

# Old-Age, Survivors, and Disability Insurance: Development of Agricultural Coverage\*

*Insurance protection under the Social Security Act was first extended to farm workers through the 1950 amendments and to farm operators through legislation adopted in 1954. Present coverage provisions for farmers and farm workers and some of the legislative history of these provisions and the reasons behind them are described in the following pages.*

THE Social Security Act of 1935 covered, generally speaking, only employees in nonfarm industry and commerce. At the time, there were sound reasons for limiting coverage in this way. The precedents certainly favored the exclusion of those who are engaged in farming. Such earlier social legislation as the child labor and workmen's compensation laws did not cover farm workers because it was difficult to design provisions appropriate for farm ways of life and work. It was inferred from these precedents, moreover, that the farm worker's different living and working conditions also made his need for retirement protection less urgent than the urban worker's need. In addition, the administrative difficulties involved in adapting a social insurance program to agriculture were regarded as serious, if not insurmountable.

Four years later, when the 1939 amendments were being formulated, the original reasons for excluding farm groups from coverage continued to be generally accepted. Although there were suggestions that employees of large farms of an industrial nature might be covered, there were no widespread pressures for such coverage, and all agricultural employment continued to be excluded.

## 1950 Amendments

During the period between the 1939 amendments and the 1950 amend-

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For details on the amendments providing agricultural coverage, see the following issues of the *Bulletin*: December 1950, pages 5-6; September 1954, pages 3-4; January 1955, pages 4-6; September 1956, pages 5-6, and May 1957, page 7.

ments, a more positive attitude toward the idea of extending old-age and survivors insurance coverage to farm workers evolved. This change in sentiment—fostered at least in part by the success of the Bureau of Old-Age and Survivors Insurance in overcoming many wage-reporting and related problems and by a growing appreciation among persons engaged in operating or working on a farm of the value of the protection provided by the program—was chiefly responsible for the 1950 provisions covering farm workers.

The Social Security Act Amendments of 1950 provided coverage for farm workers for any calendar quarter in which the worker was "regularly employed" by an employer and was paid cash wages of \$50 or more by that employer. The employer was required to make quarterly reports of the earnings of his covered employees. To be "regularly employed," an agricultural worker first had to be continuously employed by his employer for an entire calendar quarter. He was considered regularly employed in each calendar quarter after that as long as he did farm work for the same employer on a full-time basis at least 60 days in the quarter. Thus the worker had to work for an employer for at least 5 months before being covered.

The strictness of this coverage test for farm workers reflected the opinion of Congress that it was not feasible to impose upon farm operators the duty of keeping records and making tax returns for large numbers of "temporary" workers—migrants, in many instances. Although the Social Security Administration recommended a much more liberal coverage test for farm workers, Congress

was reluctant to adopt provisions that would cover farm workers other than "regular" employees. The test adopted proved cumbersome, and it greatly restricted the number of workers covered; it gave, however, an opportunity to demonstrate that coverage of farm workers was administratively feasible.

## 1954 Amendments

While the 1950 amendments were being developed, Congress considered at some length the possibility of extending coverage to farm self-employment. Little pressure for coverage was brought to bear, however, by the farmers themselves. (The American Farm Bureau Federation opposed compulsory coverage; the National Grange was lukewarm in its support; the Farmers Union strongly endorsed coverage.) Another inhibiting factor was the feeling that persisted that farm ways of life and operation did not fit into the insurance program's pattern, that the self-employed farmer did not have precisely the same kind of need for social insurance protection as did nonfarm self-employed persons, and that farmers might have great difficulty in complying with the reporting provisions. It was also said that farmers do not "retire" to the same extent as other groups and, as a result, would be at a disadvantage with respect to the amount of benefits they would receive in return for their contributions.

Between 1950 and 1954, however, Congress became increasingly convinced of the desirability of extending protection under the program to a much greater part of the farm population. Added momentum for an expansion of farm worker coverage and the inclusion of farm operators was given by the 1953 report<sup>1</sup> of the consultants on social security, appointed by the Secretary of Health, Educa-

<sup>1</sup> See "Extension of Old-Age and Survivors Insurance: A Summary of the Consultants' Report," *Social Security Bulletin*, September 1953.

tion, and Welfare. The consultants recommended that all the cash wages of farm workers be covered and that farm operators be covered on a basis consistent with the provisions covering other self-employed persons. At the same time, the experience gained in operating the program made the administrative problems involved in this broad extension of coverage seem much less formidable.

