



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## “Why is my Social Security Spouse’s Benefit Reduced?” The Government Pension Offset: Q & A

Members of the General Assembly periodically receive questions from constituents who have been told their Social Security spouse’s benefit is being reduced because they receive an Ohio public employee’s pension. The reduction is the result of a federal Social Security law known as the Government Pension Offset (GPO). In some circumstances, the GPO can result in the constituent’s benefit being reduced to zero.

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### 1. What is the Government Pension Offset?

The Government Pension Offset (GPO) is a reduction in the Social Security benefits paid to the spouse of a Social Security contributor if the spouse also receives a government pension based on the spouse’s own earnings for which no Social Security taxes were paid. The GPO also applies if a spouse receives a disability benefit from a government retirement system. Social Security spouse’s benefits are paid to the spouse (including the surviving spouse or, in certain circumstances, divorced spouse) of a Social Security contributor based on the contributor’s

employment record.<sup>1</sup> The GPO reduces the benefit the spouse is eligible to receive by  $\frac{2}{3}$  of the amount of the spouse's government pension.<sup>2</sup>

## 2. What is the purpose of the GPO?

According to the U.S. Social Security Administration, the GPO ensures equal treatment between government employees who do not pay Social Security taxes on their earnings and other employees who do pay the taxes on their earnings. This is done by applying the "dual-entitlement" rule to these government employees. Under the "dual-entitlement" rule, a person cannot simultaneously receive a Social Security retirement benefit based on the person's own employment record and a Social Security spouse's or disability benefit, with very few exceptions. Generally, a person will receive the larger of the two benefits.<sup>3</sup>

Initially, the dual-entitlement rule applied only to recipients eligible for two Social Security benefits. In 1977, Congress created the GPO to reduce the Social Security spouse's benefit of a person who is receiving a government pension. At first, a person's Social Security spouse's benefit was offset dollar-for-dollar by the amount of the person's government pension. The  $\frac{2}{3}$  reduction currently used was adopted in 1983. Through the GPO, the dual-entitlement rule is applied to a person receiving a Social Security spouse's benefit who also receives a pension for government service that was not subject to Social Security taxes.<sup>4</sup> Thus, a person who receives a Social Security retirement benefit and a person who receives an Ohio government pension are treated similarly with respect to calculating their Social Security spouse's benefits.

## 3. Who is affected by the GPO?

The GPO affects a person who is receiving a pension for government employment that was not subject to Social Security taxes and is also eligible to receive a Social Security benefit based on the person's spouse's employment record.<sup>5</sup> In Ohio, the GPO affects a former state or local government employee who receives a pension or disability benefit from a state retirement system.<sup>6</sup> Retired Ohio public employees are subject to the GPO because they did not participate in Social Security for their government service. The states in which most government employees

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<sup>1</sup> 42 United States Code (U.S.C.) 402(b), (c), (e), and (f).

<sup>2</sup> "Government Pension Offset," Social Security Administration Pub. No. 05-10007, May 2019, <https://www.ssa.gov/pubs/EN-05-10007.pdf>.

<sup>3</sup> 42 U.S.C. 402(k)(3) and (4) and "Government Pension Offset."

<sup>4</sup> 42 U.S.C. 402(k)(5) and "1977 Amendments" and "1983 Amendments," *Social Security: Summary of Major Changes in the Cash Benefits Program* (May 18, 2000), <https://www.ssa.gov/history/reports/crsleghist2.html>.

<sup>5</sup> "Government Pension Offset."

<sup>6</sup> Ohio's state retirement systems are the Ohio Police & Fire Pension Fund, Public Employees Retirement System, School Employees Retirement System, State Highway Patrol Retirement System, and State Teachers Retirement System. Cincinnati has its own retirement system, and employees who are members of that system also are subject to the GPO. This brief focuses on state retirement system members.

do not contribute to Social Security for their government service and are therefore subject to the GPO are Ohio, Alaska, Colorado, Louisiana, Maine, Massachusetts, and Nevada.<sup>7</sup>

