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USET Issues

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June 12, 1995

TO: Carol Rasco
Bruce Reed
Jeremy Ben-Ami

FR: Diana Fortuna DF
Steve Warnath SW

Here is a draft response to the President's question about a Washington Post article on elderly immigrants on SSI. Sorry it took so long, but there were some developments on this issue last week that we wanted to reflect in the response.

DRAFT

June 12, 1995

MEMORANDUM FOR THE PRESIDENT

FROM: Carol Rasco

SUBJECT: Attached Clipping on SSI and Elderly Immigrants

You had sent me the attached Washington Post article on the growth in the number of elderly permanent residents on SSI and noted that we need a careful position on the issue.

In our welfare reform bill, we took the position that the income of an immigrant's sponsor should be deemed available to the immigrant for a period of five years for the purposes of determining eligibility for SSI, as well as AFDC and food stamps. This period would be longer if the sponsor's annual income was above the U.S. median family income. In that case, the immigrant would not be eligible for benefits until citizenship.

However, since that time, the House and the Senate Finance Committee have both acted on this issue as part of their welfare reform bills. As the article notes, the House would bar legal immigrants from receipt of Medicaid, SSI, school lunch, and other Federal programs, with an exception for those older than 75 who have lived in the U.S. for at least five years. The Senate Finance Committee approach is tougher. It would bar legal immigrants from receipt of SSI, except those who are older than 65 who have worked in the U.S. at least 10 years (long enough to qualify for SSDI and old-age benefits). Both would also exempt recent refugees and veterans. These measures result in significant savings within each bill: $6 billion out of $69 billion in savings in the House welfare reform bill, and approximately $10-11 billion out of $32 billion in savings in the Senate Finance version.

One very recent development is Senator Simpson's immigration proposal. Senator Simpson would require an immigrant's sponsor to agree to financially support the sponsored individual until the sponsored individual has worked in the U.S. for 40 qualifying quarters. The bill would save $8.5 billion over five years. In our comments on Simpson's bill, we said that, while the Administration strongly supports making the affidavit of support legally binding, we have reservations about setting the period of obligation and deeming at 40 qualifying quarters, as it could lead to deeming even after the immigrant becomes a naturalized citizen. This feature of Simpson's bill was criticized by others in the attached Washington Post article over the weekend.

We offered to work with Simpson's Subcommittee to establish a reasonable deeming policy that addresses these concerns. We suggested that one option could be to deem sponsored immigrants for 10 years or until citizenship with certain exemptions.

We have not made this issue a priority in our comments on the welfare reform bill to date, and have therefore not been actively pushing our deeming proposal during the recent debate on the Hill. The conference will be a more appropriate time for us to weigh in, once we have ascertained how much support Senator Simpson is garnering.

cc: Leon Panetta
Anthony Lake

The Washington Post, June 11, 1995

Senate Measure On Immigrants Draws Protest

Benefits Limits Apply Even After Citizenship

By Barbara Vobejda
Washington Post Staff Writer

The Senate welfare reform bill would make it more difficult for legal immigrants to receive benefits even after they become citizens, which immigrant groups claim would violate long-standing tradition by creating two classes of citizens.

Republican legislation in the House and Senate calls for restricting welfare aid to legal immigrants. But only in the Senate bill do the restrictions extend beyond the point at which immigrants become citizens.

"It means that a naturalized citizen doesn't have all the rights of a citizen who was born here," said Josh Bernstein, a policy analyst with the National Immigration Law Center. "We're asking people to pledge allegiance to the country, take on the full responsibilities of citizenship, but we're withholding some of the benefits of citizens."

A spokesman for Sen. Alan K. Simpson (R-Wyo.), who proposed the language, dismissed arguments that the policy would be unfair to immigrants who become citizens.

For Simpson, said Richard W. Day, chief counsel to the Judiciary immigration subcommittee, "it's a matter of principle that newcomers should be self-supporting."

Under the welfare bill approved by the House in March, most legal immigrants who have not become citizens would be barred from receiving benefits under the major welfare programs—including Aid to Families with Dependent Children, food stamps, Medicaid and Supplemental Security Income (SSI) for the elderly and disabled.

Illegal immigrants are not eligible for most programs under current law, nor would they be under the proposed changes.

Immigrant groups and others protested the House provisions affecting legal immigrants, arguing they are living in this country legally and paying taxes and should be eligible for the same programs as other Americans.

To some extent, those provisions were softened in the legislation approved by the Senate Finance Committee last month. Under the Senate bill, for example, noncitizens would be barred from only one program, SSI, rather than the five programs in the House bill.

But in other ways, the Senate bill is more restrictive than the House version.

The issue most disturbing to immigrant groups is the Senate provision that would make it more difficult for legal immigrants to qualify for benefits even after they become citizens. The added barrier to benefits is a requirement that states, when determining eligibility, take into account the income not only of the immigrants applying for assistance, but the income of the sponsors of those immigrants, and the sponsors' spouses.

For the most part, sponsors are relatives of the immigrants.

Advocacy groups argue that few immigrants could qualify for assistance under the proposed provisions, known as "deeming" rules. Also, these groups say, the relatives of immigrants are often struggling financially, and supporting another family would send them into further economic difficulty.

Under current law, the income of sponsors must be "deemed" when a noncitizen applies for three programs: AFDC, food stamps and SSI.

In the House version, the deeming requirement would end when an immigrant became a citizen. In the Senate bill, the deeming requirement would apply even after an immigrant becomes a citizen.

"To create this distinction between naturalized citizens and other citizens is a huge departure from a couple hundred years' worth of tradition in this country," said Cecilia Muñoz, deputy vice president at the National Council of La Raza.

That argument was supported by David Martin, University of Virginia professor of law. "Traditionally, the dividing line has been obtaining citizenship," Martin said. "Virtually every kind of restriction that applies to aliens ceases to apply when you become a citizen."

Day said Simpson had disagreed with the House provisions creating an outright ban on benefits to noncitizens, arguing there should be a "limited safety net" for immigrants who fall on hard times.

But when that happens, sponsors who have pledged to help support immigrants should be held to that agreement, Day said. Taking into account the income of the sponsors in determining eligibility is similar to considering the alimony or child support other welfare applicants may be receiving, he said.

"It's just like another asset that should be considered," Day said. "Folks who are their relatives should be responsible for them, not the American taxpayer."

MAY 31 1995

AN UNCERTAIN OLD AGE

THE IMMIGRANT ELDERLY

Benefit Lifeline May Be Severed For Noncitizens

... last of three articles

By Lena H. Sun
Washington Post Staff Writer

Phan Hue rolls up his pants and sleeves to show the scars from four bullet and shrapnel wounds, reminders of his days in the South Vietnamese army. Now living in Falls Church, Phan, 74, and his wife survive on $680 a month in federal benefits for the elderly poor, known as Supplemental Security Income, or SSI. They stretch those dollars by turning the heat down in the winter, sitting outside in the sun to keep warm, and seldom buying meat.

The two refugees are among hundreds of thousands of elderly immigrants, all of them legally admitted into the country, who would lose such benefits under the Republican-sponsored welfare reform bill that passed the House in March and under another bill pending in the Senate. These cuts are an essential part of the GOP proposals because they produce roughly one-third of the $66 billion in savings over five years that backers expect to glean from the House welfare plan, and about 40 percent of the $26 billion in savings from the Senate version.

The impact of the legislation goes far beyond dollars and cents. Already these money-saving proposals have prompted a wide-ranging debate over the place of legal immigrants in American society. For the first time, they are being judged substantially in relation to their use of publicly funded health care and other entitlements, as opposed to their

See ELDERLY, A5, Col. 3

ELDERLY, From A1

economic, social and cultural contributions to society.

"When did we change the definition of American? . . . From Albert Einstein to Martina Navratilova; from An Wang, the founder of Wang computers, to Elie Wiesel, winner of the Nobel Peace Prize—all have come to this country and been accepted as Americans," said Rep. Norman Y. Mineta (D-Calif.) during the House floor debate.

But advocates of the new restrictions insist that legal immigrants must accept substantial sacrifices at a time of widespread cuts in federal spending on assistance programs.

"Quite frankly, I do not think that when we're cutting benefits and cutting welfare for our citizens, I don't see why we should stretch and say that we have an obligation to those that aren't even citizens of our own country," said Rep. E. Clay Shaw Jr. (R-Fla.), an author of the House welfare plan.

