



SOCIAL SECURITY
The Commissioner

September 26, 2002

The Honorable J. Dennis Hastert
Speaker of the House
United States House of Representatives
H-232, U.S. Capitol Building
Washington, D.C. 20515

Dear Mr. Speaker,

Enclosed for consideration of the Congress is the Administration's draft bill to make amendments to the Supplemental Security Income (SSI) program. A section-by-section description of all nine SSI proposals is enclosed with this letter. However, I would like to point out several proposals that would simplify the SSI program, and eliminate current disincentives for work, marriage, higher education, and military service.

With regard to program simplification, section 4 of the draft bill would repeal the requirement that retroactive SSI benefits above specified amounts due disabled or blind children be placed in special bank accounts. The current-law dedicated account provision requires that all funds in the account be used only for specific purposes such as education, job training, and medical expenses. Funds in the account cannot be used for the basic everyday needs of food, clothing, and shelter. The dedicated account provision is viewed negatively by parents, advocates of disabled children, and SSA field office employees because of the conflict between the rigid nature of the uses permitted under the law and the unpredictable nature of the needs of disabled children. Parents cannot understand why they are not allowed to use their judgment to spend the funds as they believe to be in the best interest of their children. SSA field office employees spend an inordinate amount of time explaining the dedicated account requirement, discussing allowable expenses, monitoring how the funds are spent, determining whether the funds were misapplied, and trying to recoup misapplied funds. Repealing the dedicated account would simplify both the public's understanding and SSA's administration of the SSI program.

Sections 5 and 9 of the draft bill would encourage work and education. Section 5 would eliminate certain restrictions on the student earned income exclusion, allowing more students to qualify for the exclusion. Currently, students who are married or heads of households may not qualify for the exclusion. The proposal would eliminate these requirements so that members of young married couples and single parents may have the advantage of the intended educational incentive. Section 9 of the bill would exclude money earmarked for education. Currently, grants, scholarships, and fellowships used for educational expenses are excluded from income and resources for SSI purposes. However, for example, if a relative gives money to a disabled

child for college expenses, that money is counted as income for SSI purposes. The proposal would result in money used for educational expenses being treated the same whether it is from a grant, scholarship, fellowship, or cash gift.

Sections 8 and 10 of the draft bill would address SSI program issues relating to military personnel. Section 8 would expand SSI eligibility to include blind and disabled children who are born to or who first apply for benefits while residing with parents who are military personnel stationed outside the United States. Currently, children of military personnel stationed overseas may be eligible for SSI if they received SSI while they were in the United States. Such an extension would eliminate the disparate treatment of children of military personnel who were born or became blind or disabled outside of the United States. Section 10 would result in all cash military compensation being counted as earned income (instead of the current treatment of some as unearned income), thus providing for higher amounts of income disregards. The proposal would slightly increase the SSI benefits of many disabled children whose parents are in the military. The proposal would also simplify the program in that SSA claims representatives would no longer have to sort through military pay records to determine whether the income received should be categorized for SSI purposes as earned or unearned.

Proposals in the draft bill support SSA's Corrective Action Plan for the SSI program, which addresses SSA's actions in response to the General Accounting Office's designation of SSI as a "high-risk" program. We are continuing to look at ways to improve SSI.

The Office of Management and Budget has advised that there is no objection to the transmittal of this draft bill to the Congress. We urge the Congress to give the draft bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Richard B. Cheney, President of the Senate.

Sincerely,

/s/

Jo Anne B. Barnhart

Enclosure



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Jo Anne B. Barnhart

Enclosure

Section-By-Section Descriptions

Short Title; References to Act; Table of Contents

Section 1 provides that upon enactment the bill may be cited as the "Supplemental Security Income Program Amendments of 2002." References in the bill refer to the Social Security Act unless otherwise specified. This section also includes the table of contents.

