

# Social Security Advisory Board Statement on the Supplemental Security Income Program

2021

Each year, the Social Security Advisory Board (“Board”) members have an opportunity, either individually or jointly, to include their views on the Supplemental Security Income (SSI) program in the Social Security Administration’s (SSA) annual report to the President and the Congress.<sup>1</sup> This year’s statement continues the Board’s past work on SSI dedicated accounts.

## Introduction

SSI provides monthly cash payments to adults and children with disabilities and people age 65 or older who meet the program’s income and resource limits. In May 2021, about 1.1 million children received approximately \$763 million in federal SSI payments, with an average monthly payment of about \$684 per child.<sup>2</sup> When a child SSI recipient is owed a back payment exceeding six times the current maximum monthly payment amount, plus any state supplement,<sup>3</sup> their representative payee (“payee”), usually a parent,<sup>4</sup> must open a dedicated account in the child’s name before receiving the back payment. In 2021, the minimum back payment requiring a dedicated account is \$4,764.<sup>5</sup> The monthly maximum payments are typically adjusted by annual cost of living increases resulting in changes to the back payment threshold.<sup>6</sup>

Back payments to SSI recipients typically result from SSA processing delays.<sup>7</sup> Processing time may vary for several reasons, including staffing, caseloads,

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<sup>1</sup> [Public Law 104-193 § 231](#).

<sup>2</sup> The total amount received includes retroactive payments, while the average payment amount does not include retroactive payments. Social Security Administration, “[SSI Monthly Statistics, May 2021](#),” Table 1, accessed June 22, 2021.

<sup>3</sup> Some states supplement the federal payment amount. Social Security Administration, “[Understanding Supplemental Security Income SSI General Information—2021 Edition](#),” accessed May 24, 2021.

<sup>4</sup> Social Security Administration, 2019, “[SSI Annual Statistical Report](#),” Table 7.

<sup>5</sup> Social Security Administration, “[Understanding Supplemental Security Income SSI General Information—2021 Edition](#),” accessed May 24, 2021.

<sup>6</sup> Social Security Administration, “[SSI Federal Payment Amounts for 2021](#),” accessed May 24, 2021.

<sup>7</sup> Social Security Advisory Board, “[Re-Examining Long-Standing SSI Dedicated Account Challenges](#),” November 19, 2020. Recording available at: [ssab.gov/board\\_meetings/](https://ssab.gov/board_meetings/).

case complexity, and other factors.<sup>8</sup> As a result, the need for a dedicated account among approved claims will vary, depending on the time it takes SSA to process their individual cases.<sup>9</sup> In 2021, data provided by SSA at the Board’s request showed there were 38,323 dedicated accounts with balances greater than zero. About three percent of those accounts had balances above \$10,000.<sup>10</sup>

A dedicated account must be a checking, savings, or money market account in a financial institution and must be separate from the account where SSA deposits the child’s monthly SSI payments. Funds held in a dedicated account do not count toward the recipient’s \$2,000 resource limit and earned interest on those funds is excluded from income eligibility calculations. Deposits into the account are restricted to certain eligible back payments.<sup>11</sup> After applying any reimbursement to the state for interim assistance, and any attorney fee payments, if the SSI back payment is greater than or equal to three times the Federal maximum monthly payment plus any federally administered State supplement it will be paid in up to three installments in six-month intervals. Consequently, many back payments to dedicated accounts are paid in installments.<sup>12</sup>

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<sup>8</sup> Social Security Administration, 2021, “[Commissioner Saul Communicates to Congress about the State of Social Security Services](#),” accessed April 28, 2021; Social Security Administration, Office of the Inspector General, 2015, “[Disability Determination Services Processing Times](#),” p. 5; Social Security Advisory Board, 2020, “[Social Security Advisory Board Examination of Social Security’s Reinstatement of Reconsideration](#),” pp. 4-5; Social Security Advisory Board, 2020, “[Summary of Disability Process Improvement Roundtables](#),” pp. 1-2, 9.

<sup>9</sup> Social Security Advisory Board, 2019, “[Statement on the Supplemental Security Income Program](#),” p. 5-6.

<sup>10</sup> Requested data received from SSA. On file with the Social Security Advisory Board.

<sup>11</sup> Subsequent back payments to a recipient with a dedicated account that exceed one times the maximum monthly payment amount—\$794 in 2021—*may* be deposited in the account at the discretion of the payee. Such back payments may arise in the process of SSA conducting medical cessation appeals, household income verification, or other workloads resulting in a recipient being underpaid. The Board has not been able to locate public data on the number of payees that choose to have such back payments deposited into dedicated accounts. Any subsequent back payment exceeding six times the maximum monthly payment amount, plus any state supplement, *must* be deposited into the dedicated account. Social Security Administration, Program Operations Manual System, SI 02101.010, “[Past-Due Benefits Payable – Individual Alive Under Age 18 with Representative Payee – Dedicated Account Required](#),” accessed April 29, 2021.