The Department of Health, Education, and Welfare recommended coverage for farm workers paid \$50 a quarter by an employer and coverage for the farm self-employed on essentially the same basis as the nonfarm self-employed. These recommendations were prompted not only by the desirability of closing the serious gaps in protection that resulted from the exclusion of such a large group of the employed population but also by strong evidence showing that farm families had a great need for old-age and survivors insurance. The much higher public assistance caseloads in the predominantly agricultural States, compared with those in the heavily industrialized States, testified to the need of farmers and farm workers for old-age benefits and to the fact that, when they die, their families are often in need.

The provisions finally adopted in the 1954 amendments covered farm workers paid cash wages of \$100 in a year by an employer and called for annual reporting of wages instead of quarterly reporting, as provided in the 1950 legislation. The number of farm workers covered by the new legislation was less than that recommended by the Department but more than that desired by some members of Congress, who continued to have strong misgivings about the coverage of other than "regular" farm workers. The requirement of \$100 in annual earnings was intended to cover the great majority of workers who depended on farm wages for their living and yet facilitate the employer's wage reporting by making it unnecessary for farm operators to keep records of and make reports on large numbers of migrant and other short-term workers.

By 1954, the attitude toward compulsory coverage of the farm self-employed had changed to the extent that some farm operators and spokes-

men for farm organizations testified in favor of it, although there was still substantial sentiment for voluntary coverage. The favorable attitude toward compulsory coverage was strengthened by the development of the optional method of computing farm self-employment income for old-age and survivors insurance purposes. Under the option, which became part of the 1954 amendments, farm owners and operators were permitted to report their agricultural self-employment either on the basis of actual net earnings or, if their gross earnings amounted to as much as \$800 and did not total more than \$1,800, on the basis of 50 percent of gross income, with up to \$900 being creditable. If their gross farm income was more than \$1,800, they had to compute their net earnings, although they could report an assumed income of \$900, if actual net income was less than that amount.

This option helped to meet the objection of persons who had believed that compulsory coverage of farm self-employment would force many small farm operators to maintain types of records that they ordinarily were not required to keep. The option also had appeal for some farmers because it recognized the sharp, and often uncontrollable, ups and downs in the income a farm business may yield from year to year; it would make it possible for many farmers to maintain their coverage under the program in lean years.

The extension of coverage to additional farm groups in 1954 represented a major advance toward the goal of universal coverage and the first long step toward providing protection for farm families under the Nation's social insurance system.

### *1956 Amendments*

In the course of congressional consideration of the 1956 amendments, strong opinions were expressed to the effect that the test of \$100 in annual earnings for farm workers placed a heavy burden on farmers who employ large numbers of short-term workers, particularly workers used in harvesting cotton, fruits, and vegetables. Several proposals were made by growers' associations and others to cut back the coverage of farm workers, and some of these proposals would have

had the effect of covering fewer farm workers than were covered under the 1950 provisions.

The Senate Committee on Finance proposed an amendment, which was passed by the Senate, under which a farm worker would be covered if he either received \$200 in cash from an employer in a year or performed 30 days of work for an employer in a year for pay based on other than piece rates—that is, pay based on a unit of time, such as an hour, a day, or a week. The Department made the point, however, that such a provision would cover several hundred thousand fewer workers than were covered by the 1954 provision. It was pointed out, too, that the 1954 coverage test had been in effect only a short time, that it appeared to be working reasonably well, and that there would be an advantage in leaving the coverage test unchanged so that farmers and farm workers would not have to learn new rules.

Under the amendments passed in 1956, a farm worker is covered if he is paid \$150 in cash by an employer in a year or if he works for the employer on 20 or more days during the year for cash wages computed on an hourly, daily, or weekly basis. These tests, with the provisions under which crew leaders<sup>2</sup> are, generally speaking, considered self-employed and the crew members considered to be the crew leader's employees, represent a compromise that took into account the Department's objection that the proposed test of \$200 or 30 days a year would result in a reduction in the number of farm workers covered by the program.