The issue is likely to be a major point of contention in coming months now that the welfare reform debate has moved to the Senate, where some prominent Republicans favor either adopting less restrictive measures or letting individual states decide on immigrants' eligibility.

'In Every Sense Part of Us'

Sen. Alan K. Simpson, (R-Wyo.), a longtime leader on immigration policy, often argues that legal immigrants enter into a contract with the government when they come to the United States. They pay taxes and serve in the military. To take the safety net from them, he said, "would be a very grave mistake" and goes against the spirit of House Republicans' "Contract With America."

"They live in your home town. They go to the Rotary Club. They're in the service club," Simpson said. "They are in every sense part of us—except for one thing, the right to vote."

The House version of welfare reform would produce savings of between $18 billion and $21 billion over five years by barring most legal immigrants from receiving a range of federally funded benefits, from Medicaid to school lunches.

Exceptions would be made for legal immigrants over 75 who have lived here five years, recent refugees and veterans, among others. Undocumented aliens would continue to be barred from welfare programs and non-emergency health care welfare programs.

The Senate version of the welfare bill adopted last week by the Finance Committee would give states the option of barring legal immigrants from the basic cash welfare program, Aid to Families with Dependent Children.

But, like the House bill, the Senate legislation targets the federal program that has been used by increasing numbers of elderly immigrants and refugees in the last decade: the Supplemental Security Income program, which provides assistance to the nation's disabled and elderly poor.

The Senate version of welfare reform would produce savings of between $10 billion and $11 billion over five years by keeping most elderly immigrants from receiving aid under SSI.

Exceptions would be made for legal immigrants who have worked in the United States long enough to qualify for Social Security disability income or old-age benefits—at least 10 years—and for recent refugees and veterans.

An estimated 738,000 legal aliens received SSI benefits in December 1994. Legal aliens account for nearly 12 percent of all SSI recipients and 30 percent of all recipients 65 or older. Since 1982, the number of legal residents receiving SSI has risen 580 percent, reflecting a surge in immigration.

Robert Rector, a policy analyst with the Heritage Foundation who favors the new restrictions, says knowledge about these benefits has spread in immigrant communities here and overseas, attracting foreign-born elderly who are turning the U.S. welfare system into a "deluxe retirement home."

Critics of the legislation say the bills, particularly the broader House legislation, would hurt the needy and vulnerable. For immigrants who arrive too late in life to work enough time to qualify for Social Security, there is virtually no other way to get affordable health insurance except through SSI. In most states, elderly people receiving SSI automatically qualify for Medicaid, the government health insurance program for the poor and disabled.

Another category of immigrants that opponents of the cutbacks consider particularly deserving are those who worked in the United States long enough to get Social Security but were employed in such low-wage, low-benefit jobs that they now need SSI to keep them out of poverty. About one of every four legal immigrants receiving SSI, many of them former workers in the garment and service industries, also gets Social Security retirement benefits.

Juan Martinez, 71, a retired day laborer, lives in Weslaco, Tex., in the Rio Grande valley. Originally from Mexico, Martinez worked for 16 years picking cucumbers, tomatoes, strawberries and oranges in Ohio, Florida and Michigan. He retired four years ago after he became ill with diabetes. He receives $287 a month in Social Security, and $178 in SSI. His wife, also a retired farm worker, receives an additional spousal Social Security check of $139 a month.

Martinez would be protected under the Senate welfare reform bill, but the House version would cut off his SSI income and force the couple to live on an annual income of $5,112, substantially below the poverty line.

"They can check with my bosses, they can find out if I worked or not," said Martinez, his words tumbling out in Spanish. "If they get rid of the check, I couldn't pay the electric, I couldn't pay the water, I couldn't pay for the old car I got—I couldn't pay for anything."

Others who would be hard-hit are refugees, with the largest numbers having fled the former Soviet Union and Southeast Asia. Refugee advocates say the United States played a central role in the political upheavals that produced the flow of refugees during the Cold War and therefore has a special obligation to help them once they are here.

Proponents of the bill say the United States should not use welfare to compensate for misery under communism.

The group most frequently criticized by proponents of restricting benefits are elderly immigrants coming to the United States to join their American-citizen children. Many are too old or disabled to work. Advocates of welfare reform say children who sponsor their parents to come to the United States, not American taxpayers, should take care of them.

Opponents say elderly immigrants who are eligible for SSI are not cheating the system but making normal use of a benefit that native-born Americans would not deny their own families.

In the Washington area, where foreign-born residents make up 12 percent of the general population—higher than the national average—the two largest groups of legal residents receiving SSI are from Vietnam and South Korea, according to the Social Security Administration.

When Families Can't Help

Du Won Kim, a retired South Korean auto parts salesman, came to the United States 10 years ago to be with his grown daughter and son. Kim, now 74, stayed briefly with his daughter in her Silver Spring home but moved out because he did not want to live in the same house with his son-in-law's mother. He lives alone in a subsidized apartment in Rockville.

He worked for about a year in a delicatessen but stopped when he turned 65 and was eligible to receive SSI. His monthly check is $458. He can pay his $128 monthly rent, but he relies on his daughter for additional money to cover living expenses.

The daughter, Chong Hong, 51, is an American citizen. She owns a Rockville sandwich shop; her husband is an auto mechanic. With three daughters in college, she said, she is unable to provide full financial support for her father.

"I can't cover all his expenses," she said. "In Korea, the wives stay home, but in America, my husband and I both work hard, and still we do not have enough for everything."

Her brother, recently divorced, is also struggling and cannot provide for his father.

Kim turns 75 next year and would be exempt from the ban under the House bill, but unprotected under the Senate version. He is taking no chances. He is applying for citizenship.

Other elderly immigrants may not be as fortunate.

Phan, the former South Vietnamese army sergeant, has a third-grade education and little chance of learning enough English to pass the citizenship test. In 1987, he fled his village in central Vietnam for the Philippines on a fishing boat with six of his nine children and their families.

A year later, they arrived in the United States. The children are working—some as carpenters, one as a custodian—but their wages are low, and they cannot help their parents financially. The $680 in monthly SSI benefits barely covers rent, utilities and food for Phan and his wife, Truong Thi Ty, 68, who arrived last year.

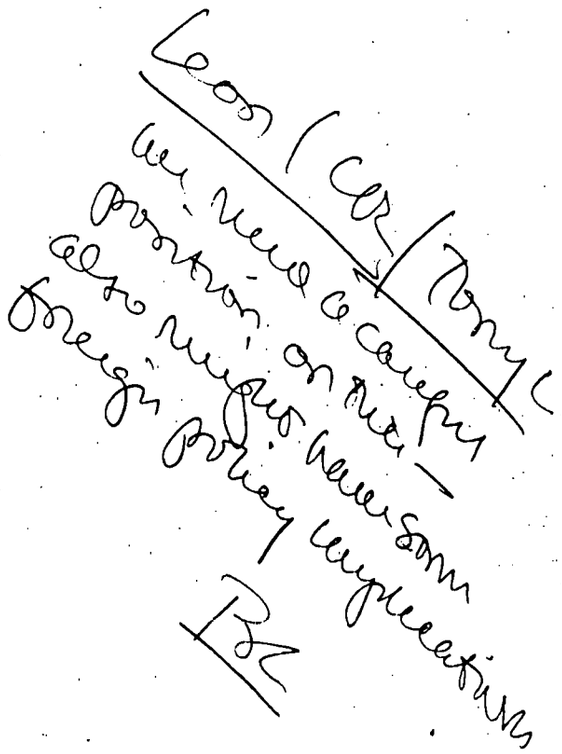
The blue couch in their one-bedroom Falls Church apartment is threadbare. A white Frisbee turned upside down is the tray for chipped teacups. One recent afternoon, the fiance of one of their granddaughters brought them a bag of shrimp, a treat they seldom buy themselves.

Truong has frequent migraines, and may have diabetes. Phan suffers from severe arthritis. Because of his age, Phan would keep his benefits under the House bill, but his wife would lose her SSI stipend and Medicaid coverage. Under the Senate version, the couple would lose their entire monthly income of $680.