<sup>12</sup> These rules do not apply for recipients who have a medical condition which is expected to result in death within 12 months or who are no longer eligible for SSI and who are determined likely to remain ineligible for the next 12 months. Social Security Administration, Program Operations Manual System, SI 02101.020, “[Large Past-Due Supplemental Security Income \(SSI\) Payments by Installments – Individual Alive](#),” accessed March 18, 2021.

Funds in a dedicated account are subject to stricter spending constraints than a child’s monthly SSI payment.<sup>13,14</sup> First, the statute specifies that dedicated account funds may only be used by the payee, or the recipient after age 18, to pay for permitted items or services or those deemed appropriate by the Commissioner of Social Security. Dedicated account funds are limited to expenditures for medical treatment, education, and job skills training, or other uses approved by SSA field office staff. If the use of funds is related to the child’s impairment, payees may use them to purchase personal needs assistance, special equipment, housing modification, therapy, rehabilitation, or other SSA-approved expenses. Account funds cannot be used to pay for basic maintenance costs like food or shelter for the child, except to prevent malnourishment or homelessness.<sup>15</sup> Second, payees, who are often the child’s parent, must report to SSA annually on the use of dedicated account funds and must provide receipts or other proof of expenditures when requested by SSA.<sup>16</sup> In contrast, parent representative payees managing SSI payments for children without dedicated accounts are not required to complete annual reporting.<sup>17</sup> Third, if SSI recipients or payees do not follow these rules—even if the funds are used to meet the needs of the recipient—they must repay to SSA any “misapplied” funds.<sup>18</sup> These funds are not returned to the child’s dedicated account. Those terminated from SSI may use dedicated account funds as desired without approval by SSA staff.

The Board’s examination of dedicated accounts in its 2019 SSI statement<sup>19</sup> and 2020 roundtable<sup>20</sup> found that (1) one legal scholar appears to have written

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<sup>13</sup> [Public Law 104-193 §213](#).

<sup>14</sup> SSA regulations require that representative payees use recipient monthly payments for the recipient’s day-to-day necessities, including medical and personal needs. [20 CFR § 416.640](#).

<sup>15</sup> Social Security Administration, Programs Operations Manual GN 00602.140. “[Permitted Expenditures from Dedicated Accounts](#),” accessed May 26, 2021.

<sup>16</sup> [20 CFR §416.635\(e\)](#) and [20 CFR §416.665](#).

<sup>17</sup> [Public Law 115-165 § 102](#).

<sup>18</sup> [20 CFR § 416.640 \(e\)\(4\)](#).

<sup>19</sup> Social Security Advisory Board, 2019, “[Statement on the Supplemental Security Income Program](#).”

<sup>20</sup> Social Security Advisory Board, “[Re-Examining Long-Standing SSI Dedicated Account Challenges](#),” November 19, 2020.

about the legislative history surrounding dedicated accounts;<sup>21</sup> (2) recipients, payees, and SSA have testified that dedicated account policy is complex to understand and adjudicate; (3) data on the current state of dedicated accounts—on the number created and closed each year, their administration, and nature of fund dispositions—are either not collected by SSA or, if they are collected, are not published or shared with the Board; (4) over many years and several administrations and in Congress, there has been bipartisan support for modifying or eliminating dedicated accounts over time<sup>22</sup> (The nature of the empirical evidence, if any, that may have been used when drafting the legislation that created dedicated accounts in 1996 is not known to the Board, nor is the Board aware of any empirical evidence for or against policy alternatives to promote the welfare of SSI recipients); and, (5) administrative flexibility is available to SSA to simplify dedicated account policies for recipients, payees, and SSA’s administration of the accounts, but these changes have not been implemented.

## I. The Legislative History Concerning Dedicated Accounts

Congress established dedicated accounts as a provision of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).<sup>23</sup> That complex and wide-ranging enactment, among other changes, replaced the Aid to Families with Dependent Children (AFDC) program, with the Temporary Assistance for Needy Families (TANF) program; including Title IX, Sec. 912. Abstinence Education, that funded courses to teach children that they should abstain from sexual intercourse until married; and Title III, Sec. 301. State Obligation to Provide Child Support Enforcement Services, that increased federal involvement in the enforcement of child support obligations.

