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LRM ID: MDH178

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

URGENT

Thursday, April 30, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: *Janet R. Forsgren*
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 Draft Bill on Supplemental Security Income Program Integrity Act of 1998**

DEADLINE: 2:30 pm Thursday, April 30, 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: Attached is the REVISED SSA draft bill on SSI program integrity. SSA has requested OMB clearance to transmit this draft bill today.

"Must changes only." If you provide comments, they must be specific edits to the legislative language, transmittal letter, or section-by-section.

This deadline is firm. If we do not hear from you by the deadline, we will assume that you have no objection.

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LRM ID: MDH178 SUBJECT: REVISED Social Security Administration Draft Bill on Supplemental Security Income Program Integrity 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

7/778

The Honorable Newt Gingrich
Speaker of the House
of Representatives
Washington, DC 20515

Dear Mr. Speaker:

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

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

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

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

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

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

Sections 2 through 6 of the draft bill are intended to improve the Social Security Administration's ability to ascertain

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

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

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

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

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

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

We are advised by the Office of Management and Budget that there is no objection to the submission of this draft bill to the Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

Kenneth S. Apfel
Commissioner of Social
Security

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Enclosures

4/30/98

A B I L L

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.

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(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,

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"(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.

~~(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

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and inserting "Commissioner of Social Security".

SEC. 6. PRISONER REPORTING REQUIREMENT.

(a) Amendments to Title XVI of the Social Security Act.--
Section 1611(e)(1) of the Social Security Act (as previously
amended by this Act) is further amended--

(1) in subparagraph (I)(ii), by striking "(I)" and all
that follows through "(II)"; and

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

"(K) Any agency of the United States Government or of any
State (or political subdivision thereof) shall make available to
the Commissioner of Social Security, upon request, the name and
social security account number of any individual who is confined
as described in section 202(x)(1)(A) if the confinement is under
the jurisdiction of such agency and the Commissioner of Social
Security requires such information to carry out the provisions of
this subsection.".

(b) Amendment to Title 5, United States Code.--Section
552a(a)(8)(B) of title 5, United States Code, is amended--

- (1) by striking "or" at the end of clause (vi);
- (2) by adding "or" at the end of clause (vii); and
- (3) by adding at the end the following new clause:

"(viii) matches performed pursuant to
subparagraph (I) or (K) of section 1611(e)(1) of
the Social Security Act.".

SEC. 7. ADDITIONAL DEBT COLLECTION PRACTICES.

(a) In General.--Section 1631(d)(1) of the Social Security Act is amended by striking "section 207" and inserting "section 207, section 204(f),".

(b) Effective Date.--The amendment made by this section shall apply to debt outstanding on or after the date of the enactment of this Act.

SEC. 8. TREATMENT OF ASSETS HELD IN TRUST.

(a) Treatment as Resource.--Section 1613 of the Social Security Act is amended by adding at the end the following new subsection:

"Trusts

"(e)(1) In determining the resources of an individual, the provisions of paragraph (3) shall apply to a trust established by such individual.

"(2)(A) For purposes of this subsection, an individual shall be considered to have established a trust if any assets of the individual (or the individual's spouse) were transferred to the trust.

"(B) In the case of an irrevocable trust to which were transferred the assets of an individual (or the individual's spouse) and the assets of any other person or persons, the provisions of this subsection shall apply to the portion of the trust attributable to the assets of the individual (or the individual's spouse).

"(C) This subsection shall apply without regard to--

"(i) the purposes for which the trust is established;

"(ii) whether the trustees have or exercise any discretion under the trust;

"(iii) any restrictions on when or whether distributions may be made from the trust; or

"(iv) any restrictions on the use of distributions from the trust.

"(3) (A) In the case of a revocable trust, the corpus of the trust shall be considered a resource available to the individual.

"(B) In the case of an irrevocable trust, if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual or the individual's spouse, the portion of the corpus from which payment to or for the benefit of the individual or the individual's spouse could be made shall be considered a resource available to the individual.

"(4) The Commissioner may waive the application of this subsection with respect to any individual if the Commissioner determines that such application would work an undue hardship on such individual.

"(5) For purposes of this subsection--

"(A) the term 'trust' includes any legal instrument or device that is similar to a trust;

"(B) the term 'corpus' means all property and other interests held by the trust, including accumulated earnings and any other addition to such trust after its establishment (except that such term does not include any such earnings or addition in the month in which such earnings or addition is

credited or otherwise transferred to the trust);

"(C) the term 'asset' includes any income or resource of the individual or the individual's spouse, including--

"(i) any income otherwise excluded by section 1612(b),

"(ii) any resource otherwise excluded by this section; and

"(iii) any other payment or property that the individual or the individual's spouse is entitled to but does not receive or have access to because of action by--

"(I) such individual or spouse;

"(II) a person or entity (including a court) with legal authority to act in place of, or on behalf of, such individual or spouse; or

"(III) a person or entity (including a court) acting at the direction of, or upon the request of, such individual or spouse; and

"(D) the term 'benefits under this title' includes State supplementary payments which are paid by the Commissioner pursuant to an agreement under section 1616(a) of this Act or section 212(b) of Public Law 93-66.

"(6) For provisions respecting the penalty that may apply to an individual who transfers an asset to a trust, see subsection (c) (1) (especially subparagraphs (A) and (D) thereof).".

(b) Treatment as Income.--Section 1612(a) (2) of such Act is

amended--

- (1) by striking "and" at the end of subparagraph (E);
- (2) by striking the period at the end of subparagraph (F) and inserting "; and"; and
- (3) by adding at the end the following new subparagraph:

"(G) any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of paragraph (2)(A) of section 1613(e)) and of which such individual is a beneficiary (other than a trust to which paragraph (4) of such section applies) (provided, in the case of an irrevocable trust, that there exist circumstances under which payment from such earnings or additions could be made to, or for the benefit of, such individual). For purposes of this subparagraph, the terms 'trust' and 'corpus' have the meanings given them in section 1613(e)(5).".

(c) Effective Date.--The amendments made by this section shall take effect on January 1, 1999, and shall apply to trusts established on or after such date.

