

you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart I—Determining Disability and Blindness

■ 4. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 221(m), 702(a)(5), 1611, 1614, 1619, 1631(a), (c), (d)(1), and (p), and 1633 of the Social Security Act (42 U.S.C. 421(m), 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), (d)(1), and (p), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a), and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, and 1382h note).

■ 5. Amend § 416.960 by revising paragraph (b)(1) to read as follows:

§ 416.960 When we will consider your vocational background.

* * * * *

(b) * * *

(1) *Definition of past relevant work.*

Past relevant work is work that you have done within the past five years that was substantial gainful activity and that lasted long enough for you to learn to do it. (See § 416.965(a)).

* * * * *

■ 6. Revise § 416.965 to read as follows:

§ 416.965 Your work experience as a vocational factor.

(a) *General. Work experience* means skills and abilities you have acquired through work you have done which show the type of work you may be expected to do. Work you have already been able to do shows the kind of work that you may be expected to do. We consider that your work experience applies when it was done within the last five years, lasted long enough for you to learn to do it, and was substantial gainful activity. We do not usually consider that work you did more than five years before the time we are deciding whether you are disabled applies. A gradual change occurs in most jobs so that after five years it is no longer realistic to expect that skills and abilities acquired in a job done then continue to apply. The five-year guide is intended to ensure that remote work experience is not currently applied. If you have no work experience or worked only “off-and-on” or for brief periods of time during the five-year period, we generally consider that these do not apply. If you have acquired skills through your past work, we consider you to have these work skills unless you cannot use them in other skilled or semi-skilled work that you can now do. If you cannot use your skills in other skilled or semi-skilled work, we will consider your work background the same as unskilled. However, even if you have no work experience, we may consider that you are able to do unskilled work because it requires little or no judgment and can be learned in a short period of time.

(b) *Information about your work.* Under certain circumstances, we will ask you about the work you have done in the past. If you cannot give us all of the information we need, we may try, with your permission, to get it from your employer or other person who knows about your work, such as a member of your family or a co-worker. When we need to consider your work experience to decide whether you are able to do work that is different from what you have done in the past, we will ask you to tell us about all of the jobs you have had in the last five years. You must tell us the dates you worked, all of the duties you did, and any tools, machinery, and equipment you used. We will need to know about the amount of walking, standing, sitting, lifting and carrying you did during the workday, as well as any other physical or mental duties of your job. If all of your work in the past five years has been arduous and unskilled, and you have very little

education, we will ask you to tell us about all of your work from the time you first began working. This information could help you to get disability benefits.

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SOCIAL SECURITY ADMINISTRATION

20 CFR Part 416

[Docket No. SSA–2023–0015]

RIN 0960–A181

Expand the Definition of a Public Assistance Household

AGENCY: Social Security Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: We propose to expand the definition of a public assistance (PA) household for purposes of our programs, particularly the Supplemental Security Income (SSI) program, to include the Supplemental Nutrition Assistance Program (SNAP) as an additional means-tested public income maintenance (PIM) program. In addition, we seek public comment on expanding the definition to include households in which *any other* (as opposed to *every other*) member receives public assistance. We expect that the proposed rule would decrease the number of SSI applicants and recipients charged with in-kind support and maintenance (ISM). In addition, we expect that this proposal would decrease the amount of income we would deem to SSI applicants or recipients because we would no longer deem income from ineligible spouses and parents who receive SNAP benefits and live in the same household. These policy changes would reduce administrative burden for low-income households and SSA.

DATES: To ensure that your comments are considered, we must receive them no later than November 28, 2023.

ADDRESSES: You may submit comments by any one of three methods—internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to Docket No. SSA–2023–0015 so that we may associate your comments with the correct regulation.

Caution: You should be careful to include in your comments only information that you wish to make publicly available. We strongly urge you not to include in your comments any personal information, such as Social

Security numbers or medical information.

1. *Internet:* We strongly recommend that you submit your comments via the internet. Please visit the Federal eRulemaking portal at <https://www.regulations.gov>. Use the “Search” function to find docket number SSA–2023–0015. The system will issue a tracking number to confirm your submission. You will not be able to view your comment immediately because we must post each comment manually. It may take up to one week for your comment to be viewable.

2. *Fax:* Fax comments to 1–833–410–1631.

3. *Mail:* Address your comments to the: Office of Legislation and Congressional Affairs, Regulations and Reports Clearance Staff, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore, MD 21235.

Comments are available for public viewing on the Federal eRulemaking portal at <https://www.regulations.gov> or in person, during regular business hours, by arranging with the contact person identified below.

FOR FURTHER INFORMATION CONTACT: Tamara Levingston, Office of Income Security Programs, 6401 Security Blvd., Robert M. Ball Building, Suite 2512B, Woodlawn, MD 21235, 410–966–7384. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our internet site, Social Security Online, at <https://www.ssa.gov>.

SUPPLEMENTARY INFORMATION:

Background

We administer the SSI program, which provides monthly payments to: (1) adults and children with a disability or blindness; and (2) people aged 65 and older. Eligible individuals must meet all the requirements in the Social Security Act (Act), including having resources and income below specified amounts.¹ Generally, the more income an individual has, the less their SSI payment will be. Under the SSI program, resources are cash or other liquid assets or any real or personal property that an individual (or spouse, if any) owns and could convert to cash to be used for their support and maintenance.² Income, on the other hand, is anything the SSI applicant or

recipient receives in cash or in-kind that can be used to meet food and shelter needs.³ Applicants’ and recipients’ resources may affect their SSI eligibility, while their income may affect both their SSI eligibility and payment amounts.

Once an applicant is found eligible for SSI, their monthly payment is determined by subtracting countable monthly income from the Federal benefit rate (FBR), which is the monthly maximum Federal SSI payment.⁴ The FBR for 2023 is \$914 for an individual and \$1,371 for an eligible individual with an eligible spouse.⁵ The Act and our regulations⁶ define income as “earned,” such as wages from work, and “unearned,” such as gifted cash or ISM.⁷

ISM

As indicated above, income that affects an individual’s monthly SSI payment can be provided in cash or in-kind. Under our current regulations, ISM means any food or shelter that is given to an individual or that the individual receives because someone else pays for it.⁸ For example, if an applicant or recipient lives with their sibling and does not pay rent, we would consider the shelter that their sibling provides to be ISM. Similarly, if an applicant or recipient lives with a friend and consumes the food in their friend’s home but does not contribute toward the food or shelter, we consider both the food and shelter that the friend provides to be ISM. As another example, if an applicant or recipient lives alone and their parents bring them groceries each month and pay their utility bills, we consider their parents’ help to be ISM.

Like other forms of income, ISM can reduce the amount of a recipient’s monthly SSI payment. For example, we reduce the SSI monthly payment by one-third of the FBR for an individual (and eligible spouse) living in the household of another person who provides the individual (and eligible

spouse) with both food and shelter.⁹ We discuss the specific means of doing so below in the “Current Policy” section.

