

Update to the Social Security Fairness Act

On January 5, 2025, President Biden signed the Social Security Fairness Act that eliminated WEP [Windfall Elimination Provision] or GPO [Government Pension Offset], effective January 2024.

In this article I will cover eligibility for Retroactive Benefits, Date of Contact with SSA, Duplicate Withholding of Medicare Part B premiums from both SSA and Civil Service Retirement checks, filing appeals for retroactive benefits to January 2024, SSA's Open Application, SSA's Protective Filing provisions and SSA's failure in 2025 to provide individuals the opportunity to establish a Protective filing or file a timely application for benefits.

SSA has stated that as of July 7, 2025, it has issued all retroactive payments for individuals who qualified under the Social Security Fairness Act. SSA has taken the position that although the SSFA eliminated WEP and GPO and the law was retroactive to January 2024, the law did not establish protective filing to January 2024, nor change the 6 month retroactive provision for benefits. SSA has established distinct categories regarding retroactive payments to the detriment of all SSFA beneficiaries.

SSA stated that although the SSFA eliminated WEP and GPO effective January 2024 the law did not change SSA's policy on retroactive payments which allows for up to 6 months of retroactive benefits. If you are FRA [full retirement age] a 6 month retro period would apply and for those under FRA eligibility is effective with the date you contacted SSA to file a claim and for these individuals there is no retroactivity beyond your SSA Contact Date.

If you had filed a claim prior to January 2025, for Retirement, Spouse's or Survivor's benefits and had been placed in GPO or WEP and you have not received retroactive payments to January 2024 you should contact SSA and request your status for retroactive benefits. All of these individuals who had filed a claim prior to August 1, 2024 and were FRA should have been entitled to retroactive benefits back to January 2024, those not at FRA would be entitled to benefits effective with their "protective filing" date.

If you have filed for benefits under the SSFA in 2025 and have not received your benefits you should contact SSA and request your benefit status.

Date of Contact to File for Retirement, Spouse's or Survivor's Benefits

Social Security provisions establish a "Protective Filing" as the first date that you contacted SSA and requested orally or in writing that you wished to file a claim for benefits. That Contact Date establishes your "Protective Filing" date and remains active as long as you file a claim within 6 months from that date.

Example: you called SSA and request a telephone appointment in January 2025 and SSA tells you that the first available date for your appointment is March 2025. When you file your claim in March 2025 your benefits are protected from January 2025. If you are under FRA your first month of eligibility is January 2025. If you are 6 months past your Full Retirement Age you would be eligible for 6 months of retroactive benefits from your date of contact. In the above example back to July 2024.

If you wrote a letter to SSA and stated that you wished to file for benefits the date of your letter would serve as a "Protective Filing" as long as you file a claim within 6 months from the date of the letter.

Duplicate withholding of Medicare Part B premiums from your CSRS/FERS and Social Security check.

Individuals who were covered under Medicare Part B based on Medicare Tax Withholding during your federal career and not eligible for Social Security cash benefits their Part B premium were deducted from their CSRS benefit. When they filed for benefits under the SSFA many saw double deductions of

Part B premiums. In these cases, their Part B premiums were deducted from both their new SSFA Social Security benefit and their federal pension.

SSA has corrected this duplicate deduction, OPM has stopped deducting Part B premiums for SSFA eligible individuals, and SSA has issued a retroactive payment under your Social Security record. **If you have not received the double deduction repayment by September 1, 2025, you need to contact SSA and ask that they review your record and if double deductions were done to issue a refund to you in your next SSA check.**

Also, if you had filed a Spouse's or Survivor's application prior to August 1, 2024 and were FRA [Full Retirement Age] and had been placed in GPO you were now eligible for retroactive Spouse's or Survivors benefits effective January 2024.

If you were in any of the above examples, but you were not FRA you were only eligible for benefits effective with the date you contacted SSA and request to file an application. **Example: If you were 64 years old and you contacted SSA to file an application in August 2024 you would only be entitled to benefits under the SSFA effective August 2024 and not paid back to January 2024.**

Again, for everyone who contacted SSA and was FRA after the passage of the SSFA you would only be eligible for 6 months of retroactive benefits from the date you contacted SSA. **Example: You first contacted SSA to file in January 2025, you would be eligible for retroactive benefits back to July 2024. If you first contacted SSA in March 2025 you would only be entitled to retroactive benefits back to September 2024.**

Requests for Reconsideration SSA 561

Many individuals who filed for benefits under the SSFA and were not paid retroactively until January 2024, filed a Request for Reconsideration requesting that they be paid effective January 2024 because the SSFA was retroactive to January 2024.