SEC. 9. DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.

(a) In General.--Section 1613(c) of the Social Security Act is amended--

- (1) in the caption, by striking "Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on";

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(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(3) by striking "(2)" and inserting "(B)";

(4) by striking "(c) (1)" and inserting "(2) (A)";

(5) by inserting before paragraph (2) (as redesignated by paragraph (4) of this subsection) the following:

"(c) (1) Penalty.--

"(A) (i) If an individual or the spouse of such an individual disposes of resources for less than fair market value on or after the look-back date specified in subclause (I) of clause (ii), the individual is ineligible for benefits under this title for months during the period beginning on the date specified in clause (iii) and equal to the number of months specified in clause (iv).

"(ii) (I) The look-back date specified in this subclause is a date that is 36 months before the date specified in subclause (II).

"(II) The date specified in this subclause is the date on which the individual applies for benefits under this title or, if later, the date on which the individual (or the spouse of such individual) disposes of resources for less than fair market value.

"(iii) The date specified in this clause is the first day of the first month that follows the month in which resources were transferred for less than fair market value and that does not occur in any other period of ineligibility

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under this paragraph.

"(iv) The number of months of ineligibility under this clause shall be equal to--

"(I) the total, cumulative uncompensated value of all resources transferred by the individual (or the spouse of such individual) on or after the look-back date specified in subclause (I) of clause (ii), divided by

"(II) the amount of the maximum monthly benefit payable under section 1611(b) for the month in which occurs the date specified in subclause (II) of clause (ii),

and rounded up, in the case of any fraction, to the next whole number.

"(B) An individual shall not be ineligible for benefits under this title by reason of subparagraph (A) if the Commissioner determines that--

"(i) the resources were transferred exclusively for a purpose other than to qualify for benefits under this title; or

"(ii) the denial of eligibility would work an undue hardship on the individual.

"(C) For purposes of this paragraph, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such

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resource) shall be considered to be transferred by such individual when any action is taken, either by such individual or by any other person, that reduces or eliminates such individual's ownership or control of such resource.

"(D) (i) Notwithstanding subparagraph (A), this subsection shall not apply to a transfer of a resource to a trust if the portion of the trust attributable to such resource is considered a resource available to the individual pursuant to subsection (e) (3) (or would be so considered, but for the application of subsection (e) (4)).

"(ii) In the case of a trust established by an individual or the individual's spouse (within the meaning of paragraph (2) (A) of subsection (e)), if from such portion of the trust, if any, that is considered a resource available to the individual pursuant to paragraph (3) of such subsection (or would be so considered but for the application of paragraph (4) of such subsection) or the residue of such portion upon the termination of the trust--

"(I) there is made a payment other than to or for the benefit of the individual, or

"(II) no payment could under any circumstance be made to the individual,

then the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual's

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spouse subject to this subsection, as of the date of such payment or foreclosure, respectively.

"(E) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for such individual under subparagraph (A) or (D)(ii), the Commissioner shall apportion such period of ineligibility (or any portion of such period) among the individual and the individual's spouse if the spouse otherwise becomes eligible for benefits under this title.

"(F) For purposes of this paragraph--

"(i) the term 'benefits under this title' includes State supplementary payments made by the Commissioner pursuant to an agreement under section 1616 or section 212(b) of Public Law 93-66); and

"(ii) the term 'trust' has the meaning given such term in subsection (e)(5)(A).".

(b) Conforming Amendments.--Section 1613(c)(2) of the Social Security Act (as redesignated by subsection (a) of this section) is amended--

(1) by striking "(2)(A)" and inserting "(2) Notice; Availability of Information.--(A)";

(2) in subparagraph (A)(i)--

(i) by inserting "paragraph (1) and" after "provisions of";

(ii) by striking "title XIX" the first place such phrase appears and inserting "this title and title XIX,

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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,

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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--

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"(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.

4/30/98

Supplemental Security Income Program Integrity Act of 1998

Section-by-Section Summary

Short Title

Section 1 would provide that the Act may be cited as the "Supplemental Security Income Program Integrity Act of 1998."

Computer Matches with Medicaid Institutionalization Data

Section 2 would require the Commissioner of Social Security to conduct periodic matches with Medicare and Medicaid data held by the Secretary of Health and Human Services, and would authorize the Commissioner to substitute information from the matches for the physician's certification otherwise required in order to maintain the full benefit level of an individual whose institutionalization is expected to last fewer than three months.

Access to Information Held by Financial Institutions

Section 3 would provide that the Commissioner of Social Security may request applicants and recipients to provide authorization for the Commissioner to obtain any and all financial records from any and all financial institutions. These authorizations would be valid during the pendency of an application and during eligibility for benefits unless revoked in writing. The Commissioner need not furnish to the financial institution copies of the authorizations or written certification of compliance with the provisions of the Right to Financial Privacy Act. The Commissioner may obtain information about the financial records of current recipients after providing them notice.

State Data Exchanges

Subsection (a) of section 4 would deem the Social Security Administration's data privacy standards to meet all State standards for purposes of sharing data.

Subsection (b) would authorize grants to States to enhance their electronic data exchange capabilities.

Accelerated Provision of State Death Data

Section 5 would require States having contracts with the Commissioner of Social Security for the provision of death data to provide the data within 30 days of its receipt.

Prisoner Reporting Requirement

This section requires Federal, State, and local institutions incarcerating individuals subject to the SSI prisoner nonpayment provision to furnish inmate information upon the request of the

Commissioner. The provision requires matching of prisoner populations at the Federal, State and local level with SSI data without requiring each match to meet the administrative requirements of the Computer Matching and Privacy Protection Act (e.g., a formal matching agreement with each entity). The section also removes the provision in the Social Security Act which removed all Privacy Act rights and requirements from information which is the subject of these matches (i.e., information about prisoners).

Additional Debt Collection Practices

Section 7 would extend to the Supplemental Security Income program all of the debt collection authorities currently available for the collection of overpayments under the Social Security program.

