CHAPTER 11

WOMEN AND SOCIAL SECURITY

The National Commission has been particularly concerned about the adequacy and the equity of protection accorded to women under the Social Security program. In recognition of several problems that affect women, the National Commission recommends that two changes be made in the Social Security program and that serious consideration be given to a third. All move in the direction of providing more adequate benefits for certain groups of women.

The first would improve benefits for working women in two ways: by raising the maximum amount of the special minimum benefit that Social Security pays to people who have had long working careers at low wages; and by giving credit for up to IO years of childcare in determining that special benefit. The second change would improve benefits for aged widows whose husbands die long before retirement age. The third concerns the impact of divorce on the availability of Social Security benefits for women. Several other minor changes are also endorsed by the National Commission.

These recommendations represent incremental reforms rather than a fundamental restructuring of Social Security benefits. The Commission believes that it is important to retain the earnings replacement principle on which the present program is based. The changes recommended work within that framework to improve benefits for women. Among all recipients

of Social Security, those whose income is lowest are elderly widows, divorced women who were formerly homemakers, and other unmarried women who have long-term employment at low wages.

I n developing its recommendations, the Commission has considered the special circumstances that cause women, in general, to have lower benefits than men. For many women, inadequate. protection in their own right may occur not only because they have stayed out of the paid labor market in order to care for their families, but also because of their experience in the labor market.

While some 'progress has been made in improving employment opportunities for women, particularly younger women, older working women have clearly had lower paying jobs than men. Women in the labor force are also more likely to be unemployed than are men. Among those with paid jobs, women are almost three times as likely as men to be working part-time rather than full-time. These facets of women's paid careers result in low average earnings when working and therefore low Social Security benefits at retirement.

Yet it would be unfair to say that Social Security throughout its history has not reflected a concern for providing adequate protection for women. From the earliest days of the system, adequacy has been a major objective of the provisions for both benefit eligibility and benefit amounts. Even before the first benefits were paid in 1940, wife's and widow's benefits were added, in recognition of the additional needs of couples compared to individuals and of the income needs of aged widows. No specific contributions are required for these auxiliary benefits.

The Social Security benefit formula provides higher benefits in relation to past earnings for lower-wage workers than for higher-earning workers. Thus, the benefit structure partially compensates women for the disadvantages they have faced in the labor market. The provision of current law which permits the five years of lowest earnings to be dropped from consideration in computing benefits is of some help to women workers who have interrupted their working careers to care for children. Consistent with the concern for providing adequate incomes throughout retirement, Social Security has never included an actuarial adjustment in benefit amounts to recognize the fact that women live longer. All of these features--the weighted benefit formula, spouse benefits, survivors' benefits, and the five dropout years' provision--help to provide more adequate benefits to women. The Commission recognizes the importance of these provisions for older women today and believes that these features should remain an integral part of the Social Security program.

When all these are considered, it is difficult to support the charge that the Social Security system is, on the whole, unfair to women.[1/] Nevertheless, even with fair treatment in the aggregate, certain subgroups of the female population have insufficient and/or inequitable protection under Social Security. Some of these inequities relate to the same provisions discussed above that enhance the adequacy of women's benefits. One

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1/ Report of the 1979 Advisory Council on Social Security, reprinted by the Committee on Ways and Means, WMCP: 96-45, 96th Congress, 1st Session, January 2, 1980, pp. 91-92.

such issue concerns the fact that benefits paid to retired couples in which only one partner was a paid worker are generally greater than benefits paid a couple with the same total earnings where both have been paid workers. Moreover, working wives feel that the value of their benefits, over and above what they could have received as spouses, will not be commensurate with the taxes they pay.

The working wife, however, can claim benefits before her husband retires . During her worklife, she also has disability protection and survivor protection for her children. None of these protections would be available if she had not, by working in covered employment, gained insured status in her own right.

To eliminate these inequities would require either lowering the benefits payable to couples in which only one partner had been a paid worker or raising benefits payable to two-earner couples. The Commission finds the first choice to be inconsistent with the goal of providing adequate benefits to families. The second option would involve a significant additional cost.

When a couple is divorced, it is especially difficult to determine equitable and adequate treatment under Social Security.[2/] The loss of entitlement to the wife's or widow's benefit upon divorce, and the constraints on entitlement to a benefit as a former spouse, leave some women, particularly former homemakers, with inadequate protection. The Commission believes that any recognition accorded a spouse's contribution to the home and family should not be eradicated ex post facto by divorce.

