8/5/98

DIANA FORTUNA , DOMESTIC POLICY COUNCIL

BOX 3

WELFARE FILES CON'T

SSI HIGH RISK REFORMS
SSI- ELDERLY IMMIGRANTS
SSI KIDS- SLATTERY COMMISSION
SSI KIDS- STUDIES, DATA
SSI KIDS 1995
SSI ROLLOUT 1997
TECHNICALS
TESTIMONY WR
TEXAS PRIVATIZATION
TICKET TESTIMONY
TRANSRACIAL ADOPTION
WASH FS
WELFARE WAIVERS
18-50 WAIVERS FS
WAIVER STRATEGY
WEAK ON WORK
WELFARE REFORM IMPLEMENTATION
WELFARE REFORM IMPLEMENTATION-SUBGROUP 2
WELFARE REFORM SUBGROUP
WELFARE REFORM- TANF WORK REG.
WELLSTONE AMDT.
WISCONSIN

Penalty for makes or causes to be made

~~[illegible]~~

Diana Varnum
x 67431

Jack Smalligan
Richard Greene.

SOCIAL SECURITY USA ADMINISTRATION

Office of Legislation and Congressional Affairs
Social Security Administration
Fax Sheet

Date: 5/4/98

Pages: Cover + 1

Fax to: Barbara Chow

Fax number: ____________

Phone number: ____________

From: Judy Chesser

Phone number: (202) 358-6030
Fax number: (202) 358-6074

Please contact Paulette Anderson or Regina Williams (202) 358-6030 if transmission is incomplete.

Message:
Appeal on passback
re: Ways & Means proposals

May 6, 1998

TO: Barbara Chow

FROM: Judy Chesser

RE: Passback on Ways and Means "High Risk" Package

We have received the passback for Administration positions on the Ways and Means proposals on SSI and DI. There is one item with which SSA disagrees, item 3(e) on the side-by-side, which would make individuals ineligible for SSI and DI benefits if they are convicted of felonies.

We disagree because the effect of the proposed Administration position would be the same as the original Ways and Means proposal. That effect is that cash assistance and medical assistance would be denied to disabled individuals and their dependents after they have already served the sentence imposed on them by the courts for the offense. In some respects (the application of the passback to DI benefits and in the case of first convictions) the proposed Administration position is harsher than the Ways and Means proposal.

Either proposal would set a precedent that the denial of federal benefits is part of the penalty imposed by the criminal justice system, even where the crime was unrelated to the program providing the benefits. We believe that this result is too harsh.

We believe that the original SSA position of opposition to the Ways and Means proposal is much preferable to the proposed Administration position.

The current Ways and Means proposal would make a person ineligible for SSI disability benefits if the person had been convicted of 2 felonies (10 years' ineligibility) or 3 or more felonies (permanent). The first felony conviction would have no effect on eligibility.

An individual would, however, be eligible for SSI aged benefits at age 65. The original Ways and Means proposal applied to both SSI and DI benefits, but the Committee has dropped DI.

The passback would apply to both DI and SSI. It would provide a penalty for the first conviction. Under the passback, the first conviction would result in a person being terminated from benefits, but the person could reapply the same day. The only "softening" feature is that the proposed Administration position would apply only to convictions occurring while a person was receiving SSI or DI benefits. But for those individuals, the policy result - denial of cash and medical benefits - is the same under the Committee proposal and the passback.

Total Pages: 5

LRM ID: MDH191

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

URGENT

Wednesday, May 6, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT: REVISED Social Security Administration Report on HR3433 Ticket to Work and Self-Sufficiency Act of 1998

DEADLINE: 10 am Thursday, May 7, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: SSA would like to add the attached comment to its side-by-side on the House Ways and Means Committee's draft SSI program integrity proposals (see LRM ID: MDH 180 5/4/98).

IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTION.

DISTRIBUTION LIST

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EOP:
Barbara Chow
Barry White
Jack A. Smalligan
Richard E. Green
Joanne Cianci
Daniel J. Chenok
Maya A. Bernstein

LRM ID: MDH191 **SUBJECT:** REVISED Social Security Administration Report on HR3433 Ticket to Work and Self-Sufficiency Act of 1998

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

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); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: ______________________ (Date)
______________________ (Name)
______________________ (Agency)
______________________ (Telephone)

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

SSA Response

WAYS AND MEANS PROPOSAL TO EXPAND CIVIL MONETARY PENALTIES FOR PHYSICIANS

Description of proposal:

The proposal would increase the amount of the civil monetary penalty under section 1129 of the Social Security Act in the case of a physician who makes or causes to be made a statement which the physician knows or should know is false concerning a material fact about the eligibility of a person for SSI or DI. The maximum amount of the penalty would be increased from $5000 to the greater of $5000 or the amount of the incorrect benefits paid by reason of the statement. Current law liquidated damages provisions (twice amount of incorrect benefits) would continue to apply in addition to penalty.

Statutory language attached.

SSA recommended position: Support

5/6/98

SEC. [4——]. ADDITIONAL CIVIL PENALTY FOR PHYSICIANS ENGAGING IN FRAUD IN CONNECTION WITH SERVICES PROVIDED TO APPLICANTS OR BENEFICIARIES.

(a) IN GENERAL.—Section 1129(a)(1)(A) of the Social Security Act (as amended by section [1AB]) is amended further—

(1) by striking "not more than" and inserting "not more than—"; and

(2) by striking $5,000 for each such statement or representation." and inserting the following:

"(I) $5,000 for each such statement or representation, or

"(II) in the case of any such statement or representation made, or caused to be made, by a physician in connection with services provided for such use in connection with any such benefits based on the disability of the applicant or beneficiary, an amount equal to the greater of the amount described in subclause (I) or the total amount of any payment or payments of such benefits in excess of the correct amount which occurred by reason of such statement or representation.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to violations occurring on or after the date of the enactment of this Act.

Support provision in concert with

DRAFT
April 24, 1998

Human Resources Subcommittee Legislative Proposals

a procedure for

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
Creation of New Administrative Sanction Process		
1a. Create process to evaluate fraud within SSA. Require SSA to refer all allegations of fraud under existing procedures applicable to civil monetary penalty provisions in SS Act §1129 administered by OIG, which requires referral to U.S. Attorney for imposition of sanctions before consideration of CMP.	Yes	~~Prefer~~ *SSA proposal* which would have a procedure for field office to impose sanctions ~~rather than OIG~~. *Work with Committee.* Support provision in concert with
1b. Prohibit eligibility for 1 year if fraud is found. Subsequent cases would result in 10 year and lifetime ineligibility for the second and third offenses respectively. Applies only to disability benefits (SSI and OASDI)	Yes.	~~Prefer~~ *SSA proposal* which would establish procedure for shorter benefit suspensions in addition to subcommittee's provision for longer benefit suspensions ~~Work with Committee. Lifetime sanctions too harsh and inflexible.~~ Work with Committee to develop proposal that has bipartisan support. ?
1c. Making false U.S. residency statement would result in a 10-year prohibition of SSI eligibility.	Yes. ?	Do not ~~Oppose~~ *oppose provision.* Penalty under SSA administrative sanction proposal for alleging U.S. residence would be the same as for other offenses. ~~No apparent reason to treat falsifications of residence more harshly than other misrepresentations. (Concerns regarding homeless.)~~
1d. Create a financial reward system ($400 per case) for SSA workers and State DDS employees whose report of fraud or program abuse results in the ineligibility of an individual to collect benefits. Applies only with regard to disability cases (SSI and OASDI)	Yes.	*Oppose provision.* Fraud detection already function of employees. Could result in conflict of interest regarding SSA's handling of evidence.

