

# Understanding Your Eligibility Under the Social Security Fairness Act

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**H**ere at SWC, we love to hear from clients who received big chunks of money they weren't expecting. Usually, they have mixed emotions because they're overjoyed by the windfall profit and simultaneously concerned about the potential tax implications.

Emotions aren't mixed on our side. That's because we're pleased with our clients' good fortune and we're eager to help them keep more of their money through savvy tax planning.



Take a phone call we received recently from one of our clients, a recently retired schoolteacher over the age of 65. She told us she received a letter from the Social Security Administration (SSA) informing her that she was going to start receiving unexpected benefits, thanks to the recent passage of the Social Security Fairness Act. She had no clue about her eligibility and was so excited to find out she was due a retroactive payment from the SSA for 2024!

Our client was fortunate that the SSA was able to confirm her eligibility and get in touch with her. Not everyone who's eligible will be so lucky. The SSA openly admits it doesn't know how to get in touch with everyone who's now eligible for benefits and unaware of their eligibility.

If you're retired or close to retirement age, here's what you need to know about the Social Security Fairness Act.

## What Is the Social Security Fairness Act?

The *Social Security Fairness Act*, signed into law on Jan. 5, 2025, is legislation that repeals two provisions that reduced or eliminated the Social Security benefits for more than 3.2 million people who receive a pension based on work that was not covered by Social Security (a “non-covered pension”) because they did not pay Social Security taxes.

The Act addresses the following two provisions:

- **Windfall Elimination Provision (WEP):** The WEP reduces Social Security benefits for individuals who have worked in jobs that are not covered by Social Security (such as certain government or public sector jobs) but have also worked in jobs that are covered by Social Security. The purpose of WEP is to prevent people from receiving higher benefits than they would have otherwise been entitled to, given their earnings in non-Social Security-covered work. However, critics argue that it unfairly penalizes workers who paid into Social Security during some portion of their careers.
- **Government Pension Offset (GPO):** The GPO reduces the Social Security spousal or survivor benefits for individuals who receive a government pension from non-Social Security-covered work. For example, if someone worked in a job from which they received a pension but didn’t pay into Social Security, their ability to claim Social Security benefits as a spouse or widow/widower might be reduced or eliminated entirely, regardless of their spouse’s work history.

These provisions reduced or eliminated the Social Security benefits for these millions of taxpayers who receive a pension based on work that was not covered by Social Security (a “non-covered pension”) because they did not pay Social Security taxes. The Social Security Fairness Act seeks to remove these provisions, restoring full benefits to affected individuals.

## Accelerating Implementation of the Social Security Fairness Act

According to Lee Dudek, Acting Commissioner of Social Security, the SSA is committed to implementing the Social Security Fairness Act as quickly as possible. It has already taken aggressive action to start issuing retroactive payments and plans to start increasing monthly benefit payments beginning in April. “The agency’s original estimate of taking a year or more now will only apply to complex cases that cannot be processed by automation.”

## Who Stands to Benefit from the Social Security Fairness Act

People who will benefit from the new law include:

- Some teachers, firefighters, and police officers in many states
- Federal employees covered by the Civil Service Retirement System
- People whose work had been covered by a foreign social security system

Many beneficiaries will be due a retroactive payment because the Windfall Elimination Provision and Government Pension Offset no longer apply as of January 2024. Most people will receive their one-time retroactive payment by the end of March, which will be deposited into their bank account on record with Social Security.

Many of these people will also receive higher monthly benefits, which will first be reflected in the benefit payment they receive in April 2025. Depending on factors such as the type of Social Security benefit received and the amount of the person’s pension, the change in payment amount will vary from person to person.

**Keep in Mind:** Not every teacher, firefighter, police officer, and other public employee will see a change in benefits under the new law. Only people who receive a pension based on work not covered by Social Security may see benefit increases. Most state and local public employees (about 72 percent) pay Social Security taxes, are covered by Social Security, and are not affected by Windfall Elimination Provision or Government Pension Offset reductions to their benefits. Those individuals will not receive a benefit increase due to the new law.

