

Gender Differences in Social Security

By Bruce D. Schobel

When the Social Security program was enacted into law in 1935, equal treatment of men and women was clearly not a consideration. In those early days, most families consisted of a man who went off to work every day in employment or self-employment, a woman who did not work substantially outside the home or in paid employment, and young children. The original Social Security Act provided benefits for retired workers only, but in 1939, before any monthly benefits could be paid under the original law, the program was expanded—for the first time, but hardly the last—to include benefits for eligible spouses, children and survivors of deceased insured workers. Of course, the vast majority of “workers” were men, and the vast majority of eligible spouses and surviving spouses were women. Equal treatment of the genders wasn’t very meaningful in an environment where their circumstances were so different.

Over the past 80+ years, things have changed quite a lot, and the Social Security law changed, too. Some of the changes resulted from Supreme Court decisions, and others were made by Congress itself in various amendments to the original Act, especially in 1983. Today, essentially all gender-based differences in the law have been repealed, but differences in **outcomes** by gender still exist for other reasons.

Reciting **all** of the gender-based differences that existed in the Social Security Act during the first half-century of its existence would not be especially useful considering that they are of only historical interest today, but a brief list clearly illustrates their great significance. Note that every one of these provisions favored women over men:

1. The 1939 amendments allowed women to collect benefits as spouses and widows (even if they had never worked in covered employment themselves). Men did not get this benefit until 1950.
2. Similarly, the 1939 law allowed women caring for minor or disabled children to receive so-called “mother’s” benefits. Men got the right to receive analogous “father’s” benefits in 1975 as a result of the Supreme Court’s unanimous decision



in *Weinberger v. Weisenfeld*. A conforming change in law was included in the 1983 amendments.

3. The 1956 amendments allowed women who had worked in covered employment to claim reduced retirement benefits starting as early as age 62. (The normal retirement age was 65 then.) Men did not get the same option until 1961.
4. The 1950 amendments extended eligibility for spousal and survivor benefits to **divorced** women with children in their care and to **divorced** widowers (men) in the same circumstances but who were also financially dependent on their deceased wives. In both cases, the previous marriage had to have lasted 20 years or more. In 1965, the requirement for children in care was removed by legislation. In 1977, the required length of marriage was reduced from 20 years to 10 years. The 1983 amendments wiped out all of the differences between men and women in this context, treating widows, widowers and divorced spouses (both women and men) whose marriages had lasted 10 years or more almost exactly the same as current spouses and widows/widowers in terms of benefit eligibility. (Actually, divorced spouses have a slight advantage over current spouses with regard to the right to receive spousal benefits while the ex-spouse is still alive, but this right is not gender-related in any way.)
5. The 1977 amendments allowed women who remarried at age 60 or older to have their new marriages disregarded for purposes of eligibility for survivor benefits; in other words, their widows’ benefits did not end upon remarriage, as they had previously. The 1983 amendments extended this treatment to men on identical terms.

One difference that was **not** removed over the years was a better benefit formula—a shorter computation period, to be precise—for women born before 1912 than for men the same age. Of course, that’s a tiny, closed group of beneficiaries at this point. It’s interesting to observe that this provision, too, favors women over men.

Now that the Social Security law is almost completely gender-blind, and has been for 34 years, one might assume that the program is “fair” to both genders. Fairness is always in the eye of the beholder, of course, but some observations might call that conclusion into question:

1. One seemingly inescapable gender difference involves mortality experience. Women, on average, live longer than men do. Thus, based on individual equity principles, the actuarial reduction factors applied to early retirement benefits (and, likewise, actuarial increase factors applied to delayed retirement benefits) should differ between men and women. The reduction applied to retired-worker benefits starting at age 62 cannot be actuarially fair to men and women simultaneously. But if the factors differed to reflect mortality experience, then the program wouldn’t be gender-blind. This conundrum cannot be solved. The courts and Congress have concluded that the Constitution requires the program to be gender-blind, even if that has disparate effects by gender due to underlying factors outside the government’s control.
2. Women, on average, have lower earnings than men do. Social Security has a weighted benefit formula that provides a higher replacement rate to low-income workers than to higher-income workers. This weighting has an aggregate effect of wealth redistribution from men to women, even though the benefit formula itself is gender-blind.
3. On the other hand, women, on average, have shorter, less consistent earnings histories than men do. Social Security benefits are based on the 35 highest years of earnings in each worker’s lifetime, after adjusting earnings before age 60 for changes in the national average wage. Workers with fewer than 35 years of earnings in covered employment must

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include zero years in computing the average, which brings it down. This hurts women more than men because most men reaching retirement age have 35 years of earnings in covered employment, while a higher proportion of women do not.

Another complicated factor involves couples living together, whether married or not. Two people living together in one home obviously can live more cheaply than they could live apart in two, separate homes. Because men have higher mortality rates than women, combined with the fact that the average American husband is two to three years older than his wife, most married women can anticipate some period as a widow. The average time as a widow might be about a decade. During this time, her standard of living can be expected to drop, due to the absence of the spouse—and his retirement income, whatever that might have been—and the fact that she is older and likely has higher health care expenses and less assets than the couple had when they were younger.

In conclusion, Social Security law is now completely gender-blind, but the effects of Social Security’s various provisions on each gender vary quite a bit. Some of the differences in outcomes by gender may be exogenous and not amenable to any legislative solution. ■



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