



SOCIAL SECURITY

The Commissioner

August 29, 2008

The Honorable Nancy Pelosi
Speaker of the House of Representatives
Washington, D.C. 20515

Dear Madam Speaker:

Enclosed for consideration of the Congress is the Administration's bill to make amendments to the Old-Age, Survivors, and Disability Insurance program and the Supplemental Security Income (SSI) program. A section-by-section description of the proposals is also enclosed with this letter.

As you know, the Social Security Administration (SSA) is struggling to balance new responsibilities with our traditional workloads, all within tight resource constraints. With that in mind, I would like to point out four proposals that would allow us to make more efficient use of our limited resources by improving program integrity or simplifying the administration of the Social Security programs. In addition to these four proposals (discussed below) there is also a proposal that would provide an incentive for children ages 16 and 17 to stay in school and a proposal to extend, for humanitarian purposes, the SSI eligibility period for refugees.

Section 102 would simplify the computation of the offset that applies to Social Security disability benefits when a beneficiary receives workers' compensation/public disability (WC/PDB) benefits. It would also limit the reduction in benefits to five years. This proposal would simplify the calculation of the offset and greatly reduce our administrative burden to continually monitor a worker's receipt of WC/PDB benefits. This would allow us to reduce administrative costs associated with the labor intensive offset calculation and improve payment accuracy in the disability insurance program.

Section 103 would improve the administration of the government pension offset (GPO) and the windfall elimination provision (WEP) by requiring State and local governments to provide government pension data directly to us. The proposal would improve our stewardship of the program and the Social Security trust funds through the receipt of more accurate and timely information on pensions for work not covered by Social Security.

Section 104 provides the authority for us to combine retroactive Title II benefits with the next recurring monthly benefit payment. This proposal would streamline the payment of benefits by combining two separate payments into one.

Section 105 would provide that the month of entitlement to disability benefits could be no earlier than six months prior to the month the application is filed. This proposal would make the retroactivity rules for disability benefits consistent with existing retroactivity provisions

applicable to unreduced retirement and survivor benefits. It could also encourage some applicants to file closer to the onset of their disability and thus receive a decision closer to the time the disability began.

The Office of Management and Budget advises that there is no objection to the transmittal of this bill to the Congress, and its enactment would be in accord with the program of the President. We urge the Congress to give the bill prompt and favorable consideration.

I am sending an identical letter to the Honorable Richard B. Cheney, President of the Senate.

Sincerely,



Michael J. Astrue

Enclosures



SOCIAL SECURITY

The Commissioner

August 29, 2008

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President of the Senate
Washington, D.C. 20510

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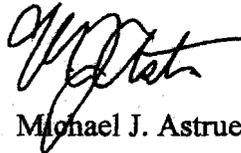
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I am sending an identical letter to the Honorable Nancy Pelosi, Speaker of the House.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Astrue", written in a cursive style.

Michael J. Astrue

Enclosures

Section-By-Section Descriptions “The Social Security Amendments of 2008”

Short Title and Table of Contents

Section 1 provides that upon enactment the bill may be cited as the “Social Security Amendments of 2008.” This section also includes the table of contents.

Full-Time School Attendance Requirement for Child’s Benefits at Age 16

Section 101 would require that in order to receive an Old-Age, Survivors, and Disability Insurance child’s benefit for a month, an individual who has attained age 16 must be a full-time elementary or secondary school student. The provision would make exceptions to the requirement in the following situations: (1) the individual is determined to meet the definition of a “child with a disability” under the Individuals with Disabilities Education Act, (2) a physician or psychologist certifies that the individual has a medical condition precluding full-time attendance, (3) the individual is under a “disability” as defined in section 223 of the Social Security Act, or (4) the individual is under age 18 and has qualified for or received a high school diploma or equivalent. The proposal recognizes for children ages 16 and 17 the importance of continuing education through the high school level. The expectation is that the lowering of age for the student requirement for children’s benefits may serve as an incentive for many children to remain in school and complete their education at least through high school.