1. In Subcommittee draft, 4/22/98

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
Prevention of Professional Abuse		
2a. Bar doctors and attorneys from SSI/DI program if found to help commit fraud. Language provides for 5-yrs., 10 yrs., and permanent exclusion for 1st, 2nd, and 3rd offenses respectively if person found to have made false or misleading statement or purposely omitted facts. Applies only to disability cases (SSI and OASDI)	Yes.	*Do not oppose provision.* SSA does not use doctors known to have defrauded Social Security programs or doctors sanctioned by the Medicare or Medicaid programs. For other situations, POMS issued 2/98 includes policy for disregarding evidence if there is reason to believe fraud was involved in providing evidence. --SSA does not recognize disbarred or suspended attorneys for purposes of direct payment of attorney fees. --Commissioner may suspend or prohibit from further practice before the agency any representative who refuses to comply with the agency's rules and regulations.
2b. Require annual evaluation of doctors who conduct consultative exams for patterns of abuse and report findings to the SSA IG.	Yes	*Do not oppose provision.* SSA has similar evaluation process in place.
Prevention of Fraud		
3a. Require SSI recipients whose checks are sent to PO boxes to provide annually, as a condition of continued eligibility, proof of residency (such as a copy of a water, electric, or property tax bill).	Yes.	*Do not oppose provision.* Many individuals--because of safety concerns, lack of a permanent residence, or lack of mail delivery--use P.O. boxes. SSA is currently conducting studies to determine what characteristics may best be used as indicators of potential residency fraud. (Concerns regarding homeless.)
3b Prohibit use of non-medical evidence in SSI and DI disability cases.	Yes.	*Work with Committee to clarify understanding of current practice and determine the extent to which legislation may be appropriate.*
3c. Require payees that represent large numbers of beneficiaries (100 or more cases per year) to report on how funds are spent and factors concerning continued eligibility of beneficiaries. (Both SSI and OASDI)	Yes.	*Support provision in principle; work with Committee to develop mutually acceptable proposal.* Would duplicate current practice with regard to nongovernmental agencies which are required to report annually. Also would require Federal/State institution payees to report annually. (At present these institutions participate in triennial on-site monitoring program.) SSA has pilot program for on-site reviews of large payees.

Serious concerns with provision. Represents a fundamental change in how eligibility is determined.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
3d. Establish period of SSI ineligibility for transfer of assets.	Yes.	*Support provision.* Essentially the same as SSA proposal which was approved by OMB and sent to Congress in FY 1996.
3e. Disqualify from eligibility for SSI disability or DI benefits, individuals convicted of 2 felonies for 10 years; those convicted of three or more felonies would be ineligible for life. Language provides for bar on eligibility for SSI/DI disability benefits if person convicted of crime punishable by imprisonment for 1-year or more. [Draft language indicates applicability to DI benefits may be dropped.]	Yes.	~~*Oppose provision.* Applying sanctions regardless of the individual's need and current circumstances would be overly harsh. Ten-year and lifetime sanctions could result from multiple felonies in single criminal event early in life. Could increase likelihood that sanctioned individual would return to crime as a means of support.~~ INSERT
Increased Collection of Overpayments		
4a. Replace the 10-percent rule on SSI overpayment recovery. (1) Ten percent would be a floor rather than a ceiling (2) Waivers available up to 10 % of cases, and then only for extreme hardship (3) Waivers are temporary (granted for up to 3 consecutive months in a single case) (4) Waivers not available to organizational payees (5) Floor for collection from organizational payees is 20% (6) SSA may reduce monthly SSI benefit by 100 percent to collect overpayment	Yes	*Oppose provision.* (1) Ten-percent a month limit on overpayment recovery from SSI checks intended to avoid hardship on persons with limited incomes. (2)Not clear how SSA would determine how many would be granted in year and which would be most deserving. (3) Would require recontact and significant redevelopment every 3 months to determine individual's financial situation. Resource intense and could be seen as intrusive. (4) Could harm beneficiary because without waiver, check would be reduced. (5) Could act as disincentive for organizations to act as payees. (6) Withholding 100% would defeat purpose of program which is meant as safety net to provide means for food, clothing, shelter.
4b. Require "netting" in cases of overpayments and underpayments.	Yes	*Defer pending clarification of provision.* Intent of proposal not clear. Legislation not required. "Netting" already takes place in that underpayments are withheld to reduce outstanding overpayments. Systems changes pending to "net" in more cases.

INSERT

Worked*

3e. *Serious concerns with this provision.* Applying sanctions related to disability benefits to individuals generally who have otherwise completed their punishments (e.g., imprisonment) would have the potential consequence of punishing an individual who committed crimes early in life, served a prison term, led a crime-free life after that time, and became disabled at some point later in life ~~(thus penalizing both the individual and perhaps their family~~). Consideration should be given to modifying the provision to apply specifically to SSI and DI recipients convicted of felonies, i.e., first conviction of an SSI/DI recipient would mean automatic ineligibility and requirement to reapply, 2nd felony would mean ineligibility for 10 years before the individual could reapply, and 3rd felony would mean lifetime ineligibility.

9 · 9'

?

Not enough information. Law enforcement matching is already exempt from the Matching Act for specific investigations, but this description would seem to exempt matches for any purpose.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?	SSA COMMENTS
4c. (1) Prohibit eligibility for 10 years if ex-fugitive or ex-prisoner fails to notify SSA at time of (re)application that he or she had received benefits erroneously while in prison. (2) SSA must continue collection efforts while prisoners are in jail.	Yes	*Support provision.*
4d. (1) Require SSA to hold representative payees primarily liable for overpayments if the recipient dies. (2) Prohibit waivers in overpayment cases in which representative payee used benefits in "best interest" of deceased individual.	No	*Not enough information.* We assume proposal would apply only to payments that were received after individual's death. We have concerns about elimination of waiver if funds are used for burial.
4e. Recover SSI overpayments from title II benefits. (Draft language shows this as section 4f.)	Yes	*Support provision.* Proposal sent to Congress on 3/11/98.
4f. Require SSA to use credit reports, collection agencies, etc. to facilitate SSI/DI overpayment collections.	No	*Support provision.* Proposal in high-risk-related legislation [redacted].
	Data Matching	
5a. Require SSA to match with TANF.	No	*Support provision in concept.* Some of same data will be obtained from on-line connections with States. States are still developing TANF data bases and databases vary from State to State. After HHS makes a determination of what data States must collect and have available, SSA will evaluate possible matches.
5b. Amend Computer Matching and Privacy Protection Act to allow matching of program lists to perform broader law enforcement functions.	No	~~*Not enough information.* Description would seem to allow matches for any purpose. Any exception to the CMPPA should be solely for purposes of assuring the integrity of income-support programs.~~
5c. Require all prisons to report to SSA for matching. Include prisoner "bounty" payments in OASDI program	No	*Support provision.* Similar SSA proposal was included in legislation approved by OMB and sent to Congress on 5/24/96.
5d. Require SSA to obtain Medicaid data on nursing home residents on at least an annual basis. Compare data against SSI rolls to ensure that nursing home residents are receiving no more than the $30 per month personal needs allowance.	No	*Support provision.* Included in high-risk related legislation. SSA is planning to match twice a year with HCFA. Terms and conditions of data match should be agreed upon by the Commissioner of SSA and the Secretary of HHS.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
5e. Require SSA to develop, by no later than 10/1/98, computerized interfaces to access the Office of Child Support Enforcement's New Hire Data Base and Quarterly Wage Data Base, and use this data to detect undisclosed earnings during initial and subsequent determinations of eligibility for SSI. After 1/1/99, SSI eligibility may not begin until the data bases have been checked by SSA.	No	Oppose ~~Support~~ *provision*, ~~but specified time frame may be difficult to meet~~. Legislation not necessary to ensure use of this data base
5f. Require SSA to study the feasibility of obtaining computerized information from financial institutions to detect financial accounts that SSI applicants fail to report during the application process and subsequent eligibility determinations. Compare the cost of obtaining this information and the program savings as a result of its use. Report the study results to Congress no later than 9/31/98. If feasible and cost-effective in preventing overpayments, SSA must propose legislation to implement no later than 1/1/99.	No	~~*Prefer SSA proposal*. SSA proposal would provide necessary facilitating legislation.~~
Setting a Family Cap and Ending the SSI Marriage Penalty		
6a. Apply family cap as specified in Slattery Commission report.	Yes	***Serious concerns with provision; need to carefully evaluate effect on beneficiaries***. Results in benefit cuts for children. Requires extensive redesign of systems architecture. Could have unintended effects on children in group homes, adopted children, and children with genetic impairments.