Because ISM requires that applicants or recipients receive food, shelter, or both, by definition, ISM does not apply if applicants or recipients live alone and pay for their own food and shelter, or if they live with other people and pay their pro rata share of the food and shelter expenses for the household.¹⁰ Further, ISM does not apply when applicants or recipients live only with their spouses and any minor children, and nobody outside the household pays for their food and shelter, regardless of whether the spouse or minor child provides food or shelter.¹¹ Additional circumstances regarding ISM are discussed further in our regulations.¹²

Deeming Income

In addition to counting ISM that an applicant or recipient receives, the SSI program deems income of certain individuals to the SSI applicant or recipient.¹³ “Deeming” is the process of considering a portion of another person’s income to be the income of an SSI applicant or recipient.¹⁴ When our deeming rules apply, it does not matter whether the other person’s income is actually available to the applicant or recipient.¹⁵ In determining an SSI applicant’s or recipient’s eligibility and payment amount, we consider both the SSI applicant’s or recipient’s own income as well as any relevant deemed income from others. For example, when a child who is applying for or receiving SSI lives with a parent who is ineligible for SSI, we deem a portion of that parent’s income to the child through the month in which the child reaches age 18.¹⁶ Likewise, when an adult who is

⁹ See 42 U.S.C. 1382a(a)(2)(A). According to Balkus, Sears, Wilschke, and Wixon, “[t]he law creating the SSI program included the one-third reduction provision so that SSA would not have to determine the actual value of room and board when a recipient lived with a friend or relative.” Balkus, Richard; Sears, James; Wilschke, Susan; and Wixon, Bernard, *Simplifying the Supplemental Security Income Program: Options for Eliminating the Counting of In-kind Support and Maintenance*, Social Security Bulletin, vol. 68, no. 4, 2008, available at: www.ssa.gov/policy/docs/ssb/v68n4/v68n4p15.html.

¹⁰ See 20 CFR 416.1133. As a general principle, if SSI recipients do not contribute their pro-rata share of household operating expenses, but they do contribute an amount within \$20 of their pro-rata share of household operating expenses, we treat the situation as if the recipients pay their pro-rata share, and do not reduce benefits because of ISM. See POMS SI 00835.160.

¹¹ See 20 CFR 416.1148.

¹² See 20 CFR 416.1130 through 416.1148.

¹³ See 42 U.S.C. 1382c(f); 20 CFR 416.1160.

¹⁴ See 20 CFR 416.1160.

¹⁵ See 20 CFR 416.1160, 416.1161.

¹⁶ See 20 CFR 416.1165.

¹ See 42 U.S.C. 1382 and 20 CFR 416.202 for a list of the eligibility requirements. See also 20 CFR 416.420 for general information on how we compute the amount of the monthly payment by reducing the benefit rate by the amount of countable income as calculated under the rules in subpart K of 20 CFR part 416.

² 20 CFR 416.1201(a).

³ 20 CFR 416.1102. See also 20 CFR 416.1103 for examples of items that are not considered income.

⁴ See 20 CFR 416.405 through 416.415. Some States supplement the FBR amount.

⁵ 87 FR 64296, 64298 (2022). A table of the monthly maximum Federal SSI payment amounts for an eligible individual, and for an eligible individual with an eligible spouse, is available at <https://www.ssa.gov/oact/cola/SSlamts.html>. When the FBR is adjusted for the cost of living, the amount of the potential ISM reduction adjusts accordingly.

⁶ See 42 U.S.C. 1382a; 20 CFR 416.1102 through 416.1124.

⁷ See 20 CFR 416.1104.

⁸ See 20 CFR 416.1130(b). We recently published a proposed rule to remove food from the calculation of ISM. See 88 FR 9779, *Omitting Food From In-Kind Support and Maintenance Calculations*, published February 15, 2023.

applying for or receiving SSI lives with a spouse who is ineligible for SSI, we deem a portion of the spouse's income to the applicant or recipient.¹⁷ We look at the deemor's income to see if we must deem a portion of it to the applicant or recipient, because we expect the deemor to use some of their income to take care of (some of) the applicant or recipient's needs. Ultimately, only some of the deemor's income is assigned to the SSI applicant or recipient.

Some income from ineligible parents and spouses is not deemed to the SSI applicant or recipient. For example, our current policy excludes from deeming: the amount of any public income-maintenance (PIM) payments the ineligible parents and spouses receive under the programs listed in the PA household definition,¹⁸ any income that those programs counted or excluded in determining the amount of the PIM payments they received, and any income of the ineligible spouse or parent that is used by a PIM program to determine the amount of that program's benefit to someone else.¹⁹ For example, if an ineligible spouse or parent receives Temporary Aid for Needy Families (TANF) assistance based on their income of \$400 per month, we do not consider the TANF benefit amount or the \$400 in our income determination for the SSI applicant or recipient.

Current Policy

We define a PA household as one in which every member of the household receives a PIM payment under at least one of the following:

1. Title IV–A of the Social Security Act (Temporary Assistance for Needy Families or TANF);
2. Title XVI of the Social Security Act (Supplemental Security Income or SSI);
3. The Refugee Act of 1980 (payments based on need);
4. The Disaster Relief and Emergency Assistance Act;
5. General assistance programs of the Bureau of Indian Affairs;
6. State or local government assistance programs based on need (tax credits or refunds are not assistance based on need); and
7. Department of Veterans Affairs program (payments based on need).²⁰

If an SSI applicant or recipient lives in a PA household, we do not consider them to be receiving ISM from other people within the household (*i.e.*,

“inside ISM”).²¹ This policy is based on the idea that if the other individuals in the household are receiving a PIM payment, they need their income (and resources) for their own needs and therefore cannot support the SSI applicant or recipient. Thus, we do not develop information to determine the amount of inside ISM if an SSI applicant or recipient is found to be living in a PA household.

As discussed in the “Deeming Income” section above, under our regulations, we do not deem to an SSI applicant or recipient the value of PIM payments received by an ineligible parent or spouse, the income used by the PIM program to calculate that program's payment, or any income of the ineligible spouse or parent that is used by a PIM program to determine the amount of that program's benefit to someone else. This is also based on the premise that the income used to demonstrate eligibility for a PIM program and the PIM payment itself, is required for the PIM-receiving individual's own needs.

