



**STATEMENT FOR THE RECORD
BY
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**BEFORE THE
HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY**

**HEARING TITLED: "SOCIAL SECURITY AND PUBLIC SERVANTS:
ENSURING EQUAL TREATMENT"**

MARCH 22, 2016

Chairman Johnson, Ranking Member Becerra, and Subcommittee members:

On behalf of the five million federal workers and annuitants represented by the National Active and Retired Federal Employees Association (NARFE), I appreciate the opportunity to express NARFE's views regarding two provisions – the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) – that apply arbitrary reductions to the Social Security benefits paid to many public servants, including federal retirees who also receive a government pension.

These unfair provisions cost more than two million retirees thousands of dollars each year in Social Security benefits, solely as a result of their government employment. They serve as a thankless reminder that our nation continues to undervalue public service. They should both be repealed.

While NARFE supports full repeal of the two provisions through passage of H.R. 973 and S. 1651 (identical bills titled the Social Security Fairness Act of 2015), introduced by Rep. Rodney Davis, R-IL, and Sen. Sherrod Brown, D-OH, respectively, NARFE also supports incremental improvements through reform legislation. Notably, NARFE supports H.R. 711, the Equal Treatment of Public Servants Act of 2015, introduced by Rep. Kevin Brady, R-TX.

The Windfall Elimination Provision (WEP)

The WEP unfairly deprives dedicated public servants of the full Social Security benefits earned through the contributions they paid into the system. They are denied these benefits solely because they also worked outside of Social Security-covered employment in government service. The WEP penalty often comes as a rude awakening, as the actual benefits received fail to meet the expectations created by the estimates provided by Social Security. All told, it has cost public servants hundreds of millions of dollars of Social Security benefits that they rightfully earned.

NARFE supports full repeal of WEP, but also supports the reform effort represented by H.R. 711.

Whom It Affects

The WEP applies to federal retirees who began their federal employment prior to 1983 and were covered by the Civil Service Retirement System (CSRS). Under CSRS, federal employees pay a 7 percent payroll contribution toward their CSRS retirement annuities. They do not pay the 6.2 percent payroll tax toward Social Security and, therefore, do not earn any Social Security benefits based on their federal work. The WEP does not apply to federal employees covered by the Federal Employees Retirement System (FERS), as these federal employees pay the 6.2 percent payroll tax in addition to their FERS retirement contributions and, therefore, earn Social Security benefits based on their pay.

The WEP also applies to state and local government retirees who did not pay Social Security payroll taxes in connection with their government employment, similar to CSRS. It does not apply to those who paid Social Security payroll taxes in connection with their government employment, similar to FERS.

As of December 2014, the WEP affected 1,623,795 beneficiaries, including 1,506,792 retired workers, 16,613 disabled workers, and 100,390 spouses and children.¹

How It Operates

Normally, Social Security benefits are calculated using a progressive formula in which an individual's average indexed monthly earnings (AIME) are multiplied by three progressive factors – 90 percent, 32 percent and 15 percent – at different levels of AIME, resulting in a primary insurance amount (PIA) – the basic monthly benefit. In 2015, the first \$826 of AIME is multiplied by 90 percent, then added to AIME over \$826 and through \$4,980, multiplied by 32 percent, then added to AIME over \$4,980, multiplied by 15 percent.

Under WEP, the 90 percent factor is reduced to as low as 40 percent. For 2015, this would result in a monthly benefit that is \$413 lower than under the regular benefit formula. This is an unfair reduction that causes a proportionally larger reduction in benefits for workers with lower AIMEs and monthly benefit amounts than those with higher benefit amounts. Simply, the WEP disadvantages those who have lower earnings.

H.R. 711, the Equal Treatment of Public Servants Act of 2015

H.R. 711 would alter Social Security benefit calculations for WEP-affected beneficiaries as follows:

- **For individuals who turn(ed) 62 prior to 2017:** The bill would reduce the current WEP penalty on their Social Security benefits by a certain percentage, not to exceed 50 percent. The exact amount will be determined by the Social Security Administration (SSA) actuary, but has been estimated at 32 percent. This penalty reduction would not be retroactive, but would be applied only to Social Security payments going forward, starting in 2017.
- **For individuals turning 62 in or after 2017:** The formula used to determine an individual's WEP penalty would be replaced with a new, fairer formula designed to more accurately account for the years a public employee paid into Social Security versus the years paid into a public pension system in a non-Social Security-covered position. Specifically, a beneficiary's AIME and PIA first would be calculated using both covered and non-covered earnings. The new PIA (monthly benefit) would then be multiplied by the share of the AIME that came from covered earnings to determine the actual PIA or monthly benefit amount. The new formula is expected to increase benefits for most, but especially those with lower lifetime earnings.