"If the government does not help out the old people, I don't see how we can survive," said Phan, speaking agitatedly in Vietnamese. "The Americans helped the Vietnamese fight the Communists. I don't really don't understand about the politics here. But if America had won the war, then all the Vietnamese soldiers would be leading a much happier life everywhere."

Staff writers Guy Gugliotta and Peter Pae contributed to this report.

THE PRESIDENT HAS SEEN 5/31



(1)

REGO II

- SSI up ~~to~~ ~~the~~ shots
- Privatising Soc. Sec.
- Greater Def 3rd party

(2) BACKLOG

- set up day
- get on mailing list for reports.

(3) Appeals

- Peg Clark: think were done

(4) Info from Treasury: St by St. breakdown of the pay the 85%

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503

May 20, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #I-2778

TO: Legislative Liaison Officer -

HHS - Frances White - (202)690-7760 - 328
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
TREASURY - Richard S. Carro - (202)622-1146 - 228
AGRICULTURE - Marvin Shapiro - (202)720-1516 - 312
LABOR - Robert A. Shapiro - (202)219-8201 - 330
ONDCP - Babette Hankey - (202)395-6739 - 257

FROM: JANET R. FORSGREN (for) Janet R. Forsgren
Assistant Director for Legislative Reference

OMB CONTACT: Melissa COOK (395-3924)
Secretary's line (for simple responses): 395-7362

SUBJECT: OMB Request for Views RE: HR 4419, To modify the Supplemental Security Income program under title XVI of the Social Security Act

DEADLINE: **C.O.B. June 1, 1994**

OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or receipts for purposes of the the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:

Bernie Martin
Keith Fontenot
Richard Popper
Mike Ruffner
Barry Clendenin (2 copies)
Doug Steiger
Barbara Selfridge
Ken Schwartz
Jim Duke/Martha Gagne
Lin Liu
Laura Oliven
Bob Damus
Art Stigile
Ellen Seidman
Bill Dickens
Jeremy Benami
Cookie Walden
Clarissa Cerda
Greg Simon
Lorraine Miller
Jennifer Palmieri
Janet Forsgren
Chris Mustain

LRM #I-2778

RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is **simple** (e.g., concur/no comment) we prefer that you respond by **faxing** us this response sheet. If the response is **simple** and you prefer to call, please **call the branch-wide line** shown below (NOT the analyst's line) to leave a message with a secretary.

You may **also respond** by (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); (2) sending us a memo or letter; or (3) if you are an OASIS user in the Executive Office of the President, sending an E-mail message. Please **include** the LRM number shown above, and the **subject** shown below.

TO: Melissa COOK
Office of Management and Budget
Fax Number: (202) 395-6148
Analyst/Attorney's Direct Number: (202) 395-3924
Branch-Wide Line (to reach secretary): (202) 395-7362

FROM: _____ (Date)

_____ (Name)

_____ (Agency)

_____ (Telephone)

SUBJECT: OMB Request for Views RE: HR 4419, To modify the Supplemental Security Income program under title XVI of the Social Security Act

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No objection

_____ No comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

--- -

103D CONGRESS
2D SESSION

H. R. 4419

To modify the supplemental security income program under title XVI of the Social Security Act.

==========

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1994

Mr. SANTORUM(for himself, Mr.ARCHER, Mr.GINGRICH, Mr.THOMAS of California, Mr.SHAW, Mr.CAMP, Mr. HERGER, Mr.MCCRERY, Mrs.JOHNSON of Connecticut, Mr.CASTLE, Mr.GEKAS, Mr.SMITH of Michigan, and Mr.ISTOOK) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

==========

A BILL

To modify the supplemental security income program under title XVI of the Social Security Act.

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

!!TITLE I--RESTRICTIONS FOR ALIENS!!

!!SEC. 101. CERTAIN ALIENS INELIGIBLE FOR SUPPLEMENTAL SECURITY INCOME BENEFITS.!!

(a) IN GENERAL.--Section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5)(A) An alien otherwise eligible for benefits under this title who has qualified for entry pursuant to section 207 of the Immigration and Nationality Act shall not be eligible for such benefits after the 6-year period that begins with the date the alien arrives in the United States.

"(B) Subparagraph (A) shall not apply to an alien who--
"(i) has been lawfully admitted to the United States for permanent residence;
"(ii) has attained 75 years of age; and
"(iii) has resided in the United States for at least 5 years.

"(C) Subparagraph (A) shall not apply to an alien who, on the date of the enactment of this paragraph, is residing in the United

States and eligible for benefits under this title, until 1 year after such date of enactment.".

(b) NOTIFICATION OF AFFECTED ALIENS.--The Social Security Administration shall, directly or through the States, notify each alien receiving supplemental security income benefits under title XVI of the Social Security Act whose eligibility for such benefits is or will be terminated by reason of the amendment made by subsection (a).

!!SEC. 102. STATE AFDC AGENCIES REQUIRED TO PROVIDE INFORMATION ON ILLEGAL ALIENS TO THE IMMIGRATION AND NATURALIZATION SERVICE.!!

Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended--

(1) by striking "and" at the end of paragraph (44);

(2) by striking the period at the end of paragraph (45) and inserting "; and"; and

(3) by inserting after paragraph (45) the following:

"(46) require the State agency to provide to the Immigration and Naturalization Service the name, address, and other identifying information that the agency has with respect to any individual unlawfully in the United States any of whose children is a citizen of the United States.".

!!TITLE II--RESTRICTIONS FOR DRUG ADDICTS AND ALCOHOLICS!!

!!SEC. 201. TIME-LIMITED BENEFITS.!!

(a) IN GENERAL.--Section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a)) is amended by adding at the end the following:

"(5)(A) The Secretary shall identify all recipients of benefits under this title by reason of disability whose disability is a result of addiction to illegal drugs.

"(B) The Secretary shall periodically, on a random basis, test each recipient identified under subparagraph (A) (including any recipient who had become temporarily ineligible for benefits by reason of subparagraph (C)) to determine whether the recipient is using illegal drugs.

"(C)(i) Notwithstanding any other provision of this title, any individual who is determined under subparagraph (B) to be using illegal drugs, or who refuses to submit to testing as provided for under subparagraph (B), shall not be eligible for benefits under this title during the period described in clause (ii).

"(ii) The period described in this clause begins with the date of the determination referred to in clause (i) and ends with the passage by the individual of 2 tests administered by the Secretary (and paid for by the individual) to determine whether the individual is using illegal drugs, which tests occur--

"(I) at least 2 months apart; and

"(II) after the 1-year period that begins with the date of the determination.

"(6)(A) The Secretary shall identify all recipients of benefits under this title by reason of disability whose disability is a result of addiction to alcohol.

"(B) The Secretary shall periodically, on a random basis, test each recipient identified under subparagraph (A) (including any recipient who had become temporarily ineligible for benefits by reason of subparagraph (C)) to determine whether the recipient is using alcohol.

"(C)(i) Notwithstanding any other provision of this title, any individual who is determined under subparagraph (B) to be using alcohol, or who refuses to submit to testing as provided for under subparagraph (B), shall not be eligible for benefits under this title during the period described in clause (ii).

"(ii) The period described in this clause begins with the date of the determination referred to in clause (i) and ends with the passage by the individual of 2 tests administered by the Secretary (and paid for by the individual) to determine whether the individual is using alcohol, which tests occur--

"(I) at least 2 months apart; and

"(II) after the 6-month period that begins with the date of the determination.".

(b) PRESERVATION OF ELIGIBILITY FOR MEDICAID BENEFITS.--Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end the following:

"(e) For purposes of title XIX, an individual is deemed to be receiving benefits under this title if the individual is ineligible for such benefits solely by reason of paragraph (5) or (6) of section 1614(a).".

!!SEC. 202. RESTRICTIONS ON PAYMENT OF BENEFITS BASED ON DISABILITY TO SUBSTANCE ABUSERS.!!

(a) REQUIRED PAYMENT OF BENEFITS TO REPRESENTATIVE PAYEES.--

(1) IN GENERAL.--Section 1631(a)(2)(A) of the Social Security Act (42 U.S.C. 1383(a)(2)(A)) is amended--

(A) in clause (ii), by adding at the end the following: "In the case of an individual entitled to benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, the payment of such benefits to a representative payee shall be deemed to serve the interest of such individual under this title."; and

(B) in clause (iii), by striking "to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse" and inserting "to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this title would be served thereby, to the individual or eligible spouse".

