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Social Security: The Government Pension Offset (GPO)

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Summary

The Government Pension Offset (GPO) applies to Social Security spousal benefits, which are generally payable to the spouses of retired, disabled, or deceased workers covered by Social Security. The Social Security spousal benefit is equal to 50% of the retired or disabled worker's benefit and 100% of the deceased worker's benefit.

A worker is "covered" by Social Security if he or she pays into Social Security through the Old-Age, Survivors, and Disability Insurance (OASDI) payroll tax. Currently 96% of all workers are covered by Social Security. The majority of non-covered positions are held by federal, state, and local government employees.

Social Security spousal benefits were established in the 1930s to help support wives who are financially dependent on their husbands. It has since become more common for both spouses in a couple to work. In order to reduce the Social Security spousal benefits of individuals who are not financially dependent on their spouses because they receive their own benefits, one of two provisions may potentially apply. These are:

- the "dual entitlement" rule, which applies to spouses who qualify for a Social Security benefit based on their own work histories in Social Security-covered employment, and
- the GPO, which applies to spouses who qualify for a government pension based on non-Social Security-covered government employment, and may also qualify for a Social Security spousal benefit based on their spouses' Social-Security covered employment.

The GPO attempts to replicate Social Security's "dual entitlement" rule by removing an advantage for non-covered workers who might otherwise receive both full Social Security spousal benefits and a government pension from non-Social Security-covered employment.

The GPO reduces Social Security spousal benefits by two-thirds of the pension from non-covered government employment. The GPO does not reduce the benefits of the spouse who was covered by Social Security. Therefore, the couple's total benefit is effectively the covered worker's original Social Security benefit plus a reduced (or potentially eliminated) spousal benefit.

Opponents contend that the GPO provision is basically imprecise and can be unfair. Defenders argue it is the best method currently available for eliminating an unfair advantage for spouses working in non-Social Security-covered employment, and for preserving the spousal benefit's original intent of supporting financially dependent spouses.

In the 111th Congress, Representative Howard Berman has introduced H.R. 235, the Social Security Fairness Act of 2009, to repeal the GPO. Senator Dianne Feinstein has introduced a companion bill, S. 484, to repeal the GPO.

This report will be updated periodically.

Contents

Tables

Contacts

Background

Generally, Social Security spousal benefits are paid to the spouses of retired, disabled, or deceased workers covered by Social Security. The spousal benefit is equal to 50% of the retired or disabled worker's benefit and 100% of the deceased worker's benefit.

Spousal benefits are intended for individuals who are financially dependent on spouses who work in Social Security-covered positions. For this reason, individuals who qualify for both a Social Security worker benefit (retirement or disability) based on their own work history and a Social Security spousal benefit based on their spouse's work history are "dually entitled" and are subject to the dual entitlement rule. Individuals who qualify for both a *non*-Social Security-covered government pension and a Social Security spousal benefit are subject to the Government Pension Offset (GPO) provision.[1] The intent of the dual entitlement rule and the GPO is the same—to reduce the Social Security spousal benefits of individuals who are not financially dependent on their spouses because they receive their own benefits.

Social Security-Covered and Non-Covered Work

A worker is "covered" by Social Security if he or she pays into Social Security through the Old-Age, Survivors, and Disability Insurance (OASDI) payroll tax. Approximately 96% of all workers are covered. The majority of non-covered positions are held by government employees: most federal employees hired before 1984 and some state and local government employees. Nationwide, approximately 71% of state and local government employees are covered.[2] However, coverage varies from state to state. For example, approximately 97% of state and local employees in New York and Vermont are covered by Social Security, while only 3% of state and local employees in Ohio, and 5% in Massachusetts, are covered.[3]

This disparity in coverage occurs because, while Social Security originally did not cover any state and local government workers, over time the law has changed. Most state and local government employees became covered by Social Security through voluntary agreements between the Social Security Administration and individual states.[4] Beginning in July 1991, state and local employees who were not members of a public retirement system were mandatorily covered by Social Security. Those public employees who were already members of a public retirement system through their employment were not mandatorily covered because their state pensions already fulfilled the social insurance functions of Social Security.

[1] The GPO is often confused with the Windfall Elimination Provision (WEP), which reduces Social Security benefits that a person receives *as a worker* if he or she also has a government pension based on *work that was not covered by Social Security*. For additional information in the Windfall Elimination Provision (WEP), please refer to CRS Report 98-35, *Social Security: The Windfall Elimination Provision (WEP)*, by Alison M. Shelton.

[2] Social Security Administration, unpublished table, "Estimated Social Security Coverage of Workers with State and Local Government Employment," 2006.

[3] Ibid.

[4] These agreements are known as "Section 218 agreements" because they are authorized by Section 218 of the Social Security Act.

