Yes, Public Pensions Provide Equal Pay for Equal Work

By Diane Oakley, Executive Director
National Institute on Retirement Security
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A recent article posted by the Brown Center on Education Policy raised the question of whether public pensions provide women equal pay for equal work. The answer is yes. In fact, pensions are one of the best ways to ensure that teachers can have a safe and secure retirement despite a range of factors working against women.

Women are Worried About Retirement

The issue of retirement security is a great concern to all Americans, and women are very worried. When the National Institute on Retirement Security (NIRS) surveyed Americans about retirement, we found that nine out of 10 women are concerned that the current economic conditions are affecting their ability to achieve a secure retirement. In fact, nearly two-thirds of women were very concerned, compared to only 46 percent of men who shared the same heightened level of concern.[1]

As NIRS probed to see what factors Americans felt make it more difficult to prepare for retirement, we learned that two factors rose to the top of the list. Both factors are directly related to the workplace.

- First, eight out of 10 said that middle class salaries not keeping up with inflation makes it harder to prepare for retirement.

- Second, seven out of 10 cited that the lack of access to a pension benefit through employers makes it more difficult to reach a secure retirement.[2] [Oakley and Kenneally, 2013.]

Generally, these two factors have a more sizeable impact on working women. This may explain why women are so concerned about their retirement security.

Women Face Unique Retirement Challenges

<u>As compared to men, women earn less.</u> Women working full-time, year-round in 2012 had $37,741 in median earnings, while men had $49,398.[3]

<u>As compared to men, women have less access to retirement plans at work</u>. Some 63 percent of women near retirement participated in a retirement plan during their career as compared to 75 percent of men.[4]

As compared to men, women live longer—two to three years longer. This means a woman needs income in retirement that she will not outlive.[5]

As compared to men, women have less work continuity. Often, women are in and out of the workforce to care for their children and aging family members—either out of choice or necessity. In 2012, the labor force participation rate for mothers with children under 18 was 70.2 percent while it was 93.5 percent for fathers.[6] This means they have few years in the workforce to save for retirement.

All together, these unique challenges work together to make if very difficult for women to accumulate sufficient retirement assets in individual accounts like 401(k) plans. It's no wonder women are so anxious about retirement.[7]

Defined Benefit Pensions are Especially Beneficial for Women

Not only are defined benefit (DB) pensions are the most economically efficient way to save for retirement, they are particularly beneficial for women. One advantage is that pensions must pay the same amount of monthly retirement income to a male and a female with the same career paths and final earnings, regardless of differences in life expectancy.

Today, a female age 65 has a remaining life expectancy of 21.5 years, which means that half of the females who reach age 65 will still be alive at age 86 and a half. Her 90th percentile expectancy is age 97.[8] If a woman plans to draw down the balance in her 401(k) account over only 21.5 years, she will have a 50-50 chance that she will run out of money when she will be in most need of the income.

To greatly reduce that undesired outcome, she could plan to draw down the value in her account over 11 more years so that the chance that she lives longer that her money lasts is only 10 percent. In contrast, males at age 65 live two to three years less with a life expectancy of age 84.1 and 90th percentile life expectancy of age 94.3.[9]
This reality underscores the significant value pension plans provide for women.

Equality for Teachers with Pensions

Nearly all public school teachers participate a pension plan that pays a monthly retirement income benefit. Notably, the teaching profession is dominated by women. Landmark Supreme Court decisions in 1978 and in 1983 are important to highlight because they clarified how the 1964 Civil Rights Act applies to teacher pensions.

The Supreme Court's 6-2 decision in the *City of Los Angeles Department of Water and Power v. Manhart* ruled that a female employee did not have to contribute more than a male employee to receive the same monthly lifetime income benefit.[10] For example, if a public pension provides a two percent benefit formula for each year of service based on the final five years of earnings, replacing 50 percent of income after 25 years of service, then it must pay the same amount each month to men and women who had equal earnings and work histories. Even if women, as a class, would require the plan to accumulate more assets in order to pay the women their retirement benefits over longer lifetimes, a woman cannot be required to contribute more than a man into the pension plan. So, that makes participation in a pension all the more important for female teachers.

