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SUMMARY

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The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) are two separate provisions that reduce Social Security benefits for workers and/or and their eligible family members if the worker receives (or is entitled to) a pension based on employment *not covered* by Social Security. Certain beneficiaries may be subject to both the WEP and the GPO if they are dually entitled to Social Security retirement and spousal (or survivors') benefits and also receive a noncovered government pension. As of December 2018, 263,775 Social Security beneficiaries were affected by both the WEP and the GPO. They accounted for 38% of spouses and survivors affected by the GPO and 14% of beneficiaries affected by the WEP.

The provisions' benefit offsets create complications in calculating and administering Social Security benefits. Overpayments to dually entitled Social Security beneficiaries affected by both the WEP and the GPO have been an issue for the Social Security Administration (SSA) since the WEP was enacted in 1983. In January 2013, SSA's Office of the Inspector General (OIG) estimated that SSA has overpaid approximately $349.5 million to 10,546 dually entitled beneficiaries who were identified among those in current-payment status and whose WEP reduction was not applied properly and $320.6 million to 10,122 dually entitled beneficiaries in current-payment status whose GPO offset was not imposed correctly. OIG's estimates further indicated that SSA overpaid those beneficiaries an additional $231.9 million from 2013 to 2017, and that SSA may continue overpaying them approximately $46.4 million annually if no corrective action is taken.

Other studies show that beneficiaries who were subject to both the WEP and the GPO tended to have lower average Social Security benefits and household wealth than those affected by only the WEP or the GPO. In addition, some state and local government employees might become dually entitled and subject to both provisions through an extension of Social Security coverage under a Section 218 Agreement.

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Introduction

The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO) are two separate provisions that reduce regular Social Security benefits for workers and/or their eligible family members if the worker receives (or is entitled to) a pension based on earnings from employment *not covered* by Social Security. The WEP affects retired or disabled workers and their family members, and the GPO affects spouses and survivors.

Some beneficiaries who are entitled to both Social Security retirement benefits and spousal (or survivors') benefits (i.e., dually entitled) may be affected by both the WEP and the GPO.[1] As of December 2018, 263,775 Social Security beneficiaries had their benefits reduced by both provisions, which accounted for 38% of spouses and survivors who were affected by the GPO and 14% of beneficiaries affected by the WEP. The provisions' benefit offsets create complications in calculating and administering Social Security benefits.

This report examines the current-law provisions of the WEP and the GPO, who is affected by both provisions, and the size of the affected population. It also focuses on issues related to Social Security overpayments associated with dually entitled beneficiaries affected by both provisions, the two offsets' impact on Social Security benefits and household wealth, and how extending Social Security coverage through Section 218 agreements impacts the population affected by both provisions.

For an overview of the WEP and the GPO, see CRS In Focus IF10203, *Social Security: The Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO)*; and for an explanation of the dual entitlement rule, see CRS In Focus IF10738, *Social Security Dual Entitlement*.

Background on the WEP and the GPO

A worker's employment or self-employment is considered covered by Social Security if the services performed in that job result in earnings that are subject to Social Security payroll taxes. About 7% of all workers are not covered by Social Security,[2] mainly state and local government employees covered by alternative state-retirement systems and most permanent civilian federal employees hired before January 1, 1984, who are covered by the Civil Service Retirement System (CSRS) or other alternative retirement plans.[3] Social Security beneficiaries who receive a pension based on employment not covered by Social Security may be affected by the WEP, the GPO, or both.

[1] A small proportion of disabled workers may also be affected by the WEP. In December 2018, about 1% of WEP-affected beneficiaries were disabled workers. See CRS Report 98-35, *Social Security: The Windfall Elimination Provision (WEP)*.

[2] Social Security Administration (SSA), *Social Security Basic Facts*, December 2018, https://www.ssa.gov/OACT/FACTS/fs2018_12.pdf.

[3] Noncovered workers may also include employees covered by the Railroad Retirement system; domestic, election, or farm workers with earnings below certain thresholds; people with low levels of net earnings from self-employment; and certain nonimmigrants. Those workers generally do not receive a noncovered pension and thus are not affected by the WEP or the GPO.