Increase In the Interval Used in Calculating Certain Infrequent or Irregular Income Excluded from Income

Section 2 would amend the infrequent and irregular income exclusion to exclude \$60 per quarter of unearned income which is received irregularly and infrequently, rather than the current \$20 per month, and \$30 per quarter of earned income rather than the current \$10 per month. The proposed change would permit an individual to receive small gifts, or payment for infrequent jobs such as babysitting, without worrying that fairly insignificant amounts of income would adversely affect his or her benefits. For example, under current law, a \$25 cash birthday gift would be counted as income to the individual. Under this proposal, such relatively insignificant gifts would not be counted as income if the income did not exceed the quarterly limit.

The provision would be effective with respect to benefits paid for the month after the month of enactment.

Uniform 9-Month Resource Exclusion Periods

Section 3 would increase and make uniform the time period of 9 months for excluding from resources amounts attributable to underpayments of Social Security and SSI benefits and earned income tax credits. Currently, the resource exclusion time periods vary from 1 to 6 to 9 months depending on the type of income involved. The resource exclusion periods are intended to allow beneficiaries who receive significant sums of money sufficient time to meet outstanding obligations or needs before the sums become countable and might cause SSI ineligibility. There is no program reason for differing periods for these exclusions, and uniformity would simplify SSI administration and public understanding.

The provision would be effective with respect to amounts received on or after the date of enactment.

Elimination of the Dedicated Account Requirement

Section 4 would repeal the requirement that past-due benefits greater than six times the maximum monthly benefit be deposited in a special account and be used only for certain specified purposes. For individuals with dedicated accounts already established under the repealed provision, permit the accounts to continue to be excluded from the eligible individuals' resources for a period of 18 months beginning the month after the month of enactment. Interest or other earnings on such account would be excluded from income for the same period. There would be no restrictions on the use of the funds in the account, other than the normal restrictions that apply to representative payees' use of a recipient's benefits (i.e., that the benefits be used in the best interest of the beneficiary). There is little evidence that the representative payees, most of whom are the disabled children's parents, use past-due benefits for purposes that are not in the children's best interest.

The provision would be effective upon enactment.

Elimination of Certain Restrictions on the Application of the Student Earned Income Exclusion

Section 5 would permit the student earned income exclusion to apply for any individual who is a student under age 22 by removing the term "child," which for SSI purposes includes the requirement that an individual be neither married nor the head of a household. Thus, currently, students who are married or heads of households may not qualify for the student earned income disregards. The provision would provide young married and single parent students the same incentive in the form of an additional earned income exclusion that is available to other students. It does not seem reasonable or equitable to exclude married individuals or heads of households from being able to take advantage of student income exclusion, which may make the difference in their ability to attend school.

The provision would be effective with respect to benefits payable for months that begin one year after enactment.

Exclusion of Americorps and Other Volunteer Benefits for Purposes of Determining Supplemental Security Income Eligibility and Benefit Amounts and Social Security Disability Insurance Entitlement

Section 6 would exclude all Americorps and other payments to volunteers for purposes of determining SSI eligibility and benefit amounts and for purposes of determining initial and continuing eligibility for Social Security disability insurance (DI) benefits. All Americorps volunteers receive a living allowance and can receive an educational award. For volunteers in Americorps*VISTA programs, which continue to be funded under ACTION, these payments are categorically excluded from income in the SSI program and are not treated as earnings for trial work period (TWP) and substantial gainful activity (SGA) purposes in the DI program. For other Americorps volunteers, however, these payments are counted as earnings both in the SSI program and for TWP and SGA purposes in the DI program. These earnings also are taxable and earn coverage under title II of the Act. Further, for these other Americorps volunteers, current SSI rules count room and board provided under the program as in-kind support and maintenance. The proposal would eliminate the disparate treatment in the SSI and DI programs of payments to volunteers in the Americorps programs. This would create an additional incentive for young people with disabilities to participate in Americorps programs.

The provision would be effective with respect to benefits payable for months after September 2002.