Treatment of Assets Held in Trust

Section 8 would include in the resources of an individual countable for Supplemental Security Income purposes the assets of any trust containing property transferred from the individual or his or her spouse to the extent that the assets could be used for the benefit of either of them. The Commissioner of Social Security would be authorized to waive application of this provision in the event it would work an undue hardship. This provision would complement, but not replace, similar rules under Medicaid.

Disposal of Resources for Less Than Fair Market Value

Section 9 would provide a penalty under the Supplemental Security Income program for the transfer of assets at less than fair market value. The penalty would be a loss of benefits for a number of months equal to the number of months obtained by dividing the uncompensated value of disposed-of resources by the Federal benefit rate. The Commissioner of Social Security would be authorized to waive application of this provision in the event it would work an undue hardship. This provision would complement, but not replace, similar rules under Medicaid.

Loss of Benefits Penalty for Program Violations

Section 10 would authorize the Commissioner of Social Security to impose a period of ineligibility for OASDI and Supplemental Security Income benefits on any individual upon making a determination that the individual has made a statement or representation of material fact for use in determining eligibility to benefits, that the individual knew or should have known was false or misleading or omitted a material fact or made such a statement with knowing disregard for the truth. The period of ineligibility would be 6 months for a first occurrence,

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12 months for a second occurrence, and 24 months for a third or subsequent occurrence, and would extend to both programs.

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 § 1129 administered by OIG, which requires referral to U.S. Attorney for imposition of sanctions before consideration of CMP.	Yes	<i>Prefer SSA proposal, which would have field office impose sanctions rather than OIG. Work with Committee.</i>
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.	<i>Prefer SSA proposal; work with Committee. Lifetime sanctions too harsh and inflexible. Work with Committee to develop proposal that has bipartisan support.</i>
1c. Making false U.S. residency statement would result in a 10-year prohibition of SSI eligibility.	Yes.	<i>~~Oppose~~ 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.)</i>
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.	<i>~~Oppose~~ Fraud detection already function of employees. Could result in conflict of interest regarding SSA's handling of evidence.</i>

1. From Subcommittee, as of 4/22/98

POSITIONS AND COMMENTS BASED ON INTERNAL SSA DISCUSSIONS ON 4/23/98

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.	<i>Do not oppose.</i> 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	<i>Do not Oppose.</i> 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.	<i>Do not oppose.</i> 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 <u>non-medical</u> evidence in SSI and DI disability cases. <i>NO</i>	Yes. <i>Strengthen</i> →	<i>Work with Committee to develop proposal with a goal towards achieving a bipartisan approach</i>
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.	<i>Support in principle; work with Committee to develop mutually acceptable proposal.</i> 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.

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE? ¹	SSA COMMENTS
3d. Establish period of SSI ineligibility for transfer of assets.	Yes. However, language refers to current law provision and does not accomplish intent.	<i>Support.</i> , if provision identical to 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. <i>No?</i> <i>Regarding intent??</i>	<i>Oppose.</i> 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	<i>Oppose</i> — <i>Right</i> (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	<i>Defer pending clarification of proposal.</i> 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.

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	<i>Support.</i>
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	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 4.f.)	Yes	<i>Support.</i> 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	<i>Support.</i> Proposal in high-risk-related legislation pending in OMB.
Data Matching		
5a. Require SSA to match with TANF.	No	<i>Support in concept.</i> 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 <u>any</u> 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	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	<i>Support.</i> 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	<i>Support</i> , 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	<i>Support</i> . SSA proposal for facilitating match is in high-risk legislative package pending in OMB..
Setting a Family Cap and Ending the SSI Marriage Penalty		
6a. Apply family cap as specified in Slattery Commission report..	Yes	<i>Explore options</i> . 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.

X

POSSIBLE W&M PROPOSAL	DRAFT LANGUAGE? ¹	SSA COMMENTS
5b. 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	<i>Explore options.</i> 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	<i>Legislation not required.</i> POMS guidelines released in February 1998.
7b. Undertake study to identify possible measures to reduce fraud. Report to Congress on legislative improvements to prevent SSDI fraud.	Yes	<i>Legislation not required.</i> 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	<i>Do not object.</i>
7d. Refer all cases involving potential fraud to OIG	No	<i>Legislation not necessary.</i> Current policy and procedures already require referral of fraud cases to OIG
7e. Adjust FY 1999 discretionary spending limit on non-disability redeterminations.	Yes	<i>Support.</i> 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	<i>Serious reservations</i> 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 OAs estimates are \$820 million program savings over 5 years.

1. From Subcommittee as of 4/22/98

OPTIONAL FORM 95 (7-90)

FAX TRANSMITTAL# of pages **9**

To Richard Green	From Judy Chesson
Dept./Agency OBM	Phone # 410-765-3737
Fax # 202-395-0851	Fax #

NSN 7540-01-317-7888 5099-101 GENERAL SERVICES ADMINISTRATION

Numbers Affected by House Ways and Means Cap Proposals**Multi-Recipient Households**

Individuals in multi-recipient households whose benefits may be reduced -
514,000 (does not include eligible couples)

- 373,000 are adults
 - 78,000 are aged
 - 295,000 are disabled or blind
- 100,000 are children (an additional 41,000 children live in multi-recipient households but would not be affected by the cap proposal)

In-Kind Support and Maintenance

Individuals whose benefits may increase --

Individuals affected by one-third reduction - 260,000

Individuals receiving ISM from outside the household-- 290,000

120,000 new eligibles added as a result of eliminating ISM.