The Windfall Elimination Provision

The WEP was enacted in 1983 as part of major amendments to Social Security.[4] Its purpose was to remove an unintended advantage or *windfall* that the regular Social Security benefit formula provided to workers who also had pensions from noncovered employment. The regular formula is weighted to replace a greater share of career-average earnings for low-paid workers than for high-paid workers.[5] However, the formula could not differentiate between those who worked in low-paid jobs throughout their careers and other workers who appeared to have been low paid because they worked in jobs not covered by Social Security for many years (these years are shown as zeros for Social Security benefit purposes). The WEP is intended to remove this unintended advantage.

Under the WEP, a worker's Social Security benefit is computed using a new formula, rather than the regular benefit formula, which results in a lower initial monthly benefit. The WEP applies to most people who receive both a pension from noncovered work (including certain foreign pensions) and Social Security retired worker benefits based on fewer than 30 years of substantial earnings in covered employment or self-employment.[6] In 2019, the WEP reduces the share of the first $926 of average indexed monthly covered earnings that Social Security benefits replace, from 90% to as low as 40%. That adjustment reduces the associated benefit from $833.40 to as low as $370.40 per month, with a maximum reduction of $463.00.[7] The WEP reduction amount is phased out for workers with between 21 years and 30 years of substantial earnings in employment covered by Social Security. Therefore, the WEP reduction's impact is smaller for workers who have more years of substantial covered employment. In addition, the WEP includes a *guarantee* that the reduction in the benefit amount caused by the WEP formula is limited to one-half of the noncovered pension.

The Dual Entitlement Rule and the Government Pension Offset

In general, Social Security spousal and survivors benefits are paid to the spouses of retired, disabled, or deceased workers covered by Social Security. The spousal benefit equals 50% of a retired or disabled worker's benefit and the survivors benefit equals 100% of a deceased worker's benefit.[8]

Under Social Security's *dual entitlement rule*, a person's spousal benefit is reduced, dollar-for-dollar, by the amount of his or her own Social Security retired- or disabled-worker benefit but not below zero (i.e., a 100% offset). The difference, if any, is paid as a spousal benefit and is added to

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[4] For more information, see CRS Report RL30920, *Social Security: Major Decisions in the House and Senate Since 1935*.

[5] See CRS Report R43542, *How Social Security Benefits Are Computed: In Brief*.

[6] In 2019, the amount of substantial earnings in covered employment or self-employment needed for a year of coverage (YOC) is $24,675. This amount is adjusted annually by the growth in average earnings in the economy, provided a cost-of-living adjustment (COLA) is payable. See Social Security Administration, *Old-Law Base And Year Of Coverage*, at https://www.ssa.gov/oact/COLA/yoc.html.

[7] In the regular Social Security benefit formula, the first replacement factor is 90%. In the WEP formula, the first factor can be reduced from 90% to as low as 40%, for a worker with 20 or fewer years of substantial earnings. See CRS Report 98-35, *Social Security: The Windfall Elimination Provision (WEP)*.

[8] See CRS Report R41479, *Social Security: Revisiting Benefits for Spouses and Survivors*.

the worker's Social Security benefit. In effect, the person receives the higher of the two Social Security benefit amounts, but not both.[9]

Enacted in 1977, the GPO is intended to replicate the dual entitlement rule for spouses and widow(er)s who receive pensions based on employment not covered by Social Security. The Social Security spousal or survivors benefit is reduced by an amount equal to two-thirds of the noncovered government pension (i.e., a 67% offset).[10]

Social Security Beneficiaries Affected by Both the WEP and the GPO

Social Security beneficiaries will be affected by both the WEP and the GPO if they

- receive a noncovered government pension;
- are entitled to a WEP-reduced Social Security retired- or disabled-worker benefit; and
- are dually entitled to a Social Security spousal or survivors benefit (hereinafter "spousal benefits") after the reduction of the retired- or disabled-worker benefit.[11]

Table 1 illustrates four examples of how the WEP and the GPO affect Social Security benefits.