Exception to Retrospective Monthly Accounting for Nonrecurring Income

Section 7 would count one-time, nonrecurring income counted only for the month that the income is received and not for any other month during the transition to retrospective monthly accounting during the first three months of an individual's SSI eligibility. One-time, nonrecurring income would be defined as the type of income rather than differing amounts of the same type of income—e.g., the exception would not apply to fluctuating amounts of wages or deemed income.) Currently under retrospective monthly accounting, income in the first month of SSI eligibility is counted in determining the amount of benefit in the month that it is received and the following two months. In rare instances, this situation results in more income being counted than is actually received. Over the first 3 months of SSI eligibility for these individuals, SSI benefits are reduced \$3 for each \$1 of countable income. The proposal would eliminate triple counting of one-time, nonrecurring income, which would more accurately and fairly reflect an individual's financial means.

The provision would be effective with respect to benefits payable for months that begin on or after one year following enactment.

Removal of Restriction on Payment of Benefits to Children Who Are Born or Who Become Blind or Disabled After Their Military Parents Are Stationed Overseas

Section 8 would extend the current law exception for SSI eligibility for blind and disabled children of military personnel overseas to blind and disabled children of military personnel who were born overseas or first applied for benefits overseas. This provision would be a reasonable change in the law to protect a specific, limited group of children who reside outside the United States only because their parents are serving their country by being stationed overseas. Such extension would eliminate the disparate treatment with regard to SSI eligibility between blind and disabled children of military personnel overseas who were eligible for SSI before they went overseas and those who were born or became blind and disabled while they are overseas with their parents.

The provision would be effective for benefits payable for months after enactment but only on the basis of applications filed after enactment.

Treatment of Education-Related Income and Resources

Section 9 would exclude from the determination of income the total amount of any gift to an individual provided for the educational expenses of that individual to the same extent as the exclusion for grants, scholarships and fellowships. The amount of the gift would be excluded from the individual's resources for 9 months after the month of receipt. Currently, monetary gifts to an SSI recipient are counted as unearned income even if the money is used to pay for tuition or books. Permitting the exclusion of such gifts could encourage familial and community support of an individual's education and, thus, increase the chances that such individual might become self-sufficient and leave the SSI rolls.

The provision would be effective with respect to benefits payable for the month after the month of enactment.

Treatment of Uniformed Service Compensation

Section 10 would treat all cash military compensation as wages and, thus, as earned income. The provision also would treat the compensation reported on a monthly leave and earnings statement issued by the military reflecting compensation *earned* in the prior month as compensation *received* in the prior month. In nonmilitary employment, any remuneration or compensation for work is treated as earned income. The distinction between earned and unearned income is important in determining the amounts to be deemed from a parent or spouse in military service. The proposal would treat cash military compensation and civilian wages alike, and thus eliminate the present unfair and disadvantageous treatment of cash military compensation other than basic pay under SSI. The proposal would simplify the determination of countable income for SSA field offices by making it unnecessary to sort cash military compensation into wages and unearned income. Further, the proposal deals with the monthly computation of military income using leave and earnings statements for purposes of determining deemed income for a spouse or child of a person in the military service. Both parts of the proposal would result in significant program simplification in the area of determining military pay.

The provision is effective with respect to benefits payable for months beginning at least 90 days after the date of enactment.

A B I L L

To amend the Social Security Act to make various improvements in the supplemental security income program and the social security disability insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO ACT; TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Supplemental Security Income Program Amendments of 2002".

(b) References to Act.--Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

(c) Table of Contents.--The table of contents is as follows:

Sec. 1. Short title; references to Act; table of contents.

Sec. 2. Increase In the Interval Used in Calculating Certain
Infrequent Or Irregular Income Excluded From Income

Sec. 3. Uniform 9-month resource exclusion periods.

Sec. 4. Elimination of the dedicated account requirement.

Sec. 5. Elimination of certain restrictions on the application
of the student earned income exclusion.

Sec. 6. Exclusion of Americorps and other volunteer benefits for
purposes of determining supplemental security income
eligibility and benefit amounts and social security
disability insurance entitlement.

Sec. 7. Exception to retrospective monthly accounting for nonrecurring income.

Sec. 8. Removal of restriction on payment of benefits to children who are born or who become blind or disabled after their military parents are stationed overseas.

Sec. 9. Treatment of education-related income and resources.

