



SOCIAL SECURITY

Office of the Commissioner

March 11, 1998

The Honorable Newt Gingrich
United States House of Representatives
Washington, DC 20515

Dear Mr. Speaker:

This letter transmits legislative language and a section-by-section analysis for three proposals contained in the President's fiscal 1999 budget request for the Social Security Administration (SSA). The three proposals will, first, allow SSA to collect Supplemental Security Income (SSI) overpayments from persons who receive Old-Age, Survivors and Disability Insurance (OASDI) benefits; second, provide authority to adjust the domestic spending cap for fiscal 1999 by the amount appropriated for SSA to conduct additional redeterminations of nondisability factors for SSI eligibility; and third, authorize SSA to impose an assessment on claimant representatives to cover the cost of certain services provided to those representatives.

The President's budget proposes providing authority for SSA to collect SSI overpayments from OASDI benefits. Nearly half of all uncollected SSI overpayments were paid to people currently receiving OASDI benefits. Although SSA currently may recoup SSI overpayments from current SSI benefits or recoup OASDI overpayments from OASDI benefits, SSA does not have the authority to collect an SSI overpayment from OASDI benefits in absence of the beneficiary's express permission. This provision is expected to result in \$170 million in program savings over a 5 year period.

The President's budget also proposes providing authority to adjust the domestic spending cap for fiscal 1999 for funds appropriated for SSA to conduct additional redeterminations of the nondisability factors of SSI eligibility. The additional redeterminations will enable SSA to reduce the number of incorrect SSI payments. SSA projects that this \$50 million investment will allow SSA to conduct an additional 268,000 redeterminations of individuals who have been designated as having a high probability of changes to the non-disability factors of their eligibility and lead to \$216 million in SSI savings over a five year period.

Lastly, the President's budget proposes authorizing SSA to impose a monetary assessment on certain claimant representatives for: (1) SSA's costs of approving the fee charged to the claimant's representative and (2) withholding the fee from past-due benefits of the claimant and paying the representative directly. This "user fee" covers the cost to SSA of administering those services which are required under the Social Security Act and are provided to claimant representatives. An assessment would not be imposed if the representative does not charge a fee for the representation. SSA estimates \$19 million in assessments would be collected from claimant representatives in fiscal 1999 and \$26 million collected each year thereafter. These

funds would not be available for SSA's administrative expenses unless the Congress makes the funding available in the fiscal year 1999 appropriations bill.

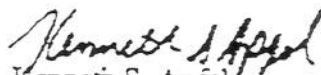
SSA requests that each proposal be referred to the appropriate committee for prompt consideration. In the President's fiscal 1999 appropriation request for SSA's administrative expenses, \$68 million are contingent upon the enactment of the monetary assessment and cap adjustment authorizing language. A detailed analysis of each proposal follows the enclosed language.

This draft bill would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go (PAYGO) requirements of the Omnibus Budget Reconciliation Act of 1990. In total, its enactment would result in a net cost of \$11 million in FY 1999 and net savings of \$120 million during FYs 1999-2003. In particular, section one of the draft bill would provide authority for SSA to collect SSI overpayments from OASDI benefits. This provision would increase receipts by \$35 million during FY 1999 and \$135 million during FYs 2000-2003, resulting in a total increase in receipts of \$170 million during the FYs 1999-2003. Section two of the bill would authorize an adjustment to the FY 1999 discretionary spending cap. The President's FY 1999 Budget scores this provision as an increase in direct spending of \$46 million in FY 1999 and \$4 million in FY 2000, resulting in a total increase in direct spending during FYs 1999-2003 of \$50 million. These proposals should be considered in conjunction with all other proposals in support of the President's FY 1999 Budget that are subject to the PAYGO requirements.

The Office of Management and Budget advises that the enactment of this proposed legislation would be in accord with the program of the President.

An identical letter is being sent to the President of the Senate. I appreciate your careful consideration of this legislation and look forward to working with you on this matter.