Affected by the WEP Only: Example 1

Retired workers are affected by only the WEP, and not the GPO, if they either are not entitled to Social Security spousal benefits or their spousal benefits are less than the WEP-reduced retirement benefits (i.e., the spousal benefit is reduced to zero after the dual entitlement rule). To illustrate, in example 1, the retired worker receives a pension based on noncovered employment ($900), thus the worker's benefit is computed based on the WEP formula ($700). The retired worker may also be entitled to a $500 spousal benefit before any reduction, but the spousal benefit is reduced dollar-for-dollar by the amount of the retired worker's benefit ($700), according to the dual entitlement rule, but not below zero. Therefore, this worker's spousal benefit is reduced to zero after the dual entitlement reduction. The worker is not subject to the GPO because he or she does not receive a positive spousal benefit.[12] The worker's total retirement benefits equal $1,600, based on the WEP formula and a noncovered pension ($700+$900=$1,600).

Affected by the GPO Only: Example 2

Spouses and survivors are affected only by the GPO, but not the WEP, if they are not entitled to Social Security benefits based on their own earnings record, if any. To illustrate, in example 2, the beneficiary does not receive a Social Security worker's benefit ($0), but is entitled to a $1,000

[9] See CRS In Focus IF10738, *Social Security Dual Entitlement*.

[10] See CRS Report RL32453, *Social Security: The Government Pension Offset (GPO)*.

[11] As mentioned earlier, someone with a spousal benefit higher than his or her retirement benefit is referred to as *dually entitled* and receives his or her retirement benefit plus a reduced spousal benefit amount equal to the full-spousal benefit minus the retired-worker benefit, in essence receiving the higher spousal benefit amount. As of December 2018, about 7 million retired workers had dual entitlement. See SSA, *Annual Statistical Supplement, 2019* (in progress), Table 5.G3, at https://www.ssa.gov/policy/docs/statcomps/supplement/2019/index.html.

[12] This worker is not a dually entitled worker, because the spousal benefit is not positive after the dual entitlement adjustment.

spousal benefit. Because the beneficiary receives a noncovered pension benefit of $900, the spousal benefit is reduced by two-thirds of the noncovered pension ($600), resulting in a net spousal benefit of $400. This beneficiary receives total benefits of $1,300 from reduced Social Security spousal benefits and a noncovered pension ($400+$900=$1,300).

Table 1. Hypothetical Examples: Social Security Benefits Under the WEP and the GPO

			Both WEP and GPO	
Monthly Benefits	**(1) WEP Only**	**(2) GPO Only**	**(3) GPO Partial Offset**	**(4) GPO Fully Offset**
Noncovered Pension	**$900**	**$900**	**$900**	**$900**
Social Security worker's benefits (WEP formula)	**$700**	**$0**	**$700**	**$700**
Maximum Social Security spousal benefits before reductions (50% of spouse's Social Security worker's benefit)	$500	$1000	$1,500	$1,000
minus				
Reduction in spousal benefit: Dual entitlement rule (equal to Social Security worker's benefit)	$700	—	$700	$700
equals				
Net Social Security spousal benefits after the dual entitlement rule	$0[a]	—	$800	$300
minus				
Reduction in spousal benefit: GPO (equal to 2/3 of noncovered pension)	—	$600	$600	$600
equals				
Net Social Security spousal benefits after dual entitlement rule and the GPO	**$0**	**$400**	**$200**	**$0**[a]
Total Benefits: Noncovered pension + Social Security worker's benefits + Social Security spousal benefits	**$1,600**	**$1,300**	**$1,800**	**$1,600**

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

Notes: Social Security beneficiaries in each example may have different earnings records and different spousal benefits. Dashes "—"represent scenarios in which certain benefits or reductions are not applicable. For example, in the "(2) GPO Only" scenario, the beneficiary does not receive a Social Security retired-worker benefit, so the dual entitlement rule does not apply.

a. Social Security spousal benefits cannot be reduced to below zero.