There were significant legislative and judicial actions and associated media coverage of the SSI program leading up to the 1996 legislation. The passage of PRWORA, which included provisions to tighten children’s SSI eligibility standards and establish dedicated accounts, occurred amid these

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<sup>21</sup> For the one comprehensive review of the legislative history surrounding dedicated accounts, see: O’Connell, Mary. [“Supplemental Security Income’s ‘Dedicated Account’: A Debunked Urban Legend and Twenty Years of Waste,”](#) Northeastern Public Law and Theory Faculty Research Papers Series, No. 289, 2017. For an inside look of the legislative history of which the dedicated accounts provision was a part, see: Haskins, Ron. [Work over Welfare: The Inside Story of the 1996 Welfare Reform Law,](#) Brookings Institution Press (2006).

<sup>22</sup> See Appendix A, Table 1.

<sup>23</sup> [Public Law 104-193 § 213.](#)

circumstances. In particular, Congress' passage of the Disability Benefits Reform Act of 1984 (DBRA)<sup>24</sup> and the Supreme Court's decision in *Sullivan v. Zebley* ("Zebley")<sup>25</sup> in 1990 required SSA to change its regulations which resulted in an increase in the number of children receiving SSI payments—from 264,890 in 1989 to 917,048 in 1995—and a corresponding rise in the cost of the program.<sup>26</sup> The DBRA required SSA to update its listings for mental health conditions, which contain the medical criteria that SSA uses to evaluate these cases, resulting in SSA adding seven new mental health listings. The expanded listings caused an increase in the number of children receiving SSI based on mental health conditions.

The Supreme Court's decision in the *Zebley* class-action lawsuit held that SSA needed to use a comparable process for assessing children and adults for disability. About 452,000 children in the *Zebley* class were eligible to have their unfavorable SSI claims re-adjudicated and about 321,600 opted to do so. Forty-five percent of the children whose cases were re-adjudicated in the first three years were awarded benefits.<sup>27</sup> Children in the *Zebley* class who were approved under the new rules were eligible for payments dating back to their initial application date. Children whose cases were favorably re-adjudicated received back payments averaging \$15,000.<sup>28</sup> Their payees needed to spend down funds quickly, or the child would lose SSI eligibility based on the program's resource limit.<sup>29</sup>

Senator Robert Dole (R-KS) and others were concerned about these large back payments and their implications for children's accounts exceeding SSI's strict asset limits.<sup>30</sup> Media coverage highlighted payees' spending of back payments to maintain children's eligibility under the SSI resource limit.<sup>31</sup> In 1995, Dole

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<sup>24</sup> [Public Law 98-460](#).

<sup>25</sup> *Sullivan v. Zebley*, 493 US 521 (1990).

<sup>26</sup> Social Security Administration, "[Annual Statistical Supplement](#)," 2020, Table 7.A9.

<sup>27</sup> Government Accountability Office, "[Social Security: Rapid Rise in Children on SSI Disability Rolls Follows New Regulation](#)," GAO/HEHS-94-225, p. 8.

<sup>28</sup> Woodward, Bob and Benjamin Weiser, "[Cost Soar for Children's Disability Program](#)," *Washington Post*, February 4, 1994.

<sup>29</sup> Funds were not counted as SSI resources for six months. The exclusion period has since been extended to nine months. Social Security Administration, Program Operations Manual System, SI 01130.600, "[Retroactive Supplemental Security Income \(SSI\) and Retirement, Survivors, and Disability \(RSDI\) Payments](#)," accessed April 29, 2021.

<sup>30</sup> O'Connell, Mary. "[Supplemental Security Income's 'Dedicated Account': A Debunked Urban Legend and Twenty Years of Waste](#)," Northeastern Public Law and Theory Faculty Research Papers Series, No. 289, 2017, pp. 33-34.

<sup>31</sup> Woodward, Bob and Benjamin Weiser, "[Cost Soar for Children's Disability Program](#)," *Washington Post*, February 4, 1994.

introduced the Work Opportunity Act (S 1120), which proposed optional “dedicated savings accounts.” The Work Opportunity Act provision stated:

“The Commissioner of Social Security may, at the request of the representative payee, pay any lump sum payment for the benefit of a child into a dedicated savings account that could only be used to purchase for such child—education and job skills training; special equipment or housing modifications or both specifically related to, and required by the nature of, the child’s disability; and appropriate therapy and rehabilitation.”<sup>32</sup>

However, PRWORA ultimately established mandatory rather than discretionary dedicated accounts. A House Committee on the Budget Report accompanying a subsequent draft bill, the Welfare and Medicaid Reform Act of 1996 (HR 3734), provides insight into the congressional rationale for requiring dedicated accounts:

“The [C]ommittee has found that large lump-sum payments have been subject to misuse. Requiring the establishment of special accounts is designed to increase the likelihood that benefits will be spent on the needs of the child.”<sup>33</sup>

The House Report does not provide the source or type of empirical data, if any, that may have influenced the Committee’s structuring dedicated account rules. Indeed, the Congressional record does not include any empirical data regarding the decision to create dedicated accounts.