A Flawed Analysis of Teacher Pensions

A recent posting, *Do Public Pensions Provide Equal Pay for Equal Work?* on Brookings' Brown Center Chalkboard is flawed in its attempt to redefine equal pay for equal work regarding teacher pensions. Overall, the blog analysis does not support the misleading headline.

More specifically, the blog post looks at female and male teacher pensions using a contrived workforce model that even its author, Matthew Chingos, suggests may or may not have the same career trajectory as a teacher would likely have. In the model, a female teacher voluntary chooses to take seven years of leave during the 30 years since she starts to teach in the classroom. This means that at the end of the 30 year period she would accrue only 77 percent of the service credit that another similarly situated teacher (either male or female) would have earned if he or she took no leave time during that same span of a 30-year career.

While focusing on its "pension wealth" analysis, the blog ignores the Supreme Court interpretation that says different cost or pension assets are not the determinate factor to assure equal pay for equal work in a pension. In the blog's flawed analysis, the retirement income paid to the teacher with 77 percent less service credit generates pension wealth equivalent to 85 percent of what is required to pay the average same aged male teacher with a full 30 years of service. From that example, the blog inaccurately asserts that teacher pensions fail equal pay for equal work test for women because female teachers taking leave generates lower pension wealth values than those for men.

In *Manhart*, the Court ruled that the individual could not be treated as "components of the group."[11] Thus, the males and females who taught continuously for 30 years with the same final average salary must receive the same amount of monthly income from the pension regardless of the fact that on average two to three more years of monthly benefit checks will be paid to retired female teachers. The State Teachers Retirement System of Ohio (the public plan modeled in the pension wealth analysis) and teacher retirement systems across the country comply with federal labor law as prescribed in *Manhart*.

When Chingos compares the retirement income benefits for a female teacher who took 7 years of leave and another female teacher who taught for 30 years, his results challenge his thesis that DB pension are unfair to women. He calculates that the female teacher with 23 years of service receives pension wealth, expressed as a percentage of lifetime earnings, that is only 65 percent of that earned by the 30 year female – and 85 percent of the benefit earned by the male teacher with 30 years of service. However, the apples-to–apples comparison figure that Chingos did not report is the pension wealth equivalent calculated for both the male and female teachers with the identical years of service and earnings. In reality, the female teacher receives greater "pension wealth" than the similarly situated male teacher because the female's lifetime payments would likely run for two to three more years than the male's.

The difference Chingos features in his calculations relates to caregiving leave and not to the fair pay issue between men and women. In so doing, he highlights a failing in the United States labor market related to women taking time out of the workforce to care for family members. The nation is sorely lacking public policies to meaningfully address society's needs for family caregiving, especially compared to other industrial nations.

The fact that women often are in out of the workforce complicates the wage gap issue. The gender wage gap is 77 to 80 cents on the dollar—the gap between what a woman of equal experience in education earns in a single year as compared to a man. Over a lifetime, the wage gap increases because women often take time out of the workforce. Some say women *voluntarily* choose to take time out of the workforce to raise a family or care for aging parents, and therefore choose reduced compensation, while others disagree with this assertion and advocate for public policy reforms. But, the issue of extend family caregiving leave has not yet risen to the "must do" public policy agenda.

Retirement benefits are based on wages and therefore do not make allowances for caregiving gaps when no salary is earned. It is important to note, however, that teacher pensions often have a special provision that allows teachers to plug the coverage gaps caused by caregiving. Pensions allow teachers to purchase of "service credits" for the purposes of pension benefit calculation, and this allow them to catch up after gaps in service. Defined Contribution (DC) plans are more rigid and have no specific design to give similar flexibility for women (or men for that matter) to make up for coverage gaps. Also, the timing of taking leave for caregiving can cause an even greater benefit reduction in a DC plan as taking leave early in a woman career can result in significant losses from the power of compound interest.

