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Social Security Benefit Enhancements for Women Act of 2002 (H.R. 4069)

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Summary

On May 14, 2002, the House passed the *Social Security Benefit Enhancements for Women Act of 2002* (H.R. 4069), as amended, by a vote of 418-0. H.R. 4069 includes benefit enhancements targeted to certain divorced spouses and disabled and elderly widow(er)s. Specifically, the measure would: (1) eliminate the requirement that widow(er)s seeking disability benefits must have become disabled within 7 years of their spouse's death; (2) eliminate the 2-year waiting period for divorced spouse's benefits when the former spouse has remarried; and (3) disregard months after the deceased worker's death in the application of early retirement rules for purposes of the limitation on widow(er)'s benefits. The Congressional Budget Office estimates that H.R. 4069 would affect over 120,000 persons and cost \$3.3 billion over 10 years. The Social Security Administration's Office of the Chief Actuary estimates that the measure would have a negligible effect on the long-range actuarial balance of the Social Security trust funds. This report will be updated as legislative action occurs.

Background

The Social Security program provides benefits to retired and disabled workers, to their dependents, and to the survivors of deceased workers. In 2000, there were 45 million Social Security recipients. Of those, 53% were women (compared to 39% men, 8% children); and 81% of the total recipient population was age 62 or older. Benefit amounts varied by gender. The average benefit was \$928 for men and \$696 for women. For retired workers, the average benefit was \$951 for men, \$730 for women; for the spouses of retired workers, \$243 for men, \$431 for women; for disabled workers, \$883 for men, \$661 for women; for nondisabled widow(er)s, \$607 for men, \$812 for women; and for disabled widow(er)s, \$362 for men, \$524 for women.

Social Security is the primary source of income for the elderly (persons age 65 and older). In 2000, 90% of the elderly population had income from Social Security (compared to 29% with private pensions and 14% with government employee pensions). For 64% of elderly recipients, Social Security represented at least half of total income.

For 20% of elderly recipients, it was the only source of income (Social Security was the only source of income for 11% of married couples and 26% of nonmarried persons).¹

Social Security prevents many of the elderly from falling into poverty. For example, in 2000, 8.5% of elderly Social Security recipients were poor. Without Social Security, 48.1% would have been poor. Although the poverty rate for elderly Social Security recipients is lower than that for the elderly population overall (8.5% compared to 10.2%), poverty rates for elderly Social Security recipients vary by gender and marital status. In 2000, the poverty rate for married Social Security recipients was 2.8%, compared to 13.8% for nonmarried men and 16.2% for nonmarried women. For widowed recipients, the rate was 12.3% for men, 15.0% for women. For never married recipients, the rate was 25.9% for men, 19.5% for women. For divorced recipients, the rate was 9.7% for men, 18.5% for women.²

These statistics illustrate the importance of Social Security for the elderly in general, and for women in particular. On average, women earn lower benefits than men because they earn less and spend more time outside the labor force. In addition, women tend to live longer than men; are less likely to have other sources of retirement income; and are more likely to be poor.

On March 20, 2002, Representative Shaw introduced H.R. 4069, a bill designed to enhance benefits for certain divorced spouses and disabled and elderly widow(er)s.³ Although the benefit changes included in H.R. 4069 would be gender neutral, the measure targets benefits most often paid to women.⁴ On May 14, 2002, a manager's amendment to H.R. 4069 was considered by the House of Representatives under suspension of the rules (the measure did not go through the House Ways and Means Social Security Subcommittee or the full Committee).⁵ The House passed H.R. 4069, as amended, by a vote of 418-0. The Congressional Budget Office (CBO) estimates that the measure would affect over 120,000 persons and cost \$3.3 billion over 10 years (fiscal years 2003-2012).⁶ SSA's Office of the Chief Actuary estimates that the effect on the long-range actuarial balance of the Social Security trust funds would be negligible (i.e., less than .005 percent

¹ "Nonmarried" includes persons who are separated or married but living apart from their spouse.

² Poverty rates for the elderly are based on family income. For more information, see: Social Security Administration (SSA), *Income of the Population 55 or Older, 2000* [<http://www.ssa.gov/statistics/incpop55/2000/index.html>]; *Annual Statistical Supplement, 2001* [<http://www.ssa.gov/policy/pubs/index.html>]; and *Fast Facts & Figures*, June 2001.