Another provision of PRWORA established installment payments for back payments exceeding 12 times the maximum monthly SSI payment amount disbursed in six-month increments.<sup>34</sup> Subsequent legislation amended the threshold to back payments exceeding three times the maximum monthly SSI payment amount.<sup>35</sup> Other legislation extended the exclusion period of back payments from resources from six to nine months.<sup>36</sup>

## II. SSA and Stakeholders Suggest Dedicated Account Policy is Complex

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<sup>32</sup> US Senate, 104<sup>th</sup> Congress 1<sup>st</sup> Session, [Work Opportunity Act of 1995](#), S 1120.

<sup>33</sup> US House of Representatives, 104<sup>th</sup> Congress 2<sup>nd</sup> Session, [House Report 104-651 accompanying the Welfare and Medicaid Reform Act of 1996](#), HR 3734.

<sup>34</sup> [Public Law 104-193 § 221](#).

<sup>35</sup> [Public Law 109-171 § 7502](#).

<sup>36</sup> [Public Law 108-203 §431](#).

Agency officials across administrations, payees, advocates, and others have testified to the perceived complexity of the dedicated account rules (see Appendix A).<sup>37</sup> In particular, the Board’s work has raised the following key issues:

- **SSA has difficulty complying with its dedicated account policy.** According to SSA policy, the agency should not release SSI payments requiring a dedicated account if the child’s payee has not opened a dedicated account within 30 days of receiving notice. After 30 days, the SSA should follow up with the payee to establish an account or determine whether a new payee is needed. A 2010 Social Security Office of Inspector General (OIG) report estimated that SSA had not paid approximately 7,775 dedicated account underpayments totaling about \$35 million because the agency did not notify payees about the payments or “could not ensure” payees had established dedicated accounts. In a subsequent 2019 audit, the OIG estimated that SSA “improperly withheld”<sup>38</sup> payments totaling \$78 million from 14,000 SSI recipients in part because SSA could not confirm the existence of dedicated accounts. Of the 14,000, about 3,000 of the accounts were identified in the OIG’s 2010 audit and were owed an estimated \$12.6 million.<sup>39</sup> While SSA could have used the 2010 OIG findings to examine and improve compliance, the 2019 OIG report demonstrates persistent issues contributing to withholding payment.
- **The limited allowable uses for dedicated account funds may be inconsistent with the child recipient’s needs.** The Board has heard about instances of SSA negligence and time lags in approving fund use for the benefit of child recipients.<sup>40</sup> While dedicated account funds can be used for medical, educational, and vocational expenses, these types of expenses overlap with resources from other federal programs, e.g.,

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<sup>37</sup> Social Security Advisory Board, “[Re-Examining Long-Standing SSI Dedicated Account Challenges](#),” November 19, 2020. Recording available at: [ssab.gov/board\\_meetings/](https://ssab.gov/board_meetings/).

<sup>38</sup> Social Security Administration, Office of the Inspector General, 2019, “[Dedicated Account Underpayments Payable to Children Receiving Supplemental Security Income](#),” A-04-18-50607, p. 3.

<sup>39</sup> Social Security Administration, Office of the Inspector General, 2019, “[Dedicated Account Underpayments Payable to Children Receiving Supplemental Security Income](#),” A-04-18-50607, pp. 2-4.

<sup>40</sup> A roundtable participant noted repeated dedicated account spending denials. Social Security Advisory Board, “[Re-Examining Long-Standing SSI Dedicated Account Challenges](#),” November 19, 2020. Recording available at: [ssab.gov/board\\_meetings/](https://ssab.gov/board_meetings/).

Medicaid, the Children’s Health Insurance Program, and educational programs designed for children with disabilities, leaving little overlap in payees’ ability to use dedicated account resources that both meet the needs of children with dedicated accounts and fit the limited criteria for which dedicated account funds can be used. In addition, surveys, field research, and focus groups suggest that parents caring for children with disabilities may have diverse needs outside of these categories, including the need for specialized child care providers, tools to assist communication, and extra electric or utility charges.<sup>41</sup>

- **Dedicated accounts are costly for SSA to administer, and program policy is reportedly administratively burdensome to SSA and payees.** In 2020, SSA stated to the Board that eliminating dedicated accounts would result in administrative savings to the agency of an estimated \$25 million over ten years. The Board did not receive from SSA the variables used to calculate this estimated cost savings. In April 2004 testimony to Congress, then-Commissioner Jo Anne Barnhart stated that eliminating dedicated accounts for the subset of children with parent payees (about 75 percent of all dedicated accounts) would result in administrative cost savings to the agency of \$5 million per year (also without accompanying notes about how this estimate was made).<sup>42</sup> The Board discussed whether SSA should publicly report on the administrative costs associated with current workloads on dedicated account policy and costs that would be incurred if all workloads were fully implemented as required by that policy, however, agreement on this potential recommendation was not achieved.