COMPARISON OF CURRENT LAW AND CAP PROPOSALS TO POVERTY GUIDELINES¹

NUMBER OF ELIGIBLES	CURRENT LAW		CHILDRENS' CAP (SLATTERY)		HOUSEHOLD CAP	
	Benefit (Per Person)	Percent of Poverty (for Household Size)	Benefit (Per Person)	Percent of Poverty (for Household Size)	Benefit (Per Person)	Percent of Poverty (for Household Size)
1	\$494	74%	\$494	74%	\$494	74%
2	494	109	401	89	371	82
3	494	130	355	94	346	91
4	494	144	326	95	321	94
5	494	154	305	95	296	92
6	494	161	289	94	296	97
7	494	167	276	93	296	100
8	494	172	264	92	296	103
9	494	175	256	91	296	105
10	494	178	258	90	296	107
11	494	181	241	88	296	109
12	494	184	234	87	296	110

¹ 1988 HHS Poverty Guidelines for the 48 Contiguous States and the District of Columbia. (Poverty guidelines for Alaska and Hawaii)

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- grp homes
- adopte kids
- families w/ genetic impairm's

ISM etc
120,000
newben
+ 290,000
may ↑
(current)

COMPARISON OF CURRENT LAW AND CAP PROPOSALS TO POVERTY GUIDELINES¹

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78,000 aged
295,000 disab
blind
at n36
370,000 adults
100,000 children

4.22-98
DRAFT**A B I L L**

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 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 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 information otherwise required in any case involving an individual subject to this paragraph."

(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

ODCLCA QUICK FAX
(202)358-6030- Voice/(202 358-6074/6075- Fax)

Date: 4/17/98

TO: Diana Fortune

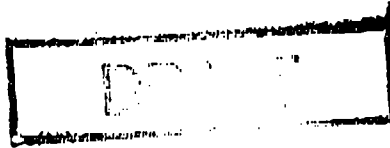
FROM: Judy Chesser

COVER + 14 **pages**

COMMENTS:

Talked to dis ab comm?
heads up?

Shaw asked for
comments??



Stewardship of the SSI
Program
--
Risk Reduction Strategies



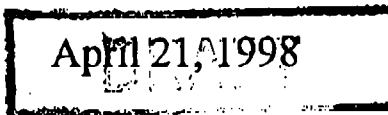
Statement of

John R. Dyer
Acting Principal Deputy Commissioner
Social Security Administration

Before the

House Ways and Means Committee
Subcommittee on Human Resources

April 21, 1998



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April 17, 1998

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today on behalf of the Social Security Administration (SSA) to discuss our administrative initiatives and legislative proposals for protecting the integrity of the Supplemental Security Income (SSI) program. Before I begin, however, I would like to reiterate what Commissioner Apfel said before this Subcommittee last month--SSA is committed to improving the management of the SSI program now and in the future.

SSI is a very important program that provides nearly 6.5 million aged, blind, and disabled individuals the means to provide themselves with basic necessities of food, clothing, and shelter. These individuals are among the most vulnerable Americans. These individuals have little in the way of personal savings or other income. For them, SSI is truly the program of last resort and is the safety net that protects them from complete impoverishment.

I want to give you some idea of who gets SSI benefits. More than 2 million individuals receiving SSI are aged 65 or older. Of the 2 million, nearly half (47 percent) are aged 75 or older. Seventy-three percent of those over 65 are female and many, if not most, are widowed. At the other end of the age spectrum, nearly 883,000 severely disabled children under age 18 receive benefits. These children generally live in households below the poverty line. Even adult beneficiaries who live in their own households live in poverty. The 1998 Federal SSI benefit rate is \$494 a month. This amount represents 74 percent of the 1998 Federal poverty guideline for an individual. Eligible couples--both of whom are either aged, blind, or disabled--fare only slightly better. The couple's Federal benefit rate represents 82 percent of the poverty guidelines for two persons. There are nearly 260,000 eligible couples receiving SSI. By any measure, SSI recipients are the poorest of the poor.

We need to keep these individuals in mind as we seek to improve the administration of the SSI program. We must be sure that any changes we make do not adversely impact this very vulnerable part of our population.

It should be noted that although the SSI program experienced substantial growth between 1985 and 1994, in the 4 years since then the program has essentially reached a plateau and experienced little or no growth in the number of beneficiaries. I believe that there are several reasons for this, one of them is the increased attention to the administration of the program that we were able to give the program as a result of SSA's being made independent. Along with funding support from Congress, we have substantially increased continuing disability reviews (CDRs). Another factor is the improved economy. But the important point is that the

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number of beneficiaries in the SSI program has stabilized and SSA can focus more closely on the continuing eligibility of, and accuracy of payments to, those who are on the rolls.

Let me assure you that we have always been committed to administering the SSI program as efficiently and accurately as possible. It is important to our nation and the low-income aged, blind, and disabled individuals that the program serves. We have every intention of strengthening the administration of SSI in order to restore public confidence in this vital program.

Reasons for Overpayments

By design, the SSI program is intended to provide vital assistance to individuals who, because they are aged, blind, or disabled, have limited income and resources. It is a means-tested program that requires SSA to investigate, and the beneficiaries to divulge, all of their income and assets. All sources of an individual's income, including in-kind income, and any assets are explored, considered, and valued. Some individuals forget to report to us about some of these items, others may not understand what we need to know, and still others who because of their limited experience may not fully understand that their ownership interests in financial accounts or real property may affect their eligibility for SSI.

Overpayments occur for a variety of reasons. For example, every time the wages of a disabled child's parent fluctuate because of working extra hours, the amount of income deemed to the child changes and the possibility of an overpayment exists. If an individual has slightly more than the allowable limit in his or her bank account at the beginning of a month, he or she may be overpaid SSI for the month. An unanticipated living arrangement change in the middle of a month can cause an overpayment.

SSI is a program that requires an individual's need be matched with his or her income, resources, and living arrangements on a monthly basis. Because it is a practical impossibility for SSA to get every bit of information about every change in a timely fashion, there will inevitably be some amount of overpayment. This is inherent in the nature of a program such as SSI. Nevertheless, there are several things that can be done to minimize these overpayments, improve program payment accuracy, ensure that only those who are truly eligible are on the rolls, and strengthen the integrity of the program.

Notwithstanding these administrative challenges, in FY 1996, SSA made correct payments in 94.5 percent of SSI cases. We can do better, and improving SSI payment accuracy is one of SSA's highest priorities. SSA has developed a comprehensive approach that includes strategies for eliminating the problems that cause inaccurate payments and measures the

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success of the actions. At the core of the plan is a focus on the early identification of changes that affect benefit levels and the prevention, detection, and collection of overpayments.