[2/] Under present law eligibility for benefits based on the spouse's earnings terminates at divorce unless the marriage lasted at least 10 years.

Alternative Proposals Considered

Several proposals have been made to improve the treatment of women under Social Security. One proposal would shift the benefit structure to a double-decker system, in which the bottom deck would be paid without regard to prior earnings, and the top deck would operate on the earnings replacement principle. This proposal goes well beyond the issue of equity and adequacy of benefits for women alone. It is an alternative to the current system. The Commission's objections to this plan are discussed in Chapter 3.

Another proposal is earnings-sharing, which incorporates the concept of marriage as an economic partnership and eliminates the family benefits based on marital status which were built into the system in its early years. The Report of the 1979 Advisory Council on Social Security found that "...some system for the sharing of earnings is the most promising approach..." However, the Council was "... not prepared to endorse a full-scale earnings-sharing plan ..."[3/] because of as yet unresolved problems, and was cautious in recommending fundamental change. The Council did recommend a modified earnings-sharing approach that includes division of earnings credits at divorce, inheritance of earnings credits by a surviving spouse, and a phase-out of dependents' and survivors' benefits for aged and disabled widows, widowers, and divorced spouses.

Since the release of the Advisory Council's report, further work has been done to develop this recommendation. The most serious

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3/ Report of the 1979 Advisory Council on Social Security, reprinted by the Committee on Ways and Means, WMCP: 96-45, 96th Congress, 1st Session, January 2, 1980, p. 85.

problem, in the opinion of the National Commission, is the evidence that the plan would lower benefits for a significant number of future beneficiaries, even for some whom the plan was designed to help.[4/] The Commission would not support a proposal which reduced benefits to some people and increased them for others.

As was expected, the plan for dividing earnings credits at divorce would lower benefits, both for the higher paid spouse and for any future family of that person. To mitigate future benefit reductions, the plan for sharing earnings credits at divorce would phase in very gradually. Only earnings after enactment would be shared. As a result, the intended benefit improvements for divorced women would also phase in very gradually, going only to those who were divorced a number of years after enactment. Older women who are already divorced would not be helped by the plan.

Another problem is that the plan for inheritance of earnings credits by widows and widowers would not be a complete substitute for present survivor benefits. Some would get less in the future. The Advisory Council's inherited credit plan, which called for a phase-out of survivor benefits for aged and disabled widows and widowers, was estimated to cost .06 percent of payroll. To guarantee widow(er)s benefits at least as large as under present law would have an estimated long-range cost of .23 percent of taxable payroll.

After reviewing these options?/, it was the sense of the Commission

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[4/] Development of the Advisory Council's Interim Recommendations on the Treatment of Women, U.S. Department of Health and Human Services, Social Security Administration, Office of Policy, (Working Paper), September 12, 1980.

[5/] Report of the 1979 Advisory Council on Social Security, reprinted by the Committee on Ways and Means, WMCP: 96-45, 96th Congress, 1st Session, January 2, 1980, Appendix C.

that changes which erode the adequacy of the system do not help women. The Commission concludes that such changes could not be supported unless the unintentional disadvantages could be remedied at a cost which was deemed reasonable. To be fair to some women at the cost of reducing the protection of others does not achieve fairness. For these reasons, while the Commission is sympathetic to the philosophy of earnings sharing because it recognizes marriage as an economic partnership, it cannot recommend this fundamental change in the benefit structure.

The Commission also considered an approach which would lessen the apparent inequity for women who are eligible for benefits both as insured workers in their own right and as the wives or widows of insured workers. Under this proposal, the spouse with the lower Primary Insurance Amount would receive an additional "working spouse's benefit" amounting to 25 percent of the smaller of: (1) the spouse's retired worker benefit; or (2) the benefit paid as a spouse or survivor. This amount would be paid in addition to what is payable under present law. The average long-range cost of this proposal is almost .7 percent of payroll.

The Commission's Approach

After considering several proposals, the Commission chose a set of incremental reforms to deal with specific concerns about inadequate provisions for women. It prefers this approach because it can be implemented quickly, without a long transition period, and because the resources available to improve the program are limited today and may remain so for some time to come. Under such constraints, the Commission chose to concentrate on the incremental improvements which appeared to be the most urgent. If solutions are found to both the

technical and cost problems of the more far-reaching reforms, the incremental changes recommended by the Commission will not stand in the way of major changes in the future.