The Dual Entitlement Rule and the GPO

The GPO is intended to approximate Social Security's dual entitlement rule. The intent of both provisions is to reduce the Social Security spousal benefits of individuals who are not financially dependent on their spouses because they receive their own benefits.

Dual Entitlement Rule

In the absence of the dual entitlement rule, a couple with two earners, both covered by Social Security, would receive two primary benefits as well as two spousal benefits. The Social Security dual entitlement rule effectively requires that a beneficiary receive the *higher* of the Social Security worker's benefit or the spousal benefit, but not both.[5] The total benefit received by a worker therefore consists of his or her own worker benefit, plus the excess of the spousal benefit (if any) over his or her own benefit – not the sum of the two benefits.

Table 1 demonstrates how the Social Security dual entitlement rule is applied.

Table 1. Regular Dual Entitlement Formula

	John	Mary
Social Security monthly retirement benefit (based on *worker's* earnings record)	$900.00	$400.00
Maximum Social Security spousal monthly benefit eligible to receive (based on *spouse's* earnings record, equal to 50% of the spouse's Social Security retirement benefit)	$200.00	$450.00
Actual Social Security SPOUSAL monthly benefit paid (subtract worker benefit from spousal benefit)	**$0.00**	**$50.00**
TOTAL Social Security monthly benefits paid to John and Mary	**$900.00**	**$450.00**

Source: Illustrative example provided by Congressional Research Service (CRS).

In this example, both John and Mary have worked enough years in Social Security-covered positions (i.e., paid into Social Security) to qualify for Social Security retirement benefits. John has earned a monthly Social Security benefit equal to $900. His wife Mary has earned a monthly Social Security benefit equal to $400. Mary is also eligible for a Social Security spousal benefit of up to 50% of John's retirement benefit, or $450. However, under the dual entitlement rule, Mary's worker benefit of $400 must be subtracted from her potential $450 spousal benefit, and only the difference of $50 is paid as a spousal benefit. In total, Mary will receive $450 monthly—$400 as a Social Security worker benefit and $50 as a Social Security spousal benefit. John is also eligible to receive a Social Security spousal benefit of up to 50% of Mary's retirement benefit, or $200. However, in this application of the dual entitlement rule, John would not be paid a spousal benefit because his $900 retirement benefit based on his own earnings is higher and more than offsets the potential $200 spousal benefit. The Social Security benefits received by the couple total $1,350 per month.

[5] The dual entitlement rule requires that 100% of a Social Security retirement or disability benefit earned as a worker (based on one's own Social Security-covered earnings) be subtracted from any social Security spouasl benefit one is eligible to receive (based on a spouse's Social Security-covered earnings). So, in cases where the spousal benefit is higher than the worker's own benefit, the worker receives his or her own benefit plus the reduced spousal benefit, which is the difference between the spousal benefit and the worker's own benefit. In cases where the worker's own benefit is higher than the spousal benefit, the worker receives his or her own benefit but not the the spousal benefit.

Because most workers are in Social Security-covered employment, the dual entitlement scenario is more common than the GPO among two-earner couples. In 2006, approximately 6.3 million out of 30.9 million Social Security retired worker beneficiaries, or about 20%, were dually entitled (not including those whose spousal benefit was completely offset by their retired worker benefit).[6]

Government Pension Offset Formula

The Social Security spousal benefit of a person who receives a pension from government employment (federal, state, or local) that was based on work *not covered* by Social Security is reduced by a provision in the law known as the GPO. The GPO reduction to Social Security spousal benefits is equal to two-thirds of the pension from non-covered government employment. In December 2008, nearly 496,000 Social Security beneficiaries, or about 1.5% of all retired worker beneficiaries, had spousal benefits reduced by the GPO (not counting those who were eligible for spousal benefits but were deterred from filing for them because of the GPO).[7] **Table 2** provides an example of how the GPO is applied.

Table 2. GPO Formula

	John	Mary
Social Security retirement benefit (based on *worker's* earnings record)	$900.00	$0.00
Non-Social Security-covered government pension	$0.00	$400.00
Maximum Social Security spousal benefit eligible to receive (based on *spouse's* earnings record, equal to 50% of the spouse's Social Security retirement benefit)	$0.00	$450.00
Reduction in Social Security spousal benefit due to GPO (equals 2/3 of non-Social Security-covered pension: $400*2/3)	$0.00	$266.67
Actual Social Security SPOUSAL benefit paid (subtract 2/3 of non-Social Security-covered worker's pension from Social Security spousal benefit: $450–$266.67=183.33)	**$0.00**	**$183.33**
TOTAL monthly pensions paid to John (Social Security only) and Mary (Social Security plus pension from non-covered employment)	**$900.00**	**$583.00**

Source: Illustrative example provided by CRS.