Prefer SSA proposal. A streamlined electronic verification process would be significantly less costly to operate than the paper-bound process required by current law and would be much more effective in identifying concealed accounts. The Administration has submitted a legislative proposal that will enable SSA to begin matching electronically the SSI beneficiary file with financial records maintained by financial institutions.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
6b. Bar SSA from valuing in-kind support and maintenance (ISM); apply similar "family cap" reductions as used in Slattery Commission Report for children to other households with multiple unrelated SSI recipients. – Payment for 2 recipients in same household is 150 percent of the single rate (each unmarried recipient would receive 75 percent of the full allowance). – Payment for 3 recipients in same household is 210 percent (70 percent each). -- Payment for 4 recipients is 260 percent (65 percent each). – Payment for 5 recipients is 300 percent (60 percent each). – Each additional recipient above 5 would be eligible for an additional 60 percent of the full SSI benefit.	Yes	*Serious concerns with provision; need to carefully evaluate effect on beneficiaries*. Results in benefit reductions for many keeping the household below the poverty line. Elimination of ISM would simplify program and increase benefits for some Would require extensive redesign of systems architecture. Could have unintended effects on persons in group homes or mutually assistive-care living arrangements. ~~Need more information regarding winners and losers~~ Note: Preliminary, rough net estimates conclude that proposals may have no budgetary effects over 5 years.
SSA Reform		
7a. Issue new guidelines to disability examiners to help them identify and prevent fraud.	No	*Legislation not required*. POMS guidelines released in February 1998.
7b. Undertake study to identify possible measures to reduce fraud. Report to Congress on legislative improvements to prevent SSI/DI fraud.	Yes	*Legislation not required*. Section 206(g) of P.L. 103-296 already requires reporting related to fraud and information on fraud also included in SSA's annual Accountability Report.
7c. Create specific statutory authority for SSA to contract out to private companies anti-fraud activities and report to Congress on need for funds to carry out activities.	Yes	*Do not object to provision.*
7d. Refer all cases involving potential fraud to OIG	No	*Legislation not necessary*. Current policy and procedures already require referral of fraud cases to OIG.
7e. Adjust FY 1999 discretionary spending limit on non-disability redeterminations.	Yes	*Support provision.* Administration's FY 1999 budget proposal.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
7f.. Require SSA to adjust medical listings so all meet at least the 2 marked standard required under the welfare reform law.	No	*Serious concerns with the provision* about the rote application of the two "marked" standard to all of the childhood listings. There are listings that use wholly medical criteria which, therefore, would not fit easily into the two "marked" mold, such as the listings for cancer. SSA is committed to updating the listings. However, this process is a lengthy one requiring careful consideration of the latest medical information for each impairment. ~~Note: Preliminary OAct estimates are [redacted] program savings~~ o[redacted]ars.

1 yr/10 yr/Lifetime ban:

Must ensure that tough sanctions such as lifetime sanctions are imposed only against those who commit intentional program violations.

3 sep incidents

Eligibility disqualification for felons:

Do not oppose. Should ensure that penalty is for 2 or 3 separate incidents, rather than a single incident with multiple felony convictions. May want to limit harshest penalty/ies to violent felonies.

Career criminal

BR - limit lifetime to violent felonies

→ Bruce

Ser concerns Lifetime

3e. ~~Oppose provision~~. Applying sanctions related to disability benefits to individuals who have otherwise completed their punishments (e.g., imprisonment) would not serve as a deterrent. ~~Such~~ sanctions would have the potential consequence of punishing an individual who committed crimes early in life, served a prison term, led a crime-free life after that time, and became disabled at some point later in life.

Serious concerns

DRAFT
April 24, 1998

Human Resources Subcommittee Legislative Proposals

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
Creation of New Administrative Sanction Process		
1a. Create process to evaluate fraud within SSA. Require SSA to refer all allegations of fraud under existing procedures applicable to civil monetary penalty provisions in SS Act §1129 administered by OIG, which requires referral to U.S. Attorney for imposition of sanctions before conosideration of CMP.	Yes	*Prefer SSA proposal* which would have field office impose sanctions rather than OIG. *Work with Committee.*
1b. Prohibit eligibility for 1 year if fraud is found. Subsequent cases would result in 10 year and lifetime ineligibility for the second and third offenses respectively. Applies only to disability benefits (SSI and OASDI)	Yes.	*Prefer SSA proposal; work with Committee* Lifetime sanctions too harsh and inflexible. Work with Committee to develop proposal that has bipartisan support. DF
1c. Making false U.S. residency statement would result in a 10-year prohibition of SSI eligibility.	Yes. Don't	*Oppose provision.* Penalty under SSA administrative sanction proposal for alleging U.S. residence would be the same as for other offenses. No apparent reason to treat falsifications of residence more harshly than other misrepresentations. ~~(Concerns regarding homeless.)~~ DF
1d. Create a financial reward system ($400 per case) for SSA workers and State DDS employees whose report of fraud or program abuse results in the ineligibility of an individual to collect benefits. Applies only with regard to disability cases (SSI and OASDI)	Yes.	*Oppose provision.* Fraud detection already function of employees. Could result in conflict of interest regarding SSA's handling of evidence.

1. In Subcommittee.draft, 4/22/98

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
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2a. Bar doctors and attorneys from SSI/DI program if found to help commit fraud. Language provides for 5-yrs., 10 yrs., and permanent exclusion for 1st, 2nd, and 3rd offenses respectively if person found to have made false or misleading statement or purposely omitted facts. Applies only to disability cases (SSI and OASDI)	Yes.	*Do not oppose provision.* SSA does not use doctors known to have defrauded Social Security programs or doctors sanctioned by the Medicare or Medicaid programs. For other situations, POMS issued 2/98 includes policy for disregarding evidence if there is reason to believe fraud was involved in providing evidence. --SSA does not recognize disbarred or suspended attorneys for purposes of direct payment of attorney fees. --Commissioner may suspend or prohibit from further practice before the agency any representative who refuses to comply with the agency's rules and regulations.
2b. Require annual evaluation of doctors who conduct consultative exams for patterns of abuse and report findings to the SSA IG.	Yes	*Do not oppose provision.* SSA has similar evaluation process in place.
Prevention of Fraud		
3a. Require SSI recipients whose checks are sent to PO boxes to provide annually, as a condition of continued eligibility, proof of residency (such as a copy of a water, electric, or property tax bill).	Yes.	*Do not oppose provision.* Many individuals--because of safety concerns, lack of a permanent residence, or lack of mail delivery--use P.O. boxes. SSA is currently conducting studies to determine what characteristics may best be used as indicators of potential residency fraud. (Concerns regarding homeless.)
3b Prohibit use of non-medical evidence in SSI and DI disability cases.	Yes.	*Work with Committee to clarify understanding of current practice and determine the extent to which legislation may be appropriate.*
3c. Require payees that represent large numbers of beneficiaries (100 or more cases per year) to report on how funds are spent and factors concerning continued eligibility of beneficiaries. (Both SSI and OASDI)	Yes.	*Support provision in principle; work with Committee to develop mutually acceptable proposal.* Would duplicate current practice with regard to nongovernmental agencies which are required to report annually. Also would require Federal/State institution payees to report annually. (At present these institutions participate in triennial on-site monitoring program.) SSA has pilot program for on-site reviews of large payees.

