

wage and separation allowances except when such payments are financed by SUB funds covering temporary and permanent layoffs

The estimates of contributions and benefits in the employee-benefit plan series are based, for the most part, on reports by private insurance companies and other nongovernment agencies

Contributions under insured pension plans are on a net basis, with dividends and refunds deducted. Contributions under noninsured plans are, for the most part, on a gross basis, and refunds appear as benefit payments. Data on contributions, benefits, and reserves under insured plans are adjusted to exclude tax-sheltered annuities and the self-employed

The number of beneficiaries under pension plans refers to only those persons receiving

periodic payments at the end of the year. The retirement benefit amounts under noninsured plans include (1) refunds of employee contributions to individuals withdrawing from the plans before retirement and before accumulating vested deferred rights, (2) payment of the unpaid amount of employee contributions to survivors of pensioners who die before receiving retirement benefits equal to their contributions, and (3) lump-sum payments made under deferred profit-sharing plans. Because the data for these estimates do not permit distinction between such lump-sum benefits and monthly retirement benefits, precise data on average monthly or annual retirement benefit amounts cannot be derived. Estimates of per capita contributions are derived by dividing total annual contributions by the average number of employees covered during the year

Notes and Brief Reports

Dual Receipt of Disabled-Worker Benefits Under OASDHI and Workers' Compensation*

Since a number of social insurance programs to protect workers against income loss because of work-related disabilities have been established at different times, through a variety of government and private auspices, certain overlapping of benefits, gaps, and other problems have developed between the programs. The focus of considerable attention over the years has been the simultaneous receipt of benefits under the old-age, survivors, disability, and health insurance (OASDHI) and workers' compensation programs. At both the Federal and State level, attempts have been made to deal with the issue, preserving the rights of the individual worker to

* Prepared by Daniel N. Price, Division of Retirement and Survivors Studies, Office of Research and Statistics, Social Security Administration. Adapted from a paper presented before the Southern Association of Workmen's Compensation Administrators in San Antonio, Texas, July 20, 1977.

benefits for income loss and at the same time preventing unwarranted duplication of benefits. This note reviews the background and present status of Federal and State laws and discusses some of the recent experience under them.

HISTORY AND CURRENT STATUS OF OFFSET PROVISIONS

Federal Law

The Social Security Act first dealt with the wage losses associated with disability in 1954. At that time, periods of disability were excluded from a worker's earnings record for purposes of computing retirement and survivor benefits. In 1956, when cash disability benefits were established under the OASDHI program for workers aged 50 or older who were permanently and totally disabled, they were reduced dollar for dollar for workers' compensation payments. This offset provision, however, was eliminated in 1958.

In 1960 the disability insurance program was broadened to include workers under age 50, and a new offset provision was instituted in 1965. Several subsequent amendments to the Social

Security Act modified the definition of earnings used in the offset provision and made other related changes, but the basic offset provision in effect today is that enacted in 1965

The present OASDHI offset provision calls for a reduction in disabled-worker benefits for months after January 1965 and until the disabled worker attains age 62 if the combined amounts from the disabled-worker benefit and workers' compensation payment exceed 80 percent of his "average current earnings" The offset provision no longer applies to disabled workers aged 62 since at that point, if they had not been receiving a disabled-worker benefit, they would have been eligible for a retired-worker benefit, which is not subject to reduction for receipt of workers' compensation When the disabled worker reaches age 65, his benefits are automatically converted to retired-worker benefits

The definition of a worker's earnings for determining the appropriate offset has been liberalized twice A worker's earnings are defined as the highest of (1) the average monthly (taxable) earnings used for computing his primary insurance amount, (2) the average monthly (total) earnings from covered employment and self-employment during his highest 5 consecutive years after 1950, or (3) the average monthly (total) earnings based on the 1 calendar year of highest earnings during a period consisting of the year in which the disability began and the 5 preceding years

In order to allow the worker's benefit to bear some continued relationship to earnings in an economy where wage levels have been rising, the amount of the reduction is adjusted every 3 years to account for increases in national earnings levels In addition, cost-of-living increases are provided that are not subject to the offset

The offset against disabled-worker benefits is to be applied—

(1) regardless of whether the benefits under workers' compensation and OASDHI are based on the same impairment,

(2) to payments under Part C of the "black lung" program established by the Federal Coal Mine Health and Safety Act of 1969 (payments financed by employers), most "black lung" benefits, however, are under Part B and are financed from general revenues and thus are exempt from the offset provisions, and