In this example, John worked enough years in Social Security-covered employment to qualify for Social Security retirement benefits. He has earned a Social Security benefit of $900. His wife, Mary, is *not* eligible for a Social Security *worker* benefit on her own record because she worked in a non-Social Security-covered government position and did not contribute to Social Security. Mary is eligible for a $400 government pension based on her work in a non-Social Security-covered position. However, Mary is also eligible for a Social Security *spousal* benefit of up to $450 based on John's work history. Under the GPO, Mary's potential Social Security spousal benefit is reduced by an amount equal to two-thirds of her non-Social Security-covered government pension, or $266.67, and only the difference of $183.33 is paid to her as a spousal benefit. In total, Mary will receive $583.33—$400 from her non-covered pension and $183.33 as

[6] Social Security Administration, Annual Statistical Supplement 2007, Table 5.G2.

[7] Social Security Administration, Office of Research Evaluation and Statistics, Unpublished Table DE01, January 12, 2009.

a Social Security spousal benefit. In this example, John is not eligible for a Social Security spousal benefit because Mary's employment was not covered by Social Security.

Table 3 highlights the differences between the dual entitlement rule and the GPO.

Table 3. Dual Entitlement Rule Compared to Government Pension Offset

Dual Entitlement Rule	Government Pension Offset
Applies to individuals who qualify for both a Social Security worker benefit (retirement or disability) based on their own work history and a Social Security spousal benefit based on their spouse's work history. Dually-entitled beneficiaries effectively receive the higher of their worker benefit or their spousal benefit. Specifically, the Social Security dual entitlement rule requires that 100% of a Social Security retirement or disability benefit earned as a worker (based on one's own Social Security-covered earnings) be subtracted from any Social Security spousal benefit one is eligible to receive (based on a spouse's Social Security-covered earnings). Only the difference, if any, is paid as a spousal benefit (in addition to the benefit that each worker in the couple receives based on their own covered earnings).	Applies to individuals who qualify for both a government pension based on *non-Social Security-covered* government employment and a Social Security spousal benefit. The GPO provision reduces Social Security benefits that a person receives *as a spouse* if he or she also has a federal, state or local government pension based on work that was *not* covered by Social Security. The GPO reduction in Social Security spousal benefits is equal to two-thirds of the non-covered government pension.

Rationale and Legislative History

Financial Dependence

The policy rationale for Social Security spousal benefits has been, since the inception of the program in the 1930s, to support spouses who are financially dependent on the working spouse. The dual entitlement rule has operated since the 1930s as a gauge of financial dependence.

Parity Between Dual Entitlement and GPO Provisions

The GPO is intended to place spouses 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 spouses whose jobs *were covered* by Social Security and are also eligible for a Social Security spousal benefit. 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 even though they were not financially dependent on their spouses. The scenarios below demonstrate why the law was changed.

Table 4 shows how the spousal benefit of the same individual, Mary, would vary under three scenarios: (1) as a dually entitled recipient of Social Security retirement and spousal benefits; (2) as the recipient of a non-covered government pension and Social Security spousal benefits *before* the GPO was enacted; and (3) as the recipient of a non-covered government pension and Social Security spousal benefits *after* the GPO was enacted. In each case, Mary's earnings (and thus the Social Security retirement benefit or non-covered government pension) and the maximum spousal benefit she is eligible to receive are identical.

Under the first scenario (as a dually entitled retiree), 100% of Mary's own Social Security retirement benefit of $400 is used to offset the $450 Social Security spousal benefit for which she is eligible, leaving her with a net spousal benefit of $50 and a total Social Security benefit of $450. Under the second scenario (where Mary receives a non-covered government pension of instead of a Social Security retirement benefit), *before* the GPO takes effect, Mary's Social Security spousal benefits are not reduced at all and she receives a full Social Security spousal benefit of $450, plus the non-covered pension of $400, for total monthly pension benefits of $850. Under the third scenario (when the GPO is put into effect), Mary's Social Security spousal benefit is reduced by two-thirds of her $400 non-covered government pension, leaving her with a net spousal benefit of $183 (= 450 – 400*1/3) and a total monthly pension benefit of $583. Therefore, with the GPO in place, Mary's employment and resulting retirement benefit are used to offset her Social Security spousal benefit just as they were under the dual entitlement scenario. The GPO brings total benefits paid to spousal beneficiaries in non-Social Security-covered jobs closer to benefits paid to spouses in covered positions.