Serious concerns with provision. Represents a fundamental change in how eligibility is [illegible]

DRAFT
April 24, 1998

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3e. Disqualify from eligibility for SSI disability or DI benefits, individuals convicted of 2 felonies for 10 years; those convicted of three or more felonies would be ineligible for life. Language provides for bar on eligibility for SSI/DI disability benefits if person convicted of crime punishable by imprisonment for 1-year or more. [Draft language indicates applicability to DI benefits may be dropped.]	Yes.	*Oppose provision.* Applying sanctions regardless of the individual's need and current circumstances would be overly harsh. Ten-year and lifetime sanctions could result from multiple felonies in single criminal event early in life. ~~Could increase likelihood that sanctioned individual would return to crime as a means of support~~. DF
Increased Collection of Overpayments		
4a. Replace the 10-percent rule on SSI overpayment recovery. (1) Ten percent would be a floor rather than a ceiling (2) Waivers available up to 10 % of cases, and then only for extreme hardship (3) Waivers are temporary (granted for up to 3 consecutive months in a single case) (4) Waivers not available to organizational payees (5) Floor for collection from organizational payees is 20% (6) SSA may reduce monthly SSI benefit by 100 percent to collect overpayment	Yes	*Oppose provision.* (1) Ten-percent a month limit on overpayment recovery from SSI checks intended to avoid hardship on persons with limited incomes. (2)Not clear how SSA would determine how many would be granted in year and which would be most deserving. (3) Would require recontact and significant redevelopment every 3 months to determine individual's financial situation. Resource intense and could be seen as intrusive. (4) Could harm beneficiary because without waiver, check would be reduced. (5) Could act as disincentive for organizations to act as payees. (6) Withholding 100% would defeat purpose of program which is meant as safety net to provide means for food, clothing, shelter.
4b. Require "netting" in cases of overpayments and underpayments.	Yes	*Defer pending clarification of provision.* Intent of proposal not clear. Legislation not required. "Netting" already takes place in that underpayments are withheld to reduce outstanding overpayments. Systems changes pending to "net" in more cases.

DRAFT
April 24, 1998

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4c. (1) Prohibit eligibility for 10 years if ex-fugitive or ex-prisoner fails to notify SSA at time of (re)application that he or she had received benefits erroneously while in prison. (2) SSA must continue collection efforts while prisoners are in jail.	Yes	*Support provision.*
4d. (1) Require SSA to hold representative payees primarily liable for overpayments if the recipient dies. (2) Prohibit waivers in overpayment cases in which representative payee used benefits in "best interest" of deceased individual.	No	*Not enough information.* We assume proposal would apply only to payments that were received after individual's death. We have concerns about elimination of waiver if funds are used for burial.
4e. Recover SSI overpayments from title II benefits. (Draft language shows this as section 4f.)	Yes	*Support provision.* Proposal sent to Congress on 3/11/98.
4f. Require SSA to use credit reports, collection agencies, etc. to facilitate SSI/DI overpayment collections.	No	*Support provision.* ~~Proposal in high-risk-related legislation pending in OMB.~~ Similar to SSA proposal.
Data Matching		
5a. Require SSA to match with TANF.	No	*Support provision in concept.* Some of same data will be obtained from on-line connections with States. States are still developing TANF data bases and databases vary from State to State. After HHS makes a determination of what data States must collect and have available, SSA will evaluate possible matches.
5b. Amend Computer Matching and Privacy Protection Act to allow matching of program lists to perform broader law enforcement functions.	No	*Not enough information.* Description would seem to allow matches for any purpose. Any exception to the CMPPA should be solely for purposes of assuring the integrity of income-support programs.
5c. Require all prisons to report to SSA for matching. Include prisoner "bounty" payments in OASDI program	No	*Support provision.* Similar SSA proposal was included in legislation approved by OMB and sent to Congress on 5/24/96.
5d. Require SSA to obtain Medicaid data on nursing home residents on at least an annual basis. Compare data against SSI rolls to ensure that nursing home residents are receiving no more than the $30 per month personal needs allowance.	No	*Support provision.* Included in high-risk related legislation. SSA is planning to match twice a year with HCFA. Terms and conditions of the data match should be agreed upon by the Commissioner of SSA and the Secretary of HHS.

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
5e. Require SSA to develop, by no later than 10/1/98, computerized interfaces to access the Office of Child Support Enforcement's New Hire Data Base and Quarterly Wage Data Base, and use this data to detect undisclosed earnings during initial and subsequent determinations of eligibility for SSI. After 1/1/99, SSI eligibility may not begin until the data bases have been checked by SSA.	No	Oppose ~~*Support*~~ *provision*, ~~but specified time frame may be difficult~~ to meet. legislation not necessary
5f. Require SSA to study the feasibility of obtaining computerized information from financial institutions to detect financial accounts that SSI applicants fail to report during the application process and subsequent eligibility determinations. Compare the cost of obtaining this information and the program savings as a result of its use. Report the study results to Congress no later than 9/31/98. If feasible and cost-effective in preventing overpayments, SSA must propose legislation to implement no later than 1/1/99.	No	*Prefer SSA proposal.* SSA proposal would provide necessary facilitating legislation. SSA insert on cost-effectiveness.
Setting a Family Cap and Ending the SSI Marriage Penalty		
6a. Apply family cap as specified in Slattery Commission report.	Yes	*Serious concerns with provision; need to carefully evaluate effect on beneficiaries*. Results in benefit cuts for children. Requires extensive redesign of systems architecture. Could have unintended effects on children in group homes, adopted children, and children with genetic impairments.

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
6b. Bar SSA from valuing in-kind support and maintenance (ISM); apply similar "family cap" reductions as used in Slattery Commission Report for children to other households with multiple unrelated SSI recipients. – Payment for 2 recipients in same household is 150 percent of the single rate (each unmarried recipient would receive 75 percent of the full allowance). – Payment for 3 recipients in same household is 210 percent (70 percent each). -- Payment for 4 recipients is 260 percent (65 percent each). – Payment for 5 recipients is 300 percent (60 percent each). – Each additional recipient above 5 would be eligible for an additional 60 percent of the full SSI benefit.	Yes	*Serious concerns with provision; need to carefully evaluate effect on beneficiaries.* Results in benefit reductions for many keeping the household below the poverty line. Elimination of ISM would simplify program and increase benefits for some Would require extensive redesign of systems architecture. Could have unintended effects on persons in group homes or mutually assistive-care living arrangements. ~~Need more information regarding winners and losers.~~ Note: Preliminary, rough net estimates conclude that proposals may have no budgetary effects over 5 years.
SSA Reform		
7a. Issue new guidelines to disability examiners to help them identify and prevent fraud.	No	*Legislation not required*. POMS guidelines released in February 1998.
7b. Undertake study to identify possible measures to reduce fraud. Report to Congress on legislative improvements to prevent SSI/DI fraud.	Yes	*Legislation not required*. Section 206(g) of P.L. 103-296 already requires reporting related to fraud and information on fraud also included in SSA's annual Accountability Report.
7c. Create specific statutory authority for SSA to contract out to private companies anti-fraud activities and report to Congress on need for funds to carry out activities.	Yes	*Do not object to provision.*
7d. Refer all cases involving potential fraud to OIG	No	*Legislation not necessary*. Current policy and procedures already require referral of fraud cases to OIG.
7e. Adjust FY 1999 discretionary spending limit on non-disability redeterminations.	Yes	*Support provision*. Administration's FY 1999 budget proposal.

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
7f.. Require SSA to adjust medical listings so all meet at least the 2 marked standard required under the welfare reform law.	No	*Serious concerns with the provision* about the rote application of the two "marked" standard to all of the childhood listings. There are listings that use wholly medical criteria which, therefore, would not fit easily into the two "marked" mold, such as the listings for cancer. SSA is committed to updating the listings. However, this process is a lengthy one requiring careful consideration of the latest medical information for each impairment. ~~Note: Preliminary OAct estimates are $820 million program savings over 5 years.~~

US resident

Diana Fortuna 04/28/98 01:42:49 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP

cc: Andrea Kane/OPD/EOP

Subject: You should look at this in the next day or two: SSI reforms proposed by Shaw

Shaw wants SSA's comments on his SSI crackdown proposals. Rumor is he will mark up next week. Here's a quick rundown of SSA's draft positions. There are a couple of tough calls that I am thinking through. Let me know if you see problems here or if you think any of this should go to Bruce, since this is supposed to go to Shaw very soon. OMB and NEC haven't finished their reviews yet. TANF precedents?