(2) CONFORMING AMENDMENT.--Section 1631(a)(2)(B)(viii)(II)

of such Act (42 U.S.C. 1383(a)(2)(B)(viii)(II)) is amended by striking "15 years" and all that follows and inserting "of 15 years, or (if alcoholism or drug addition is a contributing factor material to the Secretary's determination that the individual is disabled) is entitled to benefits under this title by reason of disability.".

(3) EFFECTIVE DATE.--The amendments made by this subsection shall apply with respect to benefits for months beginning after 180 days after the date of the enactment of this Act.

(b) INCREASED RELIANCE ON PROFESSIONAL REPRESENTATIVE PAYEES.--

(1) PREFERENCE REQUIRED FOR ORGANIZATIONAL REPRESENTATIVE PAYEES.--Section 1631(a)(2)(B) of such Act (42 U.S.C. 1383(a)(2)(B)) is amended--

(A) by redesignating clauses (vii) through (xii) as clauses (viii) through (xiii), respectively;

(B) by inserting after clause (vi) the following:

"(vii) In the case of an individual entitled to benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, when selecting such individual's representative payee, preference shall be given to a--

"(I) community-based nonprofit social service agency licensed or bonded by the State;

"(II) State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities; or

"(III) State or local government agency with fiduciary responsibilities,

(or a designee of such an agency if the Secretary deems it appropriate), unless the Secretary determines that selection of such an agency would not be appropriate.";

(C) in clause (viii) (as so redesignated), by striking "clause (viii)" and inserting "clause (ix)";

(D) in clause (ix) (as so redesignated), by striking "(vii)" and inserting "(viii)";

(E) in clause (xiii) (as so redesignated)--

(i) by striking "(xi)" and inserting "(xii)"; and

(ii) by striking "(x)" and inserting "(xi)".

(2) AVAILABILITY OF PUBLIC AGENCIES AND OTHER QUALIFIED ORGANIZATIONS TO SERVE AS REPRESENTATIVE PAYEES.--Section 1631(a)(2)(D) of such Act (42 U.S.C. 1383(a)(2)(D)) is amended--

(A) in clause (i)--

(i) by striking "exceed the lesser of--" and inserting "exceed--"; and

(ii) by striking subclauses (I) and (II) and inserting the following:

"(I) in any case in which an individual is entitled to benefits under this title by reason of disability and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, 10 percent of the monthly benefit involved, or

"(II) in any other case, the lesser of--

"(aa) 10 percent of the monthly benefit involved, or

"(bb) $25.00 per month.";

(B) in clause (ii)--
(i) by inserting "State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any" after "means any";
(ii) by inserting a comma after "service agency";
(iii) by adding "and" at the end of subclause (I); and
(iv) in subclause (II)--
(I) by adding "and" at the end of item (aa);
(II) by striking "; and" at the end of item (bb) and inserting a period; and
(III) by striking item (cc); and
(C) by striking clause (iv), effective July 1, 1994.

(c) NONPAYMENT OR TERMINATION OF BENEFITS.--
(1) IN GENERAL.--Section 1611(e)(3) of such Act (42 U.S.C. 1382(e)(3)), is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following:

"(B)(i) Notwithstanding any other provision of this title, in the case of any individual entitled to benefits under this title solely by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is disabled and such individual is determined by the Secretary not to be in compliance with the requirements of this subparagraph for a month, such benefits shall be suspended for a period commencing with such month and ending with the month preceding the first month, after the determination of noncompliance, in which such individual demonstrates that he or she has reestablished and maintained compliance with such requirements for the applicable period specified in clause (iii).

"(ii)(I) An individual described in clause (i) is in compliance with the requirements of this subparagraph for a month if the individual in such month undergoes any medical or psychological treatment that may be appropriate, for the individual's condition diagnosed as substance abuse or alcohol abuse and for the stage of the individual's rehabilitation, at an institution or facility approved for purposes of this subparagraph by the Secretary, and complies in such month with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (C).

"(II) An individual described in clause (i) shall not be determined to be not in compliance with the requirements of this subparagraph for a month if access by such individual to such treatment is not reasonably available for the month, as determined under regulations of the Secretary.

"(iii) The applicable period specified in this clause is--
"(I) 2 consecutive months, in the case of a 1st determination that an individual is not in compliance with the requirements of this subparagraph;
"(II) 3 consecutive months, in the case of the 2nd such

determination with respect to the individual; or

"(III) 6 consecutive months, in the case of the 3rd or subsequent such determination with respect to the individual.

"(iv) An individual shall not be an eligible individual for purposes of this title for the 12-month period that begins with the end of any period of 12 consecutive months for which the benefits of the individual under this title have been suspended by reason of this subparagraph.

"(v) In the case of any individual entitled to benefits under this title by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Secretary's determination that such individual is disabled, such individual may not be entitled to such benefits by reason of disability (or any past-due benefits under such entitlement) for any month after the 36-month period beginning with such individual's first month of such entitlement, notwithstanding section 1619(a).

"(vi)(I) The Secretary shall not, in a month, pay to an individual described in clause (i) benefits under this title the payment of which is past due, in an amount that exceeds the amount of benefits under this title which are payable to the individual for the month and the payment of which is not past due.

"(II) As used in subclause (I) of this clause, the term 'benefits under this title' includes supplementary payments of the type described in section 1616(a) and payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66.".

(2) REFERRAL, MONITORING, AND TREATMENT.--Section 1611(e)(3)(C) of such Act (42 U.S.C. 1382(e)(3)(C)), as so designated by the amendment made by paragraph (1) of this subsection, is amended--

(A) by adding at the end the following: "Each such annual report shall include the number and percentage of such individuals who did not receive regular drug testing during the year covered by the report.";

(B) by inserting "(i)" after "(C)"; and

(C) by adding after and below the end following:

"(ii) The Secretary, in consultation with drug and alcohol treatment professionals, shall issue regulations--

"(I) defining appropriate treatment for alcoholics and drug addicts who are subject to required medical or psychological treatment under this subparagraph; and

"(II) establishing guidelines to be used to review and evaluate their compliance, including measures of the progress of participants in such programs.

"(iii)(I) For purposes of carrying out the requirements of clauses (i) and (ii), the Secretary shall establish in each State a referral and monitoring agency for the State.

"(II) Each referral and monitoring agency for a State shall--

"(aa) identify appropriate placements, for individuals residing in the State who are entitled to benefits under this title by reason of disability and with respect to whom

alcoholism or drug addiction is a contributing factor material to the Secretary's determination that they are disabled, where they may obtain treatment described in subparagraph (B)(ii)(I);

"(bb) refer such individuals to such placements for such treatment; and

"(cc) monitor compliance with the requirements of subparagraph (B) by individuals who are referred by the agency to such placements, and promptly report to the Secretary any failure to comply with such requirements.".

(3) PRESERVATION OF MEDICAID BENEFITS.--Section 1634 of such Act (42 U.S.C. 13283c) is amended by adding at the end the following:

"(e) Each person to whom benefits under this title by reason of disability are not payable for any month solely by reason of section 1611(e)(3)(B) shall be treated, for purposes of title XIX, as receiving benefits under this title for such month.".

(4) CONFORMING AMENDMENTS.--Section 1611(e)(3) of such Act (42 U.S.C. 1382(e)(3)), as amended by paragraphs (1) and (2) of this subsection, is amended--

(A) in subparagraph (A), by striking "(B)" and inserting "(C)"; and

(B) in subparagraph (C), by inserting "or (B)" after "(A)".

(5) EFFECTIVE DATE.--

(A) IN GENERAL.--Except as provided in subparagraphs (B) and (C), the amendments made by this subsection shall apply with respect to benefits for months beginning after 180 days after the date of the enactment of this Act.

(B) TIME LIMITATION ON BENEFITS.--Section 1611(e)(3)(B)(v) of the Social Security Act (as added by the amendment made by paragraph (1) of this subsection) shall apply with respect to benefits for months ending after 180 days after the date of the enactment of this Act, and, for purposes of such section, in the case of any individual entitled to benefits by reason of disability for the first month ending after 180 days after the date of the enactment of this Act, such month shall be treated as such individual's first month of entitlement to such benefits.

