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Implementation of the Social Security Fairness Act of 2023 and Retroactivity for Benefit Applications

The Social Security Fairness Act of 2023 (SSFA, P.L. 118-273), signed into law on January 5, 2025, repealed two Social Security provisions—the Government Pension Offset (GPO) and the Windfall Elimination Provision (WEP)—for monthly benefits payable after December 2023. Because the effective date (January 1, 2024) precedes the enactment date (January 5, 2025) by approximately one year, most affected individuals received past-due benefit payments.

The number of months for which past-due benefits may be paid depends on when the individual applied for Social Security benefits:

- For beneficiaries whose benefits were subject to the GPO, WEP, or both prior to 2024 (collectively referred to here as the *GPO or WEP*), December 2023 was the last month in which those provisions applied. Payment adjustments began with benefits payable for January 2024.
- For affected individuals who filed for benefits during 2024, payment adjustments began with benefits payable for the month of filing (or an earlier retroactive month if applicable).
- Individuals whose benefits would have been affected by the GPO or WEP but who had not yet applied must file an application to receive benefits. The number of months of past-due benefits payable depends on the filing date, the individual's age, and the type of benefit claimed. For example, a retirement or survivor claimant who is above full retirement age (FRA) may receive payment adjustments for up to six months prior to the month of application.

This In Focus summarizes the implementation of the SSFA, explains the rules governing the retroactivity of benefit applications, and discusses issues related to the interaction between the SSFA and those retroactivity provisions.

The Implementation of the SSFA

The GPO and WEP were distinct statutory provisions that reduced Social Security benefits for workers and their eligible family members if the workers received (or were entitled to) pensions based on earnings from noncovered employment—that is, employment not subject to Social Security payroll taxes. These provisions were designed to mitigate perceived benefit advantages or “windfalls” resulting from the interaction between Social Security's benefit formula and pensions from noncovered employment. The GPO applied to *spousal or widow(er)*

benefits, whereas the WEP modified the benefit formula for certain *retired or disabled workers* and could affect benefits payable to their dependents.

The SSFA repealed the GPO and WEP. As a result, (1) existing beneficiaries (as of January 5, 2025) whose benefits were previously reduced under the GPO or WEP may receive higher monthly benefit amounts and, in many cases, past-due benefit payments; and (2) new beneficiaries whose benefits would have been subject to the GPO or WEP will no longer have their monthly benefits reduced under those provisions and may also be eligible for past-due payments, depending on their application dates and eligibility.

After the passage of the SSFA, the Social Security Administration (SSA) established a dedicated implementation webpage and has periodically updated it with progress reports. According to the SSA's most recent update, as of July 7, 2025, the agency completed sending over 3.1 million payments totaling \$17 billion to beneficiaries eligible under the SSFA. As of September 30, 2025, the agency had taken over 387,000 new initial claims since the SSFA was enacted, and these new beneficiaries may be entitled to some past-due payments.

Retroactivity for Benefit Applications

The Social Security Act authorizes retroactive payments for Social Security retirement and survivor benefits under Section 202(j) (42 U.S.C. §402(j)) and for disability benefits under Section 223(b) (42 U.S.C. §423(b)). *Retroactivity* refers to the payment of benefits for months prior to the month of application during which an individual met all eligibility requirements.

The availability and length of retroactive benefits depend on the claimant's age at filing and the type of benefit claimed. In general, retroactive benefits are not payable to retired workers or their spouses who file before reaching FRA (ranging from age 65 to 67 depending on the year of birth). Individuals who file for retirement benefits after attaining FRA may receive up to six months of retroactive benefits. However, if an individual files fewer than six months after reaching FRA, retroactive benefits are limited to the months beginning with attainment of FRA.

Retroactivity for widow(er)'s benefits generally follows rules similar to those for retirement benefits (up to six months in most cases), subject to certain exemptions. Disabled workers, their dependents, and disabled widow(er)s may qualify for up to 12 months of retroactive benefits provided all eligibility criteria are met during those months.

Polices Affecting the Application Date

In general, the application date for a specific type of Social Security benefit is the date on which the individual files the application. However, certain exceptions may apply, including protective filing and deemed filing.