SSA policy guidance recommends payees seek prior approval from their local field office before spending money in a dedicated account and that they keep documentation of dedicated account deposits and expenses.<sup>43</sup> The guidance helps protect payees since misapplication (as defined,

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<sup>41</sup> Government Accountability Office, GAO/HEHS-99-99, “[SSI Children: Multiple Factors Affect Families’ Costs for Disability-Related Services](#),” pp. 50-52; National Academy of Social Insurance, Report of the Committee on Childhood Disability of the Disability Policy Panel, “[Restructuring the SSI Disability Program for Children and Adolescents](#),” pp. 16-17.

<sup>42</sup> [Testimony by Commissioner Barnhart](#) before House Ways and Means Subcommittee on Human Resources on The Supplemental Security Income (SSI) Program, April 29, 2004.

<sup>43</sup> Social Security Administration, Program Operations Manual System, GN 00602.140, “[Permitted Expenditures from Dedicated Accounts](#),” accessed March 25, 2021.



below) results in reimbursement to the government, monies the recipient's family might not have.

Dedicated account spending on expenses besides medical treatment, education, and job skills training must relate to the child recipient's impairment(s). Field office staff are required to evaluate each request to determine its appropriateness given the individual case. There appears to be limited policy guidance or training provided to field office staff specific to determining the relevance of requested expenses to a child's impairment. The Board is not aware of the extent of the training provided by SSA to staff who are assigned dedicated account workloads. Furthermore, the Board understands that SSA does not capture discrete data on payee spending requests or field office employee decisions. The Board has not identified any agency studies on the consistency of field office employee decisions with agency policy. Collecting and analyzing such data could allow the agency to clarify permitted (prohibited) uses of account funds. The time required for payees to comply with the request process, and subsequent delays in receiving spending approval from SSA, may prevent dedicated account funds from being used for the recipient's needs.

- **There are administrative challenges for SSA in consistently determining the difference between misuse and misapplication.** "Misuse" is spending funds in a way that does not support the beneficiary or recipient. In contrast, "misapplication" is knowingly spending funds on an unauthorized purchase, even if benefitting the child recipient.<sup>44</sup> Misused funds are repaid by the payee to the dedicated account. Misapplied funds are repaid by the payee to the government and lost to the recipient.<sup>45</sup> In 2004, Congress directed SSA to conduct a survey regarding how well payees were doing their job. In response, SSA requested the Committee on Social Security Representative Payees of the National Research Council undertake a study, which resulted in the 2007 report, "Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse." In the report, the Committee found, based on case notes, that SSA employees may have difficulty

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<sup>44</sup> Social Security Administration, Program Operations Manual System, GN 00602.140, "[Permitted Expenditures from Dedicated Accounts](#)," accessed March 25, 2021.

<sup>45</sup> Social Security Administration, "[Social Security Handbook](#)," 1617.6.; Social Security Administration, Program Operations Manual System, SI 02220.060, "[Misapplication of Funds in a Dedicated Account](#)," accessed March 25, 2021.

distinguishing between instances of misuse and misapplication.<sup>46</sup> Also, the OIG found that SSA does not always comply with its policy for monitoring dedicated accounts. According to a 2007 audit, SSA did not consistently collect payees' annual accounting reports, change the recorded account balances to reflect the reports they did receive, or follow its policy for evaluating payee responses to the annual accounting form.<sup>47</sup>

- **The COVID-19 pandemic has further exacerbated existing dedicated account challenges.** As a result of COVID-19, recipients may have immediate spending needs related to their disability, such as personal protective equipment or computers for virtual schooling, not explicitly covered by SSA's current policy. Field offices remain closed to the public except in cases of dire need due to COVID-19; payees must send SSA spending requests and obtain written approval by mail before using dedicated account funds. The added time required by this paper-based process may further delay payees in making purchases to meet the recipient's immediate needs.