#### 4. Can the General Assembly change or eliminate the GPO?

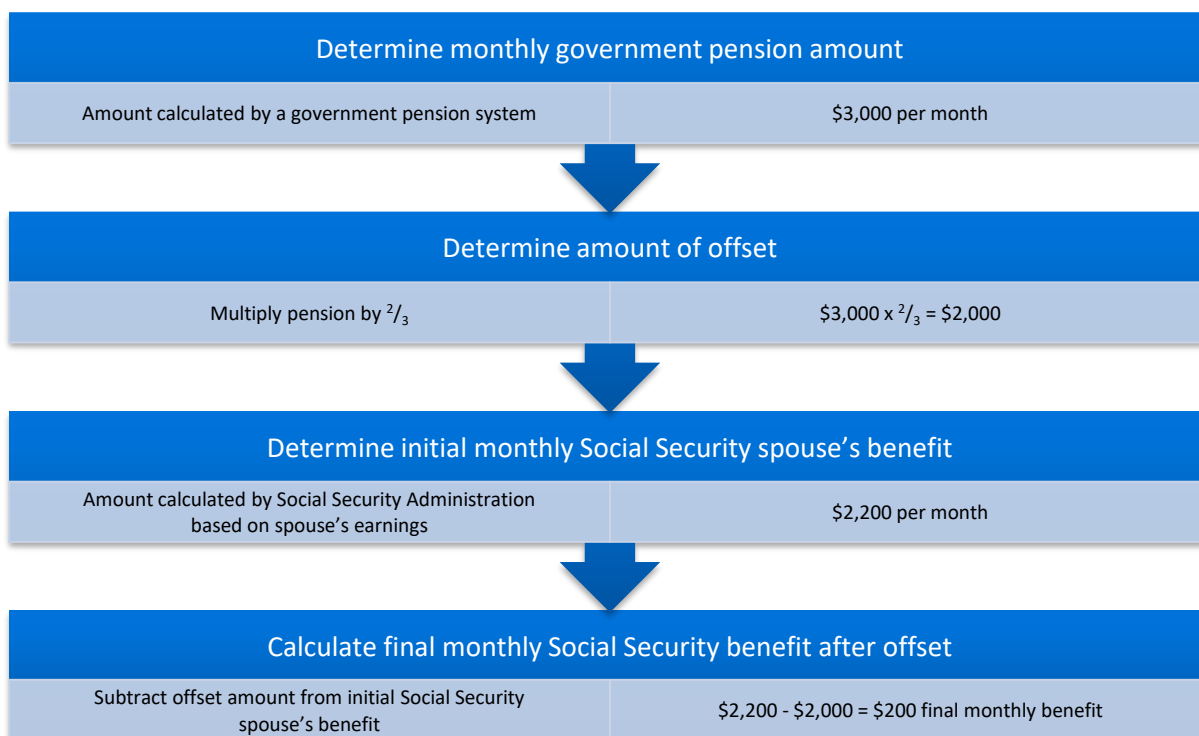
No. Since the GPO is a federal law enacted by Congress, any change would have to be enacted at the federal level. The General Assembly has no authority to revise or eliminate the GPO.

#### 5. Does the GPO reduce a person's own Social Security retirement benefit?

No, the GPO reduces only the Social Security *spouse's* benefit a person receives based on the work record of the person's spouse. However, another offset provision, the Windfall Elimination Provision (WEP), may reduce the Social Security retirement benefit a person receives based on the person's own work, if the person also receives a government pension for service that was not subject to Social Security taxes. For more information on the WEP, please see the *Members Brief* "['Why is my Social Security Reduced?' The Windfall Elimination Provision: Q & A.](#)"

#### 6. How much does the GPO reduce a person's spouse's benefit?

The GPO reduces a person's Social Security spouse's benefit by  $\frac{2}{3}$  of the amount of the person's own state government pension. For example, if a retired member of the Public Employees Retirement System (PERS) was receiving a monthly PERS pension of \$3,000, any spouse's benefit the member receives would be reduced by  $\frac{2}{3}$  of \$3,000, or \$2,000. If the monthly spouse's benefit was \$2,200, after the GPO it would be \$200. The following graphic illustrates this.