The provision would be effective with respect to individuals who attain age 16 after September 30, 2008, or the end of the sixth month that begins after the date of enactment of this Act, whichever occurs later.

Simplification of the Workers’ Compensation /Public Disability Benefit Offset Computation

Section 102 would simplify the workers’ compensation/public disability benefit (WC/PDB) computation by providing a flat benefit reduction equal to the lesser of the worker’s monthly WC/PDB benefit or the total of 31 percent of the Social Security disability benefit (DIB) payable to the worker and the worker’s family when the worker receives both DIB and a WC/PDB benefit. (The 31 percent amount was selected to make the proposal cost neutral to the workers’ compensation offset provision in the long range. That is, on average, the lifetime benefits withheld as a result of the offset would be the same as under current law.) In

addition, under the provision, offset would end after the worker has been entitled for 60 months. This provision would greatly lessen the administrative requirements for SSA to continually monitor the worker's receipt of WC/PDB benefits and would simplify the complex calculations now required to accurately apply the offset.

As a result of the operation of current law, the offset falls disproportionately on lower earners. By replacing the existing complicated offset with a uniform offset, the proposal would more evenly distribute the offset among higher and lower earners by offsetting all workers, regardless of their pre-disability earnings levels. Because of relatively low State law limits on the amount of WC payments, it is common for higher earners to escape the offset because combined Social Security and WC benefits for these earners are below the present law cap (80 percent of their average pre-disability earnings) that triggers the offset. In addition, the provision would provide for a more equitable application of WC/PDB offset in regards to auxiliary benefits by applying the same percentage of offset to the auxiliaries as to the worker. (Under current law, there can be situations in which the auxiliaries' benefits are fully offset, but the worker's benefit is only partially offset or not offset at all.)

In addition to the changes noted above, this section would revise the current section 224(b) of the Act, which gives the Commissioner the authority to prorate lump sums and other payments that are a substitute for or commutation of monthly WC payments.

The provision would be effective with respect to any individual whose concurrent entitlement to DIB and to WC/PDB benefits begins after September 30, 2008, or the end of the sixth month that begins after the date of the enactment of this Act, whichever occurs later.

Information for Administration of the Government Pension Offset and Windfall Elimination Provisions

Section 103 would improve the administration of the government pension offset (GPO) provision and the windfall elimination provision (WEP) by authorizing the Commissioner to require that State and local governments provide data directly to the Social Security Administration (SSA) concerning the receipt of government pensions based on work not covered by Social Security. Pension payers would be required to identify pensions that are paid based in any part on work that was not covered by Social Security. SSA could then compare the reports with the beneficiary payment records and examine cases that indicate the possibility that

WEP or GPO applies. SSA would be able to obtain data on pensions based on noncovered work in a more timely and consistent manner. The proposal would thereby improve SSA's stewardship over the program and the Social Security trust funds.

This provision would be effective with respect to pensions paid after December 30, 2010.

Authority to Combine Retroactive Title II Benefits with Monthly Benefit Payment

Section 104 provides the authority for the Commissioner to pay retroactive Title II benefits on the scheduled date of the next recurring monthly benefit payment. The payment of retroactive benefits would be made on such date even if the scheduled recurring payment is not to be made (e.g., the scheduled recurring payment would not be made due to suspension of the recurring payment).

Currently, retroactive payments are released once they are identified and authorization is completed; they can be paid at any time. This proposal could delay release of a retroactive payment by up to one month, but in most cases the delay would be less than that. The delay in payment of this duration is unlikely to cause any significant hardship. However, synchronizing the payment of retroactive benefits with the next recurring monthly benefit payment due to the beneficiary would simplify the check payment system.

The provision would be effective for benefits certified for payment after the later of the sixth month following the month of enactment or September 30, 2008.

