

# Social Security

Official Social Security Website

---

## Program Operations Manual System (POMS)

---

TN 46 (10-11)

# RS 00605.364 Determining Pension Applicability, Eligibility Date, and Monthly Amount

## A. Determining if payments are a pension

### 1. Pension contains employee and employer contributions

- a. If employer contributions or employer and employee contributions are used to determine the payment, it is generally a pension subject to the windfall elimination provision (WEP).
- b. If only employee contributions are involved and the payment amount is based on employee contributions plus interest, i.e., a savings plan, it is subject to WEP, only if it is the primary retirement plan.

### 2. Withdrawals

- a. Withdrawals of the employee's own contributions and interest made before the employee is eligible to receive a pension are not pensions for WEP purposes if the employee forfeits all rights to the pension. This rule applies even if the employer paid the employee contributions.

- b. Withdrawals of the employee's own contributions and interest made after the employee is eligible to receive a pension are considered a lump-sum pension for WEP purposes.
- c. Any separation payment, withdrawal, or refund consisting of both employer and employee contributions is a pension; for WEP purposes whether made before or after the employee is eligible to receive a pension.

### **3. Payment from primary retirement plans and optional savings plans**

- a. Payments received from defined contribution plans (e.g., 401(k), 403(b), or 457 plans) based on non-covered employment are considered a pension subject to WEP regardless of the source of contributions (employer only, employee only, or a combination of both), if the plan is the primary retirement plan. If the plan is a supplemental plan, the payments are subject to WEP when the plan payments contain employer or both employer and employee contributions.
- b. Payments from optional savings plans (e.g., the Federal Thrift Savings Plan for Civil Service Retirement System (CSRS) employees) are not considered a pension for WEP. For payments to qualify for this exclusion, the savings plan must be separate from the retirement plan and yield only the amount the employee paid in (plus interest and dividends), rather than an amount calculated based upon certain conditions such as age, earnings, and length of service.
- c. Pension payments that include voluntary employee contributions, that are separate, and in addition to, the regular pension payment are not subject to WEP.

### **4. Pensions that include payment based on another individual's earnings**

- a. When a pension is based on the work and earnings of another individual in addition to the work and earnings of the number holder (NH), consider only that portion of the pension attributable to the NH's non-covered earnings for WEP.
- b. Prorate the pension to determine the portion of the pension based on the NH's non-covered earnings. Use the pension-paying agency's measuring methods (credits, months, etc.) to define the proration factors.
- c. For pensions with partial non-covered situations, use WEP guarantee procedures RS 00605.370B.2. The numerator is the NH's non-covered service and the denominator is the total service.

## **B. Determining eligibility date**

### **1. Date first eligible**

- a. An individual becomes eligible for a monthly pension or a lump sum in lieu of a monthly pension the first month he or she meets all requirements for payment except stopping work and applying for the payment.
- b. The pension-paying agency, not SSA, determines pension eligibility and entitlement. Some defined benefit plans and defined contribution plans have specific requirements an individual must satisfy to be considered eligible for or entitled to a pension payout (i.e., periodic or lump sum payment). Review the plan's requirements to determine whether to apply WEP. See appropriate regional issuances for guidance on specific defined contribution plans.
- c. Service credits that the worker purchased for the plan are included in determining the pension eligibility date regardless of when the worker purchased service credits. This includes credits for military service for a

Federal pension even if the employee did not waive the military pension. (For proofs required, see RS 00605.366.)

## 2. Employment or vesting before 1986

Employment in a company or vesting in its pension plan before 1986 in itself does not constitute pension eligibility. The worker must have been eligible to receive a retirement or disability pension payment (either monthly or lump sum) from the pension plan before 1986 for the WEP exemption to apply.

## C. Determining the monthly pension amount

### 1. Monthly payments

To apply the WEP guarantee, determine the gross monthly pension amount payable before reduction for:

- health insurance,
- survivor annuities,
- allotments,
- assignment of pensions (e.g., spouse's share of pension), and
- reduction in monthly pension amount because of contribution withdrawal by the worker.

**Note:** If an individual is entitled to a prorated pension amount in the first month of concurrent entitlement because of a mid-month entitlement to the pension, use the full monthly gross pension amount.

### 2. Payments paid on other than a monthly basis

Allocate payments made on "other than a monthly basis" on a basis equivalent to a monthly payment. Determine the amount the worker would have received if the pension were paid on a monthly basis by:

- a. multiplying a weekly pension amount by 52 and then dividing by 12; or
- b. multiplying a bi-weekly pension amount by 26 and then dividing by 12;  
or
- c. dividing annual or semi-annual pension payments by 12 or 6  
respectively.