(3) with respect to any kind of cash payment under workers' compensation that the individual is eligible

for—that is, temporary total or partial disability, permanent total or partial disability, or any payments under "subsequent injury" funds (funds established for paying compensation to an already disabled worker for a subsequent injury that may occur on the job)

The OASDHI offset does not apply to the following two cases

1 If the workers' compensation payment is under a State law that provides an offset against the disability benefit

2 In some limited circumstances, if the workers' compensation payment is in the form of a lump sum instead of a periodic payment

Note that the exception for lump-sum payments under workers' compensation does not hold if the lump sum was provided to avoid possible future proceedings under the workers' compensation law "Compromise and release" settlements (final settlements in lieu of future periodic cash payments and/or medical care benefits) are thus subject to the offset The offset provision also applies, if a lump sum is paid in a case where periodic payments could have been made Thus, any lump-sum payments made after periodic payments are terminated are considered to be in lieu of periodic payments In these cases the Social Security Administration will prorate the lump sum¹ to reflect as accurately as possible the monthly rate that would have been paid had the lump-sum award not been made

State Laws

A few States have offset provisions under their workers' compensation programs that provide for a reduction in specified types of workers' compensation payments because of concurrent receipt of disabled-worker benefits Colorado, the first State with such a provision, adjusts all types of workers' compensation payments by an amount equal to one-half the disabled-worker benefit In 1967 the Colorado offset was interpreted by judicial decision² to be not a reduction in the workers' compensation payment but a mechanism that paid smaller installments over a longer

¹ The lump sum is prorated after deducting excludable expenses such as lawyers' fees and medical expenses

² *Industrial Commission v Rowe*, 425 P 2d 274 (Colo 1967)

period of time—that is, the weekly amount was reduced but the aggregate maximum payable under the Colorado law remained the same. Following the interpretation, the Social Security Administration was required to apply the Federal offset to the disabled-worker benefit even though the workers' compensation payment was being reduced by the State. Subsequent to that court case, the State law was amended, effective July 1971, to reduce the aggregate as well as the periodic payments, so that currently the State offset is applicable and not the Federal.

Brief descriptions of State offset provisions in the order that the laws were passed follow³

—California reduces only workers' compensation payments from the second-injury fund, on a dollar-for-dollar basis.

—Minnesota reduces payments to beneficiaries with permanent total disabilities under its workers' compensation program, based on the same impairment as the disabled-worker benefit. The reduction is made after an individual has been paid a total of \$25,000 in weekly workers' compensation payments, on a dollar-for-dollar basis.

—Montana adjusts the amount of workers' compensation for temporary and permanent total awards if the disabled-worker benefit is based on the same impairment. The offset is an amount equal to one-half the disabled-worker benefit for the same period.

—Florida adjusts all types of workers' compensation payments in a way similar to that used for the Federal offset but computes the average wage in a different way to establish the amount to be offset.

—Washington reduces workers' compensation payments for permanent and temporary total disability awards, by the same amount and in the same way as that used in applying the Federal offset to the disabled-worker benefit. Benefits for permanent partial disability, however, are not offset either by the State or by the Social Security Administration. Permanent partial disability awards are in lump sums and are not considered substitutes for periodic pay.

—Nevada, by administrative procedures, prolongs payments for permanent partial awards, thereby reducing the weekly or monthly amount so that the combined workers' compensation and disabled-worker benefits do not exceed 80 percent of the beneficiary's average current earnings.

Even in these States, the Federal offset is applied in areas not covered by the State law. Minnesota beneficiaries, for example, are sub-

³ As of July 1977, offset provisions were also enacted in Alaska and Oregon. When this note was written it had already been determined that Oregon met the requirements of the Social Security Act for State offset provisions, thereby exempting the disabled-worker benefit from the Federal offset.

ject to the Federal offset, except for those with permanent total disabilities.

EXPERIENCE UNDER CURRENT PROVISIONS

Under the disability insurance (DI) program, relatively few individuals receive benefits that are subject to offset because of workers' compensation payments. More than 27 million workers and 19 million dependents were receiving benefits under the DI program at the end of 1976. Benefits were in offset status because of workers' compensation payments for only 57,000 or 2 percent of all disabled-worker beneficiaries on the rolls (3 percent of all DI beneficiaries when dependents are included).