Provide Six Months of Retroactivity for Disability Applications

Section 105 would provide that the month of entitlement to disability benefits can be no earlier than six months prior to the month the application is filed. Under current law, applications for retirement and non-disability survivor benefits have no retroactivity where the benefit would be reduced for age. However, where such benefits would not be reduced for age, these applications can be retroactive for up to six months. This proposal would make the retroactivity rules for disability benefits consistent with existing retroactivity provisions applicable to unreduced retirement and survivor benefits.

Under the proposal, there would be no change in the month of entitlement to Medicare benefits; the month of entitlement to Medicare would be determined

under the current rules as if the month of entitlement to benefits was based on 12 months of retroactivity.

This provision would be effective with respect to applications filed after the sixth month after the month of enactment.

Temporary Expansion of Length of Time-Limited Eligibility of Certain Qualified Aliens for Supplemental Security Income (SSI) and Related Medicaid Benefits

Section 201 would temporarily extend from 7 to 8 years the time period for SSI eligibility (and for Medicaid eligibility for those who receive Medicaid based on the receipt of SSI) for refugees and certain other noncitizens. The provision would be effective with respect to benefits payable October 1, 2008 through September 30, 2011. After September 30, 2011, the time period would revert back to 7 years. The proposal would continue benefits only to individuals whose 7-year period expires after September 2007, and then only for months beginning October 2008 that were in the 8-year period.

There would be no retroactive benefits for individuals whose 7-year eligibility period expired before October 2007.

This provision would be effective with respect to determinations of eligibility made beginning October 1, 2008, and ending September 30, 2011, for benefits payable under the programs described in section 402 (a)(3)(A) and 402 (b)(3)(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

A B I L L

To amend the Social Security Act and enact other changes related to the old-age, survivors and disability insurance program and 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 AND TABLE OF CONTENTS.

(a) Short Title.--This Act may be cited as the "Social Security Amendments of 2008".

(b) Table of Contents.--The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I--PROVISIONS RELATING TO THE

OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM

Sec. 101. Full-time school attendance requirement for child's benefits at age 16.

Sec. 102. Simplification of the workers' compensation/
public disability benefit offset computation.

Sec. 103. Information for administration of the government pension offset and windfall elimination provisions.

Sec. 104. Authority to combine retroactive title II benefits with monthly benefit payment.

sec. 105. Provide six months of retroactivity for disability

applications.

TITLE II--PROVISION RELATING TO THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

Sec. 201. Temporary expansion of length of time-limited eligibility of certain qualified aliens for supplemental security income and related medicaid benefits.

TITLE I--PROVISIONS RELATING TO THE
OLD-AGE, SURVIVORS AND DISABILITY INSURANCE PROGRAM

SEC. 101. FULL-TIME SCHOOL ATTENDANCE REQUIREMENT FOR CHILD'S BENEFITS AT AGE 16.

(a) In General.--Section 202(d) of the Social Security Act (42 U.S.C. 402(d)) is amended--

(1) in paragraph (1), by striking "Every" and inserting "Except as provided in paragraph (11), every"; and

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

"(11) (A) Except as provided in subparagraph (B), no benefit otherwise payable under this subsection shall be paid to any individual who has attained the age of 16 and has not attained the age of 18 for any month in which such individual is not a full-time elementary or secondary school student, as defined in paragraph (7), during any part of such month.

"(B) Subparagraph (A) shall not apply to any individual who--

"(i) is determined pursuant to section 614(b)(4) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(b)(4)) to meet the definition of a 'child with a disability', as defined in section 602(3) of such Act (20 U.S.C. 1401(3));

"(ii) has a certification from a physician or qualified psychologist that such individual has a medical condition that precludes full-time elementary or secondary school attendance;

"(iii) is under a disability (as defined in section 223(d) of this Act); or

"(iv) has completed the requirements for or received a high school diploma or its recognized equivalent under State law.

