



UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

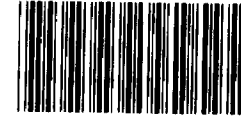
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HUMAN RESOURCES
DIVISION

B-125051

JANUARY 4, 1980

The Honorable Patricia Roberts Harris
The Secretary of Health, Education,
and Welfare



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Dear Mrs. Harris:

Subject: [Changes Needed to Prevent Commuters
and Transients From Receiving
Supplemental Security Income] (HRD-80-15)

We recently completed a review of the adequacy of the Social Security Administration's (SSA's) policies, procedures, and practices directed at determining whether Supplemental Security Income (SSI) recipients are outside the United States for 30 or more consecutive days and thus ineligible for continued benefit payments. We found no significant problems in SSA's operation for detecting recipients outside the United States for 30 or more consecutive days. To be eligible for benefits, recipients must be residents of the United States. However, the concept of "resident in the United States" has not been sufficiently defined.

Some SSI recipients along the Mexican border resided principally outside the United States and received benefits. While our work did not reveal a similar problem along the Canadian border, SSA field officials in New York and Vermont indicated it could occur there as well. Nineteen of SSA's field offices are responsible for handling SSI claims in jurisdictions bordering Mexico. According to SSA, about 64,000 recipients covered by these offices were paid almost \$8 million during September 1979. How many reside principally outside the United States is unknown.

While residency is not clearly defined in the act or its legislative history, we do not believe that the Congress intended benefits to be paid to recipients who live in the

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United States on a limited basis. Under present law, an SSI recipient may be outside the United States for up to 29 consecutive days and in the United States for 1 day each 30-day period and continue to be eligible for benefits. To preclude benefit payments to these individuals, SSA should define and clarify the term "resident in the United States" for program eligibility purposes and require more evidence as to an individual's principal residence.

SCOPE OF REVIEW

We conducted our review at SSA headquarters in Baltimore, Maryland; the Northeastern Program Service Center in New York City; and 11 district and branch offices in California, Texas, New York, and Vermont. We also visited Immigration and Naturalization Service (INS) headquarters in Washington, D.C., and various INS regional and district offices, and border crossings in California, Texas, New York, and Vermont; Federal Reserve Banks in Buffalo, New York, and Los Angeles, California; and U.S. Postal Service headquarters in Washington, D.C., and several post offices in New York and Vermont. Our fieldwork was done between August 1978 and April 1979.

NEED FOR MORE RESTRICTIVE
SSI RESIDENCY REQUIREMENTS

Section 1614(a)(1)(B) of the Social Security Act, and the Code of Federal Regulations (20 C.F.R. 416) restrict SSI to U.S. citizens and aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law, provided that they are residents of the United States. Neither the act nor SSA imposes a specific period of residency that must be maintained for eligibility except under section 1611(f) of the act--no one may be eligible who has been outside the United States for 30 consecutive days until he/she has been back in the United States for 30 consecutive days.

SSA defines a resident of the United States as a person who establishes a factual place of abode in the United States. Resident status continues until the individual departs from the United States with the intention to reside elsewhere, thus abandoning his/her residence in the United States. Consequently, under current policy, SSI recipients can maintain a residence in the United States, yet maintain their principal,

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actual dwelling place outside the United States as long as they are not outside the United States for 30 consecutive days. Therefore, an SSI recipient may be outside the United States for up to 29 consecutive days and in the United States for 1 day each 30-day period and continue to be eligible for benefits.

Despite knowledge of an INS procedure that designates certain legally admitted aliens from Mexico as only commuters to the United States, some SSA field offices we visited approved SSI benefits for such commuters. Certain INS districts along the Mexican border, for INS-related purposes, have a policy of affixing a commuter designation to alien identification cards (called grommated I-151 cards) for aliens legally permitted to permanently reside in the United States, but who choose instead to commute to the United States, usually to work. At two of the four SSA offices we visited along the Mexican border, aliens with grommated I-151 cards could receive SSI benefits, if sufficient evidence was submitted to SSA to prove U.S. residency. The other two offices sent aliens to INS to get their grommated I-151 cards changed, which INS will do if they can prove to INS they permanently reside in the United States.

An example of an alien admitted to the United States in INS commuter status who applied for and received SSI involves a claim that SSA approved on the basis of the alien's statement that he resided in the United States for 10 years and produced several months' rent receipts as proof of such residency. His mailing address was a postal box, and his residence address was a dormitory in a town bordering Mexico. A second applicant for SSI presented to SSA an I-151 with a grommet in it. He also presented rent receipts from the same dormitory as the other recipient, which SSA accepted as proof of U.S. residence. He qualified for and received SSI benefits. In these two cases, SSA provided SSI benefits to recipients with grommated I-151 cards.

Residency problems also occur in other cases. For example, a group of SSI recipients rented rooms in a California hotel near the Mexican border. SSA accepted rent receipts from the hotel as adequate proof that this was their place of residence. An SSA employee became suspicious of several SSI recipients listing their residence as this hotel, which

was located within walking distance of the border, and requested an SSA investigation. An SSA investigator visited the hotel and, based on information obtained from the hotel manager, it was determined the recipients did not live at the hotel but were transients who resided across the border in Mexico. Their benefits were later terminated.