The Commission% Recommendations

Childcare Credit Years

Many of today's older working women have spent years in the home providing full-time care for their children, Those childcare years out of the paid work force tend to lower their average lifetime earnings and therefore their retirement benefits. This situation is likely to continue to affect the benefits of women in coming decades for two reasons. The first relates to the maturation of the Social Security system. The second relates to the experience of women themselves.

As the Social Security system has matured, more years of a worker's earnings are used to compute retirement benefits.[6/] For people reaching age 62 in 1981, benefits are based on their average earnings over their highest 25 years. Those reaching age 62 in 1991 or later will have their retirement benefits based on their highest 35 years of earnings. Thus, as the average period lengthens, more women will have childcare years included in the period over which earnings are averaged to compute retirement benefits.

6/ Earnings are averaged over a number of years determined from the years between January 1, 1951 and the year the worker reaches age 62. If he or she reached 21 after 1950, the period for averaging begins with the year age 22 was reached.

Women who will approach retirement age in the near future are the mothers of children born during the post-World War I I baby boom.. During the 1950s, when they were of childbearing age, families of three or four children were common. At that time, women were expected and encouraged to remain at home when their chilldren were young. In 1959, only 19 percent of married women with children under the age of six worked outside the home. Today, this proportion has risen to 42 percent. Many mothers of those born during the post-World War II baby boom subsequently entered the paid work force. They typically found low-paying jobs. Many have had fairly long careers at low wages, particularly those whose need to work was greatest--those whose marriages ended in divorce or early widow-hood or whose husbands were also low-paid.

Present law provides a special benefit based on workers' years of coverage rather than on their average covered earnings. This benefit is designed to help long-service low-wage workers and is paid only if it is higher than the worker's benefit based on the regular formula. As of June 1980, the special monthly benefit is computed as $14.45 times the years of coverage in excess of 10 and up through 30. The maximum amount of this benefit as of June 1980 is $289. The annual amount of earnings needed for a year to count as a year of coverage is shown in Table 11-I. The National Commission recommends that the special minimum benefit for long-term low-wage workers be changed to allow credit for up to IO childcare vears. A childcare credit vear would be

one in which the worker had a child age 6 or under and did not earn enough to gain a year of coverage. Once this recommendation is enacted, available information on noncovered earnings, should be taken into account, to determine whether the individual's total earnings were less than the amount needed to gain a year of coverage. The Commission further recommends that the number of years countable toward the special minimum benefit be increased from 30 to 35 years.

The purpose of this recommendation is to improve benefits for women who have combined fairly long careers at low wages with years spent in the home caring for children. It establishes a combination of long-term covered employment and up to 10 years of childcare responsibilities as a full work life, deserving of a full work life benefit. It would enable individuals with full work lives of 34 or more years (including the 10 childcare years) to receive benefits that meet the poverty threshold. Table II-2 compares the amount of this special minimum benefit under present law with the benefits under the proposed change.

This change is estimated to increase benefits for about one in five retired women and one in 20 retired men. Practically all the benefit improvements would go to individuals with fairly long careers at low wages whose benefit under present law falls short of meeting the poverty threshold.[A/]

[A/] See dissenting statement on the concept of poverty by Mr. Myers in the statements related to Chapter 12.

Table II-I

EARNINGS AMOUNT NEEDED FOR YEARS OF COVERAGE '

Year	Amount needed for year of coverage	Average wage	Amount needed as % of Average wage	Full-time Minimum wage	Amount needed as % of full-time minimum wage
1950 and earlier	$ 900	---	---	---	---
1951	900	$2,799	32	$1,560	58
1952	900	2,973	30	1,560	58
1953	900	3,139	29	1,560	58
1954	900	3,156	29	1,560	58
1955	1,050	3,301	32	1,560	67
1956	1,050	3,532	30	1,950	54
1957	1,050	3,642	29	2,080	50
1958	1,050	3,674	29	2,080	50
1959	1,200	3,856	31	2,080	58
1960	1,200	4,007	30	2,080	58
1961	1,200	4,087	29	2,182	55
1962	1,200	4,271	28	2,392	50
1963	1,200	4,397	27	2,392	50
1964	1,200	4,576	26	2,512	48
1965	1,200	4,659	26	2,600	46
1966	1,650	4,938	33	2,600	63
1967	1,650	5,213	32	2,888	57
1968	1,950	5,572	35	3,296	59
1969	1,950	5,897	33	3,328	59
1970	1,950	6,186	32	3,328	59
1971	1,950	6,497	30	3,328	59
1972	2,250	7,134	32	3,328	68
1973	2,700	7,580	36	3,328	81
1974	3,300	8,031	41	3,822	86
1975	3,525	8,631	41	4,368	81
1976	3,825	9,226	41	4,784	80
1977	4,125	9,779	42	4,784	86
1978	4,425	10,556	42	5,512	80
1979	4,725	11,479	41	6,032	78
1980	5,100	12,586*	41	6,448	79
1981	5,550	13,781*	40	6,968	80

*Estimated on basis of actual average for 1979 and assumptons in 1980 Trustees Report as to wage changes after 1979.