Sec. 10. Treatment of uniformed service compensation.

SEC. 2. INCREASE IN THE INTERVAL USED IN CALCULATING CERTAIN INFREQUENT OR IRREGULAR INCOME EXCLUDED FROM INCOME.

(a) In General.--Section 1612(b)(3) (42 U.S.C. 1382a(b)(3)) is amended--

(1) by striking "month" each place it appears and inserting "quarter";

(2) by striking "\$20" and inserting "\$60"; and

(3) by striking "\$10" and inserting "\$30".

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months that begin more than 90 days after the date of the enactment of this Act.

SEC. 3. UNIFORM 9-MONTH RESOURCE EXCLUSION PERIODS.

(a) In General.--

(1) Underpayments of benefits.--Section 1613(a)(7) (42 U.S.C. 1382b(a)(7)) is amended--

(A) by striking "6" and inserting "9"; and

(B) by striking "(or to the first 9 months following such month with respect to any amount so received during

the period beginning October 1, 1987, and ending September 30, 1989)".

(2) Earned income tax credit.--Section 1613(a)(11) (42 U.S.C. 1382b(a)(11)) is amended by striking "month of receipt and the following month" and inserting "nine months following the month in which it is received".

(b) Effective Date.--The amendments made by this section shall take effect on the date of the enactment of this Act, and shall apply to--

(1) amounts described in paragraph (7) of section 1613(a) of the Social Security Act, and

(2) refunds of federal income taxes described in paragraph (11)(A) of such section, that are received by an eligible individual or eligible spouse on or after such date.

SEC. 4. ELIMINATION OF THE DEDICATED ACCOUNT REQUIREMENT.

(a) In General.--Section 1631(a)(2) (42 U.S.C. 1383(a)(2)) is amended--

(1) by striking subparagraph (F); and

(2) by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(b) Transitional Treatment of Funds Previously Subject to the Dedicated Account Requirement.--

(1) In determining the eligibility and benefit amount of any individual (and the individual's eligible spouse, if any) under title XVI of the Social Security Act for any

month in the period specified in paragraph (2), there shall be excluded from such individual's (and such spouse's)--

(A) resources, any amount held in an account that, prior to the date of the enactment of this Act, had been established and maintained in accordance with section 1631(a)(2)(F) (as in effect prior to such date), but only to the extent that such amount does not exceed the amount held in such account at the close of the day preceding such date; and

(B) income, the interest or other earnings of any amount excluded from resources under subparagraph (A).

(2) The period specified in this paragraph begins on the date of the enactment of this Act and ends on the last day of the eighteenth month beginning on or after such date of enactment.

(c) Conforming Amendments.--

(1) Section 1612(b) (42 U.S.C. 1382a(b)) (as previously amended by section 2 of this Act) is further amended--

(A) by striking paragraph (21); and

(B) by redesignating paragraphs (22) and (23) as paragraphs (21) and (22), respectively.

(2) Section 1613(a) (42 U.S.C. 1382b(a)) is amended--

(A) by adding "and" at the end of paragraph (11);

(B) by striking paragraph (12); and

(C) by redesignating paragraph (13) as paragraph (12).

SEC. 5. ELIMINATION OF CERTAIN RESTRICTIONS ON THE APPLICATION OF THE STUDENT EARNED INCOME EXCLUSION.

(a) In General.--Section 1612(b)(1) (42 U.S.C. 1382a(b)(1)) is amended by striking "a child who" and inserting "under the age of 22 and"

(b) Effective Date.--The amendment made by this section shall be effective with respect to benefits payable for months that begin on or after one year following the date of the enactment of this Act.

SEC. 6. EXCLUSION OF AMERICORPS AND OTHER VOLUNTEER BENEFITS FOR PURPOSES OF DETERMINING SUPPLEMENTAL SECURITY INCOME ELIGIBILITY AND BENEFIT AMOUNTS AND SOCIAL SECURITY DISABILITY INSURANCE ENTITLEMENT.