Affected by Both the WEP and the GPO: Examples 3 and 4

Social Security beneficiaries are affected by both the WEP and the GPO if they receive both WEP-adjusted retired worker benefits based on their own work record and a reduced spousal benefit after the dual entitlement rule (i.e., dually entitled beneficiaries). The spousal benefit reduced by the dual entitlement rule is then subject to the GPO offset. In certain cases, the Social Security spousal benefit is high enough and remains positive after the GPO reduction (partial offset). To illustrate, in example 3, the worker receives a noncovered pension of $900 and a WEP-reduced retired-worker benefit of $700. If the worker is also eligible for a $1,500 spousal benefit, this is reduced by the worker's benefit based on the dual entitlement rule ($700), and further reduced by two-thirds of the noncovered pension based on the GPO ($600), thus the net spousal benefit equals $200 ($1,500- $700-$600). The beneficiary's total benefits of $1,800 include a WEP-reduced retirement benefit, a net spousal benefit after offsets, and a noncovered pension ($700+$200+$900=$1,800).

In other cases, the Social Security spousal benefit is reduced to zero after the GPO reduction (fully offset). Example 4 illustrates a scenario in which a WEP-affected worker receives a $1,000 spousal benefit, which is reduced by the worker's benefit based on the dual entitlement rule ($700), and the resulting $300 is further reduced by the GPO offset ($600). The net benefit for this worker based on the spouse's working record ends with zero, because the spousal benefit cannot be reduced below zero. Therefore, this beneficiary will receive total benefits of $1,600 based on the WEP formula and the noncovered pension ($700+$900=1,600).

Number of Social Security Beneficiaries Affected by the WEP and the GPO

As of December 2018, about 2.3 million Social Security beneficiaries, or almost 4% of all beneficiaries, had benefits reduced by the WEP, the GPO, or both. More than 11% of those affected were subject to both provisions. Social Security beneficiaries who were affected by both the WEP and the GPO accounted for 38% of spouses and survivors affected by the GPO and 14% of beneficiaries affected by the WEP. **Table 2** breaks down the affected beneficiaries by state and type of offset.

Table 2. Number of Social Security Beneficiaries Affected by the WEP and GPO, by State, December 2018

State	Total	WEP Only	GPO Only	Both WEP and GPO
Total	**2,294,368**	**1,599,309**	**431,284**	**263,775**
Alabama	20,950	16,452	2,267	2,231
Alaska	12,904	9,768	1,389	1,747
Arizona	40,447	31,327	5,005	4,115
Arkansas	12,081	9,011	1,453	1,617
California	325,796	226,146	66,792	32,858
Colorado	78,780	53,681	15,958	9,141
Connecticut	25,812	16,371	6,213	3,228
Delaware	4,603	3,932	323	348
District of Columbia	9,215	6,931	1,607	677
Florida	118,495	90,879	15,894	11,722
Georgia	63,918	44,212	9,860	9,846
Hawaii	12,205	10,263	1,123	819
Idaho	9,227	7,258	955	1,014
Illinois	128,056	79,989	31,509	16,558

State	Total	WEP Only	GPO Only	Both WEP and GPO
Indiana	19,486	14,817	2,380	2,289
Iowa	9,188	7,313	834	1,041
Kansas	10,486	8,229	1,026	1,231
Kentucky	33,337	20,791	8,869	3,677
Louisiana	71,710	34,000	27,240	10,470
Maine	22,813	15,342	4,526	2,945
Maryland	53,433	44,402	5,488	3,543
Massachusetts	100,666	61,866	24,087	14,713
Michigan	25,120	19,298	3,162	2,660
Minnesota	20,181	14,773	3,227	2,181
Mississippi	11,382	8,254	1,605	1,523
Missouri	47,674	31,975	8,360	7,339
Montana	6,972	5,697	596	679
Nebraska	6,103	4,867	521	715
Nevada	38,587	28,090	5,861	4,636
New Hampshire	9,768	7,264	1,415	1,089
New Jersey	25,399	21,127	2,318	1,954
New Mexico	15,643	12,347	1,993	1,303
New York	37,005	29,889	3,967	3,149
North Carolina	34,731	26,798	3,821	4,112
North Dakota	2,644	2,153	259	232
Ohio	208,971	110,883	65,441	32,647
Oklahoma	19,462	15,609	1,888	1,965
Oregon	20,430	15,737	2,529	2,164
Pennsylvania	41,020	33,314	4,145	3,561
Rhode Island	7,064	5,087	1,288	689
South Carolina	21,520	16,292	2,482	2,746
South Dakota	4,316	3,486	351	479
Tennessee	24,697	18,401	3,379	2,917
Texas	234,720	147,205	53,522	33,993
Utah	15,458	12,879	1,435	1,144
Vermont	3,072	2,383	364	325
Virginia	53,471	45,501	4,135	3,835
Washington	37,111	30,489	3,526	3,096
West Virginia	7,151	5,632	816	703
Wisconsin	14,314	10,843	1,696	1,775