Sincerely,


Kenneth S. Apfel
Commissioner of
Social Security

Enclosures



SOCIAL SECURITY

Office of the Commissioner

March 11, 1998

The Honorable Albert D. Gore, Jr.
President of the Senate
Washington, DC 20510

Dear Vice President Gore:

This letter transmits legislative language and a section-by-section analysis for three proposals contained in the President's fiscal 1999 budget request for the Social Security Administration (SSA). The three proposals will, first, allow SSA to collect Supplemental Security Income (SSI) overpayments from persons who receive Old-Age, Survivors and Disability Insurance (OASDI) benefits; second, provide authority to adjust the domestic spending cap for fiscal 1999 by the amount appropriated for SSA to conduct additional redeterminations of nondisability factors for SSI eligibility; and third, authorize SSA to impose an assessment on claimant representatives to cover the cost of certain services provided to those representatives.

The President's budget proposes providing authority for SSA to collect SSI overpayments from OASDI benefits. Nearly half of all uncollected SSI overpayments were paid to people currently receiving OASDI benefits. Although SSA currently may recoup SSI overpayments from current SSI benefits or recoup OASDI overpayments from OASDI benefits, SSA does not have the authority to collect an SSI overpayment from OASDI benefits in absence of the beneficiary's express permission. This provision is expected to result in \$170 million in program savings over a 5 year period.

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claimant representatives in fiscal 1999 and \$26 million collected each year thereafter. These funds would not be available for SSA's administrative expenses unless the Congress makes the funding available in the fiscal year 1999 appropriations bill.

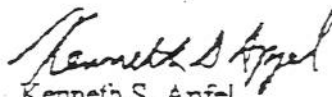
SSA requests that each proposal be referred to the appropriate committee for prompt consideration. In the President's fiscal 1999 appropriation request for SSA's administrative expenses, \$68 million are contingent upon the enactment of the monetary assessment and cap adjustment authorizing language. A detailed analysis of each proposal follows the enclosed language.

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The Office of Management and Budget advises that the enactment of this proposed legislation would be in accord with the program of the President.

An identical letter is being sent to the Speaker of the House. I appreciate your careful consideration of this legislation and look forward to working with you on this matter.

Sincerely,



Kenneth S. Apfel
Commissioner of
Social Security

Enclosures

A B I L L

To amend the Social Security Act and the Balanced Budget and Emergency Deficit Control Act of 1985 and a related law to make various changes in support of the President's Fiscal Year 1999 Budget respecting the Social Security Administration.

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

SECTION 1. RECOVERY OF SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS.

(a) In General.--Title XI of the Social Security Act is amended by adding at the end of part A a new section as follows:

"SEC. 1147. RECOVERY OF SSI OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS.

"(a) In General.--Whenever the Commissioner of Social Security determines that more than the correct amount of any payment has been made to any person under the supplemental security income program authorized by title XVI of this Act (including, for purposes of this section, State supplementary payments which are made by the Commissioner under an agreement pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93-56), and the Commissioner is unable to make proper adjustment or recovery of the amount so incorrectly paid as provided in section 1631(b) of this Act, the Commissioner (notwithstanding section 207 of this Act) may recover the amount incorrectly paid by decreasing any amount which is payable under the Federal Old-Age, Survivors, and Disability Insurance program authorized by title II of this Act to that person or his estate.

"(b) No Effect on SSI Eligibility or Benefit Amount.--

Notwithstanding sections 1611(a) and (b) of this Act, "in any case in which the Commissioner takes action in accordance with subsection (a) to recover an overpayment from any person, neither that person, nor any individual whose eligibility or benefit amount is determined by considering any part of that person's income, shall, as a result of such action--

"(1) become eligible under the supplemental security income program authorized by title XVI of this Act, or

"(2) if such person or individual is already so eligible, become eligible for increased benefits thereunder."

(b) Conforming Changes.--

(1) Section 204 of such Act is amended by adding at the end a new subsection as follows:

"(g) For payments which are adjusted or withheld to recover an overpayment of supplemental security income benefits paid under title XVI of this Act (including State supplementary payments paid under an agreement pursuant to section 1616(a) of this Act or section 212(b) of Public Law 93-65), see section 1147."