"(C) For purposes of the application of section 203(a), an individual with respect to whom no benefit under this subsection is payable for any month as a result of the application of subparagraph (A) shall be deemed to have received such benefit for such month."

(b) Effective Date.--The amendment made by this section shall be effective with respect to individuals who attain age 16 after--

(1) September 30, 2008, or
(2) the end of the sixth month that begins after the date of the enactment of this Act,
whichever occurs later.

SEC. 102. SIMPLIFICATION OF THE WORKERS' COMPENSATION/

PUBLIC DISABILITY BENEFIT OFFSET COMPUTATION.

(a) In General.--Section 224 of the Social Security Act (42 U.S.C. 424a) is amended--

(1) in subsection (a) in the matter following paragraph (2)(B), by striking "the total" and all that follows and inserting "the total amount of benefits payable under section 223 to such individual and any benefit payable under section 202 on the basis of such individual's wages and self-employment income for such month shall be reduced by an amount equal to 31 percent of such benefits or, if smaller, the amount of such periodic benefits described in paragraph (2) payable (and actually paid) for such month to such individual under such laws or plans, except that no reduction otherwise required by this subsection shall be made for any month after the month in which such individual has been entitled, with respect to such individual's current period of disability, to disability benefits for 60 months.";

(2) in subsection (b), by striking all that follows

after "shall be made", and inserting "by an amount that the Commissioner of Social Security determines is the equivalent monthly amount of such periodic benefit for purposes of the application of subsection (a), or, if lesser, by the equivalent monthly amount of the amount established as part of the terms of a lump sum settlement.";

(3) by striking subsections (f) and (g); and

(4) by redesignating subsection (h) as subsection (f).

(b) Retirement Age Correction.--Section 224(a) of such Act is further amended in the matter preceding paragraph (1) by striking "the age of 65" and inserting "retirement age as defined in section 216(1)".

(c) Effective Date.--The amendments made by this section are effective with respect to any individual whose concurrent entitlement to benefits under section 223 of the Social Security Act and to periodic benefits described in section 224(a)(2) of such Act commences after--

(1) September 2008, or

(2) the end of the sixth month that begins after the

date of the enactment of this Act,

whichever occurs later.

SEC. 103. INFORMATION FOR ADMINISTRATION OF THE GOVERNMENT

PENSION OFFSET AND WINDFALL ELIMINATION PROVISIONS.

(a) The heading preceding section 202(m) of the Social Security Act shall read as follows:

"State Pension Information to be Provided to the Commissioner"

(b) Section 202 of the Social Security Act (42 U.S.C. 402) is amended by adding a new subsection (m), as follows:

"(m) (1) A State shall be required to provide the Commissioner, in such form as specified by the Commissioner, information specified in paragraph (2) with respect to any designated distribution (as defined in section 3405(e)(1) of the Internal Revenue Code of 1986) paid under any employer deferred compensation plan (as defined in section 3405(e)(5) of such Code) of such State, a political subdivision thereof, or any agency or instrumentality of either, to any participant of such plan based in whole or in part upon such participant's earnings for service in the employ of any such governmental entity which did not constitute employment (as defined in section 3121(b) of such Code). Such information shall be provided by the State on a one-time basis for each such participant receiving such designated distribution.

"(2) The following information is specified in this paragraph:

"(a) The name and Social Security account number of such participant receiving such designated distribution ; and

"(b) Such participant's eligibility date for and, if different, the initial payment date for such designated distribution."

(c) Effective Date. The amendments made by this section shall be effective with respect to information for any individual receiving designated distributions (as referenced in section 202(m)(1) of the Social Security Act as amended by subsection (b)) after December 30, 2010.