(C) ESTABLISHMENT OF REFERRAL AND MONITORING AGENCIES.--Section 1611(e)(3)(C)(iii) of the Social Security Act (as added by the amendment made by paragraph (2)(C) of this subsection) shall take effect 180 days after the date of the enactment of this Act.

(d) IRRELEVANCE OF LEGALITY OF SUBSTANTIAL GAINFUL ACTIVITY.--

(1) IN GENERAL.--Section 1614(a)(3)(D) of such Act (42 U.S.C. 1382c(a)(3)(D)) is amended by adding at the end the following: "The Secretary shall make determinations under this title with respect to substantial gainful activity, without regard to the legality of the activity.".

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(e) EFFECTIVE DATE.--Except as otherwise provided in this section, the amendments made by this section shall apply to benefits payable for months beginning 180 or more days after the date of the

enactment of this Act.

!!TITLE III--BENEFITS FOR CHILDREN!!

!!SEC. 301. REPLACEMENT OF CASH BENEFIT WITH MEDICAL VOUCHER.!!

(a) IN GENERAL.--Section 1611(b) of the Social Security Act (42 U.S.C. 1382(b)) is amended by adding at the end the following:

"(3) Notwithstanding paragraphs (1) and (2), the benefit under this title for a child who has not attained 18 years of age shall be vouchers issued pursuant to subsection (j).".

(b) ISSUANCE OF VOUCHERS FOR TREATMENT OF DISABLING CONDITIONS OF CHILDREN ELIGIBLE FOR SSI BENEFITS.--Section 1611 of such Act (42 U.S.C. 1382(b)) is amended by adding at the end the following:

"(j)(1) The Secretary of Health and Human Services shall issue to each child eligible for benefits under this title who has not attained 18 years of age a voucher which may be used to cover the cost of any item--

"(A) that is associated with treating the blindness or disability of the child;

"(B) for which a medical expense deduction may be claimed under section 213 of the Internal Revenue Code of 1986 by the child or any taxpayer who may claim the child as a dependent; and

"(C) the cost of which is not covered by the program of medical assistance approved under title XIX of the State in which the child resides.

"(2) The face dollar amount of the voucher issued with respect to a child shall not exceed the amount of the cash benefit to which the child would (but for section 1611(b)(3)) have been entitled under this title.

"(3) The Secretary shall pay to each provider of health care goods or services that is licensed by a State, or by a professional health care organization approved by the Secretary, that submits to the Secretary a voucher issued under this subsection an amount equal to the face dollar amount of the voucher.".

!!SEC. 302. DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE.!!

(a) IN GENERAL.--Section 1614(a)(3)(G) of the Social Security Act (42 U.S.C. 1382c(a)(3)(G)) is amended--

(1) by inserting "(i)" after "(G)"; and

(2) by adding after and below the end the following:

"(ii)(I) During the 1-year period that begins on the date a recipient of benefits under this title by reason of disability attains 18 years of age, the applicable State agency or the Secretary (as may be appropriate) shall redetermine the eligibility of the recipient for such benefits by reason of disability, by applying the criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age.

"(II) A review under subclause (I) of this clause shall be considered a substitute for a review required under clause (i).".

(b) EFFECTIVE DATE.--The amendments made by subsection (a) shall apply to individuals who attain 18 years of age in or after the 9th month after the month in which this Act is enacted.

!!TITLE IV--FRAUD!!

!!SEC. 401. EXPANSION OF THE AUTHORITY OF THE SOCIAL SECURITY ADMINISTRATION TO PREVENT, DETECT, AND TERMINATE FRAUDULENT CLAIMS FOR SSI BENEFITS.!!

(a) PREVENTION OF FRAUD IN THE SSI PROGRAM BY TRANSLATORS OF FOREIGN LANGUAGES.--

(1) IN GENERAL.--Section 1631(e) of the Social Security Act (42 U.S.C. 1383(e)) is amended by inserting after paragraph (3) the following:

"(4) A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of benefits under this title shall not be regarded as reliable unless the third party, under penalty of perjury--

"(A) certifies that the translation is accurate; and

"(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.".

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall take effect on October 1, 1994.

(b) CIVIL MONETARY PENALTIES, ASSESSMENTS, AND EXCLUSIONS FOR TITLE XVI.--

(1) IN GENERAL.--Title XI of such Act (42 U.S.C. 1301-1320b-14) is amended by inserting after section 1128B the following:

!!"SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESSMENTS FOR TITLE XVI.!!

"(a) Any person (including an organization, agency, or other entity) who makes, or causes to be made, a statement or representation of a material fact for use in determining any initial or continuing right to benefits or payments under title XVI that the person knows or should know is false or misleading or knows or should know omits a material fact shall be subject to, in addition to any other penalties that may be prescribed by law, a civil money penalty of not more than $5,000 for each such statement or representation. Such person also shall be subject to an assessment, in lieu of damages sustained by the United States because of such statement or representation, of not more than twice the amount of benefits or payments paid as a result of such a statement or representation. In addition, the Secretary may make a determination in the same proceeding to exclude the person from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program.

"(b)(1) The Secretary may initiate a proceeding to determine whether to impose a civil money penalty, assessment, or exclusion under subsection (a) only as authorized by the Attorney General pursuant to procedures agreed upon by the Secretary and the Attorney General. The Secretary may not initiate an action under this section with respect to any violation described in subsection (a) later than 6 years after the date the violation was committed. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.

"(2) The Secretary shall not make a determination adverse to any person under this section until the person has been given written notice and an opportunity for the determination to be made on the record after a hearing at which the person is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the person.

"(3) In a proceeding under this section which--

"(A) is against a person who has been convicted (whether upon a verdict after trial or upon a plea of guilty or nolo contendere) of a Federal crime charging fraud or false statements; and

"(B) involves the same transaction as in the criminal action,

the person is estopped from denying the essential elements of the criminal offense.

"(4) The official conducting a hearing under this section may sanction a person, including any party or attorney, for failing to comply with an order or procedure, failing to defend an action, or other misconduct as would interfere with the speedy, orderly, or fair conduct of the hearing. Such sanction shall reasonably relate to the severity and nature of the failure or misconduct. Such sanction may include--

"(A) in the case of refusal to provide or permit discovery, drawing negative factual inference or treating such refusal as an admission by deeming the matter, or certain facts, to be established;

"(B) prohibiting a party from introducing certain evidence or otherwise supporting a particular claim or defense;

"(C) striking pleadings, in whole or in part;

"(D) staying the proceedings;

"(E) dismissal of the action;

"(F) entering a default judgment;

"(G) ordering the party or attorney to pay attorneys' fees and other costs caused by the failure or misconduct; and

"(H) refusing to consider any motion or other action which is not filed in a timely manner.

"(c) In determining the amount or scope of any penalty, assessment, or exclusion imposed pursuant to this section, the Secretary shall take into account--

"(1) the nature of the statements and representations referred to in subsection (a) and the circumstances under which they occurred;

"(2) the degree of culpability, history of prior offenses, and financial condition of the person committing the offense; and

"(3) such other matters as justice may require.

"(d)(1) Any person adversely affected by a determination of the Secretary under this section may obtain a review of such determination in the United States Court of Appeals for the circuit in which the person resides, or in which the statement or representation referred to in subsection (a) was made, by filing in such court (within 60 days following the date the person is notified of the Secretary's determination) a written petition requesting that the determination be modified or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary, and thereupon the Secretary shall file in the court the record in the proceeding as provided in section 2112 of title 28, United States Code. Upon such filing, the court shall have jurisdiction of the proceeding and of the question determined therein, and shall have the power to make and enter upon the pleadings, testimony, and proceedings set forth in such record a decree affirming, modifying, remanding for further consideration, or setting aside, in whole or in part, the determination of the Secretary and enforcing the same to the extent that such order is affirmed or modified. No objection that has not been urged before the Secretary shall be considered by the court, unless the failure or neglect to urge such objection shall be excused because of extraordinary circumstances.

"(2) The findings of the Secretary with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive in the review described in paragraph (1). If any party shall apply to the court for leave to adduce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the hearing before the Secretary, the court may order such additional evidence to be taken before the Secretary and to be made a part of the record. The Secretary may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and the Secretary shall file with the court such modified or new findings, which findings with respect to questions of fact, if supported by substantial evidence on the record considered as a whole shall be conclusive, and his recommendations, if any, for the modification or setting aside of his original order.