## Notification

Anyone whose monthly benefit is adjusted, or who will receive a retroactive payment, will receive a mailed notice from the Social Security Administration explaining the benefit change or retroactive payment. Most people will receive their retroactive payment two to three weeks before they receive their notice in the mail. Social Security is automating the process to expedite payments, but complex cases may take additional time to manually update the beneficiary record and pay the correct benefits.

Social Security urges beneficiaries to wait until April of this year to ask about the status of their retroactive payment, since these payments will process incrementally into March. Since the new monthly payment amount will begin with the April payment, beneficiaries should wait until after receiving their April payment before contacting Social Security with questions about their monthly benefit amount.

## What Should You Do?

What action you need to take (if any) depends on your situation and on the type of benefits for which you're eligible.

If you're entitled to retired or disabled workers' benefits, and your benefits are currently being reduced by Windfall Elimination Provision, or if you're entitled to spouse's or surviving spouse's benefits, and your benefits are currently being reduced or eliminated by Government Pension Offset, proceed as follows:

- If you know that Social Security Administration has your mailing address and/or direct deposit information on file, you don't need to do anything. SSA will contact you.
- To verify that the mailing address and/or direct deposit information that SSA has on file is accurate and up to date:
  - Check your personal My Social Security account. Visit [www.ssa.gov/myaccount](http://www.ssa.gov/myaccount) to sign in or create an account.
  - If you're unable to create an account, call 1(800) 772-1213 to verify the information that SSA has on file.

Ensuring that Social Security Administration has the correct information enables you to get any retroactive benefits and your new benefit amount more quickly.

If you're unsure whether you ever applied for retirement benefits or a spouse's or surviving spouse's benefits, you may need to file an application, as explained in the next two sections. The date of your application might affect when your benefits begin.

If you never applied for retirement due to WEP or spouse's or surviving spouse's benefits because of GPO, you may need to file an application, as explained below. The date of your application might affect when your benefits begin and the amount of your benefit. However, each case is different, and all other Social Security laws and policies still apply. These include benefit reductions for claiming benefits before the full retirement age, the retirement earnings test, and others.

## Applying for Retirement Benefits or Spouse's Benefits

The most convenient way to apply for retirement or spouse's benefits is online at [www.ssa.gov/apply](http://www.ssa.gov/apply).

- Please note that the online application will continue to collect pension information until the SSA is able to update it; however, the Social Security Administration will not offset the benefit.
- If you are applying for spouse's benefits, please note that selecting "Family Benefits" will take you to the application for Retirement/Medicare benefits. This process ensures that you will be considered for all benefits you are entitled to.

The SSA can take an application by telephone if you did not previously apply for retirement benefits because of WEP or spouse's benefits due to GPO. If you meet these conditions:

1. **Call** 1 (800)772-1213 Monday through Friday, from 9 a.m. to 6 p.m. ET.
2. When the system asks, "How can I help you today?" **say** "Fairness Act."
3. Then, you'll be asked a few questions. **Your answers will help the system connect you** to a WEP-GPO trained representative to take your application.

## Applying for Surviving Spouse's Benefits

The survivor benefit application is not available online. For this one:

1. **Call** 1 (800) 772-1213 Monday through Friday, from 9 a.m. to 6 p.m. ET.
2. When the system asks, "How can I help you today?" **say** "Fairness Act."
3. Then, you'll be asked a few questions. **Your answers will help the system connect you** to a WEP-GPO trained representative to take your application.

For additional eligibility information, you may visit [www.ssa.gov/apply](http://www.ssa.gov/apply).

As of the week ending March 14, 2025, SSA has taken 93,500 new applications since the Social Security Fairness Act was passed, and has completed 78 percent of the new applications.

Visit the agency's [Social Security Fairness Act webpage](#) to learn more and stay up to date on its progress. Visitors can subscribe to be alerted when the webpage is updated.

If your Social Security benefits change under the new law, and you're concerned about the tax implications of a payment you received, or an increase in your monthly benefit payments, [contact us](#) to schedule a consultation. We're here to help!

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