The small proportion of DI beneficiaries with benefits offset results from three factors. First, the large majority of disabilities are not work-related and are not covered by workers' compensation. Second, even among those with concurrent receipt of disabled-worker and workers' compensation benefits, only those whose combined benefits exceed 80 percent of the worker's average current earnings are subject to offset. The effects of statutory maximums, partial disability benefit formulas, and "compromise and release" settlements tend to restrict benefits attained under workers' compensation. Furthermore, except for workers with dependents eligible for benefits, the disabled-worker benefit in many cases represents a modest proportion of the worker's earnings, particularly in terms of total covered earnings. Thus, as discussed below, relatively few workers' compensation cases are for very severe and permanent disabilities like those for which disabled-worker benefits are generally awarded.

National Experience

As of December 1976, information is available from OASDHI records on a few personal characteristics of DI beneficiaries by offset status; additional data on characteristics were published in 1972.⁴ These data can be compared with charac-

⁴ See Ralph Treitel, "Characteristics of Disabled-Worker Beneficiaries With Workmen's Compensation Offset," *Social Security Bulletin*, February 1972.

teristics data on all workers' compensation beneficiaries and all workers as of March 1973 ⁵

Caution must be exercised in making such comparisons because of the different time periods involved, the different sources of data, and the difference in reference points for the data (The March 1973 information on workers' compensation beneficiaries relates to those who had received a workers' compensation payment sometime during 1972, the information on DI beneficiaries with benefits subject to offset are for those on the rolls as of a given month) On the other hand, the nature of the workers' compensation program has been stable over the years, and no recent major shifts in the incidence of industrial accidents have been apparent The characteristics of workers' compensation beneficiaries can thus be expected to be reasonably stable and lend themselves to comparison among different data collections over a relatively short period of time

Most (more than 9 out of 10) DI beneficiaries with benefits offset are men In contrast, only 2 out of 3 of all DI beneficiaries are men The distribution by race is about the same for both groups, with 84 percent white Beneficiaries with offset benefits are younger than other DI beneficiaries Forty-four percent of the disabled-worker beneficiaries with benefits offset are at least aged 50, but 67 percent of all DI beneficiaries are that old (excluding those aged 62 and over, whose benefits are not subject to offset)

The larger proportion of men beneficiaries with benefits offset, compared with the proportion for all DI beneficiaries, can be associated with the greater exposure of men to industrial hazards and their higher earnings and hence higher benefits

The difference in age patterns of beneficiaries with benefits offset and all DI beneficiaries probably reflects the fact that higher proportions of all DI beneficiaries than of those receiving workers' compensation payments have degenerative diseases such as arteriosclerosis and arthritis that cripple older persons Those receiving workers' compensation payments as well as disabled-worker benefits are much more likely to have had musculoskeletal disorders and other accident-caused conditions

⁵ Daniel N Price, "A Look at Workers' Compensation Beneficiaries," *Social Security Bulletin*, October 1976

Examination of available information on workers' compensation offset cases in relation to characteristics data for all workers' compensation beneficiaries reveals that those with benefits offset are more likely to be men, older, of similar racial composition, less well-educated, from manual skilled jobs, and from nonmanufacturing industry The significance of the industry data are less clearcut than for some of the other characteristics since the offset-case information relates to predisability employment and the data for all workers' compensation beneficiaries are from the survey—that is, after onset of disability As the following tabulation shows, the differences between beneficiaries with benefits offset and all workers are even greater, except for the proportions from the manufacturing industry The distribution of offset cases by industry is much more like that of all workers than that of all workers' compensation beneficiaries

Characteristic	[Percent]		All workers
	Workers compensation beneficiaries		
	Total	With offset	
Men	73	93	61
Aged 45 and over	44	58	36
White	89	84	89
High school graduate	50	29	67
In blue-collar occupation	66	81	31
In manufacturing	46	17	25

State Experience

Just as workers with offsets account for a small proportion of all DI beneficiaries, their number is small in relation to all workers' compensation beneficiaries This relationship is to be expected from examination of the type of indemnity benefits payable under workers' compensation Unpublished data from the National Council on Compensation Insurance show that most workers' compensation beneficiaries have temporary total or minor permanent partial disabilities Permanent total disability closed cases represent only about 1 percent of all insured workers' compensation indemnity awards in a year In addition, some persons receiving workers' compensation for permanent partial disabilities identified as "major" (4 percent of the total) no doubt also receive disabled-worker benefits The 57,012 beneficiaries with benefits offset at the end of 1976 are

estimated to represent 6 percent of all workers' compensation beneficiaries on the rolls at that time

According to the accompanying table, which shows State data on beneficiaries with benefits offset and the amount of the family benefit affected by the offset, the number of workers in December 1976 ranged from 37 in Alaska to 6,450 in California. The average reduction in the monthly disabled-worker benefit for those subject to the workers' compensation offset was \$161.89. Cases involving beneficiaries with combined workers' compensation and disabled-worker benefits that were high enough to result in total offset were rare. Nationally, only 760 workers had a workers' compensation payment that was high enough to result in complete elimination of their disabled-worker benefit.