"(3) Upon the filing of the record with the Secretary's original or modified order, the jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review by the Supreme Court of the United States, as provided in section 1254 of title 28, United States Code.

"(e)(1) Civil money penalties and assessments imposed under this section may be compromised by the Secretary and may be recovered--

"(A) in a civil action in the name of the United States brought in United States district court for the district where

the statement or representation referred to in subsection (a) was made, or where the person resides, as determined by the Secretary;

"(B) by means of reduction in tax refunds to which the person is entitled, based on notice to the Secretary of the Treasury as permitted under section 3720A of title 31, United States Code;

"(C) by decrease of any payment under title XVI to which the person is entitled, notwithstanding section 207 of this Act, as made applicable to this title by reason of section 1631(d)(1);

"(D) by authorities provided under the Debt Collection Act of 1982, as amended, to the extent applicable to debts arising under the Social Security Act;

"(E) by deduction of the amount of such penalty or assessment, when finally determined, or the amount agreed upon in compromise, from any sum then or later owing by the United States to the person against whom the penalty or assessment has been assessed; or

"(F) by any combination of the foregoing.

"(f) A determination by the Secretary to impose a penalty, assessment, or exclusion under this section shall be final upon the expiration of the 60-day period referred to in subsection (d). Matters that were raised or that could have been raised in a hearing before the Secretary or in an appeal pursuant to subsection (d) may not be raised as a defense to a civil action by the United States to collect a penalty and assessment imposed under this section.

"(g) Whenever the Secretary's determination to impose a penalty, assessment, or exclusion under this section with respect to a medical provider or physician becomes final, the provisions of section 1128A(h) shall apply.

"(h) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty and assessment if any such penalty were to be imposed or to seek other appropriate relief.

"(i)(1) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

"(2) The Secretary may delegate authority granted under this section to the Inspector General of the Social Security Administration.

"(j) For purposes of this section, the term 'State agency' shall have the same meaning as in section 1128A(i)(1).

"(k) A principal is liable for penalties, assessments, and exclusions under this section for the actions of the principal's agent acting within the scope of the agency.".

(2) CONFORMING AMENDMENTS.--Section 1128 of such Act (42 U.) is amended--

(A) in subsection (b)(7), by striking "or section 1128B" and inserting ", section 1128B, or section 1129";

(B) in subsection (b)(8)(B)(ii), by inserting "and section 1129" after "section 1128A";

(C) in subsection (c)(1), by striking "or under section 1128A" and inserting ", section 1128A, or section 1129";

(D) in subsection (c)(3)(A), by inserting "or section 1129" after "section 1128A";

(E) in subsection (d)(1), by striking "and section 1128A" and inserting ", section 1128A, and section 1129";

(F) in subsection (d)(2)(A), by striking "or section 1128A" and inserting ", section 1128A, or section 1129";

(G) in subsection (e)(1), by striking "or section 1128A" and inserting ", section 1128A, or section 1129";

(H) in subsection (f)(3), by inserting ", 1129," after "sections 1128A";

(I) in subsection (g)(1), by striking "or section 1128A" each place such term appears and inserting ", section 1128A, or section 1129";

(J) in subsection (g)(2)(A), by inserting "and section 1129(a)" after "section 1128A(a)"; and

(K) in subsection (h), by striking "1128A and 1128B" and inserting "1128A, 1128B, and 1129".

(c) SSI FRAUD CONSIDERED A FELONY.--

(1) IN GENERAL.--Section 1632(a) of such Act (42 U.S.C. 1383a(a)) is amended by striking "shall" the 1st place such term appears and all that follows and inserting "shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.".

(2) CONFORMING AMENDMENT.--Section 1632(b) of such Act (42 U.S.C. 1383a(b)) is amended to read as follows:

"(b)(1) If a person or entity violates subsection (a) in the person's or entity's role as, or in applying to become, a payee under section 1631(a)(2) on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.

"(2) Any person or entity convicted of a violation of subsection (a) of this section or of section 208 may not be certified as a payee under section 1631(a)(2).".

(d) AUTHORITY TO REDETERMINE ELIGIBILITY IN DISABILITY CASES IF FRAUD IS INVOLVED, AND TO TERMINATE BENEFITS IF THERE IS INSUFFICIENT RELIABLE EVIDENCE OF DISABILITY.--

(1) IN GENERAL.--Section 1631(e) of such Act (42 U.S.C.

1383(e)) is amended by adding at the end the following:

"(6)(A) The Secretary shall immediately redetermine the eligibility of an individual for benefits under this title by reason of disability, disregarding any unreliable evidence of disability, if there is reason to believe that fraud was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that redetermining such eligibility would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.

"(B) If, after redetermining the eligibility of an individual for benefits under this title by reason of disability, the Secretary determines that there is insufficient reliable evidence of disability, the Secretary may terminate such eligibility.".

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall take effect on October 1, 1994, and shall apply to eligibility determinations made before, on, or after such date.

(e) AVAILABILITY OF RECIPIENT IDENTIFYING INFORMATION FROM THE INSPECTOR GENERAL, DEPARTMENT OF HEALTH AND HUMAN SERVICES.--

(1) IN GENERAL.--Section 1631(e) of such Act (42 U.S.C. 1383(e)), as amended by subsection (d) of this section, is amended by adding at the end the following:

"(7) As soon as the Inspector General, Social Security Administration, has reason to believe that fraud was involved in the application of a recipient for benefits under this title, the Inspector General shall make available to the Secretary information identifying the recipient, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that making the information so available or redetermining the eligibility of the recipient for such benefits would jeopardize the criminal prosecution of any person who is a subject of the investigation from which the information is derived.".

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall take effect on October 1, 1994.

(f) AUTHORITY TO USE AVAILABLE PREADMISSION IMMIGRANT AND REFUGEE MEDICAL INFORMATION.--

(1) IN GENERAL.--Section 1631(e) of such Act (42 U.S.C. 1383(e)), as amended by the preceding provisions of this Act, is amended by adding at the end the following:

"(8) The Secretary shall request the Immigration and Naturalization Service and the Centers for Diease Control to provide the Secretary with whatever medical information either such entity has with respect to any alien who has applied for benefits under this title to the extent that the information is relevant to any determination relating to such eligibility.".

(2) EFFECTIVE DATE.--The amendment made by paragraph (1) shall take effect on October 1, 1994.

(g) ANNUAL REPORTS ON REVIEWS OF SSI CASES.--The Secretary shall annually submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the extent to which the Secretary has exercised its authority to review supplemental security income cases under title XVI of the Social Security Act, and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.

(h) DEVELOPMENT OF PROFILES; PERIODIC TARGETED REDETERMINATIONS.--Part B of title XVI of such Act (42 U.S.C. 1383-1383d) is amended by adding at the end the following:

!!"SEC. 1636. DEVELOPMENT OF PROFILES; PERIODIC TARGETED REDETERMINATIONS.!!

"The Social Security Administration shall develop profiles of the kinds of cases that have a high probability of fraud, and shall conduct periodic targeted redeterminations based on such profiles.".

THE WHITE HOUSE

WASHINGTON

April 27, 1994

MEMORANDUM FOR BRUCE REED

FROM: SUSAN BROPHY
LEGISLATIVE AFFAIRS

SUBJECT: Presidential Correspondence

Enclosed please find a copy of the letter that was sent to the President from several members of Congress.

The President has requested that he see and sign every letter being sent to Capitol Hill. Since we did not want to respond to this letter without your guidance, I am requesting that your office draft a response and return it to LeeAnn Inadomi (WH-East Wing) **within 48 hours**. She will then print the letter in final form and have it sent to the President for his signature.

Thank you very much for your assistance with this matter. If you have any questions, please feel free to call LeeAnn at 456-7500.

Enclosure

Congress of the United States

Washington, DC 20515

April 26, 1994

President William J. Clinton
The White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20006-9900

Dear Mr. President:

The Supplemental Security Income program (SSI) is intended to provide assistance to low-income disabled, blind, and aged individuals. In Fiscal Year 1993, the federal government spent almost $20 billion on SSI payments. That is over $7 billion more than the federal benefits paid under the Aid to Families with Dependent Children program. With this amount of taxpayer dollars going towards SSI payments, it is our responsibility to ensure that these benefits are being used appropriately.