(2) Section 1631(b) of such Act is amended by adding at the end a new paragraph as follows:

"(5) For the recovery of overpayments of benefits under this title from benefits payable under title II, see section 1147."

(c) Effective Date.--The amendments made by this section

shall take effect upon the date of the enactment of this Act and shall apply to overpayments outstanding on or after such date.

SEC. 2. FISCAL YEAR 1999 ADJUSTMENT TO THE DISCRETIONARY SPENDING LIMIT FOR NON-DISABILITY REDETERMINATIONS OF ELIGIBILITY UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) In General.--Section 251(b)(2)(C) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end a new clause as follows:

"(iii)(I) For the purpose of applying clause (i) to an appropriation for fiscal year 1999, the term 'continuing disability reviews' shall include redeterminations of non-disability factors to determine the continuing eligibility of recipients of supplemental security income benefits under title XVI of the Social Security Act. Of the adjustments made pursuant to clause (i), not to exceed \$50,000,000 in additional new budget authority and the additional outlays flowing therefrom may be for such redeterminations.

"(II) For purposes of subclause (I), the term 'additional new budget authority' shall mean the amount provided for fiscal year 1999, in excess of \$210,000,000, in an appropriations Act and specified to pay for the costs of redeterminations of non-disability factors under the heading 'Limitation on Administrative Expenses' for the Social Security Administration; and the term

'additional outlays' for such redeterminations shall mean outlays, in excess of \$193,000,000 in fiscal year 1999, flowing from the amounts specified for such redeterminations under the heading 'Limitation on Administrative Expenses' for the Social Security Administration."

(b) Conforming Amendment.--Section 506(e)(3) of the Congressional Budget and Impoundment Control Act of 1974 is amended by striking "section 251(b)(2)(H)(ii)" and inserting "clauses (ii) and (iii) of section 251(b)(2)(H)".

SEC. 3. MONETARY ASSESSMENT ON CLAIMANT REPRESENTATIVES UTILIZING THE SOCIAL SECURITY ADMINISTRATION'S FEE APPROVAL AND DIRECT PAYMENT PROCESSES.

(a) Representatives of Title II Claimants.--

(1) In general.--Section 206 of the Social Security Act is amended by adding at the end a new subsection as follows:

"(d) Monetary Assessment.--

"(1) In general.--Whenever a fee (exceeding zero) of a person who renders services for compensation in connection with a claim to entitlement to benefits under this title is--

(A) fixed by the Commissioner pursuant to the last sentence of subsection (a)(1), or

(B) approved by the Commissioner pursuant to subsection (a)(2)(A), or

(C) determined and allowed by a court pursuant to subsection (b)(1)(A),

the Commissioner shall assess such person an amount determined in accordance with paragraph (2).

"(2) Amount.--The amount of the assessment under paragraph (1) shall be \$165 (or such different amount as the Commissioner may prescribe) if the Commissioner certifies payment of a fee to a person described in paragraph (1) out of past-due benefits payable under this title pursuant to subsection (a) (4) (A) or (b) (1) (A) (or would so certify such payment in the absence of a reduction authorized by paragraph (3) (A)), or \$40 (or such different amount as the Commissioner may prescribe) in any other case.

"(3) Collection.--

"(A) Offset.--Notwithstanding section 3716 of title 31, United States Code and subsections (a) (4) and (b) (1) (A) of this section, the Commissioner may reduce (to zero, if necessary) the amount otherwise subject to certification for payment as a fee to an attorney from past-due benefits in order to recover any assessment or assessments owing by such attorney (without regard to whether such assessments derive from the claim giving rise to the past-due benefits from which the fee payment is subject to certification).

"(B) Other.--The Commissioner shall establish procedures for the collection of assessments not recoverable by offset.

"(4) Special disposition of assessments.--Assessments

collected under this subsection shall be credited to a special trust fund receipt account established in the Treasury of the United States for assessments on representatives. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this title and related laws.