As a result of the compromise, coverage is available to about the same number of workers as under the 1954 test. The combined effect of the 20-day feature of the present coverage test and the crew-leader provision is to offset the reduction in the number of covered farm workers that resulted from the shift from the \$100 cash-wage test to the \$150 test. Because crew members generally work longer for a crew leader than for any one

<sup>2</sup> A crew leader is anyone who furnishes a group of workers to perform agricultural labor for other persons and who pays the members of the crew either for himself or for the person for whom the work is done.

farm operator, the crew-leader provision ordinarily makes it possible for more of these workers to meet either a cash-wage test or a test based on the number of days employed. Translating the potential coverage under the crew-leader provision into actual coverage, however, presents difficulties; many crew leaders are either not equipped to keep records or not inclined to do so, are not well-informed about the program, and are difficult to reach with information. Efforts to meet these difficulties and make the crew-leader provision fully effective are being made and will be continued.

*Material participation—status of share farmers and landowners.*—At the time coverage was extended to farm operators in 1954, it was recognized that share farmers have some characteristics of employees and some of self-employed farmers. The landowner may give as specific and detailed supervision to individuals who have undertaken to produce crops on shares with him as he gives to his hired hands who are admittedly his employees. The share farmer, how-

ever, takes many of the risks involved in raising crops and livestock—risks generally associated with self-employment; usually, also, there is a relationship between the amount of farm products raised and the amount of the share farmer's remuneration.

Initially the 1954 amendments were interpreted as requiring consideration of each share-farmer case on its own merits to determine whether he was an employee or self-employed. If the sharecropper's services with respect to the manner and means for performing the work were controlled by the landowner, the share farmer was considered an employee. If, on the other hand, the sharecropper was free to choose the manner and means for performing the work, he was ordinarily considered self-employed for purposes of coverage.

Subsequently, after some experience and further consideration, regulations were developed, in cooperation with the Internal Revenue Service, holding that share farmers for the purposes of the program generally were self-employed. As a corollary of this policy, when a landowner had his farm

operated under a share arrangement, the proceeds from his share of the farm operations was considered rental rather than self-employment income. Since rental income in the form of crop shares was specifically excluded from consideration as income by the statute, farm landlords as such could not gain coverage under the farm self-employment provisions.

Many landlords operating farms through tenants or share farmers are, however, much more than lessors of land. In many instances the landlord is actively involved in the day-to-day operations of a going business. In line with the principle that the program should cover income based on work—as opposed to investment and rental income—a basis for distinguishing purely rental income from that based on services was necessary. The concept that was developed, and included in the 1956 amendments, is known as "material participation."

The basic purpose of the material participation provision is to extend coverage to farm owners who take a real and meaningful part with their tenants or share farmers in carrying

**Social Security Act provisions for agricultural coverage under old-age, survivors, and disability insurance**

Coverage	1950 legislation	1954 legislation	1956 legislation
Farm operators and share farmers.....	Excluded from coverage.....	Covered farm operators on same basis as other self-employed persons except that individual farm operators reporting on cash basis whose gross farm income in a year was at least \$800 and not more than \$1,800 were permitted to report their net earnings as 2/3 their gross farm income. If gross income exceeded \$1,800 and net earnings were less than \$900, net earnings could be deemed to be \$900. Considered share farmers as self-employed. Excluded rental income from consideration as self-employment income.	Permits farm operators whose gross farm income in a year is at least \$600 and not more than \$1,800 to report their farm net earnings as 2/3 of their gross farm income. If gross income exceeds \$1,800 and net earnings are less than \$1,200, net earnings may be deemed to be \$1,200.  Confirms interpretation of 1954 law concerning status of share farmers. Covers certain income previously excluded as rent if farm landlord, under arrangements with tenant or share farmer, participates materially in production or in management of production of crops or livestock.
Agricultural workers.....	Covered only workers "regularly employed" by 1 employer; in general, after farm worker had worked for 1 employer continuously for an entire calendar quarter, he was "regularly employed" in next quarter and in succeeding quarters if he worked for that employer on full-time basis for at least 60 days during the quarter.  Excluded from coverage: cotton ginning, work for noncash remuneration, producing or harvesting gum-resin products, work by Mexican contract workers.	Covered workers paid \$100 or more in cash wages by 1 employer in a calendar year.  Excluded from coverage: work for non-cash remuneration, producing or harvesting gum-resin products, work by Mexican contract workers, temporary work by persons from the British West Indies.	Covers agricultural workers (1) who are paid cash remuneration of \$150 or more in a calendar year, or (2) who perform agricultural labor for employer on 20 or more days during the year for cash wages computed on an hourly, daily, or weekly basis.  Considers "crew leaders" as employers of crews furnished to perform agricultural labor for other persons. A crew leader is one who pays the members of his crew and who has not been designated by written agreement with the person for whom the work is done as an employee of that person. Excluded from coverage: work for non-cash remuneration, producing or harvesting gum-resin products, work by Mexican contract workers, temporary work by persons from any foreign country.

