Windfall Elimination Provision and the Government Pension Offset

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Congress approved the Windfall Elimination Provision (WEP) in 1983, as part of a larger package of Social Security reforms (which also included an increase in the full retirement age).

This provision reduces the Social Security benefit of a public employee who has job earnings in non-Social Security-covered employment, but who also worked in covered employment and qualified for a Social Security benefit by working at least 40 quarters (or 10 years). The WEP directly affects many state and local government employees who are covered by alternative retirement systems. It also affects most permanent civilian federal employees hired before Jan. 1, 1984, who are covered by the Civil Service Retirement System (CSRS). Upon retirement, workers can see their Social Security benefits reduced by as much as 55 percent.

The WEP affects the determination of a new retiree's monthly Social Security benefit, the primary insurance amount (PIA). This is done by separating your average earnings into three amounts and multiplying the amounts using three factors to compute your full PIA. For example, for a worker who turns 62 in 2021, the first $996 of average monthly earnings is multiplied by 90 percent; earnings between $996 and $6,002 are multiplied by 32 percent; and the balance is multiplied by 15 percent. The sum of the three amounts equals the PIA, which is then decreased or increased depending on whether the worker starts benefits before or after full retirement age. This formula produces the monthly payment amount.

That's how the calculation works for private-sector workers and/or Federal Employees Retirement System (FERS) workers. But for CSRS retirees, the first bracket of the calculation is different. The Social Security Administration (SSA) multiplies the first $996 of their average indexed monthly earnings (from private sector jobs) by 40 percent instead of 90 percent—reducing the benefit by up to $498 per month ($5,976 annually). This is grossly unfair, as workers with private pensions face no similar reduction in Social Security benefits.

The impact of the WEP can be reduced if CSRS workers have at least 21 years of substantial earnings from Social Security-covered employment (in private-sector jobs before and after their CSRS employment—or through second jobs during their federal service). The 40 percent multiplier is increased to 45 percent for a worker with 21 years of substantial Social Security earnings—and by 5 percent for each additional year of such earnings—until it reaches the normal 90 percent multiplier for those with 30 years of such earnings.

The main reason Congress gave for including this provision in the overall Social Security reform package was to remove a so-called windfall that these employees would receive for participating in two retirement systems. This false perception is completely unfair when compared to workers in the private sector whose Social Security benefits are not reduced if they receive benefits from their private pension plans. CSRS employees earned their full Social Security benefits and are entitled to receive them.

In December 2020, about 2 million Americans were being adversely affected by the WEP provision, a number that will grow as more CSRS employees retire. FERS retirees are not affected.

The Government Pension Offset

Social Security pays benefits to the spouses of retired and disabled workers and to widow(er)s of deceased workers. The Government Pension Offset (GPO) is intended to regulate Social Security benefits for spouses who receive pensions based on non-Social Security-covered employment.

The GPO typically eliminates most, if not all, of the otherwise payable spousal and survivor benefits for retirees who receive a government annuity for non-Social Security work. That's because the GPO reduces Social Security spousal and survivor benefits by $2 for every $3 paid in CSRS annuity benefits to affected retirees.

For example, if a CSRS retiree's spouse receives $2,000 in Social Security retirement benefits, the 50 percent spousal benefit would normally be $1,000 per month. But if the annuitant receives $3,000 in CSRS benefits, his spousal benefit would be totally eliminated.

Legal and legislative action

At our 70th biennial convention in Los Angeles, the Executive Council approved a resolution to file a class-action lawsuit on behalf of CSRS and FERS-transferee retirees with the U.S. federal court to repeal the GPO and the WEP. Since that time, the national union looked into the class-action suit and found that it was not a viable option. Now NALC is pursuing an alternative legal strategy focusing on how the law discriminates between private and public pensioners. Meanwhile, we will also continue to seek redress through the legislative process.

Working with the NALC, Congress has just reintroduced the Social Security Fairness Act of 2021 (H.R. 82). This legislation would completely repeal the GPO and the WEP titles of the Social Security Act. In just a couple of months, we already have strong bipartisan support moving forward on this bill.