Unfortunately, this has not been happening. We have seen widespread reports of abuses in the SSI programs for both children and substance abusers. Recent government reports, Congressional hearings, and media attention have confirmed that SSI, as it is currently administered, is flawed.

Let us stress that we do not wish to see deserving recipients negatively affected in any way; we would simply like to see SSI reformed so that it serves to help the disabled, blind, and aged recipients it was intended to assist, while preventing opportunities for abuse.

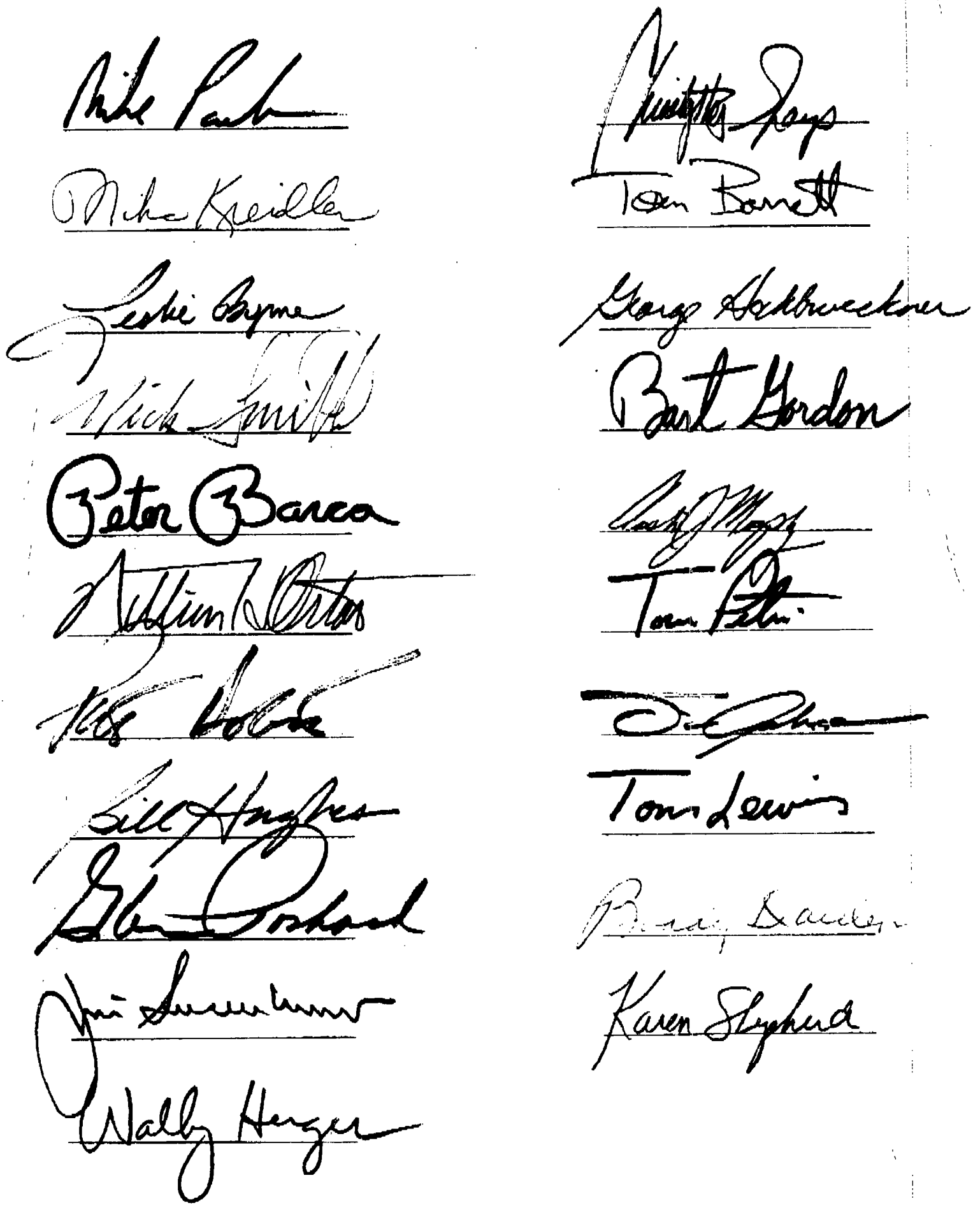
We urge you to either address this matter in your welfare reform plan or to support our efforts to include SSI reform during Congressional consideration of your plan. Together, we can ensure that these needy individuals receive the assistance they deserve, while protecting valuable taxpayer resources from misuse. We thank you for your prompt consideration of this matter.

Sincerely,

Gerald D. Kleczka

Nancy L. Johnson

Rick Santorum



Hon. Gerald D. Kleczka

Hon. J.J. Pickle

Hon. Nancy L. Johnson

Hon. Rick Santorum

Hon. Mike Parker

Hon. Mike Kreidler

Hon. Leslie Byrne

Hon. Nick Smith

Hon. Peter Barca

Hon. William Orton

Hon. Pat Roberts

Hon. Bill Hughes

Hon. Glenn Poshard

Hon. Jim Sensenbrenner

Hon. Wally Herger

Hon. Christopher Shays

Hon. Tom Barrett

Hon. George Hochbrueckner

Hon. Bart Gordon

Hon. Austin Murphy

Hon. Tom Petri

Hon. Tim Johnson

Hon. Tom Lewis

Hon. Buddy Darden

Hon. Karen Shepherd

DEPARTMENT OF HEALTH & HUMAN SERVICES

Chief of Staff

Washington D.C. 20201

cc: Donsia-fyi
orig: CLR

FACSIMILE

DATE FEB 22 1994

TO: (NAME, ORGANIZATION, CITY/STATE AND PHONE NUMBER):

Carol Rasco
Assistant to the President
for Domestic Policy

456-2216

Jack Camilleri 690-7160 7753

FROM: (NAME, ORGANIZATION, CITY/STATE AND PHONE NUMBER):

Kevin Thurm
Chief of Staff

690-6133

RECIPIENTS FAX NUMBER: ( ) 456-2878

NUMBER OF PAGES TO SEND (INCLUDING COVER SHEET): 2

COMMENTS:

DEPARTMENT OF HEALTH & HUMAN SERVICES Chief of Staff

Washington, D.C. 20201

FEB 22 1994

MEMORANDUM FOR CAROL RASCO

As you know, there has been considerable publicity in the news media about fraud involving foreign language interpreters in the Supplemental Security Income (SSI) disability program in the States of California and Washington. In a typical case of fraud, interpreters aggressively market their services to immigrants and coach claimants in actions necessary to support a finding of disability. They usually collect substantial fees.

On January 7, 1994, the television program "20/20" also aired a segment on fraudulent activity in the California public assistance, MediCal, and SSI programs. The program reached no conclusions, but acknowledged the difficulty of assessing the medical condition of some recent immigrants who are applying for cash benefits or MediCal assistance. Many persons from Southeast Asian countries, for example, are culturally disadvantaged, have been severely traumatized, have basic fear and distrust of government in general, and may also be under-educated or illiterate.

Representatives Harold Ford and J.J. Pickle, respective chairman of the Subcommittees on Human Resources and Oversight of the Committee on Ways and Means, have scheduled a joint hearing on the issue for February 24, 1994. The hearing will focus on the nature and extent of fraudulent activity in the SSI program, and the range of options and possible administrative and legislative solutions the Department of Health and Human Services and the Committee on Ways and Means should consider to address the situation.

Commissioner Chater will testify at the hearing. In our testimony, we will provide background on the use of interpreters in Social Security Administration field offices, and describe our efforts to improve service to our non-English speaking clients through increased hiring of bilingual employees and other means to help detect and deter fraudulent activity.

Inspector General (IG) June Gibbs Brown will also testify at the hearing and describe the IG's involvement in this issue. I will keep you advised of any further significant developments.

Kevin Thurm

cc: Christine Varney

DPC Domestic Staff

FACT SHEET: SSI BENEFITS FOR ALCOHOLICS/DRUG ADDICTS

On Tuesday night, February 8, 1994, the NBC program Dateline ran a segment about benefits being paid to alcoholics and drug abusers through the Social Security Administration's disability program. The Washington Post ran a story on this topic on February 7, 1994. Below are some key facts regarding this issue.