DI dropped — can't be at same time

Borderline Calls:

TANF + FS precedents

- If person gives false/misleading information to get SSI benefits, Shaw wants penalties of 1 year for the 1st offense, 10 years for the 2nd, and lifetime ineligibility for the 3rd. SSA says lifetime sanctions are "too harsh and inflexible", and wants lesser penalties of 6 mos, 12 mos, and 24 mos. Not clear if it must be intentionally misleading. Maybe a middle ground?
- Those convicted of 2 felonies are barred from SSI/DI for 10 years; those convicted of 3 or more are ineligible for life. SSA wants to oppose. Best argument against this is someone who commits 3 felonies at 18, goes to jail and cleans up act, and then is injured 20 years later. But would a modified version be acceptable? Emil's initial reaction is that this is not the place to make people repay debt to society. re-elig.

1 incident = 3 felonies

- Apply a family cap, so that additional disabled children/household members get decreasing benefits, rather than the same flat amount for each. SSA wants to express serious concerns, not oppose. I think this proposal can make sense, but SSA doesn't like it because of administrative complexity, and because of two other valid points: this will reduce benefits for children, which have already been significantly reduced in the past year; and could be unfair to those in group home situations.

Tough Proposals SSA Wants to Favor or Not Oppose, and I Concur:

- Bar doctors & attorneys from SSI/DI if they help commit fraud (SSA already does this administratively).
- Require SSI recipients who give a PO box as an address to provide proof of residence annually.
- Establish period of ineligibility for those who transfer assets to qualify for SSI.
- Prohibit eligibility for 10 years if ex-prisoner fails to tell SSA at time of reapplication that he got benefits erroneously while in prison.
- Require SSA to use credit reports, collection agencies to collect overpayments.
- Require SSA to match with TANF and New Hire Database.
- Require prisons to report data to SSA for matching.
- Require SSA to match data with HCFA on nursing home residents (to ensure payments are reduced when person is institutionalized).

SSA Wants to Oppose or Express Concerns About, and I Concur:

- Pay SSA employees $400 per case if they find fraud -- this is their job!
- Prohibit use of non-medical evidence in SSI/DI -- This is a big change, since eligibility for lots of people (kids especially) is determined on the basis of functionality (that's what 2 marked is), and therapists often do this. There may be some compromise here.
- Be much tougher on collecting SSI overpayments. The problem here is that it is very easy for

overpayments to take place without the individual realizing it, as income or household composition changes. I agree with SSA that this is too tough:

- 1. Current cap of 10% per month on how much SSA can withhold from a check would change to 10% floor.
- 2. Limit waivers of overpayments to only 10% of cases.
- 3. Waivers must be temporary.
- 4. SSA can reduce monthly payments by 100% to collect overpayment.

- Hold representative payees responsible for overpayments if recipient dies -- we need to make sure this is only about payments received after the individual's death.
- Require SSA to adjust medical listings so all of them meet the "2 marked" standard -- I agree with SSA because there are many established listings (cancer) that don't meet the 2 marked standard. This would definitely further reduce benefits to children, something we don't need to do. While some can argue that this is what welfare reform required, in fact I believe the agreement was that all the listings would remain as they were, and that the IFA test would be held to the 2 marked standard. Levin is opposing this, I believe. Not sure the R's really get this.

Total Pages: 54

LRM ID: RJP257

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 24, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO:	Legislative Liaison Officer - See Distribution below
FROM:	Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT:	Melinda D. Haskins PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT:	**Social Security Administration Side-by-Side on SSI Program Integrity Proposals to be Included in HR3433, the Ticket to Work and Self-Sufficiency Act of 1998**
DEADLINE:	**4:30 pm Friday, April 24, 1998**

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. **Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.**

COMMENTS: House Ways and Means is expected to mark up H.R. 3433 on April 29th. We understand that the attached amendments regarding SSI program integrity measures will be included in the bill at mark up. Please review the attached SSA side-by-side that discusses these proposals. SSA plans to provide the Committee with this document in advance of the markup.

THIS DEADLINE IS FIRM. IF WE DO NOT HEAR FROM YOU BY THE DEADLINE, WE WILL ASSUME THAT YOU HAVE NO OBJECTON.

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	Pre W-R
FS - 1yr	6 mo
2yr	1yr
Lifetime	—

clear + conv evidence

Intent progr violation

Adm or courts

10yr - TANF residency

DRAFT
April 24, 1998

Human Resources Subcommittee Legislative Proposals

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
Creation of New Administrative Sanction Process		
1a. Create process to evaluate fraud within SSA. Require SSA to refer all allegations of fraud under existing procedures applicable to civil monetary penalty provisions in SS Act §1129 administered by OIG, which requires referral to U.S. Attorney for imposition of sanctions before consideration of CMP.	Yes	*Prefer SSA proposal* which would have field office impose sanctions rather than OIG. *Work with Committee.*
1b. Prohibit eligibility for 1 year if fraud is found. Subsequent cases would result in 10 year and lifetime ineligibility for the second and third offenses respectively. Applies only to disability benefits (SSI and OASDI)	Yes.	*Prefer SSA proposal; work with Committee* Lifetime sanctions too harsh and inflexible. Work with Committee to develop proposal that has bipartisan support. *
1c. Making false U.S. residency statement would result in a 10-year prohibition of SSI eligibility. =TANF ??	Yes.	*Oppose provision.* Penalty under SSA administrative sanction proposal for alleging U.S. residence would be the same as for other offenses. No apparent reason to treat falsifications of residence more harshly than other misrepresentations. (Concerns regarding homeless.) *
1d. Create a financial reward system ($400 per case) for SSA workers and State DDS employees whose report of fraud or program abuse results in the ineligibility of an individual to collect benefits. Applies only with regard to disability cases (SSI and OASDI)	Yes.	*Oppose provision.* Fraud detection already function of employees. Could result in conflict of interest regarding SSA's handling of evidence.

1. In Subcommittee draft, 4/22/98

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April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
Prevention of Professional Abuse		
2a. Bar doctors and attorneys from SSI/DI program if found to help commit fraud. Language provides for 5-yrs., 10 yrs., and permanent exclusion for 1st, 2nd, and 3rd offenses respectively if person found to have made false or misleading statement or purposely omitted facts. Applies only to disability cases (SSI and OASDI)	Yes.	*Do not oppose provision.* SSA does not use doctors known to have defrauded Social Security programs or doctors sanctioned by the Medicare or Medicaid programs. For other situations, POMS issued 2/98 includes policy for disregarding evidence if there is reason to believe fraud was involved in providing evidence. --SSA does not recognize disbarred or suspended attorneys for purposes of direct payment of attorney fees. --Commissioner may suspend or prohibit from further practice before the agency any representative who refuses to comply with the agency's rules and regulations.
2b. Require annual evaluation of doctors who conduct consultative exams for patterns of abuse and report findings to the SSA IG.	Yes	*Do not oppose provision.* SSA has similar evaluation process in place.
Prevention of Fraud		
3a. Require SSI recipients whose checks are sent to PO boxes to provide annually, as a condition of continued eligibility, proof of residency (such as a copy of a water, electric, or property tax bill).	Yes.	*Do not oppose provision.* Many individuals--because of safety concerns, lack of a permanent residence, or lack of mail delivery--use P.O. boxes. SSA is currently conducting studies to determine what characteristics may best be used as indicators of potential residency fraud. (Concerns regarding homeless.)
3b Prohibit use of non-medical evidence in SSI and DI disability cases.	Yes. Stronger	*Work with Committee to clarify understanding of current practice and determine the extent to which legislation may be appropriate.*
3c. Require payees that represent large numbers of beneficiaries (100 or more cases per year) to report on how funds are spent and factors concerning continued eligibility of beneficiaries. (Both SSI and OASDI) advocs: bad to have rep payee rpt on elig	Yes.	*Support provision in principle; work with Committee to develop mutually acceptable proposal.* Would duplicate current practice with regard to nongovernmental agencies which are required to report annually. Also would require Federal/State institution payees to report annually. (At present these institutions participate in triennial on-site monitoring program.) SSA has pilot program for on-site reviews of large payees.