State	Total	WEP Only	GPO Only	Both WEP and GPO
Wyoming	2,847	2,279	298	270
Outlying areas and foreign countries	112,760	97,777	12,086	2,897

Source: Data received by CRS from SSA, Office of Research, Evaluation and Statistics, June 2019.

Note: The row "Outlying Areas and Foreign Countries" includes a small number of Social Security beneficiaries whose state or area is unknown.

Selected Issues for Dually Entitled Beneficiaries Affected by the WEP and the GPO

This section highlights issues related to dually entitled Social Security beneficiaries affected by both the WEP and the GPO: Social Security overpayments to affected beneficiaries, the impact of the WEP and GPO on Social Security benefits and household wealth, and the effect of extending Social Security coverage through Section 218 agreements.

Overpayments to Those Affected by Both the WEP and the GPO

Overpayments to dually entitled Social Security beneficiaries affected by both the WEP and the GPO have been an issue for SSA since the provisions were implemented. The improper payments occurred in part because SSA did not properly impose the WEP and the GPO on dually entitled beneficiaries who also receive a pension based on noncovered employment. In a January 2013 report, SSA's Office of the Inspector General (OIG) identified 20,668 dually entitled beneficiaries in current-payment status whose WEP or GPO reductions were not applied properly. Among them, OIG estimated that SSA has overpaid approximately $349.5 million to 10,546 dually entitled beneficiaries whose WEP reduction was not applied properly and $320.6 million to 10,122 dually entitled beneficiaries whose GPO offset was not imposed correctly. OIG also estimated that SSA overpaid those beneficiaries an additional $231.9 million from 2013 to 2017, and that if no corrective action is taken, SSA might continue overpaying them by approximately $46.4 million annually.[13] In 2018, OIG identified about 7,409 dually entitled beneficiaries with a GPO reduction on their spousal benefits but no WEP reduction on their retirement benefits and 8,127 dually entitled beneficiaries with a WEP reduction on their retirement benefits but no GPO offset on their spousal benefits.[14]

To prevent further improper payments to dually entitled beneficiaries who are subject to both the WEP and the GPO, in September 2018, SSA planned to generate system alerts for individuals who apply for retirement and spousal benefits when pension information is already available.

[13] SSA, Office of the Inspector General (OIG), *Follow-up: Dually Entitled Beneficiaries Who Are Subject to the Windfall Elimination Provision and Government Pension Offset*, A-09-17-50252, August 2018, at https://oig.ssa.gov/audits-and-investigations/audit-reports/A-09-17-50252. (Hereinafter "SSA, OIG, *Follow-up: Dually Entitled Beneficiaries Subject to the WEP and GPO*.")

[14] Compared to the beneficiaries with improper payments in 2013, some beneficiaries who were deceased between 2013 and 2018 would no longer be in current-payment status in 2018, and some newly entitled beneficiaries during the same time who are dually entitled and affected by the WEP and the GPO may be added to the group with improper payments.