Measures To Improve Payment Accuracy

Much of what has been characterized as program fraud is actually payment inaccuracy. Payment inaccuracy, unlike fraud-based error which results from a deliberate act of deception, is caused either by inadvertent failure to report a change or by changes that occur--and are reported--after the monthly benefit has been processed for payment.

Prevention and detection require knowing the causes of overpayments and instituting cost efficient methods of rooting out these causes. Using agency program review data and IG and GAO observations, SSA has identified the leading causes of overpayments: these are wages, financial accounts, and institutionalization. These three areas represent a large percentage of the total overpayment dollars. Better detection of these events--which ideally will lead to prevention--depends on enhancing existing data matching activities and capitalizing on emerging on-line data exchange opportunities.

Computer data matching has proven to be a highly cost-effective means to identify changes that affect SSI eligibility and payment amounts. Data matches that we currently conduct result in a benefit-to-cost ratio of eight to one. We estimate that the planned new matches will yield the same or even better results.

SSA is aggressively pursuing more frequent matches for current exchanges and new matches that will offer more current information than is received presently. New key matches are:

- **Wages**--Beginning in October 1998, we will match once a quarter with earnings data from all States through the Office of Child Support Enforcement's (OCSE) data bases. This replaces twice-a-year matches with wages reported by employers to the unemployment agencies of the 44 States that have agreed to cooperate with SSA in making this wage data available for the purpose of SSA's administering the SSI program. Wages from OCSE's data bases could be available on-line to SSA field offices by as early as December 1999. We understand that an amendment was accepted in the Senate to H.R. 3130 that would significantly limit the value of the data to SSA by requiring the deletion of the data by OCSE after 12 months in most cases. The Administration strongly opposes this provision and I urge you to oppose the Senate provision in conference.
- **Financial accounts**--In order to verify amounts of resources in bank accounts, we currently have to get a signed authorization from the applicant or beneficiary and send it to the bank.

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The bank then searches its files and either provides us with information about the account balances or tells us that the individual does not have an account at the bank.

We have been looking into the possibilities of electronically obtaining these same data for several years. Doing away with the manual processing of the requests and replies regarding bank account information would save time and money. Additionally, we would be better able to identify cases in which there are undisclosed bank accounts because we will be able to canvass more banks electronically than we can by paper to determine if and where individuals have hidden accounts. We have a legislative proposal, which I will discuss later, for making the process of obtaining information from financial institutions more efficient and effective.

- Institutionalization--Individuals who are in nursing homes for a full calendar month and who will remain in the institution for longer than 3 months may be eligible for a reduced SSI benefit of \$30 (the "personal needs allowance"), or may be ineligible if they have other income. In 1993, a provision was added to the Social Security Act requiring nursing homes to report admissions of SSI beneficiaries. We have undertaken several initiatives at the regional office level to encourage nursing home operators to comply with this requirement, but our not knowing of individuals' admissions to nursing home admissions still is a frequent cause of overpayments.

Within this year, we will begin to match twice a year with nursing home admissions from all States through the Health Care Financing Administration. This replaces a once-a-year match containing data from only 29 States. We also have a legislative proposal that will help us in this area.

SSA has long recognized that on-line access to databases offers the possibility of immediate prevention of overpayments. Under the current scenario in most SSA offices, verification of wages or unemployment compensation, for example, requires contact with the employer or the unemployment compensation agency. Most often this is done by phone or mail, and takes claims representatives' time and the time of the person or agency from whom/which we are requesting the information. In the case of redeterminations, while we are waiting for verification, we continue to pay the individual based on the information in the file that we verified the last time we contacted the beneficiary. If that information has changed, the individual is either overpaid or underpaid. In addition to improving payment accuracy for current beneficiaries, on-line access also would simplify and speed up initial application and payment processing because verification would be received immediately.

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With on-line data access, the claims representative will be able to go to a computer terminal while the individual is still in the office and get verification and correct the SSI record immediately. This is the approach that we have piloted in our Tennessee offices. Under this pilot, employees in SSA field offices have on-line access to the State's human services, vital statistics, and unemployment and workers' compensation records and the State agencies have on-line access to SSI records.

The Tennessee pilot has been very successful and the idea has been expanded to other States. SSA currently has on-line access to State records with 30 agencies in 20 States. In all but two States--California and Texas--these are not pilot programs; they are "live" programs with the access and conditions for the information's use stated in agreements entered into between SSA and the State. In many of these States we have on-line access to data from only one or two State agencies--for example, human services and unemployment compensation agencies--but we continue to negotiate with States and their agencies to expand on-line access. This approach holds promise for improving SSI payment accuracy and saving administrative time and money.

Another area that is a key factor in how well overpayments are prevented and detected is the execution of program procedures. SSA is conducting a campaign of quality assurance to focus attention on persistent sources of error to improve claims development skills through program highlights, training, and process reviews and strengthening of key instructional material. Two areas of immediate emphasis will be wages and in-kind support and maintenance.

We project that these and other administrative payment accuracy initiatives will improve the current payment accuracy level of 94.5 percent to better than 96 percent by FY 2002. Such an improvement will save millions of dollars in SSI program funds. In addition, we have several legislative proposals that would help to improve payment accuracy because they specifically target the areas of greatest dollar error.

Two of these were included in the President's budget. On March 11, 1998, Commissioner Apfel sent an Administration bill to the Congress, which included a proposal for increased funding for nonmedical redeterminations of SSI eligibility. Redeterminations are periodic reviews of an individual's income, resources, and other nondisability-related factors that affect an individual's eligibility or benefit amounts. (Determinations of whether individuals remain disabled are done through the continuing disability review process, which I will discuss later.) Redeterminations often uncover unreported changes in individuals' incomes or living arrangements and enable us to correct the SSI record to reflect these changes before large

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overpayments have been made. Having the resources to conduct additional redeterminations of income and resource eligibility will reduce incorrect payments and result in 5-year program savings of nearly \$216 million.