Table 4. Mary's Spousal Benefit, Before and After GPO Enactment

	Mary works in Social Security-Covered Position	Mary works in Non-Social Security-Covered Position	
	Dually Entitled	**Before GPO**	**After GPO**
Social Security retirement benefit (based on own earnings record)	$400.00	$0.00	$0.00
Non-Social Security-covered pension	$0.00	$400.00	$400.00
Maximum Social Security spousal benefit eligible to receive (based on spouse's earnings record), equal to 50% of the spouse's Social Security retirement benefit	$450.00	$450.00	$450.00
Reduction in spousal benefit due to dual entitlement rule (equal to worker's retirement benefit)	$400.00	—	—
Reduction in Social Security spousal benefit due to GPO (equals 2/3 of non-Social Security-covered pension)	—	—	$266.67
Actual Social Security SPOUSAL benefit paid	**$50.00**	**$450.00**	**$183.33**
TOTAL monthly benefits paid to Mary (Social Security spousal benefit plus either (a) Social Security worker benefit or (b) non-covered pension)	**$450.00**	**$850.00**	**$583.33**

Source: Illustrative example provided by CRS.

Note: Dashes are used to represent scenarios in which either the dual entitlement rule or the GPO are not applicable. For example, in the dual entitlement scenario, Mary does not receive a non-covered government pension and, thus, the GPO does not apply.

Dual Entitlement Reduction to Spousal Benefits is Larger than GPO Reduction

Table 4 also shows how, given equal Social Security retirement benefits or non-covered government pension amounts of $400, the reduction to Social Security spousal benefits is smaller under the GPO than it is under the dual entitlement rule. Those under dual entitlement face a 100% offset while those under the GPO face a 66.6% offset. In the example shown here, this results in a $50 spousal benefit under dual entitlement compared to a $183.33 spousal benefit under the GPO. If these non-Social Security-covered workers had been covered by Social Security, they would have been subject to the dual entitlement rule and their spousal benefits would be lower than what they receive under the GPO.

Why a Two-Thirds Reduction?

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. If the original legislation had been left intact, the treatment of individuals affected by the dual entitlement rule and the GPO would in fact have been identical because the Social Security spousal benefit would have been offset by 100% of the retirement benefit in both cases. In 1983, Congress passed P.L. 98-21, which made a number of amendments to Social Security. One section of the House version of this law 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.[8]

Who Is Affected by the GPO?

Government workers not paying into Social Security are potentially affected by the GPO, if they have spouses who are covered by Social Security. 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 may be subject to the GPO (if they are spouses). 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,[9] they, like all covered workers in the private sector, may be subject to the Social Security dual entitlement rule. At the end of 2008, approximately 558,000 federal workers (21% of the federal workforce) participate in CSRS and are potentially subject to the GPO, whereas 2.1 million (79%) participate in FERS and are potentially subject to the dual entitlement rule.[10]

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[8] Effectively, the GPO offset formula assumes that two-thirds of the government pension is roughly equivalent to the Social Security retirement (or disability) benefit the spouse would have earned as a worker if his or her job had been covered by Social Security. As a result, spousal benefits are subject to a 100% offset under the dual entitlement rule, but to a 66.6% offset under the GPO.

[9] Workers who switch from CSRS to FERS must work for five years under FERS in order to be exempt from the GPO.

[10] Federal Retirement Thrift Investment Board, October, 2008, and Office of Personnel Management, "Federal Employment Statistics," Table 8, January 2008.

Some state and local government workers do not pay into Social Security and are potentially subject to the GPO upon retirement, if they have spouses who are covered by Social Security. Social Security coverage varies by state. In 2006, approximately 6.9 million state and local workers (29% of all state and local workers) were in non-Social Security-covered positions and may be subject to the GPO. At the same time, approximately 17.1 million state and local workers (71%) were in covered employment and may be subject to the dual entitlement rule.[11]

As of December 2008, about 496,000 Social Security beneficiaries, or about 1.5% of all beneficiaries, had spousal benefits reduced by the GPO (not counting those who were potentially eligible for spousal benefits but were deterred from filing for them because of their expectation that the GPO would eliminate the spousal benefit). Of these 57% were spouses; 43% were widows and widowers. About 79% of all affected were women.[12] **Table 5** below provides a breakdown of the affected beneficiaries by state and type of benefit.