The bill also would direct the Social Security Administration (SSA) to use available data to improve enforcement of the WEP penalty for individuals who have underreported their public employment earnings to SSA. The amount of money saved through this improved enforcement of WEP will determine the amount of the reduction in the WEP penalty for individuals who turn(ed) 62 prior to 2017. The SSA actuary will make the final determination of how much

¹ See "Social Security: The Windfall Elimination Provision (WEP)," Congressional Research Service, p. 4, available at: <https://www.fas.org/sgp/crs/misc/98-35.pdf>.

money is estimated to be saved, and how much of a reduction in the WEP penalty will occur, but its current estimate is for the savings to result in a 32 percent reduction.²

Practically, H.R. 711 is cost-neutral in a 10-year budget window, and it will actually increase Social Security trust fund reserves over the long term. Unsurprisingly, the bill also has broad bipartisan support, as it represents a fair, measured way to provide relief from this unfair provision.

Absent full repeal, NARFE supports H.R. 711 and urges members of this subcommittee and members of Congress to advance the legislation this year.

H.R. 973 & S. 1651, the Social Security Fairness Act of 2015

H.R. 973 and S. 1651 are identical bills that repeal both the WEP and the Government Pension Offset (GPO), which reduces the Social Security spousal benefit of a beneficiary by two-thirds of his or her public pension that is based on non-covered public employment. NARFE supports both bills and urges Congress to advance this legislation.

The President's Budget for Fiscal Year (FY) 2017

The President's budget for FY17 proposes instituting a formula similar to the one proposed by H.R. 711 for future beneficiaries, but starting in 2027, rather than 2017. It also would use a similar method to recalculate the GPO. However, it does not include any rebates for current beneficiaries. Finally, instead of directing SSA to improve enforcement through use of available data, it would provide \$70 million to state and local governments to facilitate development of systems to provide SSA with more complete employment records.

NARFE does not support the President's proposal, as it does not include any WEP relief for current beneficiaries.

The Government Pension Offset (GPO)

The GPO unfairly deprives dedicated public servants of their full Social Security spousal and survivor benefits. They are denied these benefits because they also worked outside of Social Security-covered employment in government service. The pension they earned through that government service reduces their spousal or survivor Social Security benefits by two-thirds of the government pension.

NARFE supports repeal of the GPO and is open to reform efforts. NARFE has not yet taken a position on the President's GPO reform proposal, as additional data is needed to determine its merits.

² Estimates of the Financial Effects on Social Security of H.R. 5697, the "Equal Treatment of Public Servants Act of 2014," legislation introduced on November 13, 2014 by Representative Kevin Brady, available at: https://ssa.gov/oact/solvency/KBrady_20141113.pdf. (For purposes of this analysis, H.R. 5697 (113th Congress) is identical to H.R. 711 (114th Congress)).

Whom It Affects

The GPO applies to federal retirees who began their federal employment prior to 1983 and were covered by the Civil Service Retirement System (CSRS). Under CSRS, federal employees pay a 7 percent payroll contribution toward their CSRS retirement annuities. They do not pay the 6.2 percent payroll tax toward Social Security and, therefore, do not earn any Social Security benefits based on their federal work. The GPO does not apply to federal employees covered by the Federal Employees Retirement System (FERS), as these federal employees pay the 6.2 percent payroll tax, in addition to their FERS retirement contributions and, therefore, earn Social Security benefits based on their pay.

The GPO also applies to state and local government retirees who did not pay Social Security payroll taxes in connection with their government employment, instead receiving a government pension, similar to CSRS. It does not apply to those who paid Social Security payroll taxes in connection with their government employment, similar to FERS.