SSA has taken the position that if you filed an application under the SSFA, benefits were not retroactive to January 2024. SSA has stated that the FRA 6 month retroactive rule and normal retroactive rules were not changed by the law and SSA is not going back to January 2024 as described above.

Unless SSA changes their rule and makes an exception for SSFA claims or Congress addresses the problem by legislative action appealing become a mute issue based on the SSA retroactive rules. SSA could have requested Congress to correct this conflict in law between the SSFA and the SSA rules and regulations on retroactivity but has chosen not to do so.

NARFE, Congress and "Open Application" and Protective Filing"

With the passage of the SSFA and SSA's position on retroactivity there is only option if you wish to be paid retroactively to January 2024. This is to file a request under the "Open Application" provisions SSA GN 00204.025 and "Protective Filing" SSA GN00204.010.

There is a possible "Open Application" if you filed for Spouse's or Survivor's benefit under the SSFA AND THERE WAS A PRIOR APPLICATION FILED BY YOUR SPOUSE FOR RETIREMENT BENEFITS OR BY YOU IN SURVIVOR CASES.

Spouse's Benefits

If your spouse filed an SSA claim for retirement or disability benefits, and you were within 3 months of your 62 birthday or older when your spouse filed and SSA did not take an application from you for spouse's benefits and you did not signed a statement that you did not wish to file for spouse's benefits that application established an "Open Application" for you.

When your spouse filed for their benefits in many or most cases the SSA employee advised your spouse that there was no need for you to file a claim since you would be in total GPO offset. If you did not file a claim or sign a statement that you did not wish to file for spouse's benefit SSA erred and under GN 00204.010 5A "A protective filing date must be closed out unless any of the exceptions in GN 00204.012 apply. Failure to close out a protective filing results in filing protection that will remain open indefinitely."

This "Open Application" would also apply if your divorced spouse filed a claim, listed you as a prior spouse and you were married for at least 10 years to that spouse and currently unmarried and Social Security did not contact you to file a claim as a Divorced Spouse, or if you were listed in a survivor claim that is also creates a possible "Open Application".

In English this means that if SSA did not have you sign a statement that stated that you did not wish to file for Spouse's benefits you have an "Open Application" and "Protective Filing". Upon your request to SSA they must provide you with proof that you signed a statement saying you did not wish to file for SSA benefits on your spouse's record. If they cannot provide that proof they must reopen that spouse's application and have you file for spouse's benefits effective with the date that spouse filed and take a new claim from you for spouse's benefits effective with that filing date. You would then have filed a spouse's claim with that application date as your date of filing, be placed in total GPO and then because of the passage of the SSFA you would be placed in payment status effective January 2024 and SSA would have to issue you payments back to January 2024.

The fact that your spouse may have told the SSA representative that you did not wish to file due to GPO, or verbally told you there was no need to file that does not close out the "Open Application". You had to sign a statement.

Survivor Benefits

The same issue exists for anyone who filed for Survivor's benefits under the SSFA and SSA did not pay retroactive benefits back to January 2024.

If your spouse died before the passage of the SSFA and you only filed a claim for the Lump Sum Death Benefit [\$255 payment], you did not file for survivor's and you did not sign a statement that you did not wish to file for survivor's benefits there is a possible "Open Application" and "Protective Filing" on that application.

This would also apply if you were divorced and were listed on a survivor or lump sum application and never contacted by SSA to file for benefits.

TO REQUEST SSA TO REOPEN THOSE APPLICATIONS YOU MUST:

For Spouse's benefits you need to address a letter to SSA. List your spouse's name and Social Security number, your name, your SSN and your address. You need to state

"I am requesting that I be provide a copy of my spouses' application and a copy of my signed statement that I did not wish to file for spouse's benefits. Absence a signed statement by me I wish to have this application reopened and that I be provided the opportunity to file for Spouse's benefits retroactive to my spouse's date of filing."

Also have your spouse sign a statement, "I [spouse's name and SSN] authorize SSA to release a copy of my Social Security application to my spouse" and mail it with your request to your local SSA office. **BE SURE TO MAKE A COPY OF ALL CORRESPONDENCE TO SSA FOR YOUR RECORDS.**

SURVIVOR BENEFITS

When your spouse died and you did not file a Survivor claim and only filed for the Lump Sum Death Benefit [\$255] if you did not sign a statement that you did not wish to file for survivor benefits, you have an "Open Application" for survivor's benefits.