Table 5. Number of Social Security Beneficiaries Affected by GPO, by State, Type of Benefit and Offset Status, December 2008

State	Total	Spouses	Widos and Widowers	Fully Offset Status	Partially Offset Status
Alabama	3,931	1,816	2,115	3,118	813
Alaska	1,961	1,185	776	1,554	407
Arizona	6,355	3,425	2,930	4,944	1,411
Arkansas	2,703	1,440	1,263	2,125	578
California	73,629	46,134	27,495	63,223	10,406
Colorado	16,854	10,348	6,506	12,328	4,526
Connecticut	6,412	4,097	2,315	5,741	671
Delaware	446	192	254	349	97
District of Columbia	2,598	771	1,827	2,179	419
Florida	20,947	11,531	9,416	16,295	4,652
Georgia	12,937	6,682	6,255	9,891	3,046
Hawaii	1,854	1,032	822	1,588	266
Idaho	1,335	736	599	1,059	276
Illinois	34,324	20,754	13,570	29,134	5,190
Indiana	3,924	1,777	2,147	2,907	1,017
Iowa	1,725	867	858	1,285	440
Kansas	1,965	853	1,112	1,388	577
Kentucky	7,843	4,835	3,008	6,568	1,275

[11] Social Security Administration, unpublished table, Estimated Social Security Coverage of Workers with State and Local Government Employment, 2006.

[12] Social Security Administration, Office of Research Evaluation and Statistics, Unpublished Table G105, January 12, 2009.

State	Total	Spouses	Widos and Widowers	Fully Offset Status	Partially Offset Status
Louisiana	23,086	12,468	10,618	14,462	8,624
Maine	4,928	2,881	2,047	3,551	1,377
Maryland	8,270	3,105	5,165	6,662	1,608
Massachusetts	24,657	14,727	9,930	17,659	6,998
Michigan	4,912	2,371	2,541	3,771	1,141
Minnesota	5,741	3,230	2,511	4,756	985
Mississippi	2,366	1,096	1,270	1,827	539
Missouri	10,653	6,278	4,375	8,909	1,744
Montana	989	519	470	759	230
Nebraska	1,117	547	570	825	292
Nevada	6,222	3,539	2,683	4,973	1,249
New Hampshire	1,713	957	756	1,244	469
New Jersey	4,258	1,778	2,480	3,508	750
New Mexico	2,948	1,662	1,286	2,404	544
New York	7,571	3,226	4,345	6,141	1,430
North Carolina	5,998	2,948	3,050	4,731	1,267
North Dakota	442	213	229	311	131
Ohio	69,805	40,888	28,917	41,341	28,464
Oklahoma	3,449	1,541	1,908	2,554	895
Oregon	3,775	2,039	1,736	2,912	863
Pennsylvania	7,501	3,303	4,198	5,789	1,712
Rhode Island	1,438	801	637	1,238	200
South Carolina	3,742	1,825	1,917	2,916	826
South Dakota	798	404	394	600	198
Tennessee	4,685	2,377	2,308	3,694	991
Texas	55,582	33,102	22,480	37,224	18,358
Utah	2,111	1,065	1,046	1,515	596
Vermont	565	315	250	438	127
Virginia	7,442	3,015	4,427	5,675	1,767
Washington	5,056	2,441	2,615	3,829	1,227
West Virginia	1,173	538	635	757	416
Wisconsin	3,090	1,624	1,466	2,427	663
Wyoming	466	238	228	343	123
Outlying areas and foreign countries	7,690	4,982	2,708	6,134	1,556
Total	495,982	280,518	215,464	371,555	124,427

Source: Social Security Adminstration, Office of Research, Evaluation and Statistics, January 12, 2009

a. Individuals received no Social Security spousal benefit because the reduction in their Social Security spousal benefit (a reduction equal to two thirds of the pension from non-covered government employment) was greater than the Social Security spousal benefit itself. Either the non-covered pension was large, or the potential Social Security spousal benefits were small.

b. Individual received a partial Social Security spousal benefit because the reduction in the Social Security spousal benefit (a reduction equal to two thirds of the pension from non-covered overnment employment) was less than the Social Security spousal benefit itself.

In December 2008, the average monthly non-covered government pension amount was $1,882 ($1,679 for women and $2,609 for men).[13] The average pre-offset Social Security spousal benefits at that time were $642 per month overall ($710 for women, and $396 for men).[14] In December 2008, the average offset caused by the GPO was $519 ($555 a month for women and $390 for men).[15] For 75% of those with spousal benefits reduced by the GPO, the GPO reduction was large enough to fully offset any potential spousal benefit either because the non-covered pension was large or the potential Social Security spousal benefits were small.[16] In December 2008, the average Social Security spousal benefit after the GPO was $123 per month ($156 a month for women and $5 a month for men).[17] Note that the total Social Security benefit received by a couple would be a larger amount, i.e. the (reduced) spousal benefit plus the primary worker's own benefit.