OIG indicates that the planned alterations to the system, if implemented properly, might effectively prevent additional WEP and GPO overpayments.[15]

Improper payments to Social Security beneficiaries affected by the WEP and the GPO also occurred because some beneficiaries fail to report receipt of or changes in their pensions based on employment not covered by Social Security.[16] If a beneficiary is receiving a noncovered pension based on his or her own employment, the beneficiary must provide evidence from the employer or pension-paying agency (e.g., an award letter) that shows the gross periodic pension amount,[17] including the effective date and expected future pension increases.[18] SSA cited GPO errors as one of the most important causes of the increase in the overpayment error rate between FY2016 and FY2017.[19]

Several proposals have been made to improve SSA's collection of pension information from states and localities for administering the WEP and the GPO. For example, the President's FY2020 budget includes a proposal for up to $70 million for administrative expenses, $50 million of which would be available to the states, to develop a mechanism to facilitate reporting of information about pensions based on noncovered employment.[20] In addition, a 1998 report from the General Accounting Office (GAO; now called the Government Accountability Office) recommended that SSA obtain public pension data from the Internal Revenue Service (IRS).[21] SSA has indicated that discussions with the IRS to obtain noncovered pension information are ongoing.[22]

Impact on Social Security Benefits and Household Wealth

The WEP and the GPO reduce the Social Security benefit received by either member or both members of a couple within a household, and have the largest impact on households affected by

[15] SSA, OIG, *Follow-up: Dually Entitled Beneficiaries Subject to the WEP and GPO*, p. 8.

[16] Testimony of Samara Richardson, acting associate commissioner, Office of Income Security Programs, Social Security Administration, in U.S. Congress, House Committee on Ways and Means, Subcommittee on Social Security, *Social Security and Public Servants Ensuring Equal Treatment*, 114th Cong., 2nd sess., March 22, 2016, H.Hrg. 114-SS03 (Washington: GPO, 2017), p. 35, at https://www.govinfo.gov/content/pkg/CHRG-114hhrg21290/pdf/CHRG-114hhrg21290.pdf.

[17] If the pension payment is in a lump sum, SSA will prorate the lump-sum payment to a monthly amount according to POMS GN 02608.400, at https://secure.ssa.gov/poms.nsf/lnx/0202608400.

[18] The SSA has a system called Regular Transcript Attainment and Section Pass (RETAP) that will generate an alert for the benefit processing center to follow up with the beneficiary for the expected pension increase. For more information, see POMS GN 02608.200, at https://secure.ssa.gov/poms.nsf/lnx/0202608200; POMS GN 02608.300, at https://secure.ssa.gov/poms.nsf/lnx/0202608300; and POMS GN 02608.301, at https://secure.ssa.gov/poms.nsf/lnx/0202608301.

[19] SSA, *Agency Financial Report Fiscal Year 2018*, November 9, 2018, p. 176, at https://www.ssa.gov/finance/2018/Full%20FY%202018%20AFR.pdf.

[20] SSA, *Fiscal Year 2020 Budget Overview*, March 2019, p. 36, at https://www.ssa.gov/budget/FY20Files/2020BO.pdf#page=36. Similar proposals were also made in the President's FY2019 budget.

[21] U.S. General Accounting Office (GAO; now called the Government Accountability Office), *Social Security: Better Payment Controls for Benefit Reduction Provisions Could Save Millions*, HEHS-98-76, April 1998, at https://www.gao.gov/products/HEHS-98-76. The report also discusses the option to obtain public pension data directly from retirement systems. One drawback of this option is that some states had statutes restricting the disclosure of public pension information. Other costs for SSA of this option might include identifying public pensions for persons who worked in noncovered employment and routinely reporting pertinent pension information from public pension plans to SSA.

[22] SSA, *Agency Financial Report Fiscal Year 2018*, November 9, 2018, p. 199, at https://www.ssa.gov/finance/2018/Full%20FY%202018%20AFR.pdf#page=201.

both provisions. One study finds that the WEP and the GPO, on average, reduce the present value of lifetime Social Security benefits by about 20% among households affected by either provision and by another 10% among households affected by both provisions.[23] In this study, the households affected by both the WEP and the GPO include those in which either member is affected by both provisions or one member is affected by the WEP and the other is affected by the GPO. The study found that the present value of lifetime Social Security benefits and total household wealth—including the present value of lifetime Social Security benefits, public pension benefits, and other pension benefits, as well as all other assets—were lower among households subject to both the WEP and the GPO than among households subject to either provision alone.