Lastly, the blog post calls for the principle of equal pay for equal work to be front and center in pension reform discussions. Yet, in another recent Brookings paper on pension reform, Chingos and his co-authors fail to heed this advice. As they discuss pension reforms such as moving away from defined benefit plans and toward defined contribution plans like, 401(k) plans, they give no mention to the on women of such a change on women.[12]

As the prevalence of defined contribution 401(k) plans has increased in the private sector, the typical plan design structure shifts many of the risks to employees. In addition to transferring the investment risk to individuals, 401(k) plans shift the longevity risk to both males and females. Left on her own to draw down a 401(k) account, a female teacher would have to take out smaller income distributions each year than a man with the same account value and age at retirement if the woman wanted to make sure to have an income for those additional two to three years that she is likely to live.

Of note is the Supreme Court ruling in the 1983 case of *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*. The court ruled that for an employer sponsored retirement savings plan with the employer sending employee money to insurance companies providing annuities in the plan, they had to pay the same monthly benefit to males and females who retire at the same age and with identical savings.[13] Unfortunately, most 401(k) plans in the private sector are not bound by the *Norris* ruling. Without lifetime income being a form of benefit under the plan, 401(k) plans shift the equal pay protections under federal labor law for women to class protections under state insurance law.[14]

Alternatively, a woman can try to secure guaranteed lifetime income by purchasing an annuity from an insurance company outside of the 401(k) plan, which is only done today by 6 percent of retirees.[15] However, state insurance laws allow the insurance company to pay less to a female each month, even if she is the same age and has the same amount of assets as a man. Recent annuity quotes obtained on line from Annuity Shopper for male and female retirees both age 62 with $100,000, illustrate the lower amount of income paid to women. Under the quoted rate, the male would receive $549 each month for his lifetime but the female would receive only $515 each month, or 7 percent less.

What it comes down to is that women, and particularly women teachers, have a better shot a secure retirement when they have a defined benefit pension plan. Women live longer, earn less, and often are in and out of the workforce caring for family. Public pensions provide unique protections for women under state law and federal labor law. Unfortunately, misleading and misinformed blogs and models serve no purpose.

[1] D. Oakley and K. Kenneally, 2013 (Feb.), "Pensions and Retirement Security 2013: A Roadmap for Policymakers," National Institute on Retirement Security, Washington, DC.

[2] Oakley and Kenneally, op cit.

[3] Catalyst, 2013, *Catalyst Quick Take: Women's Earnings and Income,* New York, NY.

[4] Iams, H. M., Phillips, J. W. R., Robinson, K., Deang, L., and Dushi, I., 2008, "Cohort Changes in the Retirement Resources of Older Women," *Social Security Bulletin* 68(4), Social Security Administration, Washington, DC.

[5] Based on calculations done by William B. Fornia, Pension Trustee Advisors using the RP-2000 tables projected to 2013.

[6] Catalyst, 2014, *Catalyst Quick Takes: Statistical Overview of Women in the Work Force*, New York, NY.

[7] I. Boivie, 2009, "Shattering the Retirement Glass Ceiling: Women Need a Three-Legged Stool," National Institute on Retirement Security, Washington, DC.

[8] Fornia, op cit.

[9] Fornia, op cit.

[10] *Los Angeles Department of Water & Power v. Manhart*, 435 US 702, 1978.

[11] *Manhart*, op cit.

[12] M.M. Chingos, G.J. Whitehurst, and R.W. Johnson, 2014 (Feb.), "Are Public Pensions Keeping Up with the Times?," Brown Center on Education Policy/Brookings Institution, Washington, DC.

[13] *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, 463 US1073, 1983.

[14] S. Campbell and A. Munnell, 2002 (May), *Sex and 401(k) Plans*, Boston University, Center for Retirement Research, Boston, MA.

[15] C. Jeszeck, 2011, "Ensuring Income throughout Retirement Requires Difficult Choices," Government Accountability Office, Washington, DC.