The SSA Claims Manual allows considerable judgment to be exercised in determining evidence needed to support U.S. residency. The offices we visited primarily relied on rent receipts to establish an applicant's place of abode in the United States. SSA permits recipients to provide rent receipts as proof of U.S. residence, if no other indication exists that the applicant may reside outside the United States. Evidence in case files we reviewed was basically limited to rent receipts with very little additional evidence obtained.

INS requires more evidence than just rent receipts when it makes residency determinations. It also requests to see utility bill receipts, checks city directories to validate an alien's residence and/or to obtain the names of neighbors and businesses near the alleged residence with which the alien should be familiar when questioned, confirms the alien's residence with landlords, and in some cases requires a notarized statement from a relative attesting to the alien's presence in the United States.

The residency problem along the Mexican border is not new to SSA. Personnel at all four field offices we visited along the border expressed concern over this problem, particularly with the lack of guidance on how to deal with it. On several occasions, SSA offices along the Mexican border have requested specific guidance and assistance on how to deal with it, but SSA headquarters has not adequately responded.

In April 1977, for example, the Dallas SSA Regional Commissioner wrote the headquarters' Associate Commissioner for Program Operations stating:

"Our border offices continue to experience problems in determining U.S. residence for SSI applicants who are holders of the INS Form I-151 * * *. The continuing questions raised

by our border offices lead us to believe that clearer instructions may be desirable for border offices. We believe that a clarification regarding the definition and development of 'U.S. residency' and 'an alien lawfully admitted for permanent residence' would be helpful * * *. CM2155 says 'An alien lawfully admitted for permanent residence is one who has been lawfully accorded the privilege of residing permanently in the United States * * *'. We have underscored the word privilege in the above statement, because of the position repeatedly stated in this region by INS officials that the I-151 is a permit to reside in the U.S. and it does not require that individual to actually reside in the U.S. The fact that INS has issued I-151s with a grommet, whether they publicly admit to it or not, instead of confiscating the I-151 from those individuals who live in Mexico but work in the U.S., substantiates the thinking of our border office employees that the holder of an I-151 has to be questioned in depth as to his residency. The opinion varies from one office to another."

He went on to say that border offices were also having problems with "dual residency" involving aliens legally permitted for permanent residence who live both in the United States and Mexico. In summary, the Regional Commissioner stated,

"In view of the continuing problems faced by our border offices, we would appreciate the following:

1. Clearly defined development guidelines for establishing U.S. residency for holders of I-151 cards in border cities.
2. Clarification of dual residency regarding the I-151 holder who works and lives in housing furnished by his employer in the U.S. and returns to the foreign country on the weekends.
3. Definitive instructions for handling cases involving the grommeted I-151."

In response to this memorandum, headquarters agreed with the assessment of the need for definitive instructions regarding the grommated I-151 and indicated that instructions were being prepared. In March 1979 (nearly 2 years later) the SSA Claims Manual dealing with residency was revised; however, our evaluation showed the manual did not resolve the questions that were raised.

We discussed with your Office of General Counsel staff, HEW's authority to define and clarify the term "resident in the United States" to prevent commuters, transients, or sojourners from receiving SSI. According to them, you have the authority to establish such requirements.

CONCLUSIONS

Some SSI recipients receive payments while residing principally outside the United States--particularly along the Mexican border. The Social Security Act does not preclude a recipient from residing principally outside the United States for up to 29 days each month and remaining eligible for SSI benefits. Recipients become ineligible only when they are outside the United States for 30 consecutive days. Since the SSI program was intended to provide cash assistance to needy individuals who reside in this country and not to individuals whose presence or stay here is that of a commuter, transient, or sojourner, there is a need to make the residency requirement more restrictive. Because the act and implementing regulations and procedures do not state the period of residency necessary for eligibility, SSA should define and clarify the term "resident in the United States" to preclude commuters, transients, or sojourners from receiving benefits.

Operating procedures designed to verify residence and preclude the payment of SSI benefits to recipients who reside outside the United States allow considerable judgment. Accepting rent receipts as evidence of residence has proven unsatisfactory. More evidence is needed to substantiate that individuals reside principally in the United States, particularly along the Mexican border.

RECOMMENDATIONS

SSA should strengthen its policies and procedures to prevent individuals from receiving SSI while residing

principally outside the United States. We recommend that you direct the SSA Commissioner to:


1. Define and clarify the term "resident in the United States" to preclude SSI payments to commuters, transients, or sojourners.
2. Establish a policy to accept INS determinations that aliens in commuter status live in Mexico and preclude SSI payments to such aliens until they are determined by INS to reside in the United States.
3. Revise claims manual guidance and make it more specific on types of evidence required by SSA border offices to verify residence. Emphasis should be placed on types of evidence that establish principal place of residence.

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As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

We are sending copies of this letter to the Chairmen of the four above-mentioned Committees; the House Committee on Ways and Means; the Senate Committee on Finance; and the Senate Appropriations Committee's Subcommittee on Labor, Health, Education, and Welfare. Copies are also being sent to the Director, Office of Management and Budget.

Sincerely yours,


Philip A. Bernstein
Acting Director