You need to write a letter to SSA and state:

"I am requesting a copy of the SSA-8 Application for Lump Sum Payment. List your spouse's name and SSN, list your name and SSN. I am also requesting a copy or statement from me that I did not wish to file for survivor benefits. Absence a signed statement by me I am requesting that I have an "Open Application" and wish to file for survivor's benefit effective with the date of my SSA 8 Application for Lump Sum Death Benefits."

AGAIN, MAKE SURE YOU MAKE OF PHOTOCOPY OF YOUR REQUEST

Also, if you remembered that the SSA employee told you that " you don't need to file because you benefit will be zero" include that with your request. Many of the applications that have been filed were with electronic signatures and generally you or your spouse were not provided with a copy of your application so you really don't know what the SSA employee may have added or left out of your application.

Status of Requests to SSA regarding the eligibility for retroactive payment to January 2024.

On April 1, 2025, US Senators Susan Collins R-MA, Bill Cassidy R-LA, John Cornyn R-TX and John Fetterman D-PA sent a letter to Leland Deduk, Acting Commissioner SSA regarding this issue

"...According to SSA policy, GN 00204.010A5 if the spouse was protected on the worker's application and never properly closed out, the protective filing remains open indefinitely. Subsequently, per GN 00204.025B1, the claimant should be given the opportunity to elect the earlier filing date to allow for maximum retroactivity." To date there has been no response from SSA to this memo.

On May 15, 2025, William Shackelford National President of NARFE directed a memo to Frank Bisignano, Commissioner of Social Security addressing these same issues and this additional information.

"...NARFE has been assisting these members as they navigate applying for benefits following the repeal of WEP/GPO, and we have recognized a reoccurring pattern in the narratives of those not receiving full retroactive payments. Spouses, many widows or widowers, recount to us that their initial correspondence with SSA many years ago inquiring about spousal benefits, and the common denominator in their experiences is being told there was no need for them to apply, as their benefits would be reduced to \$0 on account of the GPO."

President Shackelford also asked the SSA Commissioner to review GN 00204.010A5 and GN 00204.025B1 and "...provide full retroactive payments.". To date there has been no response from SSA to President Shackelford's memo.

SSA's failure to provide individuals with the opportunity to establish a "Protective Filing" and the inability to contact SSA in a timely manner in January 2025 and succeeding months.

Effective January 1, 2025, SSA implemented a policy that all appointments for claims for SSA benefits had to be scheduled by phone and that all appointments would be by phone. Their instructions to all Field Offices and Teleservice Centers were explicit. No longer could individuals walk into a SSA office and make an appointment or walk in to file an application. All Appointments or Claims required a telephone contact, no exceptions. To further complicate matters the SSA On-Line Applications on SSA.gov excluded Survivor claims which meant that all survivor claims, not just SSFA claims had to be scheduled and completed by phone. SSA created a SSFA Update website and directed all potential SSFA beneficiaries that they had to make an appointment by January 31, 2025, or risk losing potential benefits under the 6 month retro rule. First of all, only a handful of individuals knew of the existence of this website and SSA did not make any PSA's [Public Service Announcements] regarding the enactment of the SSFA. There was no outreach to eligible individuals via newspaper, radio, television or contacts with Senior Advocacy group nationally or locally. So, most SSFA beneficiaries had no knowledge that they had to contact SSA by January 31, 2025, or lose benefits. It is obvious that 2.8 million potential SSFA eligible

ADDENDUM TO **NARFE** NEWS

individuals and the SSA's teleservice appointment system could not handle the crush of phone calls by these 2.8 million beneficiaries between January 5, 2025 and January 31, 2025. Those 2.8 million individuals tried to contact SSA and SSA's phone system crashed. Because of SSA's inability to handle the influx of calls SSFA beneficiaries lost benefits because they could not get through SSA's phone system to schedule an appointment. Because of this problem SSA should have recognized that 2.8 million SSFA individuals and the normal daily calls to the SSA appointment system was unworkable. It was not until May 27, 2025 that SSA in their SSFA Update notified individuals that retroactive eligibility was based solely on contacting SSA to file a claim and that there would be no retroactivity to January 2024, regardless of the January 2024 provision of the SSFA. It is evident that SSA should have adopted a policy to protect these SSFA individuals who through no fault of their own could not get through on SSA's telephone system to make an appointment to protect their benefits. SSA has chosen not to adopt any procedures or changes to rules or regulations and continues to blame Congress and SSFA beneficiaries for their telephone appointment system failure and the conflicting retroactivity rules.

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