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April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
3d. Establish period of SSI ineligibility for transfer of assets.	Yes.	*Support provision.* Essentially the same as SSA proposal which was approved by OMB and sent to Congress in FY 1996.
3e. Disqualify from eligibility for SSI disability or DI benefits, individuals convicted of 2 felonies for 10 years; those convicted of three or more felonies would be ineligible for life. Language provides for bar on eligibility for SSI/DI disability benefits if person convicted of crime punishable by imprisonment for 1-year or more. [Draft language indicates applicability to DI benefits may be dropped.]	Yes.	*Oppose provision.* Applying sanctions regardless of the individual's need and current circumstances would be overly harsh. Ten-year and lifetime sanctions could result from multiple felonies in single criminal event early in life. Could increase likelihood that sanctioned individual would return to crime as a means of support.
Increased Collection of Overpayments		
4a. Replace the 10-percent rule on SSI overpayment recovery. (1) Ten percent would be a floor rather than a ceiling (2) Waivers available up to 10 % of cases, and then only for extreme hardship (3) Waivers are temporary (granted for up to 3 consecutive months in a single case) (4) Waivers not available to organizational payees (5) Floor for collection from organizational payees is 20% (6) SSA may reduce monthly SSI benefit by 100 percent to collect overpayment	Yes	*Oppose provision.* (1) Ten-percent a month limit on overpayment recovery from SSI checks intended to avoid hardship on persons with limited incomes. (2) Not clear how SSA would determine how many would be granted in year and which would be most deserving. (3) Would require recontact and significant redevelopment every 3 months to determine individual's financial situation. Resource intense and could be seen as intrusive. (4) Could harm beneficiary because without waiver, check would be reduced. (5) Could act as disincentive for organizations to act as payees. (6) Withholding 100% would defeat purpose of program which is meant as safety net to provide means for food, clothing, shelter.
4b. Require "netting" in cases of overpayments and underpayments.	Yes	*Defer pending clarification of provision.* Intent of proposal not clear. Legislation not required. "Netting" already takes place in that underpayments are withheld to reduce outstanding overpayments. Systems changes pending to "net" in more cases.

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POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
4c. (1) Prohibit eligibility for 10 years if ex-fugitive or ex-prisoner fails to notify SSA at time of (re)application that he or she had received benefits erroneously while in prison. (2) SSA must continue collection efforts while prisoners are in jail.	Yes	*Support provision.*
4d. (1) Require SSA to hold representative payees primarily liable for overpayments if the recipient dies. (2) Prohibit waivers in overpayment cases in which representative payee used benefits in "best interest" of deceased individual.	No	*Not enough information.* We assume proposal would apply only to payments that were received after individual's death. We have concerns about elimination of waiver if funds are used for burial.
4e. Recover SSI overpayments from title II benefits. (Draft language shows this as section 4f.)	Yes	*Support provision.* Proposal sent to Congress on 3/11/98.
4f. Require SSA to use credit reports, collection agencies, etc. to facilitate SSI/DI overpayment collections.	No	*Support provision.* Proposal in high-risk-related legislation pending in OMB.
Data Matching		
5a. Require SSA to match with TANF.	No	*Support provision in concept.* Some of same data will be obtained from on-line connections with States. States are still developing TANF data bases and databases vary from State to State. After HHS makes a determination of what data States must collect and have available, SSA will evaluate possible matches.
5b. Amend Computer Matching and Privacy Protection Act to allow matching of program lists to perform broader law enforcement functions.	No	*Not enough information.* Description would seem to allow matches for any purpose. Any exception to the CMPPA should be solely for purposes of assuring the integrity of income-support programs.
5c. Require all prisons to report to SSA for matching. Include prisoner "bounty" payments in OASDI program	No	*Support provision.* Similar SSA proposal was included in legislation approved by OMB and sent to Congress on 5/24/96.
5d. Require SSA to obtain Medicaid data on nursing home residents on at least an annual basis. Compare data against SSI rolls to ensure that nursing home residents are receiving no more than the $30 per month personal needs allowance.	No	*Support provision.* Included in high-risk related legislation. SSA is planning to match twice a year with HCFA.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
5e. Require SSA to develop, by no later than 10/1/98, computerized interfaces to access the Office of Child Support Enforcement's New Hire Data Base and Quarterly Wage Data Base, and use this data to detect undisclosed earnings during initial and subsequent determinations of eligibility for SSI. After 1/1/99, SSI eligibility may not begin until the data bases have been checked by SSA.	No	*Support provision*, but specified time frame may be difficult to meet.
5f. Require SSA to study the feasibility of obtaining computerized information from financial institutions to detect financial accounts that SSI applicants fail to report during the application process and subsequent eligibility determinations. Compare the cost of obtaining this information and the program savings as a result of its use. Report the study results to Congress no later than 9/31/98. If feasible and cost-effective in preventing overpayments, SSA must propose legislation to implement no later than 1/1/99.	No	*Prefer SSA proposal.* SSA proposal would provide necessary facilitating legislation.
Setting a Family Cap and Ending the SSI Marriage Penalty		
6a. Apply family cap as specified in Slattery Commission report. flat or graduated	Yes	*Serious concerns with provision; need to carefully evaluate effect on beneficiaries.* Results in benefit cuts for children. Requires extensive redesign of systems architecture. Could have unintended effects on children in group homes, adopted children, and children with genetic impairments.

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
6b. Bar SSA from valuing in-kind support and maintenance (ISM); apply similar "family cap" reductions as used in Slattery Commission Report for children to other households with multiple unrelated SSI recipients. -- Payment for 2 recipients in same household is 150 percent of the single rate (each unmarried recipient would receive 75 percent of the full allowance). -- Payment for 3 recipients in same household is 210 percent (70 percent each). -- Payment for 4 recipients is 260 percent (65 percent each). -- Payment for 5 recipients is 300 percent (60 percent each). -- Each additional recipient above 5 would be eligible for an additional 60 percent of the full SSI benefit.	Yes	*Serious concerns with provision; need to carefully evaluate effect on beneficiaries*. Results in benefit reductions for many keeping the household below the poverty line. Elimination of ISM would simplify program and increase benefits for some. Would require extensive redesign of systems architecture. Could have unintended effects on persons in group homes or mutually assistive-care living arrangements. Need more information regarding winners and losers. Note: Preliminary, rough net estimates conclude that proposals may have no budgetary effects over 5 years.
SSA Reform		
7a. Issue new guidelines to disability examiners to help them identify and prevent fraud.	No	*Legislation not required*. POMS guidelines released in February 1998.
7b. Undertake study to identify possible measures to reduce fraud. Report to Congress on legislative improvements to prevent SSI/DI fraud.	Yes	*Legislation not required*. Section 206(g) of P.L. 103-296 already requires reporting related to fraud and information on fraud also included in SSA's annual Accountability Report.
7c. Create specific statutory authority for SSA to contract out to private companies anti-fraud activities and report to Congress on need for funds to carry out activities.	Yes	*Do not object to provision*.
7d. Refer all cases involving potential fraud to OIG	No	*Legislation not necessary*. Current policy and procedures already require referral of fraud cases to OIG.
7e. Adjust FY 1999 discretionary spending limit on non-disability redeterminations.	Yes	*Support provision*. Administration's FY 1999 budget proposal.