Proposed Policy

We propose two changes and seek public comment on a third potential change. First, we propose to make a minor clarification to our definition of a PA household at 20 CFR 416.1142(a). The term “public assistance” may have implications outside our programs. Accordingly, we propose to clarify that our definition of “public assistance household,” which we use as a term of art, applies only for purposes of our programs. Second, we propose to revise our definition of a PA household in 20 CFR 416.1142(a) by adding SNAP²² to the existing list of qualifying PIM programs to better reflect the current landscape of means-tested public benefits and streamline claims processing for more people who live in households in which members need their income (and resources) for their own needs. This includes updating the relevant sections within our Program Operations Manual System to reflect the updated regulations.²³

We propose these changes based on the Commissioner of Social Security's rulemaking authority specified in sections 205(a), 702(a)(5), 1631(d)(1), and 1633(a) of the Social Security Act. Under those sections, the Commissioner may adopt rules regarding the nature

and extent of evidence needed to establish benefit eligibility, as well as methods of taking and furnishing such evidence.

During the development of this *Notice of Proposed Rulemaking* (NPRM), we considered other means-tested programs, including Medicaid,²⁴ the Low Income Home Energy Assistance Program (LIHEAP),²⁵ the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),²⁶ the Housing Choice Voucher Program,²⁷ Project Based Rental Assistance, and Public Housing,²⁸ which we discuss in the “Rationale for the Proposed Policy” section below. Because this is our first proposed expansion of the definition of a PA household since 1980, when the policy was first established, we propose including one program and will continue to explore additional programs. In addition, given our proposed change to the existing list of qualifying PIM programs, we are seeking public comment on a third potential change that could further reduce burden on SSI recipients, members of their households, and SSA—specifically, considering an SSI applicant or recipient to be residing in a PA household if *any other* (as opposed to *every*) additional household member receives public assistance.

SNAP provides nutrition benefits via an Electronic Benefit Transfer (EBT) card, which can be used to buy groceries at authorized food stores and retailers.²⁹ Everyone who lives together and purchases and prepares meals together is grouped together as one SNAP household; and, in most cases, the household must meet both gross and net income limits, which vary with household size, for the household to be eligible for and receive SNAP benefits.³⁰ If everyone in the SNAP household is receiving TANF or SSI, the household may be deemed “categorically eligible” for SNAP because they have already been determined eligible for another

²⁴ For more information on Medicaid, visit <https://www.medicaid.gov/>.

²⁵ For more information on LIHEAP, visit <https://www.acf.hhs.gov/ocs/low-income-home-energy-assistance-program-liheap>.

²⁶ For more information on WIC, visit <https://www.fns.usda.gov/wic>.

²⁷ For more information on the Housing Choice Voucher Program, visit <https://www.hud.gov/hcv>.

²⁸ For more information on Public Housing, visit https://www.hud.gov/program_offices/public_indian_housing/programs/ph.

²⁹ See “How do I receive SNAP benefits?” available at <https://www.fns.usda.gov/snap/recipient/eligibility>.

³⁰ See “Who is in a SNAP household?” and “What are the SNAP income limits?” available at <https://www.fns.usda.gov/snap/recipient/eligibility>.

¹⁷ See 20 CFR 416.1163.

¹⁸ See 20 CFR 416.1142(a).

¹⁹ See 20 CFR 416.1161(a)(2) and (3).

²⁰ 20 CFR 416.1142(a).

²¹ By contrast, “outside ISM” is assistance received from other individuals living outside of the household.

²² For more information on SNAP, visit <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program>.

²³ For example, See POMS GN 02250.110.

means-tested program.³¹ SNAP benefits meet the definition of income in our regulations.³² However, SNAP benefits are excluded from our income counting based on Federal statute.³³ Because our current policy links the types of PIM payments listed in 20 CFR 416.1142(a) with the income of ineligible spouses and parents that is excluded from deeming under 20 CFR 416.1161(a)(2)–(3), adding SNAP to the list of PIM payments will decrease the amount of income that is deemed to SSI applicants and recipients. If an SSI-ineligible spouse or parent is receiving SNAP benefits, any income that was counted or excluded in figuring the amount of the SNAP benefits would not be deemed to the SSI applicant or recipient. In addition, any income of the ineligible spouse or parent that is used to determine the amount of SNAP benefits to someone else would not be deemed to the SSI applicant or recipient.

After the rule goes into effect, we will calculate inside ISM for all new applications and redeterminations based on the new policy. We will work internally to determine the best way of contacting existing SSI recipients affected by this change. However, we redetermine recipients eligibility at periodic intervals,³⁴ at which time their benefits will be revised³⁵ to reflect the new policy. In addition, we are exploring whether we may be able to proactively identify within our systems SSI recipients who would be affected by this change so that we can prioritize these cases for recalculation of payment amount.

Rationale for the Proposed Policy

SSI provides a vital safety net for vulnerable individuals. By definition, SSI recipients have little income and limited resources,³⁶ and a majority (approximately 52%) live in poverty (even when including SSI payments).³⁷

³¹ See “What are the SNAP income limits?” available at: <https://www.fns.usda.gov/snap/recipient/eligibility>.

³² See 20 CFR 416.1102.

³³ 7 U.S.C. 2017(b); see also 20 CFR 416, Subpart K, Appendix (I)(a).

³⁴ See 20 CFR 416.204(b).

³⁵ The redetermination covers a limited period. Please see Program Operations Manual (POMS) SI 02305.034(B).

³⁶ To be eligible for SSI, individuals must demonstrate that they do not exceed established income or resource amounts (see: <https://www.ssa.gov/ssi/eligibility> for current amounts). See <https://www.ssa.gov/ssi/spotlights/spot-resources>.

³⁷ Messel and Trenkamp. 2022. “Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update.” Research and Statistics Note No. 2022–01. Washington, DC: SSA. Available at: <https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html>. We note that the authors of the study indicate that the percent of SSI recipients

The PA household provision assumes that SSI applicants or recipients in PA households are not receiving ISM from other household members because other household members presumably need their income and resources for their own needs, and as such, SSI applicants or recipients should not be charged ISM. When we established this policy in 1980, we noted that the set of programs we determined to be for public income-maintenance reflected “the fact that other agencies have determined that these individuals need all their income for their own needs.” At the time this rule was finalized, the programs included in our definition broadly reflected the major means-tested benefits programs. However, the current landscape of means-tested benefit programs that are intended to serve individuals who need all of their income for their own needs has changed. Below, we explain (a) the need to update our definition of PA households to reflect changes in public assistance programs and participation over time and (b) our proposed changes.