By contrast, in 2006 the dual entitlement rule affected approximately 6.3 million beneficiaries. Of these, 43% were spouses and 57% were widow(er)s. About 6.2 million (98%) of all affected were women.[18] Among dually entitled workers, the average Social Security benefit received was $938.[19] Of this, $519 was the retired worker component of the benefit. The spousal benefit component was $419 (after reduction for dual entitlement). [20] For the average dually entitled worker, the spousal benefit comprised almost 45% of the total Social Security benefit received.[21]

Issues

Opponents argue that the GPO is not well understood and that it harms lower-income workers. Defenders of the GPO maintain that it helps ensure that only financially dependent spouses receive the Social Security spousal benefit, while curtailing what otherwise would be an unfair advantage for non-Social Security-covered government workers.

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[13] Ibid., Table G209, January 12, 2009. Data is limited to those beneficiaries for whom the offset amount is available.

[14] Ibid., Table G309, January 12, 2009. Data is limited to those beneficiaries for whom the offset amount is available.

[15] Ibid., Table G609, January 12, 2009. Data is limited to those beneficiaries for whom the offset amount is available.

[16] Ibid., Table G105, January 12, 2009. Data is limited to those beneficiaries for whom the offset amount is available.

[17] Ibid., Table G509, January 12, 2009. Data is limited to those beneficiaries for whom the offset amount is available.

[18] Social Security Administration, Social Security Bulletin, Annual Statistical Supplement, 2007, Table 5.G2. The term "dually entitled" applies only to those who receive spousal benefits. If an individual's own worker benefit is greater than his or her spousal benefit, that person receives the higher worker benefit and is not considered "dually entitled." Administrative data do not provide the number of people in this latter category.

[19] Ibid., Table 5.G3.

[20] Ibid.

[21] Ibid.

Awareness of the GPO and Retirement Preparedness

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. Supporters of the provision say it has been law for more than 30 years (it was enacted in 1977); therefore, people have had ample time to adjust their retirement plans. P.L. 108-203, passed in 2004, included a provision that seeks to ensure that SSA and government employers notify potentially affected individuals about the effect of the GPO.

Parity Among Social Security-Covered Workers and Non-Covered Workers

The majority of state and local government workers, and federal employees since 1983, are covered by Social Security. Some argue that eliminating the GPO would be unfair to government employees in Social Security-covered positions who are potentially subject to the dual-entitlement provision (instead of the GPO).

Impact on Low-Income Workers

There is disagreement about the original intention of the GPO, which was enacted in 1977. Some argue that the original purpose was to prevent higher-paid workers from reaping over-generous spousal benefits. Others contest this, saying that the GPO was never targeted to a particular income group.

Opponents of the GPO argue that the provision hurts lower- and middle-income workers such as teachers, and in some circumstances is sufficient to throw these workers into poverty. Opponents also say that the GPO is especially disadvantageous for surviving spouses.

A 2007 CRS analysis found that the common criticism that the GPO penalizes lower earners more than higher earners may not be accurate. The CRS analysis compared benefit reductions under the GPO to those under the dual entitlement rule in order to determine how well the GPO offset (two-thirds of the government pension amounts) serves as a proxy for the Social Security worker benefits that individuals would receive if they had worked in covered employment. The estimates showed a great variation in outcomes. Some individuals, including lower earners, would have a much larger offset amount (benefit reduction) under the dual entitlement rule than under the GPO, while others, including higher earners, would have a somewhat smaller offset amount under the dual entitlement rule compared to the GPO.

Other evidence of the effect of the GPO on low earners comes from statistics produced by the Social Security Administration. While 75% of those affected by the GPO have their benefits fully offset, only 33% of those with non-covered pensions of less than $1,000 per month had their benefits fully offset, compared with 84% of those with non-covered pensions between $1,000 and $1,999 and nearly 100% of individuals with non-covered pensions over that amount.[22] Although

[22] CRS calculations based on Table 1, "Estimated Number of Beneficiaries Affected by the Government Pension Offset (GPO), by Current Offset Status and Non-Covered Government Pension Amount, Limited to Those Beneficiaries For Which the Offset Amount is Available, December 2008," produced by the Social Security Administration's Office of Research, Evaluation and Statistics, January 12, 2009.

75% of individuals affected by the GPO had spousal benefits fully offset as a result of the GPO, only 13% of those with a full offset had a non-covered pension amount of less than $1,000 per month.[23] Thus, if the non-covered pension amount is a reflection of the earnings levels of individuals affected by the GPO, a greater percentage of those with lower earnings receive at least a partial Social Security benefit relative to the overall GPO-affected population.

Regarding concerns about pushing those affected by the GPO into poverty, in 2001 the poverty rate among those affected by the GPO was approximately 6.0%, whereas the poverty rate for those affected by the dual entitlement rule was approximately 8.9%.[24] The poverty rate for all Social Security beneficiaries age 65 and older was about 8.5%. For comparison purposes, the poverty rate for the general population at that time was approximately 11.3%.