The second proposal Commissioner Apfel sent to Congress, which we will discuss later, involves SSI debt collection. We also plan to send to Congress legislative proposals that would facilitate data matches and on-line data access and allow us to use certain data received through these matches to reduce the benefits of individuals who enter nursing homes before they become overpaid. I hope that we can have statutory language ready before the full committee goes to markup next week.

Debt Collection

Improving payment accuracy will be a significant achievement but a robust debt collection system also is an essential element in strengthening the integrity of the SSI program. SSA has a long-standing commitment to debt management and we are continually engaged in projects that improve our performance.

In 1997 alone, SSA collected \$1.7 billion in overpayment debts. Of that total, \$1.2 billion was returned to the OASDI Trust Funds while about \$437 million in recovered SSI overpayments were returned to the Treasury's general fund.

SSA recovers more than 80 percent of the SSI and OASDI debt that it is owed when an individual remains on the benefit rolls, but is unable to match that performance when an individual leaves the benefit rolls. The President's budget includes a provision that addresses the problem. This provision would authorize SSA to collect SSI overpayments from a former SSI beneficiary's current OASDI benefit. Nearly half of all uncollected SSI overpayments were paid to former SSI beneficiaries currently receiving OASDI benefits; however, there is no authority in present law that authorizes SSA to collect SSI overpayments from the current OASDI benefits of an uncooperative debtor. This proposal will significantly strengthen SSA's ability to recover SSI overpayments and is expected to result in \$170 million in program savings over 5 years. We urge the Congress to act quickly on this proposal that would give SSA an important tool in debt collection. int.

As I mentioned, if the overpaid individual has left the SSI rolls, no offset against SSI or OASDI benefits is currently possible. However, as part of our debt collection initiatives, we began using the tax refund offset (TRO) beginning in January of this year to recover SSI overpayments in such cases. Under TRO, an individual's overpayment is recovered from tax refunds that are owed to the individual. If an individual meets the TRO criteria, SSA will

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send a notice advising him or her that any income tax refund due would be used to recover the overpayment, and providing an opportunity for the debtor to protest.

TRO for SSI overpayments has been very successful. So far in 1998, we have recovered an estimated \$18 million in SSI overpayments through TRO. An additional \$4.4 million in SSI overpayments have been repaid by overpaid individuals after they have been notified of the TRO in order to prevent their tax refund from being reduced or withheld. Therefore, in less than 4 months, TRO has resulted in the recoupment of \$22.4 million in the SSI program alone.

Recovery from OASDI benefits and TRO are two effective methods for resolving SSI overpayments. We also have a proposal for an additional method of overpayment recovery. This proposal would extend to the SSI program the debt collection authorities now used to recover OASDI debts. These authorities are: administrative offset, credit bureau referrals, collection agencies, federal salary offset, and the imposition of interest and penalties.

Continuing Disability Reviews

Another way in which we ensure the integrity of the SSI program, as well as the DI trust fund, is through continuing disability reviews (CDRs). During FY 1996, SSA processed roughly half a million periodic CDRs, with estimated lifetime savings (including Medicare and Medicaid) of nearly \$2.5 billion. Under President Clinton's leadership, SSA has processed more CDRs more cost-effectively than ever before. During FY 1997, we processed over 690,000 periodic CDRs, a 38 percent increase over 1996. In FY 1998, we expect to process over 1.2 million periodic CDRs, more than double the number of CDRs in 1996. Our improved profiling/mailed process provides a high level of confidence in both our ability to achieve our estimated workload targets and in the accuracy and reliability of the decision resulting from our case reviews.

Our achievements in processing CDRs over the last two years demonstrate Congress' and the Administration's commitment to addressing this crucial workload. Discretionary cap adjustments for additional funds have been authorized to enable SSA to become current in the processing of OASDI CDRs by FY 2000 and title XVI CDRs by 2002. We are proud of our recent accomplishments and are confident that our CDR strategy will lead to reliable and cost-effective monitoring of the disability rolls.

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Prisoner Reporting

We have increased integrity in both the SSI and OASDI programs with our aggressive activities relating to suspending benefits to prisoners. A little background in this area may be helpful to understand where we are now.

Since its inception in 1974, the Supplemental Security Income (SSI) program has prohibited benefit payments to an individual for any month in which he or she is an inmate of a public institution (including prisons and jails) throughout the calendar month. Provisions enacted in 1980 suspended Disability Insurance benefits to prisoners who were incarcerated as a result of a felony conviction. In 1983, the law was expanded to include Retirement and Survivors Insurance beneficiaries. In 1994, the OASDI nonpayment provisions were expanded to include individuals found not guilty by reason of insanity (or a similar finding or verdict) with respect to an offense punishable by confinement for more than one year (regardless of actual sentence imposed), and those found incompetent to stand trial with respect to such an offense. In addition, the felony incarceration requirement was changed to conviction of an offense punishable by confinement for more than one year (regardless of the actual sentence imposed).

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) included several provisions pertaining to reporting of prisoners for SSI program purposes. One of these is a provision which authorizes the Commissioner of Social Security to enter into agreements which provide for incentive payments to certain State and local institutions for furnishing information to SSA which results in ineligibility of an SSI beneficiary. An institution becomes eligible for a \$400 incentive payment for each individual reported within 30 days of confinement and \$200 for each individual reported within 31 through 90 days from confinement.

Under the Clinton Administration, SSA has been in the forefront of enforcing the prisoner ineligibility rules. Before Congress enacted the incentive payment provision, we began a major initiative in 1995 to strengthen prisoner reporting. Under this initiative we contacted all correctional facilities and by the end of 1995, we had reporting agreements with over 3,500 jails, prisons, and local facilities, covering over 99 percent of the inmate population in the United States.

SSA established a highly effective process for receiving prisoner admission data. In addition, we have acquired historical data from the Federal Bureau of Prisons and most State prisons to ensure that we have identified and suspended benefits to all ineligible prisoners. SSA estimates that in calendar year 1995 program outlays were lower by \$167 million in OASDI

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and \$90 million in SSI than they would have been without these initiatives. In the past 3 years, SSA has suspended nearly 200,000 prisoners.