Since the creation of the SSI program in 1972 and its inception in 1974, the landscape of means-tested public benefit programs has changed significantly. New public benefit programs were established (e.g., LIHEAP began in 1981), others were expanded (e.g., food stamps began as a pilot program in 1961 and began operating nationwide in 1974),³⁸ and others became more limited (e.g., Aid to Families with Dependent Children [AFDC], a means-tested entitlement program available to all qualifying individuals, was replaced with TANF in 1997, a block-grant assistance program that is not an entitlement). In addition to overall changes in the landscape of public assistance programs, there have been notable shifts in participation between programs. Among the list of programs included in our current definition of a public assistance household, participation has mostly decreased. For example, between 1980 and 2022, there was an 82 percent decrease in AFDC/TANF recipients (from 10 million³⁹ to less than 2

million⁴⁰) and an 81 percent decrease in Department of Veterans Affairs need-based pension recipients (from 922,000⁴¹ to 174,000⁴²).⁴³

By contrast, over the same period, there was a 50 percent increase in SSI recipients (from less than 4 million to more than 7 million).⁴⁴ Relatedly, there have been increases in other means-tested programs that are now more likely to provide public assistance to low-income individuals and households in the U.S. than our current list of public assistance household programs. For example, over this same period, there was a 100 percent increase in SNAP recipients (from 21 million⁴⁵ to 42 million⁴⁶), a 70 percent increase in WIC recipients (from 2 million⁴⁷ to 6 million⁴⁸), a 75 percent increase in Medicaid recipients (from 22 million⁴⁹ to 85 million⁵⁰), and a 65 percent increase in HUD housing assistance recipients (from 2 million⁵¹ to 7 million⁵²). The number of households receiving LIHEAP has fluctuated over time in response to energy crises and changes in appropriations; for example,

⁴⁰ See TANF: Total Number of Recipients at https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2022_tanf_caseload.pdf.

⁴¹ Veterans Affairs (VA). 1980. 1980 Annual Report. <https://www.va.gov/vetdata/docs/FY1980.pdf>.

⁴² Veteran Benefits Administration. 2022. “Annual Benefits Report: Fiscal Year 2022.” Available at <https://www.benefits.va.gov/REPORTS/abr/docs/2022-abr.pdf>.

⁴³ The decline in veterans’ pensions based on need corresponds in part with the 38 percent decrease in the number of veterans in the United States over this period, from 30,118,000 in 1980 to 18,592,457 in 2022.

⁴⁴ See <https://www.ssa.gov/OACT/ssir/SSI23/ssi2023.pdf>.

⁴⁵ Congressional Budget Office. 1988. “The Food Stamp Program: Eligibility and Participation.” Available at <https://www.cbo.gov/sites/default/files/100th-congress-1987-1988/reports/88-cbo-0010.pdf>.

⁴⁶ U.S. Department of Agriculture Food and Nutrition Service (USDA FNS). 2022. Supplemental Nutrition Assistance Program Participation and Costs. <https://fns-prod.azureedge.us/sites/default/files/resource-files/SNAPsummary-5.pdf>.

⁴⁷ See https://www.ers.usda.gov/webdocs/publications/46648/15834_fanrr27c_1_.pdf.

⁴⁸ See <https://www.ers.usda.gov/topics/food-nutrition-assistance/wic-program/#:~:text=WIC%20served%20about%206.3%20million,infants%20in%20the%20United%20States>.

⁴⁹ See <https://socialwelfare.library.vcu.edu/public-welfare/medicaid-program/#:~:text=Nationally%2C%20for%201980%2C%2021.6%20million,over%2065%20years%20of%20age>.

⁵⁰ As of December 2022, available at: <https://data.medicaid.gov/dataset/6165f45b-ca93-5bb5-9d06-db29c692a360/data>.

⁵¹ See <https://crsreports.congress.gov/product/pdf/RL/RL34591>.

⁵² This includes 5.2 million people living in federally subsidized units and 1.6 million people living in public assistance housing in 2022. See <https://www.huduser.gov/portal/datasets/asstshg.html>.

³⁸ See <https://fns-prod.azureedge.us/snap/short-history-snap>.

³⁹ See <https://www.govinfo.gov/content/pkg/GPO-CPRT-105WPRT37945/html/GPO-CPRT-105WPRT37945-2-7.htm>.

LIHEAP served 7.1 million households at the start of the program in 1981, 3.9 million in 2000, 8.1 million in 2010,⁵³ and 5.4 million in 2021.⁵⁴ Despite these shifts in program availability and participation among low-income households, we have not updated our definition of a PA household since it was established in 1980, to better reflect these more widely-used public assistance programs.⁵⁵ Revising the definition of PA households aligns with our Agency Strategic Plan (ASP) for Fiscal Years 2022–2026 goal to optimize the experience of our customers⁵⁶ and feedback we received from advocates to update and streamline SSI's ISM rules.⁵⁷

Adding SNAP to the List of Public-Income Maintenance Programs

We propose to expand the definition of PA households to include SNAP. We analyzed SNAP, Medicaid, WIC, HUD housing assistance, and LIHEAP and concluded that SNAP is a logical and meaningful first addition, as discussed below.

First, adding SNAP (and considering other, more inherently in-kind benefits like Medicaid) reflects the shift in public participation for in-need individuals from using income supports that are purely cash assistance programs (such as those under our current regulations) toward voucher-based or in-kind support programs. When the SSI program began, AFDC was one of the

predominant means-tested programs,⁵⁸ but since then, participation in TANF has declined, reducing the usefulness of TANF as a tool for identifying low-income households. For example, the share of families with children in poverty who received AFDC/TANF decreased from 82% in 1979 to 21% in 2020.⁵⁹ Because there have not been adjustments to account for inflation or population changes, much of the decline in cash assistance caseloads under TANF resulted from a reduction in the share of eligible families receiving benefits, rather than a reduction in the number of families meeting States' eligibility criteria.⁶⁰

As needs-based programs have shifted from cash assistance benefits toward voucher or in-kind payments that are not included in our current definition, we have a reduced ability to effectively identify the households we intended to serve under the original PA households regulation. Particularly considering the decline in participation in some PIM programs in our current PA household definition and relatively high SNAP participation rates, adding SNAP to the definition would help us better identify households in which members need their income (and resources) for their own needs. Indeed, the USDA estimates that 82 percent of eligible people received SNAP in 2019, including at least half of eligible families across States.⁶¹ SNAP recipients have been determined to be low-income⁶² and, therefore, need their income (and resources) to take care of their own needs,⁶³ which is consistent with our

policy when we first established the definition of a PA household. In our 1979 proposed rule to establish the PA household policy, we stated: "If you live in a household where every person is receiving some kind of public income maintenance payments, we assume that no one in the household is providing you with food, clothing, or shelter[.]"⁶⁴ The basis for this policy is "the fact that [we or] other agencies have determined that . . . individuals [who receive PA] need all their income for their own needs."⁶⁵ While we are not proposing to include other means-tested programs like Medicaid, LIHEAP, or HUD public housing and voucher programs assistance benefits at this time we invite the public to share their thoughts on how these programs might align with our proposed new policy. Many SSI recipients live in households that rely on these contemporary public benefits programs. For example, an SSA study found that, in 2016, 52 percent of SSI recipients⁶⁶ live in households receiving food assistance through SNAP, 23 percent live in households receiving housing assistance, and 17 percent live in households receiving energy assistance.⁶⁷ Another study found that, in 2017, 80 percent of households with at least one SSI recipient included one or more household members who received Medicaid.⁶⁸

Second, although we may consider adding other programs, SNAP eligibility and receipt has relatively low State variability, while still allowing us to identify most SSI beneficiaries who likely live in low-income households. SNAP is a nationwide program with relatively uniform eligibility standards. This will contribute to a more

and families who lack the necessary income to afford nutritional food. 7 U.S.C. 2011.