³ H.R. 4069 is a bipartisan measure sponsored by Representative Shaw, Chairman of the House Ways and Means Social Security Subcommittee, and co-sponsored by 39 Members including Representative Matsui, Ranking Democrat on the Social Security Subcommittee.

⁴ In December 2000, 4,661,540 women and 37,120 men received nondisabled widow(er)'s benefits. Similarly, of the 200,130 persons who received disabled widow(er)'s benefits, 168,590 were widows, 26,750 were surviving divorced wives, and 4,790 were widowers.

⁵ Under suspension of the rules, floor amendments were not allowed and a two-thirds majority vote was required for passage.

⁶ The estimated cost of H.R. 4069, amended, as passed by the House (i.e., including tax provisions incorporated under the manager's amendment to H.R. 4069) is \$3.3 billion over 10 years. The estimated cost of H.R. 4069 as introduced (i.e., including benefit changes only) is \$4 billion over 10 years.

of taxable payroll) based on the intermediate assumptions of the 2001 Social Security Trustees' report. The major provisions of H.R. 4069, amended, as passed by the House on May 14, 2002, are described below.⁷

Major Provisions of H.R. 4069

Repeal of 7-Year Restriction on Eligibility for Widow(er)'s Insurance Benefits Based on Disability. Under current law, surviving spouses (including divorced spouses) may be entitled to benefits on the deceased worker's record beginning at age 50 if he or she is disabled *and* the qualifying disability occurred (1) within 7 years of the worker's death; (2) within 7 years of having been previously entitled to benefits on the deceased worker's record as a surviving spouse with a child in care; or (3) within 7 years of having been previously entitled to disabled surviving spouse benefits which ended because the qualifying disability ended (whichever is later).

H.R. 4069 would eliminate the 7-year requirement for entitlement to widow(er)'s benefits based on a disability. This would allow a surviving spouse or a surviving divorced spouse to claim widow(er)'s benefits at age 50-59 if disabled *regardless of when the disability occurred*. This provision would apply to benefits payable for months after November 2002. CBO estimates that 26,000 persons would be affected by this provision.

Exemption from 2-Year Waiting Period for Divorced Spouse's Benefits Upon Other Spouse's Remarriage. Under current law, a divorced spouse may be eligible for benefits on a spouse's work record if the worker is receiving benefits. If the worker is eligible to receive benefits (*but is not receiving them*), the divorced spouse may be eligible for benefits on the worker's record *only if the divorce has been final for at least 2 years*. Because a *current spouse* may be eligible for benefits on the worker's record only if the worker is *receiving* benefits, a 2-year waiting period was established in cases of divorce to discourage individuals from seeking divorce as a way to gain independent entitlement on the worker's record.

H.R. 4069 would deem the 2-year requirement met if the worker remarries someone other than the former spouse during the 2-year period following the divorce. This would allow the divorced spouse to claim benefits on the worker's record immediately (assuming all other requirements are met). Under a conforming amendment, the divorced spouse would be exempt from the earnings test as it applies to the worker (i.e., the divorced spouse's benefit would not be affected if the retired worker has earnings that cause benefits payable on his or her record to be withheld under the earnings test) (see the "Explanatory Notes" section for a description of the earnings test). This provision would apply to benefits payable for months after November 2002. CBO estimates that fewer than 500 persons would be affected by this provision.

Months After Deceased Individual's Death Disregarded in Applying Early Retirement Rules with Respect to Deceased Individual for Purposes

⁷ On May 17, 2002, Senator Gordon Smith introduced S. 2533 (*Social Security Benefit Enhancements for Women Act of 2002*). S. 2533 contains the same provisions as H.R. 4069 as introduced on March 20, 2002.

of Limitation on Widow(er)'s Benefits. Under current law, surviving spouses (including divorced spouses) may be eligible for widow(er)'s benefits beginning at age 60 (or age 50 if disabled). If the deceased worker had retired before the full retirement age (FRA) and therefore received permanently reduced benefits,⁸ the widow(er)'s benefits payable on his or her record are reduced permanently as well under a provision of current law known as the "*widow(er)'s limit provision*."⁹ If the worker died before reaching the FRA and he or she had benefits withheld due to the earnings test, the deceased worker's benefit is recomputed to take into account months of nonpayment for purposes of determining the widow(er)'s benefit limit.¹⁰