Use the equivalent monthly pension amount in determining the WEP guarantee. Use the month for which the partial payment was made as the first month of concurrent entitlement; however, we still use the equivalent pension rate to determine the WEP guarantee since the statute requires the guarantee be determined only with the month of first concurrent entitlement to the pension and RIB or DIB.

### **3. Multiple pensions**

If the claimant is entitled to more than one pension that meets the criteria for WEP, consider each pension independently. To apply WEP the monthly amount is equal to the sum of the applicable monthly pensions.

### **4. Unique payments**

When an employer or pension-paying agency allows an individual who is eligible for retirement or disability benefits to determine the disbursement amount, the duration of the pension or the start date, WEP is applicable when the individual first becomes entitled to the pension per RS 00605.360B.3. Treat the pension as a lump sum and follow the instructions in the next subsection RS 00605.364C.5.

### **5. Entire pension paid in a lump sum**

When the entire pension is paid in a lump sum, the amount may represent a payment for a specific period of time or a "lifetime." Generally, the pension-

paying agency will prorate the lump sum to determine a monthly amount for WEP purposes.

If the agency will not provide this information, prorate the lump sum to determine the monthly pension amount as follows:

- a. Specific Period - Divide the lump sum by the number of months in the period specified by the pension-paying agency. See RS 00605.360C.5.a. for when WEP application ends.
- b. Lifetime or Unspecified Period - Divide the pension lump sum amount by the appropriate actuarial value in the table that corresponds to the worker's age on the date of the lump sum award.

Table of Actuarial Values

<b>Age on the Lump Sum Award Date (years)</b>	<b>Actuarial Value Lump Sum Award Date 6/1/2016 or later</b>	<b>Actuarial Value Lump Sum Award Date 6/1/2011 through 05/31/2016</b>	<b>Actuarial Value Lump Sum Award Date 6/1/2007 through 05/31/2011</b>	<b>Actuarial Value Lump Sum Award Date 5/31/2007 or Earlier</b>
40 or under	278.1	183.1	179.7	172.7
41	274.5	181.7	178.3	171.1
42	270.7	180.2	176.8	169.3
43	266.9	178.6	175.2	167.6
44	263.1	177.1	173.6	165.7
45	259.2	175.4	172.0	163.8
46	255.2	173.7	170.2	161.8

47	251.1	171.9	168.4	159.7
48	247.1	170.1	166.6	157.6
49	242.9	168.2	164.7	155.4
50	238.7	166.3	162.7	153.2
51	234.4	164.3	160.6	150.8
52	230.1	162.2	158.4	148.4
53	225.8	160.1	156.2	146.0
54	221.3	157.9	153.9	143.5
55	216.8	155.6	151.5	140.9
56	212.3	153.2	149.0	138.3
57	207.7	150.7	146.5	135.6
58	203.0	148.2	143.9	132.8
59	198.3	145.5	141.2	130.0
60	193.5	142.8	138.4	127.2
61	188.6	140.1	135.6	124.2
62	183.6	137.3	132.8	121.3
63	178.6	134.4	129.8	118.2
64	173.5	131.4	126.8	115.2
65	168.4	128.4	123.8	112.1
66	163.2	125.3	120.7	109.1
67	158.0	122.1	117.5	106.0
68	152.8	118.8	114.4	102.9
69	147.6	115.5	111.1	99.8
70	142.4	112.2	107.8	96.7

71	137.1	108.7	104.5	93.5
72	131.9	105.3	101.2	90.4
73	126.7	101.8	97.8	87.2
74	121.5	98.3	94.4	84.0
75	116.3	94.8	91.0	80.9
76	111.1	91.2	87.5	77.7
77	106.0	87.6	84.0	74.6
78	101.0	84.0	80.5	71.6
79	96.0	80.4	77.1	68.6
80 or older	91.1	76.8	73.6	65.6

**6. Federal pension**

When a pension is based on both Federal Employees’ Retirement System and CSRS service, it is treated as one pension. Because the pension is based on both covered and non-covered service, consider only the portion of the pension for the period of non-covered service in applying WEP. To prorate the pension, see RS 00605.370B.2.

**D. Change in pension amount**

A change in the amount of the beneficiary’s pension or entitlement to additional pensions will not affect the initial primary insurance amount (PIA) determined under WEP. However, if the pension ceases and the NH is no longer entitled to the pension, recompute the PIA without considering the pension effective with the first month for which the claimant is no longer entitled to the pension. Entitlement to the pension does not cease if the NH voluntarily stops receiving benefits for a period of time and resumes them at

a later date. In situations where NH has control over disbursement, see RS 00605.364C.4. in this section.

---

*To Link to this section - Use this URL:*  
<http://policy.ssa.gov/poms.nsf/lnx/0300605364>

*RS 00605.364 - Determining Pension Applicability,  
Eligibility Date, and Monthly Amount - 06/02/2016*

*Batch run: 06/02/2016*

*Rev:06/02/2016*