⁶⁴ Dept. of Health, Education, and Welfare—Social Security Administration. NPRM. 44 FR 6429, 6435. (Feb. 1, 1979).

⁶⁵ 45 FR 65541, 65542 (Oct. 3, 1980).

⁶⁶ The study includes all respondents who self-reported that they received SSI payments in the March 2017 Annual Social and Economic Supplement (ASEC) of the Current Population Survey (CPS).

⁶⁷ Messel and Trenkamp. 2022. "Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update." Research and Statistics Note No. 2022–01. Washington, DC: SSA. Available at: <https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html>.

⁶⁸ Giefer. 2021. "A Profile of Supplemental Security Income Recipients: 2017." U.S. Census Bureau. Available at <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p70br-171.pdf>. This study includes all respondents who self-reported that they received SSI payments in the U.S. Census Bureau, 2018 Survey of Program and Participation (SIPP) Public Use File. Each SIPP panel follows individuals for several years, providing monthly data that measure changes in household and family composition and economic circumstances over time.

⁵³ See https://www.everycrsreport.com/files/20180622_RL31865_85805bac2287a504f2a4eb05e4637a3cd21eaa2e.pdf.

⁵⁴ See https://liheappm.acf.hhs.gov/datawarehouse/custom_reports?years=2021&grantees=AG&reportId=7.

⁵⁵ Between the NPRM and final rule, we added need-based Veterans Affairs payments and broadened the listing covering assistance programs provided by State and local governments. In 1980, we also made technical changes clarifying that tax credits and refunds are not assistance provided by a state or local government and updating the list by replacing the Migration and Refugee Assistance Act of 1962 and the Indochina Migration and Refugee Assistance Act of 1975 with the Refugee Assistance Act of 1980. Since 1980, we made two other technical revisions to our PA household policy in 20 CFR 416.1142. In 1992, we changed "Disaster Relief Act of 1974" to the "Disaster Relief and Emergency Assistance Act," and "Veterans Administration" to the "Department of Veterans Affairs." See 57 FR 53849 (Nov. 13, 1992). In 2005, we made a technical revision by changing "Aid to Families with Dependent Children" to "Temporary Assistance for Needy Families." See 70 FR 41135 (July 18, 2005).

⁵⁶ Social Security Administration, Agency Strategic Plan: Fiscal Years 2022–2026, available at: <https://www.ssa.gov/agency/asp/>.

⁵⁷ Cf. Notice of Proposed Rulemaking, *Omitting Food From In-Kind Support and Maintenance Calculations*. 88 FR 9779, published February 15, 2023; Executive Order 12866 Combined Listening Session Notes (Fall 2022), available at: <https://www.regulations.gov/document/SSA-2021-0014-0003>.

⁵⁸ See Figure 3 in Moffitt. 2015. "The Deserving Poor, the Family, and the U.S. Welfare System, Demography. 2015 Jun; 52(3): 729–749. Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC448770>.

⁵⁹ See <https://www.cbpp.org/tanfns-reach-declined-significantly-over-time-6>.

⁶⁰ See <https://fns-prod.azureedge.us/snap/short-history-snap>;

See <https://www.govinfo.gov/content/pkg/GPO-CPRT-105WPRT37945/html/GPO-CPRT-105WPR T37945-2-7.htm>;

See TANF: Total Number of Recipients at https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2022_tanf_caseload.pdf.

⁶¹ See <https://www.fns.usda.gov/snap/estimates-program-participation-rates-2019>.

⁶² SNAP income limits vary by household size, but in most cases, households must meet both the gross (130 percent of poverty) and net (100 percent of poverty) income limits. For example, for a family of three, the gross monthly income limit is \$2,495 and the net monthly income limit is \$1,920. For more information see "What are the SNAP income limits?" at <https://www.fns.usda.gov/snap/recipient/eligibility>.

⁶³ The Congressional Declaration of Policy for the SNAP program notes, "Congress finds that the limited food purchasing power of low-income households contributes to hunger and malnutrition among members of such households," suggesting that the purpose of SNAP is to support individuals

straightforward operational and systems rollout of the new policy, and greater consistency in recipients' experiences across States.⁶⁹

By contrast, programs with shorter or less predictable benefit periods might require more frequent development of individuals' living arrangements, which could be burdensome for recipients and our staff. Similarly, as we strive for uniformity across the SSI program, we recognize that programs with enrollment caps, waiting lists, or variable eligibility criteria may lead to disparate treatment of similarly situated SSI recipients. We will continue to explore options to add other programs to our definition of PA households.

Third, SNAP participation overlaps to a great extent with participation in other means-tested programs and thus by adding SNAP to the definition of PA households, we anticipate that we will also capture many of the individuals who receive benefits from other means-tested programs. For example, our Office of the Chief Actuary estimates, using the 2022 Annual Social and Economic Supplement (ASEC) to the Current Population Survey (CPS), that expanding our definition of a PA household to include SNAP would capture about 67 percent of SSI recipients who are also living in households currently participating in Medicaid, HUD public housing and voucher programs, or LIHEAP.

Fourth, incorporating SNAP into the definition of PA households will reduce benefit reductions for low-income families. These changes will reduce administrative burdens for SSI applications and recipients, as well as for the agency, as these individuals will not have to provide household expenses information once they establish themselves as living in a PA household⁷⁰ (because living in a PA household means the applicant or recipient is considered not to receive any ISM from other household

members). It would also lower administrative barriers for SSI applicants and recipients, while addressing the needs of our SSI population. The benefits of expanding access to SSI and reducing the complexity of the program have been highlighted by numerous organizations. In 2015, the Social Security Advisory Board commented on the complexity of ISM, noting that the research indicated that ISM "computations significantly complicate administration" of SSI and lead to payment errors.⁷¹ The Social Security Advisory Board recommended that we "find simpler ways to administer the SSI program."⁷² On a related note, advocacy organizations⁷³ had suggested including SNAP in the definition of PA households in response to our NPRM, *Omitting Food From In-Kind Support and Maintenance Calculations*,⁷⁴ and expanding the definition to include SNAP is also consistent with the goals of the White House National Strategy on Hunger, Nutrition, and Health.⁷⁵

This change to our definition of PA households is a logical and meaningful step towards ensuring that ISM and income deeming for those receiving means-tested benefits do not undermine the economic security of households who receive SNAP. Expanding the definition of a PA household will ensure our policies better represent the current landscape of means-tested programs in the United States and reduce administrative burdens.