The long-range average cost of the recommended change is estimated to be .14 percent of taxable payroll. No benefit reductions will result from this recommendation.

Before agreeing on this childcare credit plan, the National Commission considered, but reluctantly rejected, a broader proposal to allow childcare dropout years in computing average indexed earnings for the purpose of calculating benefits under the regular benefit formula, as opposed to the special minimum benefit. There were a number of problems with this proposal, in addition to its high costs,[7/] which

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7/ For example the Commission considered a proposal that would permit a childcare dropout year if the worker had a child under the age of 7 and did not earn more than half of the average wage of all covered workers during the year. The estimated costs of the proposal varied with the maximum number of added dropout years allowed:

	Cost as percent of payroll		
Maximum Years	OASI	DI	OASDI
3	.18	.03	.21
5	.27	.09	.36
IO	.40	.20	.60

Table 11-2

SPECIAL MINIMUM BENEFIT BASED ON YEARS OF COVERAGE FOR PERSONS WITH 10 CHILDCARE YEARS: PRESENT LAW AND COMMISSION'S RECOMMENDATION TO ALLOW CHILDCARE CREDITS, ANNUAL 1980 AMOUNTS

Years of Coverage from Paid Work	Present Law	Childcare Credit Plan
9 or fewer	$1,586 a/	$1,586 a/
10	1,586 a/	1,644
11	1,586 a/	1,808
12	1,586 a/	1,972
13	1,586 a/	2,136
14	1,586 a/	2,301
15	1,586 a/	2,465
16	1,586 a/	2,630
17	1,586 a/	2,794
18	1,586 a/	2,958
19	1,586 a/	3,122
20	1,644	3,287
21	1,808	3,451
22	1,972	3,616
23	2,136	3,780
24	2,301	3,944
25	2,465	4,109 *
26	2,630	4,109 *
27	2,794	4,109 *
28	2,958	4,109 *
29	3,122	4,109 *
30	3,287	4,109 *

a/ Amount shown is the statutory minimum ($122 per month initially, which is adjusted for cost of living after entitlement) because that amount is greater than the special benefit based on years of coverage.

* Meets the estimated 1980 poverty threshold of $3,950 for an aged individual.

Note: Amounts shown are the Primary Insurance Amounts, without reduction for early retirement, disregarding the possibility of using the old-law or transitional guaranty benefit-computation methods.

are more easily resolved under the Commission's plan.[8/]

8/ In the childcare dropout year proposal, an annual earnings threshold was specified, above which the dropout year would not be allowed. This seemed necessary in order to avoid extending the added dropout years to high-earning workers who, presumably, had not suffered a significant earnings loss because of childcare responsibilities. An earnings threshold, however, would disadvantage some working women who could not afford to reduce their earnings during childcare years. An arbitrary dollar threshold could also be unfair to those who worked part-time. A mother who worked part-time and exceeded the earnings threshold could be worse off with respect to future retirement benefits than if she had not worked at all during the year. This would not occur under the plan recommended by the Commission. There was also a problem with regard to the treatment of noncovered earnings under the dropout year plan. In order to improve benefits for women now approaching retirement age, it is necessary to identify childcare years retrospectively . At the same time, it seemed necessary to take noncovered earnings into account. People who work in noncovered employment in government jobs are usually covered by their own pension plans, designed to take account of the absence of Social Security coverage. Information on noncovered employment, however, is only available for 1978 and thereafter. To allow past dropout years under the regular benefit formula, without regard to past noncovered employment, could extend unintended benefit increases to high earners who had spent significant parts of their careers in jobs covered by alternative pension plans.

This problem is negligible in the context of the special benefit based on the worker's number of years with coverage. Because this benefit is targeted toward those with long careers in covered employment at relatively low wages, very few would gain unintended benefits. Given the compelling reasons for retrospective consideration of childcare credit years, covered earnings data for past years and both covered and noncovered earnings for future years can be used without injury to the intent of the plan.