In May 1996, in order to further encourage prisons to report to us, the Administration proposed its own version of legislation that would provide incentive payments to prisons for each prisoner that had their SSI benefits suspended because of their reports. This provision was similar to the one eventually enacted in PRWORA later in 1996. SSA has paid 9,000 incentive payments under the PRWORA provision.

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27000

In order to further our efforts to improve payment accuracy and to strengthen the integrity of both the SSI and OASDI programs, we are proposing that the statutorily mandated requirement in OASDI, that institutions report the admission of prisoners, be extended to include SSI as well. In addition, we strongly support the provision in H.R. 3433 for providing incentive payments for prisons and similar institutions to report the incarceration of individuals who receive OASDI benefits. The H.R. 3433 provision is consistent with the Administration's proposal sent to the Hill in 1996. These two proposals would make the reporting requirements and the incentives to report the same in both programs and should virtually eliminate the possibility of benefit payments being made erroneously to prisoners.

OMB

Measures To Address Vulnerabilities to Fraud

Although the most important elements in strengthening the SSI program are improved payment accuracy and debt collection, fraud is a significant concern. A strong IG, working together with SSA's employees in local offices, is the most effective means we have to control fraud and abuse in the SSI program. To this end, SSA and the IG have cooperated on developing a comprehensive anti-fraud plan, which we call "Zero Tolerance for Fraud." The plan has three goals: (1) to change programs, systems, and operations to reduce instances of fraud; (2) to eliminate wasteful practices that erode public confidence in SSA; and, (3) prosecute vigorously, individuals or groups who challenge the integrity of SSA's programs. The activities in the plan fall generally under the categories of fraud prevention and detection, referral and investigation, and enforcement. There are presently 33 anti-fraud initiatives in the plan.

Commissioner Apfel, in his March 12 testimony before the Subcommittee, described two very successful anti-fraud initiatives involving attempted claims of false U.S. residency and "middlemen" interpreters, so I will not go into a great deal of detail about them.

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Under the IG's Border Vigil project, the Southwest Tactical Operations Plan (STOP) identified individuals who were receiving SSI after fraudulently claiming United States residency. As a result of the IG's work, we revised our policies for verifying U.S. residency and identifying potentially problematic cases as a result of the IG's efforts. We are extending the program to both border areas in the United States.

An SSA project in Chula Vista, California that used contract investigators to identify individuals who were not U.S. residents led us to the institution of similar efforts along other parts of the southern border. The direct costs associated with the Chula Vista project were \$11,475, with indirect costs of a similar magnitude. The project revealed about \$500,000 in overpayments and prevented about \$400,000 in erroneous payments.

The encouraging results of the Chula Vista project led us to expand the pilot to 12 additional sites in California, New Mexico, and Texas in November 1997. Under this pilot, cases involving questionable U.S. residence are referred to a contractor to perform an investigation of the residence issue and to provide a report on the investigations for use by SSA in making residency determinations.

Another of our successes involves thwarting "middlemen" acting as interpreters but providing SSA with misleading or incomplete information. We substantially increased the number of bilingual employees in local offices to act as interpreters and increased funding to pay for the services of interpreters when bilingual SSA employees are not available. In addition, we developed strong policies to carry out the provision in P.L. 103-296 that allows us to disregard evidence in a claim--including that provided by a third party--if we have reason to believe that fraud or similar fault was involved in providing the evidence.

In the area of referral and investigation, SSA and IG have two initiatives underway that strengthen the SSI program's integrity and lessen its vulnerabilities.

In 1994, SSA awarded a demonstration grant to the California Disability Determination Service (DDS) for a Fraud Investigation Unit to serve their Los Angeles area branch offices. Now funded from the regular DDS operating budget, this unit's mission is to take referrals of suspected fraud from DDS adjudicators, and to make timely decisions on the suspect aspects of the claims. Through February, 1998, this small fraud unit has processed 372 referrals and provided the investigative evidence to support a denial in 49 cases. Estimated OASDI, SSI, and Medicaid savings for these cases over the individuals' lifetimes would be \$6 million.

Last year, based on the success of the California pilot and similar interagency taskforce activity in the Seattle region, SSA and the IG proposed setting up investigative units in five

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more locations. These units--called "Cooperative Disability Investigation (CDI) teams"--will have the same basic mission as in California with regard to early "in-line" fraud prevention. Although the California unit is staffed entirely with DDS investigators, the new CDI teams will consist of an IG special agent, two investigators from a State or local law enforcement agency, and two DDS and/or SSA personnel. The first CDI team began operations in New York City on March 10th. The others (Atlanta, Chicago, Baton Rouge, and Oakland) will follow over the next several months.

We expect this project to produce almost \$35 million in prospective program savings (roughly 10 times its costs) over the next 2 years. In addition, we expect to see increases in employee morale and public confidence as SSA and the DDSs have another tool for a more proactive stand against fraud. If these expectations are born out, we will seek to expand the concept to other DDSs in coming years.

Legislation also is needed in this area. An important tool that we believe we should give our field office personnel to counteract fraud would be the authority to impose administrative sanctions on individuals who furnish incomplete or inaccurate information material to claims for SSI and OASDI benefits. We are sending a legislative proposal to Congress to establish this authority.

Under the proposal, SSA would have authority to suspend SSI and OASDI benefits when an individual presents or conceals information that he or she knew, or should have known, was false or misleading. The period of ineligibility would be 6 months for the first offense, 1 year for the second, and 2 years for the third and subsequent offenses. The decision to impose an administrative sanction would be considered an initial determination and the individual would have the same appeal rights as he or she would have with other SSA determinations--reconsideration, hearing before an ALJ, Appeals Council review, and judicial review.

Subcommittee Draft Proposals

Mr. Chairman, in your letter of invitation, you asked for comments on potential Subcommittee draft proposals. As you can see from my statement, SSA has been looking at some similar proposals. The Subcommittee's list was quite extensive, but the proposals were described in very general terms.