SEC. 104. AUTHORITY TO COMBINE RETROACTIVE TITLE II BENEFITS
WITH MONTHLY BENEFIT PAYMENT

(a) General - Section 205(m) of the Social Security Act (42 U.S.C. 405(m)), as previously repealed, is amended to read as follows:

"Any retroactive benefits payable under this title to a beneficiary who has been determined to be entitled to recurring monthly benefits under this title shall not be paid until such time as the next scheduled monthly payment date as determined by the Commissioner of Social Security regardless of whether the recurring monthly payment will be made to such beneficiary."

(b) Effective Date. - The amendment is effective for benefits certified for payment after the later of:

(1) the sixth month after the month of enactment of this Act, or

(2) September 2008.

SEC. 105. PROVIDE SIX MONTHS OF RETROACTIVITY FOR DISABILITY APPLICATIONS

(a) In General.- -

(1) Section 202 (j) (1) of the Social Security Act (42 U.S.C. 402(j) (1)) is amended by striking "prior to" the second time it appears in the first sentence and all that follows through the period and inserting in lieu thereof: "prior to the end of the sixth month immediately succeeding such month."

(2) Section 223(b) of the Social Security Act (42 U.S.C. 423(b)) is amended by striking "12th" in the last sentence thereof and replacing it with "sixth".

(3) Section 226 of the Social Security Act (42 U.S.C. 426) is amended by adding the following new subsection after subsection (j):

"(k) For purposes of determining entitlement to hospital insurance benefits under subsections (b) or (h), the month of entitlement to benefits under title II of this Act shall be deemed to be the month of entitlement to such benefit that would result if the reference to "sixth" in section 202(j) (1) and section 223(b) were instead "twelfth" in any case where an individual would have been entitled to disability insurance benefits, child's insurance benefits on

the basis of disability if entitlement is based on the wages and self-employment income of a person entitled to disability insurance benefits, or widow or widower benefits on the basis of disability."

(b) Conforming Amendments--

(1) Section 216(i)(2) of the Social Security Act (42 U.S.C. 416(i)(2)) is amended in subparagraph (E) by striking "12" and inserting "6" and in subparagraph (F) by striking "12" and inserting "6" .

(2) Section 226(b)(2)(A) of the Social Security Act (42 U.S.C. 426(b)(2)(A)) is amended by inserting "subject to subsections (e)(3), (e)(4), and (k)," before "is entitled to".

(3) Section 226(h)(2) of the Social Security Act (42 U.S.C. 426(h)(2)) is amended by deleting "The" and inserting in lieu thereof "Subject to subsections (e)(3), (e)(4), and (k), the".

(4) Section 1811 of the Social Security Act (42 U.S.C. 1395c) is amended by inserting ",subject to subsections (e)(3), (e)(4) and (k) of section 226," after "age 65 who".

c) Effective Date. - - The amendments made by this section are effective with respect to applications filed after the sixth month after enactment of this Act.

TITLE II--PROVISION RELATING TO THE
SUPPLEMENTAL SECURITY INCOME PROGRAM

SEC. 201. TEMPORARY EXPANSION OF LENGTH OF TIME-LIMITED
ELIGIBILITY OF CERTAIN QUALIFIED ALIENS FOR
SUPPLEMENTAL SECURITY INCOME AND RELATED MEDICAID
BENEFITS.

(a) In General.--For the purpose of the application of section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612) to the determination of eligibility during the period specified in subsection (b) for

(1) the program described in subsection (a)(3)(A) of such section; and

(2) the program described in subsection (b)(3)(c) of such section on the basis of receipt of benefits under the program described in paragraph (1),

the phrase "7 years" contained in subsections (a)(2)(A) and (b)(2)(A)(i) of such section shall be deemed to read "8 years".

(b) Period Specified.--The period begins October 1, 2008, and ends September 30, 2011.

(c) Effective Date.--This section shall be effective with respect to benefits payable under the programs described in section 402(a)(3)(A) and 402(b)(3)(c) of the Personal

Responsibility and Work Opportunity Reconciliation Act of 1996
for months within the period specified in subsection (b) .