As of December 2013, 614,644 beneficiaries had spousal or widow(er)'s benefits reduced or eliminated by the GPO.³ This number does not count those who were potentially eligible for spousal or widow(er)'s benefits but did not file for them because of their expectation that the GPO would eliminate their benefit completely. Of those affected, 451,785 had their benefit fully offset, while another 162,859 had their benefit partially offset.

Of those subject to the GPO, more than 341,000 were spouses, while more than 273,000 were widow(er)s. About 81 percent of all affected persons were women.

How It Operates

The GPO reduces the spousal or widow(er)'s benefit of someone who also receives a pension from government employment (whether federal, state or local) based on work that was not covered by Social Security. The GPO reduction is equal to two-thirds of the pension received from the non-covered government employment. In many cases, the reduction will eliminate the spousal or widow(er)'s benefit entirely.

While the GPO is intended to operate similarly to (and with a similar policy rationale for) the dual entitlement rule, the two-thirds reduction is excessive and based on a misguided rationale. The dual entitlement rule prevents a worker from receiving benefits based on their own work record and a full spousal or widow(er)'s benefit. Instead, they receive the larger of the two. The GPO essentially equates two-thirds of a public pension with an earned Social Security benefit, and assumes the remaining one-third is the equivalent of a private pension (and not subject to the dual entitlement rule).

But these assumptions are faulty and unfair for government retirees. First, Social Security benefits are not designed as full pensions. Instead, they are a safety net for those without

³ See "Social Security: The Government Pension Offset (GPO)," Congressional Research Service, p. 8, available at: <https://www.fas.org/sgp/crs/misc/RL32453.pdf>.

adequate pensions and as a supplement for those with full (private or public) pensions and/or significant retirement savings. Two-thirds of a public pension is often more substantial than a small, earned Social Security benefit. Second, part of what allows public pensions to provide adequate retirement income is that employees often make significant contributions to their pension funds. For example, federal employees under CSRS contribute 7 percent of salary to the Civil Service Retirement and Disability Fund, and that 7 percent is matched by their agencies. Third, public pension benefits are subject to full federal taxation, while Social Security benefits are not.

NARFE opposes the GPO, and supports full repeal.

H.R. 973 & S. 1651, the Social Security Fairness Act of 2015

H.R. 973 and S. 1651 are identical bills that repeal both the WEP and the GPO. NARFE supports both bills.

The President's Budget for Fiscal Year 2017

The President's budget for FY17 proposes a new formula for determining Social Security spousal and widow(er)'s benefits for those currently subject to the GPO. Specifically, a beneficiary's AIME and PIA would be calculated using both covered and non-covered earnings. Any spousal or widow(er)'s benefit then would be reduced by the difference between the new PIA and the covered PIA – this is essentially the new GPO.⁴ For individuals who have earned Social Security benefits through their own covered work history, any new GPO would be deducted from the excess benefit payable as a spouse or survivor. The President's proposal would not apply to benefit determinations until 2027.

NARFE has not yet taken a position on this proposal, as more data is needed to determine its effects. However, NARFE is pleased that the Administration has made efforts toward GPO reform.

Conclusion

The GPO and WEP penalize individuals who have dedicated their lives to public service, and their spouses, by taking away the Social Security benefits they earned. This results in thousands of dollars in lost benefits every year, drastically impacting retirees living on fixed incomes.

They are unfair provisions that devalue the public service of federal, state and local law enforcement and firefighters, nurses and doctors caring for veterans, prison guards, letter carriers, engineers, mechanics and technicians supporting our military and ensuring safe air travel, teachers and many more. Until they can be repealed, we should take this current opportunity for reform.

NARFE is encouraged by the ongoing various reform efforts, particularly with regard to H.R. 711. This bill would help mitigate the WEP penalty by providing some relief for both current

⁴ This would also be multiplied by an age-reduction factor, which is not well-defined in any publicly available proposal.

beneficiaries through a rebate and future Social Security recipients by improving the formula going forward. This relief is long past due but would be very much appreciated by individuals who are being penalized for their public service.

NARFE applauds the continued and creative efforts of Chairman Brady to reform the WEP. He has not given up on a problem that many seem to have forgotten. We look forward to working with Chairman Brady and the members of the Ways and Means Committee to move this bill through the legislative process.

Thank you again for the opportunity to share our views with you.