FUTURE DIRECTIONS

The present Federal and State provisions relating to the dual receipt of workers' compensation and disability benefits have been useful from several points of view. They have provided an orderly, systematic means of preventing excessive earnings replacement from these two programs when it occurs. In addition, provisions under the OASDHI program have allowed flexibility in the Federal and State roles when dealing with the overlapping of benefits. The present offset provisions also provide workable operating procedures that may serve as a guide to legislators concerned with coordinating other income-maintenance programs.

Nevertheless, much interest has been expressed in recent years in reforming the workers' compensation program, including recommendations concerning the offset of payments when benefits are also payable under the OASDHI program. The National Commission on State Workmen's Compensation Laws in 1972 recommended continuation of the offset for permanent total disability, contingent upon implementation of other recommendations for improving benefit levels under workers' compensation. The January 1977 Report of the Interdepartmental Workers' Compensation Task Force recommended a different way of integrating the two programs—by paying only the higher benefit.

Furthermore, both the Commission and the

Disabled-worker beneficiaries with offset for workers' compensation benefits. Number and average family benefit, by State, December 1976

State	Number with offset		Average family benefit	
	Workers	All beneficiaries ¹	Before offset	After offset
Total ²	57,012	159,011	\$409.53	\$247.64
Alabama.....	846	2,414	412.79	255.07
Alaska.....	37	73	401.47	247.77
Arizona.....	936	2,549	423.08	236.78
Arkansas.....	866	2,565	400.84	255.67
California.....	6,450	16,261	412.90	250.18
Colorado.....	89	250	426.07	255.44
Connecticut.....	514	1,309	435.19	212.99
Delaware.....	113	296	399.50	245.57
Dist. of Col.....	78	165	357.44	177.48
Florida.....	2,002	5,095	372.96	246.54
Georgia.....	1,412	3,857	403.43	242.26
Hawaii.....	282	761	424.50	219.51
Idaho.....	247	637	411.97	213.79
Illinois.....	914	2,507	449.28	259.00
Indiana.....	512	1,527	460.86	294.42
Iowa.....	292	778	429.15	248.41
Kansas.....	803	803	423.07	279.51
Kentucky.....	1,824	5,932	419.88	281.77
Louisiana.....	1,910	6,498	444.61	277.36
Maine.....	329	910	400.64	201.26
Maryland.....	562	1,357	410.92	236.25
Massachusetts.....	1,624	4,241	418.74	236.60
Michigan.....	3,527	9,308	431.07	248.64
Minnesota.....	817	2,132	397.94	235.54
Mississippi.....	660	2,067	415.07	266.88
Missouri.....	511	1,412	428.33	275.34
Montana.....	119	331	410.48	275.17
Nebraska.....	164	507	451.05	286.54
Nevada.....	301	646	369.34	197.72
New Hampshire.....	306	753	396.94	193.07
New Jersey.....	1,082	2,840	436.32	259.61
New Mexico.....	448	1,535	457.39	288.99
New York.....	4,272	12,181	443.26	292.75
North Carolina.....	652	1,640	378.33	221.09
North Dakota.....	99	280	386.69	217.24
Ohio.....	4,140	11,495	398.59	243.02
Oklahoma.....	687	1,993	414.29	270.49
Oregon.....	1,815	4,265	400.19	188.82
Pennsylvania.....	2,628	6,725	422.04	234.98
Rhode Island.....	425	1,142	418.02	241.55
South Carolina.....	371	994	381.19	232.18
South Dakota.....	97	308	448.33	292.95
Tennessee.....	1,137	3,039	389.34	238.29
Texas.....	3,289	10,135	406.75	260.33
Utah.....	173	466	444.28	249.42
Vermont.....	82	226	420.93	211.69
Virginia.....	779	2,178	425.60	250.73
Washington.....	678	1,575	400.77	235.41
West Virginia.....	1,176	3,372	456.05	264.23
Wisconsin.....	568	1,547	451.59	271.65
Wyoming.....	54	174	463.27	298.79

¹ Includes dependents

² Includes those in outlying areas and abroad, not shown separately

Task Force recommended that the offset concept be broadened to apply to survivor benefits under the two programs. The Commission recommended a dollar-for-dollar offset, to be applied by States against the workers' compensation payment. Interestingly, in some States, activity has already begun along these lines. Colorado and Minnesota have had survivor benefit offsets for receipt of OASDHI survivor benefits, and Alaska and New York passed such legislation in 1977.