DRAFT
April 24, 1998

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE?[1]	SSA COMMENTS
7f.. Require SSA to adjust medical listings so all meet at least the 2 marked standard required under the welfare reform law.	No	*Serious concerns with the provision* about the rote application of the two "marked" standard to all of the childhood listings. There are listings that use wholly medical criteria which, therefore, would not fit easily into the two "marked" mold, such as the listings for cancer. SSA is committed to updating the listings. However, this process is a lengthy one requiring careful consideration of the latest medical information for each impairment. **Note**: Preliminary OAct estimates are $820 million program savings over 5 years.

DRAFT SSI/DI Reform Proposals[1]
April 21, 1998

1. Creation of new administrative sanction process
   a. Create a new administrative sanctions process to evaluate whether individuals have fraudulently claimed benefits; require SSA to refer all allegations of fraud to the new SSA review process, conducted by administrative law judges.
   b. Finding of fraud through this process will result in loss of eligibility; restrictions would be 1 year for first occasion, 10 years for second, and lifetime ineligibility for third.
   c. As in section 201 of the welfare reform law (Section 1611(e)(4)(A) and (B) of the Social Security Act), a finding that an individual has made a false residency statement (in this case in a state while residing in another country) in order to collect benefits to which he is not entitled will result in a 10 year loss of eligibility.
   d. Create a financial reward system ($400 per case) for SSA workers and state DDS employees whose report of fraud or program abuse results in the ineligibility of an individual to collect benefits (similar to the "Herger bounty" provision in section 203 of the 1996 welfare reform law--Section 1611(e)(1)(I)).

2. Prevention of professional abuse
   a. Doctors and attorneys who commit fraud in helping individuals qualify for benefits are barred from future SSI/DI activity (similar to current law Medicare provision).
   b. Require DDSs to annually evaluate the performance of consultative examiners (CEs) for patterns of program abuse and report findings of possible abuse to the SSA IG.

3. Prevention of fraud
   a. SSA must require SSI recipients who have their checks sent to P.O. boxes to provide, as a condition of continued eligibility and on at least an annual basis, proof of residency (such as a copy of a water, electric, or property tax bill).
   b. Reduce subjectivity in eligibility determinations by requiring that determinations be based on medical evidence (defined as evidence provided by a doctor, psychiatrist or other medical professional not related to the applicant/beneficiary).
   c. Require large representative payees (handling 100 or more cases during the course of a given year) to submit an annual report to SSA of how funds have been spent, and on the continued eligibility of recipients.
   d. Prohibit asset transfers that facilitate SSI eligibility (follow provision in Medicaid law, section 1917(c): (a) transfers made within 3 years of application or receiving SSI benefits should be treated as a financial resource of the person making the transfer; and (b) benefits should not be paid until the cumulative amount of benefits that would have been paid equals the uncompensated value of the transferred asset).
   e. Status as a "career criminal" (showing ability to "work") disqualifies individual from

[1]All references to benefits or beneficiaries are to SSI/DI unless otherwise noted. Note that this list is preliminary and in all likelihood includes a number of provisions that may be changed significantly or not included in legislation to be marked up.

eligibility. For example, individuals convicted of 2 felonies are barred for 10 years. Those convicted of three or more felonies would be ineligible for life.

4. Increased collection of overpayments
   a. Replace the current SSI "10 percent rule" (which limits to no more than 10 percent the amount by which a monthly SSI benefit may be reduced to repay past overpayments) with the following: (1) 10 percent recovery of overpayments would be a floor rather than a ceiling; (2) waivers of collection are only available in up to 10 percent of all cases, and then only for "extreme hardship"; (3) waivers of collection are temporary, that is, can only be granted for up to 3 consecutive months in any single case; (4) waivers of collection of overpayments are not available to organizational payees (for example states, counties, and nursing homes); (5) the floor for collection of overpayments from organizational payees is 20 percent; and (6) SSA may reduce the monthly SSI benefit by as much as 100 percent in any case in order to collect an overpayment.
   b. Require "netting" in all cases, so that lump sum payments are reduced for purposes of collecting past overpayments; the floor for recovery of overpayments from lump sums is 50 percent (so that at least 50 percent of the lump sum, if necessary, must be offset to repay the overpayment due); up to 100 percent of the lump sum may be offset to collect a past overpayment.
   c. Fugitives and prisoners are specifically required to repay overpayments (thus, SSA may not grant them a waiver of collections); failure by a fugitive or past prisoner to notify SSA at the time of (re)application of prior collection of benefits while a prisoner or a fugitive will result in a 10 year loss of eligibility; failure by a fugitive or past prisoner to agree to and abide by a repayment schedule (under the conditions specified in 4a above) will result in a 10 year loss of eligibility. SSA must continue collection efforts while prisoners are in jail.
   d. Require SSA to hold representative payees primarily liable for overpayments if the recipient dies; prohibit waiver of collection of funds used "in the best interests" of dead beneficiaries.
   e. Administration proposal on recovery of SSI overpayments from OASDI benefits, except that overpayments must be offset from OASDI benefits.
   f. Require SSA to use credit bureau reports, debt collection (including by private debt collection agencies), state and federal intercepts and other means deemed effective by the Secretary to facilitate collection of overpayments.

5. Data matching
   a. Require SSA to match SSI data with TANF receipt.
   b. Amend Computer Matching and Privacy Protection Act to allow matching of program lists to perform broader law enforcement functions: 5 USC 552a(a)(8)(B)(iii) would read "matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws."
   c. Require all (county, state, and federal) prisons to report data lists to SSA for matching; the Herger "bounty" provision continues, as amended to include payments for OASDI.
   d. SSA is required to obtain Medicaid data on nursing home residents on at least an annual basis, and to compare that data against SSI rolls to ensure that nursing home residents are receiving no more than the $30 per month SSI personal needs allowance.
   e. Require SSA to develop, by no later than October 1, 1998, computerized interfaces necessary

to access the Office of Child Support Enforcement's New Hire Data Base and Quarterly Wage Data Base, and use this data (in accordance with applicable security and privacy laws and regulations) to detect undisclosed earnings during initial and subsequent determinations of eligibility for the SSI program. After January 1, 1999, eligibility for benefits may not begin until the data bases have been checked by SSA.

f. Require SSA to study the feasibility of obtaining computerized information from financial institutions to detect financial accounts that SSI applicants do not report during the application process and during subsequent determinations of eligibility. The study should compare the cost of obtaining this information and the program savings achievable as a result of its use. SSA must report the results of the study to Congress by no later than September 31, 1998. If SSA finds that obtaining this information is technologically feasible and would be cost-effective in preventing overpayments, then SSA must propose legislation to implement this change to the House Ways and Means and Senate Finance Committees by no later than January 1, 1999.

6. Setting a family cap and ending the SSI marriage penalty
   a. Apply the SSI family cap specified in Slattery Commission Report.
   b. Bar SSA from valuing in-kind support and maintenance (ISM); apply similar "family cap" reductions as used in Slattery Commission Report for children to other households with multiple SSI recipients who are unrelated. Thus, the payment for 2 SSI recipients in the same household is 150 percent of the single rate (the same as the payment for married couples; each unmarried recipient in the same household would receive 75 percent of the full allowance), the payment for 3 is 210 percent (70 percent each), for 4 is 260 percent (65 percent each), and for 5 is 300 percent (60 percent each). Each additional recipient in a household above 5 would be eligible for an additional 60 percent of the full SSI benefit

7. SSA reform
   a. Require SSA to issue new guidelines to disability examiners to help them identify and prevent SSI/DI fraud.
   b. Require SSA to report to Congress on legislative improvements to prevent SSI/DI fraud.
   c. Create specific statutory authority for SSA to contract out to private companies (such as private investigators) anti-fraud activities. If SSA believes that it lacks resources to adequately carry out these functions, SSA shall report to Congress annually on the amount of funds needed to effectively combat fraud.
   d. Require all cases involving potential fraud to be referred to the SSA OIG.
   e. Administration proposal to adjust FY 1999 discretionary spending limit for non-disability redeterminations.
   f. Require SSA to adjust the medical listings so all meet at least the 2 marked standard required under the welfare reform law.