THE PROBLEM:

- **Supplemental Security Income (SSI) benefits for drug addicts and alcoholics are mandated by statute.**

  Since Congressional enactment in 1972, individuals have received SSI benefits for disabling conditions that will last at least 12 months and will keep them from working. Drug addiction and alcoholism are included.

- Current law requires substance-addicted SSI recipients to accept treatment and that their benefit be paid to a legal guardian or "representative payee." However, it it often difficult to find decent representatives, or any representatives at all, for some SSI recipients.

- Recent reports have indicated that some SSI recipients addicted to drugs and alcohol may use benefits to sustain their habits. **This is a serious concern.**

THE RESPONSE:

- The Social Security Administration (SSA) **has already improved** its referrals to treatment programs and its monitoring systems.

  In October, 1993, SSA had referral and monitoring contracts in only 18 states. Today, such systems are in place in 33 states and the District of Columbia. By the end of FY 1995, all states will be involved. These new contracts will require recipients to undergo regular substance abuse testing.

  SSA is also working aggressively to find more and better representative payees.

- **The FY 1995 Budget reflects a determination to solve this problem.**

  The FY 1995 budget requests $36 million for referral and monitoring activities, an 80% increase from the FY 1994 level, and an 800% increase over the Bush Administration figure of $4 million in FY 1993.

- The FY 1995 budget also requests $345 million for the treatment of hard-core drug abusers.

- The Administration will work with Congress to make appropriate changes to the program. The public has a right to expect those disabled by substance addiction to take responsibility for themselves, seek treatment and do all they can to cure themselves of their addiction.

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A Takings Excep on ✓

Jessica Mathews's venomous attack on what she calls my "poisonous" view of the takings clause of the Constitution [op-ed, Feb. 14] calls for a clear response.

Her column ignores my oft-stated conviction that the takings clause was carefully crafted to strike a balance between individual rights and social needs. Unfortunately, Ms. Mathews misconstrues my position to hold that the *state* is obligated to compensate owners in cash whenever its regulations reduce the value of their land. But this characterization overlooks my view that two justifications for uncompensated takings are in principle available to the government in all cases. It can show that regulation is reasonably calculated to prevent the infliction of some present or threatened harm to others; or it can show that the in-kind benefits the regulation provides the landowner offset the losses that it imposes.

In the recent *Lucas* case (to which she refers, but not by name) South Carolina sought to prohibit the construction of an ordinary single-family home on a beachfront lot worth more than $500,000 with building rights, but worth nothing without them. Ms. Mathews insists that it is unconscionable for any landowner to demand compensation for the total wipeout in value if he is left in possession of land he cannot use.

Why? Surely this building prohibition does not offer reasonable protection against any present or threatened harm. The environmentalists argued in *Lucas* that the building ban prevented flying bits of a house from damaging nearby land. This improbable claim would at most authorize uniform building codes for specific purposes. However, this logic unwisely justifies ripping down without compensation every house along the South Carolina Coast, or preventing any new ones from being built.

Ms. Mathews then makes the odd suggestion that no compensation is required because Lucas has benefited from the construction of Interstate 95 and the availability of subsidized flood insurance. Her I-95 argument makes at least three errors. First, I-95 was built years ago, and yet the value of Lucas's buildable lot surged nearly 30 percent in the four years after he bought it. Surely this increase in value is attrib to changes in local conditions, preexisting highway. Second, whatev ne Lucas received from the highway paid for through federal income ga taxes, like his neighbors. Yet Ms. Ma never explains why he pay while his more fortunate neighbors g once.

Most ominous, her argument justifi outright confiscation of all or of L land, for if these supposed highway b compensate him for loss of value they also compensate him for the possession. What a royal to tional evasion: Build one public highw the just compensation clause is nullifi ever after.

Ms. Mathews's unlikely rendition takings clause undermines any effort to discipline indirectly mechanism the "arrogant, blunderi reaucracies" whose misdeeds she ac edges. Having to pay just compe rightly forces elected officials to co the public benefit obtained with the

Cheers on Wilshire Boulevard

THE PRESIDENT HAS SEEN 2/27

William S. Cohen

Playing Social Security for a Sucker ✓

It would make Norm Peterson from "Cheers" put down the beer nuts and sit up on his bar stool: The federal government has sent checks totaling more than $160,000 per year directly to a Denver liquor store owner, who then uses those taxpayer dollars to run a tab for 40 alcoholics who are supposed to be using the government money to get help for their problems.

That's just one example of how a federal program has gone startlingly wrong. Across the country, the government is paying hundreds of millions of dollars each year to feed the habits of drug addicts and alcoholics. Under this cockeyed policy, addicts and alcoholics receive federal benefits because they are disabled by their substance abuse. But the benefits often are then used to perpetuate the addictions, rather than cure them, and the addicts and alcoholics ride along on a drug-laden train funded by [illegible] disabilities.

This [illegible] high, as [illegible]

cial Committee on Aging and the General Accounting Office. The investigation examined the payment of benefits under the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs.

The GAO has estimated that last year the federal government paid $1.4 billion to 250,000 drug addicts and alcoholics who receive benefits under these two programs. But only 78,000—less than one-third—are required to receive treatment or have a third party manage their benefits for them, and those controls are so lax that abuses abound. The other 172,000 are not required to receive treatment and often use their cash benefits to buy more drugs and alcohol.

The director of a homeless shelter in Denver reported that SSI is, in effect, "suicide on the installment plan" be- [illegible] drugs, then diluted them into small doses and realized huge profits by reselling them on the street. One mental health worker said his caseload of illegal drug users was 99.5 percent SSI recipients, and he reported several deaths from drug overdoses.

The purpose of the Social Security disability programs is to provide benefits to people who can't work because of medically certified physical or mental impairments. Drug addiction and alcoholism are qualifying disabilities under both programs. Determining disability is a five-step process, and if benefits are denied, there are avenues of appeal. Since it often takes a year or more to award benefits, and because benefits are retroactive to the date of application, it is not unusual for lump sums as large as $15,000 or $20,000 to be awarded to substance abusers— [illegible]

died of a lethal drug overdose bought with thousands of dollars in retroactive benefits. An alcoholic was awarded lump sum benefits of $26,000. After buying two cars and a van, he went on a drinking binge, wrecked the cars and landed, penniless, in a veterans' hospital.

Congress has tried with little success to build controls into the system. To stop payments from feeding addictions, it required that all SSI payments to addicts and alcoholics be paid to a third party—or "representative payee"—a friend, relative, social service agency or other responsible person. Congress also required that a disabled drug addict or alcoholic participate in a substance abuse treatment program, if such treatment is available, as a condition of receiving SSI benefits.

[illegible] of these offices applies to

dicts themselves store owner in Den worthy guardians of The [redacted] has abdicated its re ing to adequately m cipients t tre example, is o have never SSA to refer addic treatment and m dance.

The investigati cases in which ad benefits activ inal activities such armed robbery. To benefits, they op were supporting t criminal activity.

costs imposed. Without this principle of take and pay, the state sidesteps these comparisons with extravagant claims of supposed benefits for stopping Lucas from building. Losing the case in fact converted the Coastal Commission into honest brokers. Having paid for Lucas's lot with hard cash, the commission sold it off to the highest bidder, who of course got the same right to build that Lucas had demanded!

Oh, as for subsidies by flood insurance? That's just the kind of government abuse for the wealthy that my positions prohibit. Ms. Mathews and I do agree on at least one issue—the further need for open and robust debate on the takings question. Perhaps that debate will be reinvigorated next month when the Supreme Court considers *Dolan v. City of Tigard*, its first major takings case since *Lucas*.

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quirements and revamp the disability program by:

- Stopping the practice of putting cash directly in the hands of substance abusers. Benefits would be directed to an institution or approved agency to manage.
- Prohibiting distribution of lump sum retroactive payments to substance abusers until treatment is completed.
- Requiring that all addicts and alcoholics receive treatment.
- Requiring the Social Security Administration to conduct continuing reviews of individuals' eligibility and all state governments to have agencies to monitor addicts and alcoholics.
- Making additional treatment available for substance abusers.
- Removing from the rolls those who profit from such illegal activities as drug dealing [illegible]