We appear to have significant common ground in several areas, and we believe that we can work with the Subcommittee to develop proposals that have bipartisan support. These proposals include administrative sanctions, transfer of resources, data matching with HCFA for nursing home admissions, OASDI prisoner incentive payments, funding for additional

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nonmedical redeterminations, recovery of SSI overpayments from OASDI benefits, and authority for additional debt collection tools.

We have concerns about the remaining proposals. ^{currently} Some appear to have effects on beneficiaries that need to be fully analyzed before we can offer a complete evaluation. For instance, I have serious reservations 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.

^{where appropriate} We would like to work with the Subcommittee staff to attempt to develop a more complete understanding of these proposals with a goal towards achieving a bipartisan approach.

Conclusion

SSA's stewardship of the SSI program has been both compassionate in its concern for the well-being of the people the program serves as well as vigilant in its concern for its responsibilities to the general public whose taxes support the program.

SSA currently operates the SSI program at a 94.5 percent accuracy level. We are not satisfied with that. We want to improve on that percentage. To achieve that, we have taken a range of actions, the most important of which I have mentioned in my statement today. We have identified the major sources of dollar error and are developing improved methods—including electronic data matching—for getting critical information about wages, bank accounts, and institutionalization on a timely and periodic basis from reliable sources other than recipients. We will be performing more continuing disability reviews and more frequent general eligibility reviews of SSI recipients whose case characteristic indicate a high potential for error. We will be detecting nursing home admissions in a more timely way. And, in coordination with our Inspector General, we will continue to develop initiatives to quickly identify and react to circumstances where individuals are attempting to defraud the taxpayers.

In the area of debt collection, SSA's track record is also good. SSA recovers more than 80 percent of the debt it is owed when the individual remains on the SSI or OASDI rolls. Overall, in 1997, SSA collected \$1.7 billion in overpayment debt. Of that amount \$437 million was ^{per SST?} returned to the Treasury's general fund. With the help of the legislation we are proposing, we will improve our collection efforts through recovery of SSI overpayments from OASDI benefits and through extension to SSI the debt collection mechanisms that are now available for the Social Security benefit programs.

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Our goal both from the administrative and legislative perspective is to strengthen the integrity of the SSI program while maintaining the essential function it serves providing basic income support for the aged, blind, and disabled. We believe we are on the right track.

Mr. Chairman and members of the Subcommittee, I wish to thank you for the opportunity to discuss this important subject with you today.

OURS

Legislative Options To Address SSI High-Risk Designation

New Proposals

+ Admin Sanctions

1. Require a Computer Match with the Health Care Financing Administration (HCFA) and Permit SSA To Use Information Obtained From Such a Computer Match

This proposal would require SSA to conduct a new computer match with HCFA and permit SSA to substitute certain information from the match for that normally required in cases where an individual has entered an institution.

2. Facilitate On-Line Data Matches With Financial Institutions

In order to assure that efforts to establish on-line data matches with the holders of personal financial information meet banking privacy law requirements, require that, as a condition of eligibility, applicants for and recipients of SSI benefits authorize the release of financial information held by various financial institutions; and provide that no fees will be charged for release of this information.

3. Use of Outside Contract Investigators

Request authority for an appropriation of \$5 million above the budget cap to be used to contract for investigative services to verify the eligibility of SSI recipients. Ten percent of the overpayment dollars identified and collected as a result of the use of contract investigators would be deposited in a special fund to be used by the Commissioner to fund contract investigative services on an ongoing basis.

4. Commissioner's Authority to Determine Privacy Standards for State Records Used for Eligibility Verification and to Make Grants for Enhancing Data Exchanges

In order to facilitate the sharing of data collected by a State which may be used for program eligibility verification, provide that SSA privacy standards for sharing such data with other States and Federal agencies will be deemed to meet any State standards for such sharing. Authorize the Commissioner to make grants for data exchange enhancements.

5. Notification of Death Information From States

Require that contracts between the Commissioner and States require death certificate information be provided to SSA within 30 days after the State receives the report of death.

6. Mandate State Reporting of Prisoners Potentially Receiving SSI

Make conforming amendment in title XVI to clarify that Federal, State, and local entities would be required to report prisoner information.

Proposals Previously Submitted to OMB

7. Extend to SSI the Debt Collection Authorities Extended to Social Security Debts by the Debt Collection Improvement Act of 1996

Extend the debt collection tools now used to recover Social Security debts to the recovery of SSI debts. The authorities are: administrative offset, credit bureau referrals, collection agencies, federal salary offset, and interest and penalties/indexing. This authority would apply to delinquent debtors who are no longer receiving benefits.

8. Establish Penalties Under the SSI Program to be Applied When an Applicant or Recipient Has Disposed of Assets For Less Than Fair Market Value

Provide that applicant for SSI benefits who, in order to become eligible for SSI benefits, disposed of their assets at less than fair market value in the 36-month period preceding the filing of their applications, or eligible individuals who, in order to preserve their SSI eligibility, at any time after establishing eligibility dispose of their assets at less than fair market value shall be ineligible for SSI benefits for a period of months equal to the number obtained by dividing the uncompensated value of all disposed assets by the Federal Benefit Rate for an individual in force in the month of application or, if later, the month the transfer occurred.

9. Count as a Resource Under the SSI Program Any Assets Contained in a Trust

Provide that the resources of an individual, or the individual's spouse, shall include the assets of any trust, or similar device, established with property belonging to the individual (or spouse) or property to which the individual is entitled but does not receive because of the establishment of the trust by such individual (or spouse) or any individual or entity, including a court or administrative body, acting on his behalf. Assets held in such trusts will be resources to the extent that the trust assets could be used for the benefit of the individual.

Proposals Contained in the President's FY 1999 Budget to be Submitted as Part of this Package

10. Extend the Discretionary Cap Adjustment to Any SSI Eligibility Redeterminations

Provide that funds authorized for continuing disability reviews also may be used to carry out any SSI eligibility redeterminations.

11. Permit Recovery of Overpayments Under the SSI Program From Benefits Payable Under the OASDI Program

Authorize the Commissioner to recover SSI overpayments owed by former SSI beneficiaries from OASDI benefits without the consent of the overpaid individual.