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4/30/98

A BILL

To make improvements in the administration of the Supplemental Security Income program, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Supplemental Security Income Program Integrity Act of 1998".

SEC. 2. COMPUTER MATCHES WITH MEDICARE AND MEDICAID INSTITUTIONALIZATION DATA.

(a) In General.--Section 1611(e)(1) of the Social Security Act is amended by adding at the end the following new subparagraph:

"(J) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under title XVIII or XIX of this Act. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i).".

(b) Conforming Amendment.--Section 1611(e)(1)(G) is amended by striking "subparagraph (H)" and inserting "subparagraph (H) or (J)".

SEC. 3. ACCESS TO INFORMATION HELD BY FINANCIAL INSTITUTIONS.

(a) In General.--Section 1631(e)(1)(B) of the Social Security Act is amended--

(1) by striking "(B)" and inserting "(B)(i)"; and

(2) by adding at the end the following new clause:

"(ii) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this title to provide authorization by such applicant or recipient (or by any other person whose income or resources are material to the determination of the individual's eligibility) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act) from any financial institution (within the meaning of section 1101(1) of such Act) any financial record (within the meaning of section 1101(2) of such Act) held by such institution respecting such applicant or recipient (or any other person whose income or resources are material to the determination of the individual's eligibility) whenever the Commissioner determines such record is needed in connection with a determination respecting the individual's eligibility for benefits under this title (whether initial or continuing) or respecting the amount of such benefits. Such authorization shall, notwithstanding paragraph (1) of section 1104(a) of such Act, remain effective until--

"(I) a final adverse decision is rendered on the individual's application for eligibility for benefits under this title, "(II) the individual's eligibility for benefits under this title ceases, or

"(III) the individual (or such other person) expressly revokes the authorization in a written notification to the Commissioner,

whichever occurs first. Authorizations obtained by the Commissioner pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act for the purpose of section 1103(a) of such Act and need not be furnished to the financial institution notwithstanding such requirement in section 1104(a) of such Act. The certification requirements of section 1103(b) of such Act shall not apply to requests by the Commissioner pursuant to an authorization obtained under this clause. Any requests by the Commissioner pursuant to an authorization obtained under this clause shall be deemed to meet the requirements of section 1104(a)(3) and the flush language of section 1102 of the Right to Financial Privacy Act. The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization under this clause.".

(b) Effective Date.--(1) In General.-The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) Transitional Rule for Current Recipients. The Commissioner of Social Security may obtain certifications from current recipients either by obtaining from each such recipient

authorizations described in section 1631(e)(1)(B)(ii) (as added by this act) or through an interim certification process.

(3) Interim Certification Process. Under this process, the Commissioner may obtain authorization from a recipient on an interim basis by sending a notice informing the recipient that, unless the recipient notifies the Social Security Administration in writing that he or she withholds authorization, the recipient shall be deemed to authorize the Commissioner of Social Security to obtain information concerning his or her financial accounts from any financial institution for the purpose of determining the recipient's continued eligibility for and amount of benefits under this title. Such deemed authorization shall be effective beginning 30 days after the Commissioner provides such notice and ending on the date that--

(i) the individual's eligibility for benefits under this title ceases,

(ii) the individual revokes the authorization in a written notification to the Commissioner, or

(iii) a superseding written authorization is executed by the individual,

whichever occurs first.

(4) Current recipient defined. For the purposes of paragraph (2), a current recipient is an individual who is eligible for benefits under title XVI based on an application filed before 60 days after enactment who has not provided an authorization under section 1631(e)(1)(B)(ii) as added by this

Act.

SEC. 4. STATE DATA EXCHANGES.

~~(a)~~ Privacy Standards.--Whenever the Commissioner of Social Security requests information from a State for the purpose of ascertaining an individual's eligibility for benefits (or the correct amount of such benefits) under title XVI of the Social Security Act, the standards of the Commissioner promulgated pursuant to section 1106 of the Social Security Act or any other Federal law for the use, safeguarding, and disclosure of information shall be deemed to meet any standards of the State that would otherwise apply to the disclosure of information by the State to the Commissioner.

delete

~~(b) Grants.--(1) The Commissioner of Social Security may make grants to States to enhance their electronic data exchange capabilities. Such grants may take the form of cash assistance, technical assistance services, or equipment.~~

~~(2) For the purpose of carrying out paragraph (1), there is authorized to be appropriated $_______ for fiscal year 1999 and the ______ succeeding fiscal years.~~

SEC. 5. ACCELERATED PROVISION OF STATE DEATH DATA.

(a) In General.--Section 6103(d)(4)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting "within 30 days following such filing" after "it".

(b) Technical Amendments.--Subparagraphs (A) and (B) of section 6103(d)(4) of such Code are amended by striking "Secretary of Health and Human Services" each place it appears respectively,";

(iii) by striking "subparagraph (B)" and inserting "clause (ii)"; and

(iv) by striking "paragraph (2)" and inserting "subparagraph (B)";

(3) in subparagraph (A)(ii)--

(i) by striking "by the State agency"; and

(ii) by striking "section 1917(c)" and all that follows and inserting "paragraph (1) or section 1917(c)."; and

(4) in subparagraph (B), by striking "paragraph (1)(B)" and inserting "subparagraph (A)(ii)".

(c) Effective Date.--The amendments made by this section shall be effective with respect to transfers of resources for less than fair market value that on or after the date of enactment of this Act.

SEC. 10. LOSS OF BENEFITS FOR PROGRAM VIOLATIONS.

(a) In General.--Title XI of the Social Security Act is amended by inserting after section 1129 the following section:

"SEC. 1129A. NONPAYMENT OF BENEFITS UNDER TITLES II AND XVI FOR FALSE OR MISLEADING STATEMENTS OR OMISSIONS.

"(a) In General.--Any person 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 or the amount of -

"(A) monthly insurance benefits under title II, or

"(B) 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 or makes such a statement with knowing disregard for the truth shall be subject to a penalty described in subsection (b) to be imposed by the Commissioner of Social Security.

"(b) Penalty.--The penalty described in this subsection is--

"(1) nonpayment of benefits under title II that would otherwise be payable to such individual, and

"(2) ineligibility for cash benefits under title XVI,

for each month during the applicable period that begins and ends as specified in subsection (c).

"(c) Duration of Penalty.--The duration of the penalty described in subsection (b) shall be--

"(A) 6 consecutive months, in the case of a first determination by the Commissioner described in subsection (a) respecting such individual;

"(B) 12 consecutive months, in the case of a second determination by the Commissioner described in subsection (a) respecting such individual; and

"(C) 24 consecutive months, in the case of a third or subsequent determination by the Commissioner described in paragraph (1) respecting such individual.

"(d) Effect on Other Assistance.--An individual subject to a period of nonpayment of title II or ineligibility for title XVI benefits pursuant to this section, nevertheless shall be considered to be receiving such benefits for the purposes of--

"(1) determination of the eligibility of such an individual for benefits under title XVIII and title XIX; and

"(2) determination of the eligibility or amount of benefits payable under title II or title XVI to another individual.

"(e) Definition.--For purposes of this section, the term 'benefits under title XVI' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616(a) or this Act or section 212(b) of Public Law 93-66).".

(b) Conforming Amendment Precluding Delayed Retirement Credit for any Month to Which a Nonpayment of Benefits Penalty Applies.--Section 202(w)(2)(B) of such Act is amended--

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting ", and"; and

(3) by adding at the end the following new clause:

"(iii) such individual was not subject to any nonpayment of benefits penalty imposed pursuant to section 1129A.".

(c) The amendments made by this section shall be effective upon the date of the enactment of this Act.