For purposes of the widow(er)'s benefit limit, H.R. 4069 would treat months of nonpayment between the worker's retirement and the FRA *due to the worker's death* in the same manner as months of nonpayment due to the earnings test. That is, if a worker elects early retirement and dies before reaching the FRA, the deceased worker's benefit would be recomputed (at the time the deceased worker would have reached the FRA) to exclude the month of death, and all subsequent months leading up to the worker's attainment of the FRA, from the actuarial reduction for early retirement. In effect, a recomputation of the deceased worker's benefit in which the actuarial reduction for early retirement would be based on *the number of months the worker collected benefits* between his or her retirement and the FRA, rather than *the total number of months*, would raise the limit on the widow(er)'s benefits payable on the deceased worker's record.

This provision is intended to provide widow(er)s with a potentially higher benefit by taking into account the relatively short period of time the worker collected benefits before his or her death. It is intended also to equalize the treatment of widow(er)s of workers who elect early retirement and die before reaching the FRA (in which case widow(er)'s benefits are permanently reduced) and those of workers who do not elect early retirement and die before reaching the FRA (in which case widow(er)'s benefits are not affected). This provision would apply to benefits payable for months after November 2002. CBO estimates that 96,000 persons would be affected by this provision.

⁸ The FRA is the age at which *unreduced* benefits are first payable. Under current law, the FRA is being increased gradually from 65 to 67. See the "Explanatory Notes" section for a description of scheduled increases in the FRA and benefit adjustments for early retirement.

⁹ Under current law, the widow(er)'s benefit can be no greater than the benefit the deceased worker would be receiving if he or she were still alive, and no less than 82.5% of the deceased worker's "primary insurance amount" (the basic benefit amount before any adjustments for early or delayed retirement). For more information on the widow(er)'s limit provision, see: SSA, Office of Policy, Office of Research, Evaluation, and Statistics. *The Widow(er)'s Limit Provision of Social Security* by David A. Weaver. ORES Working Paper Series, Number 92, June 2001. [<http://www.ssa.gov/policy/pubs/WorkingPaper/wp92.pdf>].

¹⁰ If a recipient's benefits are withheld due to the earnings test (see the "Explanatory Notes" section for a description of the earnings test), his or her benefit is recomputed at the FRA to take into account months for which benefits were not paid (i.e., the actuarial reduction for early retirement does not apply to months of nonpayment due to the earnings test, resulting in a higher monthly benefit). If the recipient dies before reaching the FRA, the deceased worker's benefit is recomputed in the same manner (at the time of the worker's death) to determine the limit applicable to the widow(er)'s benefit.

Explanatory Notes

Social Security Earnings Test. Under the earnings test, benefits are withheld if the recipient is below the FRA and has earnings from work above a specified amount (\$11,280 in 2002). Benefits are withheld by \$1 for every \$2 of earnings above that amount. The earnings test no longer applies beginning with the month the recipient reaches the FRA. During the year in which a recipient reaches the FRA, a higher annual exempt amount applies (\$30,000 in 2002), and benefits are withheld by \$1 for every \$3 of earnings above that amount. The annual exempt amounts are indexed to average wage growth. The earnings test applies to the worker's retirement benefit and to any dependent's and survivor's benefits payable on the worker's record. The amount of the reduction is applied proportionately to the retired worker's benefit and all auxiliary benefits payable on the worker's record (excluding benefits for divorced spouses if the divorce has been final for at least 2 years, and certain other benefit categories).

Retirement Age Increase. Under the *Social Security Amendments of 1983*, the full retirement age (FRA) is being increased gradually from 65 to 67. Beginning January 2000, the FRA will increase in 2-month increments for persons born in 1938 (i.e., persons age 62 in 2000) through 1943. The FRA will remain 66 for persons born in 1944 through 1954. It will increase again in 2-month increments until it reaches 67 for persons born in 1960 or later. The earliest eligibility age remains 62.

Adjustments for Early Retirement. If a worker files for benefits *before* the FRA, his or her benefits are permanently reduced to take into account the longer expected period of benefit receipt. The adjustments made for early retirement are "actuarial" in that, assuming the individual survives to life expectancy, he or she will receive the same *total lifetime benefit* as if he or she had filed for benefits at the FRA. The majority of workers elect early retirement.