### III. Empirical Data on Dedicated Accounts are Limited

Current publicly available data on dedicated accounts are limited. In 2019, the Board requested and received data from SSA, which it included in its SSI statement on dedicated accounts published the same year. While the Board received some of the data it requested in 2019 and 2021, such as the number of dedicated accounts and the distribution of accounts with balances greater than zero, SSA did not provide data related to several of the Board's other requests. SSA did not provide the number of annual accounting forms SSA collects each year, the amount of misapplied funds the agency identifies to be repaid each year, the fraction of denied annual spending requests, and variables included in SSA's estimate of the administrative cost savings of eliminating dedicated accounts.

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<sup>46</sup> National Academies of Sciences, Engineering, and Medicine, National Research Council, Committee on Social Security Representative Payees, 2007, "[Improving the Social Security Representative Payee Program: Serving Beneficiaries and Minimizing Misuse](#)," Appendix D.

<sup>47</sup> Social Security Administration, Office of the Inspector General, 2007, "[The Social Security Administration's Monitoring of Dedicated Accounts for Supplemental Security Income Recipients](#)," A-13-06-16032, pp. 4, 6.

## IV. Consistent Bipartisan Support for Modifying or Eliminating Dedicated Accounts Exists

Starting over 20 years ago, Commissioners of Social Security, Congressional leadership, and past President budget requests from both Republican and Democrat administrations have consistently recommended modifying or eliminating dedicated accounts. Appendix A includes a table detailing the content and rationale behind those recommendations. The Board could not reach agreement on dedicated account policy.

## V. Administrative Flexibility is Available to the Commissioner

Absent legislative action on dedicated accounts, Title XVI of the Social Security Act gives the Commissioner authority to expand or clarify permitted uses of dedicated account funds. The statute states that allowable expenses for dedicated account funds include any item or service *“that the Commissioner determines to be appropriate”* provided it benefits the child and is related to their impairment(s). The statute also gives the Commissioner authority to *“establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account.”*<sup>48</sup>

The Strengthening Protections for Social Security Beneficiaries Act of 2018 removed the annual accounting requirement for certain payees, including parents and guardians. However, the legislation did not make the same changes to the section of the statute related to dedicated accounts. Despite the flexibility granted to the Commissioner to determine the reporting requirements, SSA continues to require parent payees of children with dedicated accounts to report annually on dedicated account spending. The Board’s 2018 report, “Improving Social Security’s Representative Payee Program,” recommended modifying annual payee reporting for custodial parents and legal guardians by adopting mechanisms for SSA to continue to

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<sup>48</sup> Emphasis added. Other permitted expenses are those related to education, job skills training, and education and if related to the child’s impairment(s), personal needs assistance, special equipment, housing modification, and therapy or rehabilitation. Sec. 1631 [42 USC 1383] (F)(ii)(I), available [here](#).

monitor a sample of these payees on a partly randomized and partly targeted basis using predictive analytics.<sup>49</sup>

During the COVID-19 national public health emergency, the Commissioner provided relief to those receiving disability benefits, including SSI recipients.<sup>50</sup> For example, at the beginning of the pandemic, the Commissioner temporarily suspended several workloads that may have resulted in recipients having their payments reduced, suspended, or terminated.<sup>51</sup> In addition, the agency used the regulatory process to implement a streamlined waiver process for certain overpayments occurring during the pandemic period at no fault of the recipient.<sup>52</sup> However, these changes did not create any additional and permanent flexibility regarding dedicated account policy. While there are varied authorities that the Commissioner may use, there are past examples where those authorities have been used to change programmatic guidelines.<sup>53</sup>

Bob Joondeph, Chair

Nancy J. Altman

Jagadeesh Gokhale

Kim Hildred

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<sup>49</sup> Social Security Advisory Board, 2018, "[Improving Social Security's Representative Payee Program](#)," p. 17.

<sup>50</sup> Federal Register, "[Waiver of Recovery of Certain Overpayment Debts Accruing During the COVID-19 Pandemic Period](#)," 85 FR 52909, August 27, 2020.

<sup>51</sup> Social Security Administration, FY 2020, "[Agency Financial Report](#)," p.145.

<sup>52</sup> Federal Register, "[Waiver of Recovery of Certain Overpayment Debts Accruing During the COVID-19 Pandemic Period](#)," 85 FR 52909, August 27, 2020.

<sup>53</sup> Examples of Commissioner-led changes to SSA's disability program include: reinstating reconsideration in the disability adjudication process in the prototype states in 2018 and implementing the Compassionate Allowances List in 2008 to expedite disability adjudication for certain health conditions. Social Security Advisory Board, 2020, "[Examination of Social Security's Reinstatement of Reconsideration](#)"; Social Security Administration, "[Compassionate Allowances](#)," accessed July 20, 2021.

