefits are not sufficient to cover the Part B premiums or bill individuals directly if they do not receive benefits from qualified programs. Repealing the GPO and WEP may increase the monthly Social Security benefits for affected beneficiaries. If those beneficiaries were billed directly for Part B premiums in the past, they may have some or all of the premiums deducted from Social Security benefits under the new law.

Implementation

At the time of publication, SSA is evaluating how to implement the act. The agency plans to update its progress at https://www.ssa.gov/benefits/retirement/social-security-fairness-act.html. According to SSA, the implementation of the act will increase its administrative workloads in the short term. Based on current funding and staffing status, SSA expects to take more than one year to adjust future benefit payments and refund all retroactive benefits.

In the long term, repealing the GPO and WEP could reduce some of SSA's workload associated with these provisions, such as applying the GPO/WEP calculation manually, verifying benefits from noncovered pensions, and processing related overpayments.

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