⁷¹ Social Security Advisory Board (SSAB). 2015. Social Security Advisory Board Statement on the Supplemental Security Income Program: The Complexity of In-Kind Support and Maintenance. https://www.ssab.gov/wp-content/uploads/2021/03/2015-SSI_In-Kind_SupportMaintenance.pdf.

⁷² Id.

⁷³ See Comment from Center on Budget and Policy Priorities, available at: <https://www.regulations.gov/comment/SSA-2021-0014-3898>;

Comment from Disability Law Center, available at: <https://www.regulations.gov/comment/SSA-2021-0014-4269>;

Comment from Coalition on Human Needs, available at: <https://www.regulations.gov/comment/SSA-2021-0014-4268>;

Comment from National Association of Disability Representatives, available at: <https://www.regulations.gov/comment/SSA-2021-0014-3851>; and

Comment from Center for Law and Social Policy (CLASP), available at: <https://www.regulations.gov/comment/SSA-2021-0014-4270>.

⁷⁴ *Omitting Food From In-Kind Support and Maintenance Calculations*, 88 FR 9779, February 15, 2023.

⁷⁵ White House. 2022. Biden-Harris Administration National Strategy on Hunger, Nutrition, and Health, available at: <https://www.whitehouse.gov/wp-content/uploads/2022/09/White-House-National-Strategy-on-Hunger-Nutrition-and-Health-FINAL.pdf>.

Potential Policy Change—Shifting From “Every” to “Any” Member of the Household

We seek public comment on a potential policy change to expand the definition of PA households to include households in which *any other* household member receives public assistance. In establishing the Public Assistance Household rule in 1980, we noted that our rule “relied on the fact that other agencies have determined that these individuals need all their income for their own needs.”⁷⁶ Because SNAP is a household-level benefit, a similar determination has already been made for all members of the household. Other PIM programs included in our current rule are similarly based on household eligibility criteria. With the proposed addition of SNAP, especially given its high rate of participation, it might be unnecessary to develop PIM participation for every member of the household.

In addition, our current requirement that every member of the household be receiving a PIM payment might disadvantage individuals in low-income households with a household member who is not receiving a PIM payment for reasons unrelated to need. SNAP and TANF restrict certain individuals in the household from receiving benefits even if their income is used to determine the household's eligibility. For example, adults who have exceeded eligibility time limits and certain non-citizens are not eligible to receive TANF.⁷⁷ Another example is that some members of a household are not eligible to receive SNAP because of their immigration status.⁷⁸ In these examples, although the SSI recipient lives in a household where the other members are receiving TANF or SNAP, we would not consider this a PA Household because not every member of the household is receiving a PIM payment. As a result, we may treat the SSI recipient as receiving inside ISM and would reduce their benefit by up to one-third of the FBR.

In addition, within households with an SSI applicant or recipient and at least one other member receiving means-tested benefits, it may be reasonable to infer that in most cases, all members of the household are low income and need their income and resources to support their own needs. For instance:

⁷⁶ 45 FR 65542.

⁷⁷ https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2021_characteristics.pdf.

⁷⁸ See “Are non-citizens eligible for SNAP?” at <https://www.fns.usda.gov/snap/recipient/eligibility>.

⁶⁹ Specifically, while income limits to be eligible for SNAP vary by the size of the household and certain deductions from income are allowed, net monthly income limits are set at 100 percent of the poverty level and net income is gross income minus allowable deductions. SNAP has work requirements, but some groups may not be subject to these requirements, including children, seniors, pregnant women, and people who are exempt for physical or mental health reasons. If eligible, SNAP recipients receive a notice that states how long they will receive SNAP benefits, which is called the certification period. Households must reapply for SNAP periodically, typically every 6 to 12 months for most families and every 12 to 24 months for older adults and people with disabilities.

⁷⁰ For further discussion of the benefits of reduced burdens and barriers related to developing ISM, see our proposed rule *Omitting Food From In-Kind Support and Maintenance Calculations*, 88 FR 9779, February 15, 2023.

• Seventy percent of SSI recipients live in households with family incomes below \$30,000.⁷⁹

• In FY 2020, 81 percent of SNAP households had gross monthly income less than or equal to the poverty line.⁸⁰

• An analysis of families receiving multiple public benefits found that higher levels of benefit receipt is associated with lower income, earnings, and employment, and greater material hardship.⁸¹

• A 2013 study found that after accounting for SSI benefits, only 8 percent of non-couple, multirecipient SSI households in which every member received SSI lived in poverty, whereas 25 percent of non-couple, multirecipient SSI households where there is at least one member who does not receive SSI lived in poverty.⁸²

• The 2019 Survey of Income and Program Participation finds that in households that receive both TANF and SSI, 85.7 percent (+/- 8.4%) have incomes less than 200 percent of the Federal Poverty Level, even after all transfers (that is, including the income the household receives from all sources of cash public assistance payments).⁸³

• Lastly, related to the proposed policy to add SNAP to the PA household definition, among households receiving SSI in 2021, 64.7 percent also qualified for and received SNAP.⁸⁴

⁷⁹ Messel and Trenkamp. 2022. "Characteristics of Noninstitutional DI, SSI, and OASI Program Participants 2016 Update." Research and Statistics Note No. 2022-01. Washington, DC: SSA. Available at: <https://www.ssa.gov/policy/docs/rsnotes/rsn2022-01.html>.

⁸⁰ See USDA FNS. 2022. Characteristics of U.S. Department of Agriculture's Supplemental Nutrition Assistance Program Households: Fiscal Year 2020. Available at <https://fns-prod.azureedge.us/sites/default/files/resource-files/Characteristics2020-Summary.pdf>.

⁸¹ Edelstein, Pergamit, and Ratcliffe. 2014. Characteristics of Families Receiving Multiple Public Benefits. The Urban Institute. Available at <https://www.urban.org/sites/default/files/publication/22366/413044-Characteristics-of-Families-Receiving-Multiple-Public-Benefits.PDF>.

⁸² Nicholas. 2013. Prevalence, Characteristics, and Poverty Status of Supplemental Security Income Multirecipients. Social Security Bulletin, Vol. 73, No. 3, Washington, DC: SSA. Available at <https://www.ssa.gov/policy/docs/ssb/v73n3/v73n3p11.html>.

⁸³ We selected the 2019 (reference year 2018) SIPP survey because it had the largest sample size of pre-COVID 19 SIPP surveys. U.S. Census Bureau. 2019. Survey of Income and Program Participation. Available at <https://www.census.gov/library/visualizations/interactive/social-safety-net-benefits.html>. The most recent SIPP survey found that 61.2 percent (+/- 21.4%) of these same households had incomes less than 200 percent of the Federal Poverty Level. The 2021 SIPP is inclusive of COVID-era stimulus payments and other transfer programs that no longer exist.