The amount of reduction in the workers' compensation benefit for survivors is computed dif-

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TABLE M-2 —Public income-maintenance programs Hospital and medical care payments, 1940-77

(In millions)

Period	Total	OASDHI (health insurance) ¹			Other programs			
		Total	Hospital insurance ²	Medical insurance	Veterans	Temporary disability ³	Workmen's compensation ⁴	Public assistance ⁵
1940	\$165				\$70		\$95	
1945	222				97		125	
1950	832				573	\$7	200	\$52
1955	1,265				688	20	325	232
1960	1,846				848	41	435	522
1961	2,093				899	46	460	688
1962	2,406				940	46	495	925
1963	2,611				971	50	525	1,065
1964	2,890				1,019	51	565	1,255
1965	3,204				1,072	52	600	1,480
1966	4,898	\$1,019	\$891	\$128	1,137	54	680	2,098
1967	9,554	4,549	3,353	1,197	1,328	53	750	2,873
1968	12,107	5,697	4,179	1,518	1,429	55	830	4,096
1969	13,837	6,603	4,739	1,865	1,573	59	920	4,681
1970	15,614	7,099	5,124	1,976	1,793	66	1,050	5,606
1971	18,109	7,888	5,751	2,117	2,087	71	1,130	6,953
1972	21,162	8,643	6,319	2,325	2,409	65	1,240	8,805
1973	23,722	9,584	7,057	2,526	2,681	69	1,470	9,919
1974	29,098	12,419	9,101	3,318	3,076	71	1,750	11,782
1975	35,803	15,891	11,318	4,273	3,551	76	2,030	14,555
1976	41,303	18,423	13,343	5,080	4,422	77	2,440	15,941
1976								
July		1,477	1,076	401	349			1,330
August		1,545	1,108	437	341			1,340
September		1,562	1,132	431	348			1,376
October		1,543	1,117	426	383			1,313
November		1,612	1,160	452	364			1,332
December		1,752	1,248	504	378			1,422
1977								
January		1,586	1,120	465	356			1,307
February		1,590	1,134	455	326			1,360
March		1,925	1,400	525	381			1,423
April		1,726	1,244	482	355			1,532
May		1,797	1,316	481	363			1,519
June		1,855	1,326	529	372			1,511
July		1,655	1,198	457	352			(*)

¹ Benefit expenditures from the Federal hospital insurance and supplementary medical insurance trust funds as reported by the U.S. Treasury
² Excludes payments by Railroad Retirement Board for beneficiaries in Canadian hospitals
³ Benefits in California and New York (from 1950), including payments under private plans. Monthly data not available
⁴ Benefits under Federal workmen's compensation laws and under State

laws paid by private insurance carriers, State funds and self-insurers. Beginning 1959, includes data for Alaska and Hawaii. Monthly data not available
⁵ Federal matching for medical vendor payments under public assistance began October 1950
⁶ Data not available
 Source: U.S. Treasury and unpublished data from administrative agencies

OASDHI AND WORKERS' COMPENSATION

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ferently in each of the four States. Alaska reduces the benefit by an amount, as nearly as practicable, equal to one-half the periodic benefit under OASDHI. Colorado reduces the benefit on a dollar-for-dollar basis. Minnesota reduces the benefit on a dollar-for-dollar basis for any combined workers' compensation and OASDHI survivor benefit that exceeds 100 percent of the deceased worker's earnings at the time of death. New York reduces the benefit, by a graduated formula, up to 50 percent of the surviving spouse's

share of survivor benefits under the OASDHI program.

It is clear from the actions of recent national review groups and from new legislation in the States that a continuing drive exists to improve the interface between the benefit systems under the workers' compensation and OASDHI programs. Experience under the current Federal offset for disability benefits has shown that the magnitude of overlap between the two programs has not been great. But as benefit levels increase and concern is shown for relating the two programs more broadly—with respect to survivor benefits, for example—the overlapping of benefits will become an even more important issue.