Effect of Extending Social Security Coverage to Noncovered Workers

About one-quarter of state and local government employees, or approximately 6.4 million individuals, are not covered by Social Security.[24] Social Security coverage may be extended to state and local government employees through a voluntary Section 218 Agreement between a state and the Social Security Administration.[25] If a state or local government employee's position is covered under a public retirement system that provides a minimum retirement benefit comparable to Social Security retired-worker benefits,[26] Social Security coverage may be extended to those positions via employee referendums. If a majority of all eligible employees votes in favor of Social Security coverage, all current and future employees in positions under the public retirement system will be covered.[27]

The adoption of a Section 218 Agreement during a worker's or a spouse's midcareer may cause some future (dually entitled) Social Security beneficiaries to become subject to the WEP and the GPO.[28] **Table 3** illustrates an example of a worker's Social Security benefits with and without an extension of Social Security coverage on the worker's own employment. Without Social Security coverage, the worker in example 1 might have no Social Security retired-worker benefits ($0), and his or her Social Security spousal benefits ($1,000) would be reduced by the GPO (2/3 of noncovered pension = 2/3×$900=$600). In this example, the beneficiary would be affected by only the GPO. If the worker's position became covered by Social Security in midcareer, the

[23] Alan L. Gustan, Thomas L. Steinmeier, and Nahid Tabatabai, "The Social Security Windfall Elimination and Government Pension Offset Provisions for Public Employees in the Health and Retirement Study," *Social Security Bulletin*, vol. 74, no. 3, August 2014, at https://www.ssa.gov/policy/docs/ssb/v74n3/v74n3p55.html.

[24] Data received by CRS from SSA, Office of Research, Evaluation and Statistics, Social Security and Medicare Coverage of Workers from their State and Local Government Employment in 2015.

[25] For a summary of the legislative history of the Section 218 Agreement, see CRS Report R41936, *Social Security: Mandatory Coverage of New State and Local Government Employees*.

[26] The public retirement system is also referred as *FICA replacement plan*, which is administered by a state, political subdivision, or instrumentality and meets the requirements of §3121(b)(7)(F) of the Internal Revenue Code (IRC) and IRS Regulation 26 C.F.R. §31.3121(b)(7)-2. For Section 218 purposes, it is irrelevant whether the retirement system meets the minimum benefit standards for a qualified plan under the Employee Retirement Income Security Act.

[27] Under federal law, 23 states are authorized to divide a retirement system for the purpose of Social Security coverage. See 42 U.S.C. §418 (d)(6)(C). In particular, those states are allowed to use a divided vote referendum process, and only those employees who vote "yes" and all future employees who become members of the retirement system will be covered.

[28] With an extension of a Section 218 Agreement on a worker's employment, a worker might change from being affected by the GPO only to being affected by the WEP only, affected by both the WEP and the GPO, or affected by neither provision. With an extension of a Section 218 Agreement on a spouse's employment, a worker who is subject to the WEP might remain the same, or change to being subject to both the WEP and the GPO.

Social Security retirement benefits based on his or her own earnings record would become positive (assumed to be $450) and the noncovered component of the pension would decrease accordingly ($450) to reflect fewer years of noncovered employment (example 2). This individual would be subject to both the WEP and the GPO. Consequently, the beneficiary would become dually entitled to both Social Security retirement benefits and spousal benefits, and the spousal benefits would be reduced by both the dual entitlement rule ($450) and the GPO (2/3 of noncovered pension=2/3×$450=$300).

Table 3. Social Security Benefits and the WEP and GPO Offsets: With and Without the Section 218 Agreement on Worker's Employment

Monthly Benefits	(1) Without the Section 218 Agreement	(2) With the Section 218 Agreement
Noncovered pension	**$900**	**$450**
Social Security retirement benefits based on the WEP formula (based on worker's covered earnings)	**$0**	**$450**
Maximum Social Security spousal benefits before reductions (50% of spouse's Social Security retirement benefit)	$1,000	$1,000
minus		
Reduction in spousal benefit: Dual entitlement rule (equal to Social Security worker's benefit)	—	$450
equals		
Net Social Security spousal benefits after the dual entitlement rule	—	$550
minus		
Reduction in spousal benefit: GPO (equal to 2/3 of noncovered pension)	$600	$300
Net Social Security spousal benefits after reductions	**$400**	**$250**
Total Benefits: Noncovered pension + Social Security worker's benefits + Social Security spousal benefits	**$1,300**	**$1,150**
Provisions Affected	**GPO**	**WEP and GPO**

Source: Illustrative example provided by CRS.