## Appendix A

**Table 1. Past Recommendations to Modify or Eliminate Dedicated Accounts**

<b>Leadership</b>	<b>Year</b>	<b>Recommendation</b>	<b>Rationale</b>
Commissioner Apfel	CY 2000	<b>Draft Bill, Social Security Amendments of 2000:</b> Section 201 “would repeal the provision that requires a dedicated financial account be set up for children who receive at least 6 months’ worth of past-due SSI benefits.” <sup>54</sup>	“There is little evidence that representative payees, who are mostly parents of the disabled child, use past-due benefits for purposes that are not in the child’s best interest. The dedicated account provision is viewed negatively by parents and advocates of disabled children due to the conflict between the rigid nature of the uses permitted under the law and the unpredictable nature of the needs of disabled children.”
Commissioner Barnhart	CY 2002	<b>Draft Bill, SSI Amendments of 2002:</b> “Section 4 would repeal the requirement that retroactive SSI benefits above specified amounts due disabled or blind children be placed in special bank accounts.” <sup>55</sup>	“The dedicated account provision is viewed negatively by parents, advocates of disabled children, and SSA field office employees because of the conflict between the rigid nature of the uses permitted under the law and the unpredictable nature of the needs of disabled children. Parents cannot understand why they are not allowed to use their judgment to spend the funds as they believe to be in the best interest of their children. SSA field office employees spend an inordinate amount of time explaining the dedicated account requirement, discussing allowable expenses, monitoring how the funds are spent, determining whether the funds were misapplied, and

<sup>54</sup> [Letter from Commissioner Kenneth S. Apfel to the Honorable J. Dennis Hastert and the Honorable Albert Gore, Jr.](#) accompanying the draft bill, Social Security Amendments of 2000.

<sup>55</sup> [Letter from Commissioner Jo Anne B. Barnhart to the Honorable J. Dennis Hastert and the Honorable Richard B. Cheney](#) accompanying the draft bill, Supplemental Security Income Amendments of 2002.

			trying to recoup misapplied funds. Repealing the dedicated account would simplify both the public's understanding and SSA's administration of the SSI program."
Senate Finance Committee, 108 <sup>th</sup> Congress (Grassley)	CY 2003	<b>Senate Report accompanying proposed Social Security Protection Act of 2003:</b> "...modifies the dedicated account requirement by allowing the funds in the account to be used for reimbursement of past expenditures incurred by the child's parent or representative payee that were for the good of the beneficiary. The modification also clarifies that funds from the dedicated account can be used for any purpose that is for the good of the beneficiary, not just for certain specified purposes related to the impairment of the beneficiary." <sup>56</sup>	"Field office employees of the Social Security Administration have remarked that the current law rules and regulations for dedicated accounts are overly intrusive, very cumbersome administratively, and lead to unsatisfactory results for some families trying to meet the needs of a disabled child in their family. The change will allow more flexibility in the administration of dedicated accounts by clearly allowing any expenses that are for the good of the beneficiary to be drawn from the account. This change to the SSI program will also make the treatment of funds in these accounts consistent with the requirements placed on representative payees, including parents, who receive payments on behalf of children who do not have dedicated accounts, and those children who are survivors or dependents under Title II."
Commissioner Barnhart	CY 2004	<b>Testimony before the House Ways and Means Subcommittee on Human Resources on the SSI Program:</b> Commissioner Barnhart discussed a proposal in the President's FY 2005 budget to eliminate dedicated accounts for	"[The proposal] recognizes that parents act in the best interests of their children and know best how to address the needs of their children. At the same time, the proposal protects the retroactive benefits of children who have representative payees other than their parents. Modifying the dedicated account requirement would improve

<sup>56</sup> [Senate Report 108-176](#) accompanying the Social Security Protection Act of 2003, 108<sup>th</sup> Congress, 1<sup>st</sup> Session.

		children whose parent is their representative payee. <sup>57</sup>	service to SSI beneficiaries and their families and make the program simpler to administer. There are currently about 40,300 dedicated account cases. About three-fourths of these are cases in which the parent is the child's representative payee. The President's proposal would eliminate an estimated 30,000 dedicated account cases. Reducing the number of dedicated accounts that would be required to be established and monitored would not only ease some of the day-to-day burden on parents of disabled children, it would also ease some administrative burden on SSA. We would be able to redirect the estimated \$5 million per year in administrative resources to other error reduction and debt collection activities."
President Bush	FY 2005	<b>President's Budget:</b> "...includes proposals to...eliminate SSI dedicated accounts for children residing with natural or adoptive parents." <sup>58</sup>	
President Bush	FY 2006	<b>President's Budget:</b> "... includes proposals to simplify SSI administration and eliminate SSI dedicated accounts for children residing with natural or adoptive parents." <sup>59</sup>	

<sup>57</sup> [Testimony by Commissioner Jo Anne B. Barnhart](#) before the House Ways and Means Subcommittee on Human Resources.