Another issue more easily handled under the Commission's recommendation on childcare credit years is the question of whether both parents or only one should be allowed to claim the childcare credit years. Under a dropout year approach, both could gain from the additional dropout years. To limit such a plan to only one parent would be administratively complex. In contrast, the plan to allow childcare credits toward the special benefit based on years of coverage permits the simpler solution of allowing both parents to qualify, but has the effect of benefiting primarily women. This is because most men--particularly married men--earn enough throughout their work lives to receive higher benefits under the regular formula based on average earnings. It is estimated that 85 percent of the additional benefit payments under the Commission's recommendation would go to women and their dependents. (A significant part of the 15 percent that goes to men is the result of increasing the number of countable years of coverage from 30 to 35.) Therefore, it is very unlikely that both parents would actually be affected by the provision for childcare credit years.

I ndexinq Surviving Spouses' Benefits

Under present law, benefits for retired workers and their dependents are based on the worker's earnings which are indexed to reflect economy-wide wage levels when the worker reaches age 60. Benefits are indexed by price changes thereafter. If a worker dies before reaching 62, however, benefits for the widowed spouse are based on the worker's earnings indexed to reflect economy-wide wage rates two years before the worker died. When the worker dies long before retirement age, the widowed spouse's benefit in old-age is based on outdated wages. This will continue to occur as long as wages rise faster than prices.

The Commission recognizes that widows who enter retirement with survivor benefits based on outdated earnings levels are particularly likely to have inadequate benefits. About 70 percent of aged widows receive benefits based on their deceased husbands' earnings records. For those who became widowed after their husbands' retirement, the benefit is based on wage levels when their husbands approached retirement age. But for those who entered retirement as widows, the benefit may be based on wage levels many years earlier. These widows are deprived not only of the husband's unrealized earnings potential, but also of the economy-wide wage changes that occurred since the worker died. The Commission believes that those who suffer the hardship of premature widowhood should enter retirement with benefits that are indexed to recent wage levels.

The Commission recommends that, in computing aged survivor's benefits, the deceased spouse's earnings record be indexed by wage changes up to the year in which the worker would have reached age 60, or two years

before the survivor becomes aqe 60 or entitled to aqed widow(er)'s benefits, whichever is earlier. This should also apply when the aged widow(er) previously received mother's or father's benefits. The resulting Average Indexed Monthly Earnings would then be applied in the PIA formula for the year when the worker would have attained age 62 or the year in which the survivor attains age 60 or becomes entitled to benefits, whichever is earlier.

The long-range average cost of this provision is estimated to be .07 percent of taxable payroll. No benefit reductions will occur from this recommendation, except in the unlikely event that prices rise faster than wages during the defined period.

Property Settlement at Divorce

Divorced women tend to have low Social Security benefits and low total incomes in old age. The Commission's recommendation to give credit for childcare years will be of particular hetp to them. The large majority of elderly divorced women today receive retired worker benefits in their own right rather than spouses' or survivors' benefits from their former husbands. Their retired worker benefits are low, however, and the Commission's proposals, by giving credit for childcare years, will help them attain more adequate benefits in their own right.

This will not by itself solve all the Social Security related problems posed by divorce under the Social Security system. Difficult problems remain when divorce occurs late in life and a woman who has not worked before has little time to build an adequate earnings record before retirement. The program has been modified in the past in an attempt to solve

this problem. Under present law, if a marriage lasts at least ten years, a divorced women can receive the same benefits she would have received had the marriage remained intact. If the former husband dies, she can receive a widow's benefit. If the former husband is retired or disabled, she can receive a wife's benefit; if she claims it at age 65, it amounts to 50 percent of the husband's full benefit; if she claims it at age 62, it is 37.5 percent of his full benefit. The amount of the wife's benefit was designed as a supplement to the worker's benefit and is not enough to support a person who lives alone.

The Commission believes that the appropriate role of the Federal government with respect to Social Security protection in the event of divorce has yet to be clearly defined. There is a growing tendency in the divorce courts to grant spousal rights with regard to pension entitlement at divorce.

There are two ways, in principle, in which pension rights might be allocated, as part of the total property settlement. First, the court may choose to assign a pro rata share of pensions or annuities, based on the circumstances of each case. Usually the benefits would be received by either party only at the time of retirement of the covered person. Second, the present value of expected future pension benefits may be calculated, along with the present discounted value of other relevant income and assets that might be available to either party, and a compensatory lump sum (from non-Social Security sources) may be awarded at the time of property settlement. This method does not require postponing the award until the worker retires.