⁸⁴ U.S. Census Bureau. 2022. Who Is Receiving Social Safety Net Benefits? available at <https://www.census.gov/library/stories/2022/05/who-is-receiving-social-safety-net-benefits.html>.

This potential change could further simplify the development of living arrangements and ISM, reduce SSA's administrative costs and compliance costs during initial determinations and redeterminations for applicants and recipients living in PA households, and reduce ISM complexities that lead to payment errors. Removing the requirement that every other member is in receipt of a PIM payment could better ensure that we reach all qualified SSI beneficiaries based on their need, especially in cases where one individual in a household was categorically ineligible for a PIM payment for reasons unrelated to their potential need.

Solicitation for Public Comment

As discussed elsewhere in this NPRM, we are seeking public comment on this proposed rule. Questions that interested parties may wish to consider when evaluating this proposed rule:

1. Should we expand the definition of PA households to include households in which *any other* household member (in addition to the SSI applicant or recipient) receives public assistance? As discussed above, generally SSI applicants and recipients live in low-income households and may live in households where certain individuals are ineligible for PIM payments for reasons unrelated to need. Would this change to PA households ensure that our definition appropriately captures low-income households in which individuals need their income and resources to support their own needs?

2. Are there additional aspects of the PA household definition that we could simplify under current statutory authorities? What would be the effects of doing so?

3. Are there any other means-tested programs, such as Medicaid, that we should consider adding to the PA household definition? We encourage including any sources of support with these recommendations. If we expand our definition to include additional programs, what would be the implications for SSI recipients across States? To what extent will program variability across states and in terms of eligibility thresholds, income limits, enrollment caps, seasonality or time limits, frequency of recertification, and other factors affect SSI recipients?

4. What factors should we consider when determining if additional programs should be added to the PA household definition? For example, factors could include the size of the program, overlap among means-tested programs, and eligibility requirements.

5. Do you have additional information that relates to or otherwise informs our

description of SSI applicant or recipient experiences under current PA household policies?

6. Are there forms or other information collections that we have not noted that would or should require modification as a result of this proposed policy change?

7. Are there other information collection improvements that could further reduce respondent burden, either under the current ISM policy or under the policy proposed in this rule?

8. Is there additional data or research related to equity and the SSI population (or, more generally, low-income or disabled populations) that could also be used to inform any final rule?

9. Do you have any additional justifications for, or arguments against, this proposed rule?

10. Are there methods we could use to measure the time-savings associated for claimants or other members of the public with this proposed rule? Are there methods of the value of time we could use to measure the opportunity costs associated with our current or proposed policy?

Rulemaking Analyses and Notices

We will consider all comments we receive on or before the close of business on the comment closing date indicated above. The comments will be available for examination in the rulemaking docket for these rules at the above address. We will file comments received after the comment closing date in the docket and will consider those comments to the extent practicable. However, we will not respond specifically to untimely comments. We may publish a final rule at any time after close of the comment period.

Clarity of These Proposed Rules

Executive Order (E.O.) 12866, as supplemented by E.O. 13563 and E.O. 14094, requires each agency to write all rules in plain language. In addition to your substantive comments on these proposed rules, we invite your comments on how to make them easier to understand.

For example:

- Would more, but shorter, sections be better?
- Are the requirements in the rules clearly stated?
- Have we organized the material to suit your needs?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rules easier to understand?
- Do the rules contain technical language or jargon that is not clear?
- Would a different format make the rules easier to understand, *e.g.*, grouping

and order of sections, use of headings, paragraphing?

When will we start to use this rule?

We will not use this rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of those relevant comments we received along with responses and an explanation of how we will apply the new rule.

Regulatory Procedures

E.O. 12866, as Supplemented by E.O. 13563 and E.O. 14094

We consulted with the Office of Management and Budget (OMB) and determined that this rule is significant under Section 3(f)(1) of E.O. 12866, as supplemented by E.O. 13563 and E.O. 14094. Therefore, OMB reviewed it.

Anticipated Transfers to Our Program

Transfer Payments for Current Policy Proposal

The primary anticipated impact of this rule is an increase in monetary transfers from the government to SSI recipients. Our Office of the Chief Actuary (OCACT) estimates that implementation of this proposed rule would result in a total increase in Federal SSI payments of \$14.8 billion over fiscal years 2024 through 2033, assuming implementation of this rule on May 15, 2024. This represents an increase of approximately two percent in total Federal SSI payments in fiscal year 2033, when the effects of the rule would be fully realized. To estimate the impact, OCACT used the Annual and Social Economic Supplement (ASEC) to the Current Population Survey (CPS) and our administrative data. We expect that adding SNAP to the list will increase the number of PA households for which we do not charge inside ISM, which will increase Federal SSI payments for these beneficiaries. In addition, we expect that no longer deeming income from ineligible spouses and parents who receive SNAP will increase Federal SSI payments. According to our Office of Systems, Office of Benefit Information Systems, as of January 2023, there were 303,609 SSI recipients living in a PA household according to the current definition, approximately four percent of our total 7.7 million SSI recipients.⁸⁵ We expect the share of SSI recipients living in a PA household, as defined under the

proposed rule, to increase substantially when the new rule is implemented. Specifically, OCACT estimates that once this proposed rule is implemented and the effects have stabilized, in fiscal year 2033 roughly 253,000 Federal SSI recipients (3 percent of all SSI recipients) will have an increase in monthly payments compared to current rules, and an additional 101,000 individuals (1 percent increase) will receive Federal SSI payments who would not have been eligible under current rules.

Additionally, as with the PIM payments in our regulations that interact with the SSI program rules, adding SNAP benefits to our PA household definition could result in a reduction of SNAP benefits. For example, if an ineligible spouse or parent were receiving SNAP, we would no longer deem their income to an SSI applicant or recipient. Not deeming income for SSI purposes could lead to an increase in the SSI payment, which could in turn cause the household to receive a SNAP reduction that is 30 percent of the SSI increase, up to the point of ineligibility.⁸⁶ The household's ineligibility for SNAP could mean, in turn, that the SSI recipient is no longer part of a PA household for SSI purposes. Our understanding is that: an individual or household generally would prefer cash to SNAP benefits; an increase in SSI could not result in a decrease in SNAP benefits greater than the increase in SSI; and, in the main, the increase in SSI that may result from adding SNAP to our definition of a PA household will be favorable on net to individuals and households. However, we recognize that the interplay among various benefit types, as well as the relationships and financial interests of the SSI individual and other household members, can be complicated. We cannot necessarily predict how the proposed change could affect individuals participating in other programs within these households.