"(5) Authorization of appropriations.--From amounts credited under paragraph (4) to the special account established in the Treasury of the United States for assessments on representatives, there is authorized to be appropriated an amount not to exceed \$19,000,000 for fiscal year 1999, \$26,000,000 for fiscal year 2000, and such sums as may be necessary for each fiscal year thereafter, for administrative expenses in carrying out title II of the Social Security Act and related laws."

(2) Conforming amendments.--

(A) Section 206(a)(4)(A) of such Act is amended by striking the period and inserting ", except that the amount otherwise subject to certification may be reduced (to zero, if necessary) pursuant to subsection (d)(3)(A)."

(B) Section 206(b)(1)(A) of such Act is amended by striking the period at the end of the first sentence and inserting ", except that the amount otherwise subject to certification may be reduced (to zero, if

necessary) pursuant to subsection (d)(3)(A).".

(b) Representatives of Title XVI Claimants.--Section 1631(d)(2) of such Act is amended by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) a new subparagraph (B) as follows:

"(B) The provisions of section 206(d) shall apply to this part to the same extent as they apply in the case of title II, except that--

"(i) references therein to title II shall be deemed to be references to title XVI;

"(ii) paragraph (2) thereof shall apply only to the extent that it specifies an assessment applicable to cases other than cases involving certification of payment of a fee to a representative out of past due benefits; and

"(iii) the total amount of the appropriations authorized in paragraph (5) thereof for carrying out this title and title II may not exceed \$19,000,000 for fiscal year 1999 and \$26,000,000 million for fiscal year 2000.".

(c) Effective Date.--The amendments made by this section shall apply to any person who, for a fee, represents or otherwise assists a claimant with a claim arising under title II or title XVI of the Social Security Act, and whose representation of such

claimant in connection with such claim commences on or after the sixtieth day following the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS

SECTION 1. RECOVERY OF SUPPLEMENTAL SECURITY INCOME OVERPAYMENTS FROM SOCIAL SECURITY BENEFITS.

Subsection (a) adds a new section 1147 to the Social Security Act. This new section provides that if a person who was overpaid under the SSI program is receiving title II Social Security benefits, that overpayment may be collected out of the individual's title II benefits and provides that such an action would not increase a person's SSI payment or make anyone eligible for SSI.

Subsection (b) makes conforming changes.

Subsection (c) provides that the amendments made by this bill would be effective upon enactment for overpayments outstanding on or after enactment.

SECTION-BY-SECTION ANALYSIS

SECTION 2. FISCAL YEAR 1999 ADJUSTMENT TO THE DISCRETIONARY
SPENDING LIMIT FOR NON-DISABILITY REDETERMINATIONS
OF ELIGIBILITY UNDER
THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

Subsection (a) would amend the Balance Budget and Emergency Deficit Control Act of 1985 to provide that, for fiscal 1999, amounts above a \$210 million base, but not exceeding \$50 million, available for conducting nondisability redeterminations under the SSI program shall be treated like amounts available for continuing disability reviews for the purposes of adjustments to the cap on domestic discretionary spending.

Subsection (b) makes conforming amendments.

SECTION-BY-SECTION ANALYSIS

SECTION 3. MONETARY ASSESSMENTS ON CLAIMANT REPRESENTATIVES UTILIZING THE SOCIAL SECURITY ADMINISTRATION'S FEE APPROVAL AND DIRECT PAYMENT PROCESSES.

Subsection (a) amends section 205 of the Social Security Act to provide for the assessment of an amount to cover services provided by SSA to claimant representatives.

New section 206(d) would provide that whenever the Commissioner of Social Security or a court approves a fee for a person who renders services for compensation in connection with a claim for title II benefits, the Commissioner shall assess that representative either \$165 if the Commissioner withholds the fee from past-due benefits and pays it directly to the representative or \$40 if the Commissioner is given the authority to adjust the amount of the fee to cover future changes in the cost of administering these services. The assessment may be collected from amounts otherwise payable by the Commissioner to an attorney. New section 206(d) also provides that receipts from these assessments shall be deposited in a separate account for which appropriations are authorized in the amounts of \$19 million for fiscal 1999, \$26 million for fiscal 2000 and such sums as may be necessary thereafter.

