

Congress Kills Social Security Claiming Loopholes

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2015 Budget Legislation targets “claim and suspend” and “spouse then worker.”

The Bipartisan Budget Act of 2015 not only avoided major financial crises, but also eliminated some profitable Social Security claiming strategies. One of these strategies – “claim and suspend” – emerged in the wake of the Senior Citizens Freedom to Work Act of 2000, which first allowed the voluntary suspension of benefits. The goal was to allow people who decided that they had made a mistake by claiming early to stop their payments and earn delayed retirement credits. The other strategy – “spouse then worker” – emerged as a result of the growing importance of delayed retirement credits for workers who postpone claiming from age 66 to 70. This option was never intended to allow two-earner couples to claim the spouse’s benefit as a bonus.

A little background on “spouse then worker.” Under Social Security, married individuals are entitled to a *retired worker benefit* based on their own earnings and/or to a *spousal benefit* equal to one half of their spouse’s benefit claimed at the Full Retirement Age (currently 66). If a married

individual claims before the Full Retirement Age, the Social Security Administration assumes that the individual is claiming both types of benefits, compares the worker and spousal benefits, and awards the highest. This procedure is called “deeming.” After the Full Retirement Age, deeming did not apply because at the time it was established in 1956, the program did not offer delayed retirement credits and, therefore, provided no incentive to postpone claiming after the Full Retirement Age. In the absence of deeming, a worker could choose which benefit to receive. As a result, married individuals could claim a spousal benefit at 66 and switch to their own retired worker benefit at a later date.

The availability of this benefit option has had real value for couples and therefore inevitably **increases the cost** of the Social Security program. Our estimate of the potential annual cost of “spouse then worker” for 2006 was \$9.5 billion per year. This potential cost could have increased as large numbers of baby boomers started to retire. This option addresses no public policy objective. The Budget Act eliminates this loophole by requiring “deeming” both before and after the Full Retirement Age.

“Claim and suspend” allows a husband who reaches the Full Retirement Age to claim and immediately suspend his benefits, allowing his wife to receive a spousal benefit based on his earnings record. The husband is then free to continue working and receive delayed retirement credits, which increases not only his monthly benefit but also his wife’s survivor benefit. While less expensive than the other option – **roughly \$1 billion per year** – the Budget Act eliminated the gaming aspect of this provision by disallowing family members from claiming based on the suspended benefit.

Most of the controversy surrounding the elimination of these claiming strategies centered on the effective date. As originally enacted, the

legislation would have terminated “file and suspend” mid-stream for some already engaged in the strategy. Under the final version, the new rules will kick in 6 months from the signing of the legislation and grandfather anyone currently going through the process. In contrast, the grandfathering period for “spouse then worker” is much longer; the new rules will not apply to anyone 62 and older in 2015. Eliminating these strategies is a very positive development. Social Security – the backbone of our retirement system – is not supposed to be a complicated program where those “in the know” get a much better deal than the average guy. Now the rules are clear, and people will get their intended benefit. The program will also save some money. Now let’s fix the system’s 75-year financing shortfall!!!