Protective Filing

An individual may establish a protective filing by submitting a written statement to SSA indicating his or her intent to file for benefits. The protective filing date is the date SSA receives the statement. If the individual submits a formal application within the applicable protective filing period (generally six months), the protective filing date is treated as the application filing date for benefit purposes.

A worker who files for benefits may also name an eligible spouse, child, or survivor (including a divorced spouse) on the application. Doing so can establish a protective filing date for those individuals with respect to spousal, survivor, or other benefits, if applicable.

Deemed Filing

A person born in 1954 or later who is eligible for both a retired-worker benefit and a spousal benefit generally cannot restrict an application to only one benefit type. Instead, the individual is deemed to have filed for both benefits simultaneously and becomes entitled to both a retired-worker benefit and a spousal benefit. Under the dual entitlement rule, the person first receives his or her own retired-worker benefit, and any spousal benefit payable is reduced by the amount of the retired-worker benefit. The spousal benefit can be reduced to zero if the retired-worker benefit is higher. In effect, the individual receives the higher of the two benefits rather than the full amount of both.

Deemed filing applies to retired-worker and spousal benefits (including divorced spouse's benefits), subject to certain exceptions. It does not apply in cases where (1) an individual is entitled to disability benefits, (2) a person receives spousal benefits because he or she is caring for the worker's eligible child (under age 16 or disabled), or (3) an individual is applying for widow(er)'s benefits.

Interaction Between SSFA and Retroactivity

The six-month retroactivity limit applicable to retirement and survivor benefit applications may adversely affect certain individuals eligible under the SSFA who filed applications after January 5, 2025, and sought past-due benefit payments beginning in January 2024.

Historically, many spouses and widow(er)s subject to the GPO did not apply for Social Security benefits because their benefits would have been fully offset (benefits reduced to zero), and SSA informed some individuals that filing applications would not result in payable benefits. As a result, some individuals affected by the GPO were

effectively deterred from filing. (In contrast, the WEP generally reduced benefits for affected retired or disabled workers but typically did not reduce them to zero.)

Following enactment of the SSFA, many of these individuals filed applications for benefits. However, because the SSFA did not amend the statutory provision governing retroactivity of benefit applications, these applicants generally remain subject to the six-month retroactivity limit. For example, take a 70-year-old individual whose spousal or survivor benefit would have been fully offset under the GPO files an application on February 5, 2025. Under current retroactivity rules, that individual may receive past-due benefits for up to six months prior to the month of filing—that is, for benefits payable from August 2024 through January 2025. By contrast, had the individual filed before January 2024 (e.g., upon attaining FRA), no benefits would have been payable at that time due to the GPO. However, following enactment of the SSFA, the individual could have received payment adjustments for benefits payable beginning in January 2024.

As of August 27, 2025, SSA had received 164,434 new initial claims since January 2025 from spouses and widow(er)s who would previously have been affected by the GPO if the SSFA had not become law.

Congressional Responses

On April 1, 2025, in response to constituent concerns regarding the six-month retroactivity limit, Senators Susan Collins, Bill Cassidy, John Cornyn, and John Fetterman asked SSA to review its policies and provide the “maximum” past-due payments—back to January 2024, if eligible—to spouses and widow(er)s who had established protective filings or who had not filed applications previously based on advice received from SSA.

On April 25, 2025, SSA responded that the SSFA did not amend the statutory provisions governing retroactivity of benefit applications. The agency also stated that it had consistently encouraged individuals potentially affected by the SSFA to file applications if they had not done so previously.

On February 5, 2026, Senators Cassidy, Cornyn, and Fetterman sent a follow-up letter urging SSA to apply the SSFA's effective date (January 2024) to all affected beneficiaries. The letter asserted that Congress did not intend to exclude new applicants from the SSFA's effective date and reiterated that many spouses and widow(er)s had not filed applications earlier because SSA had advised them not to do so prior to enactment of the SSFA.

As of the date of this In Focus, CRS had not identified a public response from SSA to the February 5, 2026, follow-up letter.

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