Imprecision of the Two-Thirds Offset to Non-Covered Government Pensions

Opponents point out that whatever the rationale for the GPO, reducing everyone's spousal benefit by two-thirds of their government pension is an imprecise way to estimate what the spousal benefit would have been if the government job had been covered by Social Security. Ideally, opponents argue, the way to compute the offset to replicate the dual entitlement rule would be to apply the Social Security benefit formula to a spouse's total earnings, including the non-covered portion, and reduce the resulting Social Security spousal benefit by the proportion of total earnings attributable to non-covered earnings. Currently, however, the Social Security Administration does not have complete records of non-covered earnings histories. Although SSA started collecting W-2s in the early 1980s, the initial records were sometimes incomplete. The Social Security benefit formula requires a full 35 years of earnings data.

Application of the GPO to Government versus Private Pensions

Some question why the GPO provision applies only to spousal benefits received by government workers who are not themselves covered by Social Security. They wonder why the GPO does not apply to workers in the private sector who receive both Social Security and employer-sponsored pensions. Defenders of the provision argue that the employment on which the private pension is based would be covered by Social Security, and therefore the dual entitlement rule (which the GPO is meant to replicate) would instead take effect to reduce any Social Security spousal benefits for which the worker might be eligible. As noted earlier, in many cases the dual entitlement rule would produce a higher reduction in spousal benefits than does the GPO.

On average, private sector workers, who are affected by the dual entitlement rule, earn less than their counterparts in state and local government who are affected by the GPO. July 2007 data

[23] Ibid.

[24] Poverty rates were calculated by David Weaver of the Social Security Administration's Office of Retirement Policy using the March 2001 Current Population Survey (CPS). Poverty status is taken directly from the CPS and is thus subject to errors in the reporting of income. The sample for the GPO and dually entitled poverty rates only includes persons for whom SSA administrative records could be matched. The sample size for the GPO poverty rate is relatively small (130 cases). The poverty rates for the Social Security beneficiary population age 65 and over and for the general population do not require matched data and are based completely on CPS data. Updated data for this comparison are not available.

from the Bureau of Labor Statistics indicate that state and local government workers earned on average $24.15 per hour compared with the national average of $19.88 per hour and the private sector average of $19.21 per hour.[25]

Cost of Eliminating the GPO

Some 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. The Social Security Administration has projected the 10-year cost of repealing the GPO to be about $42 billion.[26] Such a move could also lead to demands for repeal of the dual entitlement rule to ensure parallel treatment for those working in Social Security-covered employment. Eliminating the dual entitlement rule would cost approximately $500 billion over a five-year period.[27]

The "Last Day" Rule

A burgeoning controversy arose in the 108th Congress with the revelation that a growing number of state and local government workers had been making use of a little-known provision of the law that allowed them to escape the application of the GPO if they switched jobs at the end of their government careers. Until recently, the law granted an exception to the GPO if, on the last day of one's government service, he or she worked in a Social Security-covered position. On August 15, 2002, the Government Accountability Office (GAO) released a report that found that, as of June 2002, 4,819 individuals in Texas and Georgia had 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.

On February 11, 2004, the House of Representatives agreed to Senate amendments and passed H.R. 743, the Social Security Protection Act of 2003, which became P.L. 108-203.[28] As discussed below, P.L. 108-203 eliminated the last-day exception clause by requiring those workers switching from non-covered positions to Social Security-covered positions to work in the covered position for at least 60 months (five years) before being exempt from the GPO.[29] The new GPO provision became effective for Social Security spousal benefit applications filed after March 31, 2004.

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[25] U.S. Department of Labor, Bureau of Labor Statistics, National Compensation Survey: Occupational Earnings in the United States, 2007, August 2008.

[26] Social Security Administration, Memorandum from Bert M. Kestenbaum and Tim Zayatz of the Office of the Chief Actuary, "Estimated Additional OASDI Benefit Payments Resulting From Several Proposals to Modify the Windfall Elimination Provision and the Government Pension Offset—INFORMATION," October 26, 2007.

[27] Social Security Administration, Memorandum from Bert Kestenbaum of the Office of the Chief Actuary, "Estimated Additional OASDI Benefit Payments from Proposals to Eliminate or Change the Dual-Entitlement Offset Provision—INFORMATION," April 17, 2003.

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

[29] This five year period for GPO exemption is consistent with that required of federal employees converting from CSRS to FERS.

How Does the New Law Affect Exemption from the GPO?