(a) In General.--

(1) SSI.--Section 1612(b) (42 U.S.C. 1382a(b)) of the Social Security Act (as previously amended by sections 2 and 4(c)(1) of this Act) is further amended--

(A) in paragraph 21, by striking "and" at the end;

(B) in paragraph 22, by striking the period and inserting "; and"; and

(C) by adding at the end a new paragraph as follows:

"(23) any benefit (whether cash or in-kind) conferred upon (or paid on behalf of) a volunteer or participant in a program administered by the Corporation for National and Community Service for service in such program."

(2) SSDI.--Section 223(d)(4)(B) of such Act (42 U.S.C.

423(d)(4)(B)) is amended by adding at the end a new subparagraph as follows:

"(C) In determining under subparagraph (A) when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity, the Commissioner of Social Security shall disregard services performed as a volunteer or participant in any program administered by the Corporation for National and Community Service, and any earnings derived from such service.".

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months after September 2002.

SEC. 7. EXCEPTION TO RETROSPECTIVE MONTHLY ACCOUNTING FOR NONRECURRING INCOME.

(a) In General.--Section 1611(c) (42 U.S.C. 1382(c)) is amended by adding at the end the following new paragraph:

"(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this title of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

"(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for

the same or similar purpose shall not be considered to be nonrecurring income."

(b) Deletion of Obsolete Material.--Section 1611(c)(2) (42 U.S.C. 1382(c)(2)) is amended by striking "shall--" and all that follows and inserting "shall be determined on the basis of the income of the individual and the eligible spouse, if any, and other relevant circumstances in such month."

(c) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months that begin on or after one year following the date of the enactment of this Act.

SEC. 8. REMOVAL OF RESTRICTION ON PAYMENT OF BENEFITS TO CHILDREN WHO ARE BORN OR WHO BECOME BLIND OR DISABLED AFTER THEIR MILITARY PARENTS ARE STATIONED OVERSEAS.

(a) In General.--Section 1614(a)(1)(B)(ii) (42 U.S.C. 1382c(a)(1)(B)(ii)) is amended--

(1) by inserting "and" after "citizen of the United States,"; and

(2) by striking ", and who," and all that follows and inserting a period.

(b) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months beginning after the date of the enactment of this Act, but only on the basis of an application filed after such date.

SEC. 9. TREATMENT OF EDUCATION-RELATED INCOME AND RESOURCES.

(a) Exclusion from Income of Gifts Provided for Tuition and Other Education-Related Fees.--Section 1612(b)(7) (42 U.S.C. 1382a(b)(7)) is amended by striking "or fellowship received for use in paying" and inserting "fellowship, or gift (or portion of a gift) used to pay".

(b) Exclusion from Resources for 9 Months of Grants, Scholarships, Fellowships, or Gifts Provided for tuition and other education-related fees.--Section 1613(a) (42 U.S.C. 1382b(a)) (as previously amended by section 4(c)(2)) is further amended--

(1) by striking "and" at the end of paragraph (11);

(2) by striking the period at the end of paragraph (12) and inserting "; and"; and

(3) by inserting after paragraph (12) a new paragraph as follows:

"(13) for the 9-month period beginning after the month received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution.".

(c) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months that begin more than 90 days after the date of the enactment of this Act.

SEC. 10. TREATMENT OF UNIFORMED SERVICE COMPENSATION.

(a) Treatment of All Uniformed Service Cash Remuneration as Earned Income.--Section 1612(a)(1)(A) (42 U.S.C. 1382a(a)(1)(A)) is amended by inserting "(and, in the case of cash remuneration paid for service as a member of a uniformed service, without regard to the limitations contained in section 209(d))" immediately before the semi-colon.

(b) Treatment of Pay as Received When Earned.--Section 1611(c) (42 U.S.C. 1382(c)) is amended by adding at the end the following new paragraph:

"(9) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it is earned, if the Commissioner determines that such treatment would promote the economical and efficient administration of the program authorized by this title."

(c) Effective Date.--The amendments made by this section shall be effective with respect to benefits payable for months beginning at least 90 days after the date of the enactment of this Act.