There are precedents for allocating pension rights not only in the State court system, but also in the Federal government. In 1978, Congress authorized the Civil Service Commission to comply with court decisions to divide the property interests in a Federal annuity.[9/] The manner of division was left to the discretion of the divorce court.

In 1979, legislation was enacted relating to the division of pension entitlements between Foreign Service officers and their spouses at divorce.[10/] The insights gained from these and other experiences can be helpful in designing solutions to the problem of providing protection under the Social Security system, or providing comparable protection, when divorce occurs .[B/]

The Commission recommends that consideration be given to a plan for including Social Security benefit entitlements along with other property interests in the division of property at divorce. Although the Commission does not recommend that the courts take charge of deciding Social Security benefit entitlement or amounts, it believes that the disposition of other property rights should take account of the existence of Social Security benefits.

9/ Public Law 95-366, legislation amending Title V of the U.S. Code to authorize the Civil Service Commission to comply with the terms of a court decree, order, or property settlement in connection with the divorce, annulment, or legal separation of a Federal employee who is under the Civil Service Retirement System.

10/ Public Law 96-465, the Foreign Service Act of 1980.

B/ By Mr. Gwirtzman: I urge that any recommendation should be formulated in a way that does not either encourage or discourage divorce. Social Security should be neutral toward divorce, offering neither a financial incentive or disincentive.

Correction of Other Inequities

For couples who want their Social Security benefits to reflect the principle that marriage is an economic partnership, the Commission recommends the law be changed so that the sum of the benefits paid to a retired worker and spouse be divided between the partners equally if either chooses to have the spouse's benefit paid in a separate check.[11/]

The Commission also recommends that gender-based differences in benefit-entitlement brovisions be eliminated from the Social Security Act (see Appendix D).

Under present law, benefits for some widows and widowers, divorced spouses, and certain children stop when the beneficiary remarries. The Commission recommends that people receiving benefits should not have them terminate because they remarry. This change is estimated to have a long-range cost of .03 percent of taxable payroll.

finally, a modest change should be made in the way survivor benefits are computed for widow(er)s whose spouses die shortly after claiming actuarially reduced benefits. Under these circumstances, the resulting

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11/ At present when this is done, the spouse benefit payable is smaller than one-half 'of the total. For example, if both spouses are age 65 at initial claim, the worker's benefit is 100 percent of the Primary Insurance Amount (PI A), and the spouse's benefit is 50 percent of the PI A, each of which is payable in separate checks if desired. Under the proposal, the separate checks would be equal--in amounts of 75 percent of the PI A.

widow's benefit can be significantly smaller than what would have been payable if the worker had not claimed early-retirement benefits.[12/]

In order to remedy this situation, the National Commission recommends that, when the maximum on widow's benefits is applicable and the retired worker dies before age 65, it shall be effective only for the period ending when the reductions in the widow's benefits which result equal the early-retirement benefits paid ('mcluding any family benefits). The period should be determined based on the benefit amounts payable as of the date of the worker's death. This is tantamount to permitting the widow to withdraw the worker's early-retirement benefit claim and to refund the benefits paid.[13/]

12/ The widow's benefit is basically determined by applying a factor based on her age to the Primary Insurance Amount of the deceased worker. There is an over-riding maximum which is only applicable when the deceased worker had received early-retirement benefits; then, the widow's benefit cannot exceed the larger of the early-retirement benefit or 82.5 percent of the PIA. This maximum is only applicable when the widow is at least age 62 and has the most effect when the woman was older than her husband.

13/ Consider a man who retires at age 62 with a Primary Insurance Amount of $400, with a wife age 65. Under present law, his benefit would be $320, the wife's benefit would be $200, and the widow's benefit would be $330 (but $400 if he had died before filing a claim for early-retirement benefits). If the worker died after receiving only two months of benefits, he and his wife would have received $1,040 in benefits, and the widow would then receive $330 each month.

Under the proposal, the widow would receive benefits at the rate of $330 per month (adjusted later for CPI changes) for the next 15 months (determined by dividing the $1,040 of benefits paid before the worker's death by the $70 monthly "loss" to the widow because the worker had taken early-retirement benefits). Then, the widow's benefit would be based on the $400 rate. Alternatively, the widow could refund the $1,040 after her husband's death and go at once onto the $400 rate.

The effect of the proposal would wash out rapidly when the worker lived several years after retirement. For example, if the worker died just before age 65, the total benefits paid during his lifetime would not be "refunded" until the widow attained age 80.