Subsection (b) amends section 1631(d)(2) of the Social Security Act by inserting a new paragraph (B), which applies the provision of new section 205(d) above to representatives of SSI claimants.

Subsection (c) provides that the amendments shall apply to representatives of claimants that commences on or after 60 days following enactment.



SOCIAL SECURITY

Office of the Commissioner

May 4, 1998

The Honorable Albert Gore, Jr.
President of the Senate
United States Senate
Washington, DC 20510

Dear Mr. President:

Enclosed for the consideration of the Congress is a draft bill "To make improvements in the administration of the Supplemental Security Income program, and for other purposes." Upon enactment, the bill would be cited as the "Supplemental Security Income Program Integrity Act of 1998."

The Supplemental Security Income program is a national income maintenance program under our stewardship. Individuals qualify for assistance under the Supplemental Security Income program if they are elderly, blind, or disabled, and have income and resources below certain levels.

It is our responsibility to ensure that eligible individuals receive the correct amount of assistance under the program to which they are entitled. It is equally our responsibility to ensure that individuals who do not meet the eligibility criteria do not receive assistance.

We take our responsibilities very seriously, and believe that, as careful stewards of the Supplemental Security Income program, we must be ever mindful of ways in which we can improve our administration of this vitally important program.

On March 11, I submitted to the Congress a draft bill in support of the President's FY 99 Budget with respect to the Social Security Administration. That draft bill contained two provisions intended to enhance the integrity of the Supplemental Security Income program. One of these would provide authority to adjust the discretionary spending caps in FY 1999 by \$50 million for funds appropriated to conduct additional redeterminations of the nondisability factors relevant to eligibility under the Supplemental Security Income program. The other would allow us to recover program overpayments made to former Supplemental Security Income recipients from their old age, survivors, or disability insurance benefits.

The enclosed draft bill proposes several additional statutory changes that we believe would strengthen our ability to provide Supplemental Security Income benefits in the correct amount only to those individuals for whom assistance under the program was intended.

Sections 2 through 6 of the draft bill are intended to improve the Social Security Administration's ability to ascertain facts that are material to an individual's eligibility or correct amount of assistance. Under current law, we are required to verify from independent or collateral sources information supplied by applicants, and to obtain from outside sources additional information that might bear on an individual's status under the program. The draft bill's provisions would expand the pool of data available to the Social Security Administration, or make the data available on a more timely or more economical basis.

Section 7 of the draft bill would allow us to improve our efforts to collect Supplemental Security Income overpayments by extending to this program all of the debt collection authorities currently available for the collection of overpayments under the Social Security program.

Sections 8 and 9 of the bill are designed to tighten the program's eligibility criteria that now allow individuals to qualify for the program by disposing of resources for less than fair market value, and by transferring assets to a trust. Actions such as these contravene a basic principle underlying the Supplemental Security Income program; namely, that an individual with the means to provide for his or her own needs should use them for this purpose before applying for publicly funded assistance.

Finally, section 10 of the bill would authorize us to impose an administrative sanction of a limited period of cash benefit ineligibility on certain individuals who misstate or withhold facts material to the determination of eligibility for benefits or the amount of those benefits.

The legislation would affect direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. The pay-as-you-go effect of this draft bill would be to reduce the deficit by \$10 million in fiscal year 1999 and a total of \$120 million during fiscal years 1999 to 2003.

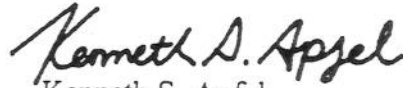
An enclosure to this letter discusses the proposals in more detail.

We urge the Congress to give the enclosed draft bill its prompt and favorable consideration.

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Page 3--The Honorable Albert Gore, Jr.

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress from the standpoint of the Administration's program.

Sincerely,



Kenneth S. Apfel
Commissioner of Social Security

Enclosures