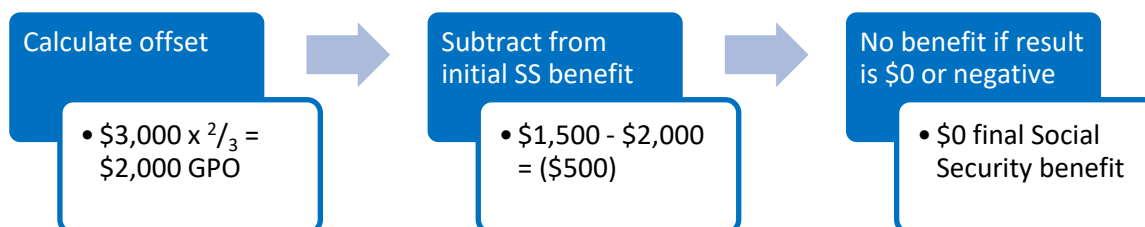


<sup>7</sup> National Association of State Retirement Administrators, *Social Security Coverage*, <http://www.nasra.org/socialsecurity>.

## 7. Can the GPO eliminate a person's entire spouse's benefit?

Yes. If  $\frac{2}{3}$  of the government pension equals or exceeds the Social Security spouse's benefit, the entire spouse's benefit is offset and no benefit is paid.<sup>8</sup>

For example, a person who receives a government pension of \$3,000 per month and is generally entitled to a Social Security spouse's benefit of \$1,500 would have the entire Social Security benefit offset, because the spouse's benefit amount is less than  $\frac{2}{3}$  of the person's government pension.



## 8. Can the GPO reduce a person's state retirement system survivor benefit if the person receives a Social Security retirement benefit?

No. The GPO reduces only a **Social Security** spouse's benefit, not survivor benefits received from another source. A person receiving a Social Security retirement benefit based on the person's own work history is not receiving a Social Security **spouse's** benefit. If that person becomes eligible for survivor benefits from a state retirement system, the person's own Social Security retirement benefit is unchanged, and the person would receive the full survivor benefit from the state retirement system.

The following graphic demonstrates the final combined monthly Social Security and survivor benefits of a person who receives a \$1,500 monthly Social Security retirement benefit based on the person's own work history and a \$2,000 survivor benefit from a state retirement system.



<sup>8</sup> "Government Pension Offset"; and Social Security Administration, "GN 02608.100: Government Pension Offset (GPO) Provision," Program Operations Manual System (POMS), effective December 2, 2020, <https://secure.ssa.gov/apps10/poms.nsf/lnx/0202608100>.

## **9. Will the GPO affect a person's spouse's benefit if the person has left government employment?**

Potentially. The GPO does not apply until a person retires and begins to receive a government pension. If a person leaves government employment before the person is eligible to retire from a state retirement system and does not receive a refund of the person's contributions to the system, the person may receive an unreduced Social Security spouse's benefit until the person begins receiving pension payments from the system. At that time, the GPO is applied to reduce the spouse's benefit for any month the person receives a government pension payment.

The GPO also does not apply to a former state retirement system member who terminated employment and received a refund of contributions to the retirement system, as long as the refund consisted only of the former member's contributions (and interest on those contributions) and the former member forfeited all rights to future retirement or disability benefits. The GPO will apply if the refund included any employer contributions.<sup>9</sup>

In Ohio, laws governing PERS and the State Teachers Retirement System provide for "enhanced" refunds under which members who terminate employment with at least five years of service credit may receive a refund that includes an amount from employer trust funds in addition to employee contributions and interest.<sup>10</sup> It appears that an enhanced refund would cause the GPO to be applied even though the refund would make the former government employee ineligible for a state pension.

## **10. Who can a person contact with questions about a spouse's benefit?**

The Social Security Administration provides general information about Social Security benefits, including information about the GPO, through its website at <https://www.ssa.gov/>. Automated services are available by telephone, 24 hours a day, seven days a week at 1-800-772-1213. Social Security representatives are available to provide personal service from 8:00 a.m. to 7:00 p.m., Monday through Friday.

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<sup>9</sup> "GN 02608.100: Government Pension Offset (GPO) Provision" and "GN 02608.400: Determining Pension Applicability and Pension Amount," POMS, effective June 21, 2016, <https://secure.ssa.gov/poms.nsf/lnx/0202608400>.

<sup>10</sup> R.C. 145.401 and 3307.563.