on a farm business. The provision contemplates activities on the part of the landlord that can reasonably be expected to have some significant effect on farm production. To be covered, the income received by a farm owner from a share farmer must be related to services above and beyond those that a property owner usually provides. Services designed merely to preserve and maintain the property do not change rental income into self-employment income.

*Optional computation method.*—The 1956 amendments also contained a provision that modified the optional method of computing farm self-employment income. The modification was apparently prompted primarily by a desire to give greater recognition to the uncertainties of farming and to cover more farmers. It permits farmers with low incomes to report for the purposes of coverage a larger proportion of their gross farm income than could be reported under the option provided by the 1954 amendments. There had been considerable support in Congress for permitting farmers to report all their gross farm income up to \$1,800. The Depart-

ment opposed this proposal on the grounds that it deviated widely from one of the basic principles of the program—that the protection provided should be related to the workers' earnings.

Further congressional consideration resulted in adoption of the present optional method of computation. Briefly, under the new method, a self-employed farmer whose gross income from farming is at least \$600 and is not more than \$1,800 may count as his net earnings from farm self-employment either his actual net earnings or two-thirds of his gross farm income. If his gross farm income is more than \$1,800 and his net earnings less than \$1,200, he may use either his actual net earnings or \$1,200. Finally, if his gross farm income is more than \$1,800 and his net \$1,200 or more, he must use the actual amount of the net earnings.

### Summary

Both Congress and the Department of Health, Education, and Welfare realized that, when coverage was extended to the farm population, new problems would be encountered. De-

spite the trend toward larger and more businesslike farm operations, farming is still characterized by many customs, practices, and conditions not common to other industries. These characteristics tend to make administration of the farm coverage provisions more difficult and perhaps less precise than administration of other coverage provisions. Yet many of the problems that have so far been encountered in connection with farm coverage are essentially of a short-term nature. It is possible for farmers to qualify for relatively high benefits on the basis of short periods of contributions. Farmers themselves are learning what old-age, survivors, and disability insurance is and how it works. The problems associated with these factors will diminish in importance as time passes.

In the first few years of farm coverage there was a large backlog of claims. As farm problems and practices become clearer and administrative procedures are improved on the basis of experience, administration of the farm coverage provisions can be expected to become increasingly effective.

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## SOCIAL SECURITY IN REVIEW

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\$11.37, and on aid to the blind, where the average increased \$2.84. Most of the sizable changes in average payments for the special types of public assistance in other States resulted from fluctuations in vendor payments for medical care.

● Among workers covered by the State unemployment insurance pro-

grams and the program of unemployment compensation for Federal employees, insured unemployment continued to mount during March. The weekly average, instead of showing the usual seasonal decline, rose 4 percent to almost 3.3 million—more than double the average a year earlier. The number of initial claims, which represent new unemployment, dropped slightly (by 19,800) from the February total to 1.8 million, but it was about twice the number of such claims filed in March 1957.

More than \$370 million in unemployment insurance benefits was paid to jobless workers during March. The total was the highest on record; it was \$50 million more than the amount paid in February and 119 percent more than that paid in March 1957. The average weekly benefit check for total unemployment was \$30.53. Workers exhausting their benefit rights numbered 191,400—32 percent more than in February and 70 percent more than in March of the preceding year.