Notes: The Section 218 Agreement is extended to the worker, but not the spouse. Dashes represent scenarios in which certain benefits or reductions are not applicable. For example, in the scenario without the Section 218 Agreement, the beneficiary does not receive a Social Security worker's benefit, so the dual entitlement rule does not apply.

Table 4 illustrates another example of the Social Security and pension benefits of a beneficiary whose spouse becomes covered under Social Security in midcareer. The beneficiary is assumed to receive Social Security retirement benefits based on his or her own covered earnings and a pension benefit based on noncovered employment, which makes the beneficiary subject to the WEP (example 1). Extending the spouse's Social Security coverage would increase the before-offset spousal benefits from zero to positive, which consequently would result in the beneficiary becoming dually entitled (examples 2 and 3). In example 2, the Social Security spousal benefits ($1,000) would be reduced by the worker's own Social Security benefit under the dual entitlement rule ($600). The Social Security spousal benefits would be further reduced by the GPO (2/3 of noncovered pension=2/3×$900= $600), and result in a net spousal benefit of zero (because the spousal benefit cannot be reduced below zero). In example 3, the Social Security spousal benefit ($1,300) is higher than the combined benefit reductions from the dual entitlement rule ($600) and the GPO ($600), thus resulting a net spousal benefit of $100. In all three examples, the beneficiary is affected by both the WEP and the GPO.

Table 4. Social Security Benefits and the WEP and GPO Offsets: With and Without the Section 218 Agreement on Spouse's Employment

		With the Section 218 Agreement	
Monthly Benefits	**(1) Without the Section 218 Agreement**	**(2) GPO Fully Offset**	**(3) GPO Partial Offset**
Noncovered pension	**$900**	**$900**	**$900**
Social Security retirement benefits based on the WEP formula (based on worker's own covered earnings)	**$600**	**$600**	**$600**
Maximum Social Security spousal benefits before reductions (50% of spouse's Social Security retirement benefit)	$0	$1,000	$1,300
minus			
Reduction in spousal benefit: Dual entitlement rule (equal to Social Security worker's benefit)	—	$600	$600
equals			
Net Social Security spousal benefits after the dual entitlement rule	—	$400	$700
minus			
Reduction in spousal benefit: GPO (equal to 2/3 of noncovered pension)	—	$600	$600
Net Social Security spousal benefits after reductions	**$0**	**$0**[a]	**$100**
Total Benefits: Noncovered pension + Social Security worker's benefits + Social Security spousal benefits	**$1,500**	**$1,500**	**$1,600**
Provisions affected	**WEP**	**WEP and GPO**	**WEP and GPO**

Source: Illustrative example provided by CRS.

Notes: The Section 218 Agreement is extended to the worker, but not the spouse. Dashes represent scenarios in which certain benefits or reductions are not applicable. For example, in the scenario without the Section 218 Agreement, the beneficiary does not receive a Social Security spousal benefit, so the dual entitlement rule does not apply.

a. Social Security spousal benefit cannot be reduced to below zero.

Although a Section 218 Agreement may result in some potential beneficiaries being subject to both the WEP and the GPO, such an extension of Social Security coverage may also have a reverse effect—future Social Security beneficiaries who might be affected by both provisions without the Section 218 Agreement might become subject to only one provision with such an agreement. For example, a potential dually entitled beneficiary subject to both the WEP and the

GPO might be exempted from the GPO if he or she switched from a noncovered position to a covered position and stayed in that covered position for at least five years.[29]

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Disclaimer

[29] The current law (P.L. 108-203) exempts workers who switch from noncovered positions to Social Security-covered positions and work in the covered position for at least 60 months (five years) from the GPO. If the GPO were exempted based on this rule, the worker would be subject to the WEP only.