Any current Social Security beneficiary who is receiving spousal benefits and is exempt from the GPO because they retired from their non-covered position in government under the "last-day" rule would continue to be exempt from the GPO. Individuals may still be exempt from the GPO if:

- *They applied for Social Security spousal benefits before April 1, 2004, and work their last day in a Social Security-covered position within the same retirement system.* In this case, the individual who receives a Social Security spousal benefit before April 1, 2004, could continue to work in a non-covered position and still make use of the "last-day" rule when he or she retires from government employment, regardless of how far in the future the retirement occurs.
- *Their last day of government service occurred before July 1, 2004,* and *they worked their last day in a Social Security-covered position within the same retirement system.* In other words, if a worker switched from non-covered government work to Social Security-covered work for their last day of work within the same retirement system, they are exempt from the GPO, even if they file for Social Security benefits at a later date. However, if a worker returns to work in a non-covered position in the same retirement system that they previously retired from and new contributions are made by either the employee or employer to the non-covered pension system, his or her "last-day" exemption from the GPO will be revoked and they will be subject to the new 60-month requirement for exemption from the GPO.
- *Their last day of government service occurs on or after July 1, 2004, and before March 2, 2009, and they work a total of 60 months in a Social Security-covered position within the same retirement system.* The required 60-month period of Social Security-covered employment would be reduced by the number of months the worker performed in Social Security-covered employment under the same retirement system prior to March 2, 2004. However, in no case can the 60-month requirement be reduced to less than one month. For example, a teacher who is currently working in a non-covered position but who previously worked for 12 months in a Social Security-covered position under the same retirement system would have the 60-month requirement reduced to 48 months. The remaining months to be worked (in this case 48 months), must be worked consecutively and after March 2, 2004. Thus, if she switched to a covered position *in the same retirement system* as her prior government work for at least the final 48-month period of her employment *and* her last day of employment was before March 2, 2009, she would be exempt from the GPO.
- *Their last day of government service occurs after March 3, 2009,* and *they work their last 60 consecutive months in a Social Security-covered position within the same retirement system.* In this case, the entire 60-month period must be worked after March 2, 2004.

All other individuals receiving government pensions based on non-covered employment would be subject to reductions in Social Security spousal benefits under the GPO.

Recent Legislation

In the 111th Congress, Senator Dianne Feinstein and Representative Howard Berman have introduced companion bills, S. 484 and H.R. 235, entitled the Social Security Fairness Act of 2009. Both bills would eliminate the GPO for Social Security benefits payable for months after December 2009.

In the 110th Congress, five bills were introduced that would have altered the GPO. Representative Berman and Senator Feinstein introduced H.R. 82 and S. 206, the Social Security Fairness Act of 2007. These identical bills would have eliminated the GPO for Social Security benefits payable after December 2007. According to estimates provided by Social Security actuaries, elimination of the GPO would cost $41.7 billion over 10 years,[30] and in the long run would cost 0.06% of taxable payroll, which would increase Social Security's long-range deficit by about 3%.[31]

H.R. 1090, introduced by Representative Ron Lewis, would, among other things, have reduced the offset to one-third of the government pension. The Social Security actuaries estimated that reducing the offset from two-thirds to one-third of the government pension would have cost approximately $11.0 billion over 10 years.

Representative Wynn and Senator Mikulski introduced H.R. 2988 and S. 1254, the Government Pension Offset Reform Act. These bills would have eliminated the application of the GPO to those whose monthly combination of Social Security spousal benefits and non Social Security-covered pension was $1,200 or less. For those whose monthly combination of Social Security spousal benefits and non-Social Security-covered pension was more than $1,200, the reduction in their spousal benefit would have been equal to the lesser of (1) two-thirds of the amount by which the combined benefit exceeded $1,200 or (2) two-thirds of the government pension. In future years, the $1,200 threshold would have risen in proportion to the rate of inflation. The Social Security actuaries estimated that enactment of H.R. 2988/S. 1254, would have cost $6.1 billion over 10 years, and in the long run would have cost less than 0.005% of taxable payroll.

The last bill passed that modified the GPO eliminated a controversial exemption from the GPO known as the "last-day rule." The "last-day rule" is described in a preceding section. H.R. 743 from the 108th Congress was passed into law (P.L. 108-203) on March 2, 2004.

[30] Social Security Administration, Memorandum from Bert M. Kestenbaum and Tim Zayats, Office of the Chief Actuary, "Estimated Additional OASDI Benefit Payments Resulting From Several Proposals to Modify the Windfall Elimination Provision and the Government Pension Offset—INFORMATION," October 26, 2007. All 10-year cost estimates are taken from this document.

[31] Social Security Administration, Office of the Chief Actuary, Memorandum from Eugene Yang and Chris Chaplain to Stephen C. Goss, Chief Actuary, "Estimated Long-Range OASDI Financial Effects from Several Proposals to Modify the Windfall Elimination Provision and the Government Pension Offset—INFORMATION," October 26, 2007. All long-term cost estimates are taken from this document.

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