<sup>58</sup> [Budget of the United States Government](#), Fiscal Year 2005.

<sup>59</sup> [Budget of the United States Government](#), Fiscal Year 2006.

Commissioner Astrue	CY 2009	<b>Draft Bill, Social Security Miscellaneous Amendments of 2009:</b> Section 201 “would simplify the administration of the SSI program by eliminating the ‘dedicated account’ requirements.” <sup>60</sup>	“The dedicated account restrictions are generally confusing to payees, and the required documentation of expenditures is labor intensive. Additionally, there is no evidence to show that the majority of representative payees of children (most of whom are their parents) do not act in the beneficiary’s best interest.”
President Obama	FY 2017	<b>President’s Budget:</b> “... proposes the elimination of dedicated accounts, which are now required when past-due benefits greater than six times the maximum monthly benefit will be paid.” <sup>61</sup>	
Acting Commissioner Colvin	FY 2017	<b>Legislative proposal included in SSA’s Congressional Budget Justification:</b> “... would eliminate dedicated accounts.” <sup>62</sup>	“These restrictions are often considered intrusive and confusing, and oversight of these accounts is labor-intensive for both SSA and representative payees.”
President Trump	FY 2019	<b>President’s Budget:</b> “The Budget also proposes to eliminate dedicated accounts for past due benefits...” <sup>63</sup>	
Acting Commissioner Berryhill	FY 2019	<b>Legislative Proposal included in SSA’s Congressional Budget Justification:</b> “It will also eliminate the dedicated account policy...” <sup>64</sup>	“This proposal will make two additional changes to simplify the program and reduce the burden on beneficiaries and representative payees...these requirements confuse representative payees, who are

<sup>60</sup> [Letter from Commissioner Michael J. Astrue to the Honorable Joseph R. Biden and the Honorable Nancy Pelosi](#) accompanying draft bill, Social Security Miscellaneous Amendments of 2009.

<sup>61</sup> [Budget of the United States Government](#), Fiscal Year 2017.

<sup>62</sup> Social Security Administration, [Justification of Estimates for Appropriations Committees](#), Fiscal Year 2017.

<sup>63</sup> [Budget of the United States Government](#), Fiscal Year 2019.

<sup>64</sup> Social Security Administration, [Justification of Estimates for Appropriations Committees](#), Fiscal Year 2019.



			often parents, and restrict their ability to decide which expenditures are in the best interests of their disabled children.”
President Trump	FY 2020	<b>President’s Budget:</b> “The Budget also proposes to eliminate dedicated accounts for past due benefits...” <sup>65</sup>	
Acting Commissioner Berryhill	FY 2020	<b>Legislative Proposal included in SSA’s Congressional Budget Justification:</b> “This proposal would also eliminate the dedicated account policy...” <sup>66</sup>	“This proposal would make two additional changes to simplify the program and reduce the burden on beneficiaries and representative payees...these requirements confuse representative payees, who are often parents, and restrict their ability to decide which expenditures are in the best interests of their disabled children.”
Former Commissioner Barnhart	CY 2020	<b>Board Roundtable:</b> During the COVID-19 pandemic, the Commissioner should use administrative flexibility granted by the statute to allow families to use dedicated account funds to meet immediate needs. <sup>67</sup>	
President Trump	FY 2021	<b>President’s Budget:</b> “The Budget also proposes to eliminate dedicated accounts for past due benefits...” <sup>68</sup>	
Commissioner Saul	FY 2021	<b>Legislative Proposal included in SSA’s Congressional Budget</b>	“...which would simplify the program and reduce the burden

<sup>65</sup> [Budget of the United States Government](#), Fiscal Year 2020.

<sup>66</sup> Social Security Administration, [Justification of Estimates for Appropriations Committees](#), Fiscal Year 2020.

<sup>67</sup> Social Security Advisory Board, [“Re-Examining Long-Standing SSI Dedicated Account Challenges,”](#) November 19, 2020. Recording available at: [ssab.gov/board\\_meetings/](https://ssab.gov/board_meetings/).

<sup>68</sup> [Budget of the United States Government](#), Fiscal Year 2021.

		<b>Justification:</b> “This proposal would eliminate the holding out and dedicated account policies...” <sup>69</sup>	on beneficiaries and representative payees.”
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<sup>69</sup> Social Security Administration, [Justification of Estimates for Appropriations Committees](#), Fiscal Year 2021.