OPERSource

January 2012

Your OPERS source for legislative facts

FEDERAL ISSUES UPDATE – WEP AND GPO

OPERS is often contacted with constituent questions regarding the Windfall Elimination Provision (WEP) and the Government Pension Offset (GPO). These are federal laws that impact many public employees in Ohio when they or their spouse also have worked in the private sector. Here are answers to some of the basic questions about WEP and GPO.

Federal Issues Update: What is the WEP and GPO?

Most public employees in Ohio are not covered under Social Security; they are covered by one of Ohio's five public pension plans. When they retire, or if they become disabled prior to retirement, they may receive a pension based on earnings from their public employment. If they do, and they are also entitled to a benefit from Social Security based on either their own work or the work of a spouse, or former spouse, their government pension may affect the amount of the Social Security benefit they receive. Their Medicare benefit, however, will not be affected. Under federal law, implemented in 1983, there are two ways Social Security benefit amounts may be affected.

Windfall Elimination Provision

Under the Windfall Elimination Provision, a Social Security retirement or disability benefit is calculated using a modified formula because a public employee is also entitled to a pension from a job where he or she did not pay Social Security tax. As a result, that public employee will receive a lower Social Security benefit than if he or she were not entitled to a government pension. For example, if you turned age 62 in 2012, the maximum monthly reduction in your Social Security benefit as a result of this provision is $383.50. This amount is updated annually. This provision reduces, but does not totally eliminate a Social Security benefit.

Government Pension Offset Provision

Under the GPO, any Social Security spouse or widow benefit to which a public employee becomes entitled will be offset if an individual receives a Federal, State or local government pension based on work where they did not pay Social Security tax. The offset reduces the amount of a Social Security spouse or widow(er) benefit by two-thirds of the amount of the public pension.

For example, if you get a monthly pension of $600 based on earnings that are not covered under Social Security, two-thirds of that amount, $400, is used to offset your Social Security spouse or widow(er) benefit. So, if in this example you are also eligible for a $500 widow(er) benefit from Social Security, you will only receive an additional $100 per month from Social Security after the GPO is applied. ($500-$400=$100). Even if your pension is high enough to totally offset your spouse or widow(er) Social Security benefit, you are still eligible for Medicare at age 65.

Additional information is available from Social Security at www.socialsecurity.gov.

Proposals to change the WEP and GPO have been discussed by Congress for years and could potentially be considered as part of overall Social Security reform. However, staff members are continuing to hear that there is interest in including a GPO/WEP enforcement provision in the extension discussion that expires at the end of February. According to the Congressional Budget Office, tighter reporting could generate approximately $3.2 billion over a 10-year period.

Under the proposal being discussed, state and local government pension funds would use the IRS Form 1099 to identify individuals receiving pensions outside of Social Security, by adding an additional checkbox to the form. Staff members have been informed that adding a new box to check on the 1099 form may not generate the additional reporting that they are seeking, however. The current law does not provide the IRS or require the IRS to share the information it receives with the Social Security Administration. The law would need to be amended to require the IRS to share the information with Social Security.

continued on back...

DEATH MASTER FILE

To date, the OPERSource has focused primarily on statewide issues. However, OPERS is active at the federal level as well. Throughout the year, we intend to intersperse timely issues that we are tracking on the national scene. One such issue is the "Death Master File."

Death Master File (DMF) data from the Social Security Administration (SSA) is one important source of information for OPERS to determine if a benefit recipient has died. Public pension funds need access to the DMF in order to ensure that benefits are not being paid inappropriately to the relatives or named beneficiaries of deceased members.

Public pension funds need access to the DMF in order to ensure that benefits are not being paid inappropriately to the relatives or named beneficiaries of deceased members.

On November 1, 2011, the DMF data from SSA no longer contains protected state death records. SSA recently determined that Section 205(r) of the Social Security Act prohibits them from disclosing state death records SSA receives through its contracts with the states, except in limited circumstances. While the law allows SSA to share all death records, including State records, with agencies that pay federally funded benefits, OPERS is not considered one of those entities.

Since the change, OPERS has noticed a significant decrease in the number of members reported to have died from the information provided through the DMF. For example, OPERS normally receives 150-200 notifications of member deaths per month. Immediately following the adoption of the new SSA policy preventing disclosure of death records that number dropped to 19. Our concern is that OPERS may not be notified timely upon a member's passing. Further, once the death is reported, OPERS must then seek repayment of these monies from the recipient's estate.

One possible solution to the problem could be found in H.R. 3475. Called the Keeping IDs Safe Act of 2011, H.R. 3475 was recently introduced by Ways and Means Social Security Subcommittee Chairman Sam Johnson (R-TX). Rep. Pat Tiberi (R-OH) is a co-sponsor.

The bill addresses identity theft from the fraudulent use of Social Security numbers by limiting distribution of the Social Security Death Master File (DMF). The bill is in response to the ever growing numbers of identity theft. Particularly alarming to the committee is the rapid growth of criminals, as well as friends and families, capitalizing on the identities of deceased children. For example, the information is used to access financial products, gain employment, and to file fraudulent income tax forms claiming refunds that are under $3500 knowing the IRS rarely checks returns under that amount.

OPERS has suggested a way to include language that can be added to the legislation to allow public pension funds to have access to complete information in the DMF in order to ensure that benefits are being paid appropriately.

OPERS is working with the staff of the House Ways and Means Committee to address this concern as they are still in a process of discovery about all of the ramifications of the issue. A hearing on this issue has been scheduled for February 2, 2012.

OPERS Government Relations Team

Gordon Gatien
Government Relations Officer – 614-222-2924

Deborah McCarthy
Assistant Government Relations Officer – 614-222-6466

Christopher Collins
Assistant Government Relations Officer – 614-222-0555

Anthony Tedesco-Nichols
Assistant Government Relations Officer – 614-222-0381

OPERS