Transfer Payments for Potential Future "Every"/"Any Other" Change

If we were to adopt the change to the PA Household definition from *every* member to *any other* member, in addition to adding SNAP to the list of PIM programs, our Office of the Chief Actuary (OCACT) estimates that implementation of this change would

result in a total increase in Federal SSI payments relative to our current rules of \$15.9 billion over fiscal years 2024 through 2033, assuming implementation of this rule on May 15, 2024. This represents an increase in Federal SSI payments that is about 8 percent higher than the estimate for the current proposal. OCACT estimates that if this change were implemented, in fiscal year 2033 roughly 278,000 Federal SSI recipients would have an increase in monthly payments compared to the current rules (10 percent increase compared to the current proposal) and an additional 113,000 individuals (13 percent increase compared to the estimated number for the current proposal) would receive Federal SSI payments who would not have been eligible under current rules.

Anticipated Net Administrative Cost to the Social Security Administration

The Office of Budget, Finance, and Management estimates that this proposal will result in a total net administrative cost of \$105 million for the 10-year period from FY 2024 to FY 2033. This estimate includes costs to update our systems, to send notices to inform current recipients of the policy changes, to address inquiries from the notices, to verify receipt of SNAP benefits, and to perform additional post-eligibility actions to account for changes in living arrangements. Under this proposed regulation, more individuals will be eligible for SSI benefits than under the current rule, resulting in additional costs to process additional claims, reconsiderations, appeals, redeterminations, and post-eligibility actions. The aforementioned costs are partially offset by processing time savings as field office employees will not have to spend time developing for household expenses/contributions, the income of deemors, or go through the inside ISM determination process during initial claims, pre-effectuation reviews, redeterminations, and post-eligibility actions.

Anticipated Qualitative Costs & Benefits

We anticipate qualitative benefits from the proposed revision of adding SNAP to the PA household definition, thereby ensuring that ISM and income deeming do not undermine the economic security of households who receive nutrition assistance.

Under our proposed policy, the list of programs would include SNAP. Once we identify that an SSI applicant or recipient lives in a PA household, they would not have to provide household expenses information.

⁸⁵ Annual Statistical Supplement, 2022—Summary of SSI. Available at: <https://www.ssa.gov/policy/docs/statcomps/supplement/2022/7a.html>.

⁸⁶ Because SNAP households are expected to spend about 30 percent of their own resources on food, the maximum monthly allotment is calculated by multiplying a household's net monthly income by 0.3 and subtracting the result from the maximum monthly allotment for the household size. See "How much could I receive in SNAP benefits?" at <https://www.fns.usda.gov/snap/recipient/eligibility>.

Currently, the SSI applicant or recipient is responsible for answering questions about public assistance received so that we may determine if they reside in a PA household. Our current policy requires documentation on the PIM payments received. This will not change, but we will add SNAP to the list of programs that are considered for PA households. Like under our current policy, we will need to verify receipt of benefits from this program. Processing time at our processing centers may temporarily increase while we recalculate benefit amounts for current SSI recipients and process an influx of newly eligible SSI applicants.

It is possible this proposed regulatory change may incentivize current SSI recipients to change living arrangements to co-locate with family or friends who are receiving SNAP. This may increase the need for additional development in these circumstances. This is similar to our current policy that requires SSI applicants and recipients to notify us of changes in their living arrangements. SSI applicants and recipients will need to ask ineligible spouses or parents whether their income was used to determine eligibility for or the amount

of the SNAP benefits. If it was, we would exclude the income for deeming purposes in the SSI program.

Executive Order 13132 (Federalism)

We analyzed this proposed rule in accordance with the principles and criteria established by E.O. 13132 and determined that the proposed rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this proposed rule will not preempt any State law or State regulation or affect the States' abilities to discharge traditional State governmental functions.

Regulatory Flexibility Act

We certify that these proposed rules will not have a significant economic impact on a substantial number of small entities because they affect individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

These rules do not create any new collections, or require revisions to existing collections, and, therefore, do

not require Office of Management and Budget approval under the Paperwork Reduction Act. However, the application of the revisions to these rules may cause burden changes to the collection instruments for the following information collection requests: 0960–0174, the SSA–8006, Statement of Living Arrangements, In-Kind Support and Maintenance; 0960–0456, the SSA–8011, Statement of Household Expense and Contributions; and 0960–0529, the SSA–5062, Claimant Statement about Loan of Food or Shelter, and the SSA–L5063–F3, Statement about Food or Shelter Provided to Another. We anticipate a small burden reduction per response for the SSA–8006 (0960–0174) as respondents will not need to develop the responses about their household. In addition, we anticipate a 50% reduction in the number of respondents based on those who indicate they are part of a Public Assistance Household and who may not need to complete the follow-up forms SSA–5062, SSA–L5063, SSA–8006, and SSA–8011.

The following chart shows the reduction in time burden information associated with the proposed rule:

OMB #; form #; CFR citations	Number of respondents	Frequency of response	Current average burden per response (minutes)	Current estimated total burden (hours)	Anticipated new number of respondents under regulation	Anticipated new burden per response under regulation (minutes)	Anticipated estimated total burden under regulation (hours)	Estimated burden savings (hours)
0960–0174 SSA–8006 (Paper Form)	12,160	1	7	1,419	12,160	6	1,216	203
0960–0174 SSA–8006 (SSI Claims System)	109,436	1	7	12,768	109,436	6	10,944	1,824
0960–0456 SSA–8011–F3 (Paper Form)	21,000	1	15	5,250	10,500	.....	2,625	2,625
0960–0456 Personal Interview (SSI Claims System)	398,759	1	15	99,690	199,380	.....	49,845	49,845
0960–0529 SSA–5062 (Paper version)	29,026	1	30	14,513	14,513	.....	7,257	7,256
096–0529 SSA–5062 (SSI claim system)	29,026	1	20	9,675	14,513	.....	4,838	4,837
0960–0529 SSA–L5063 (Paper version)	29,026	1	30	14,513	14,513	.....	7,257	7,256
0960–0529 SSA–L5063 (SSI claim system)	29,026	1	20	9,675	14,513	.....	4,838	4,837
Totals	657,459	.....	.....	167,503	389,528	.....	88,820	78,693

The following chart shows the reduction in theoretical cost burdens associated with the proposed rule:

OMB #; form #; CFR citations	Anticipated new number of respondents	Estimated burden per response from chart above (minutes)	Average theoretical hourly cost amount (dollars) *	Average combined wait time in field office and/or teleservice centers (minutes)**	Anticipated annual opportunity cost (dollars) ***
0960–0529 SSA–5062 (Paper version)	14,513	30	*\$21.29	**24	***\$432,506
0960–0529 SSA–5062 (SSI claim system)	9,675	20	*\$21.29	**24	***\$288,373
0960–0529 SSA–L5063 (Paper version)	14,513	30	*\$21.29	**24	***\$432,506
0960–0529 SSA–L5063 (SSI claim system)	14,513	20	*\$21.29	**24	***\$288,373
0960–0174 SSA–8006 (Paper Form)	6,080	6	*\$12.81	**24	***\$109,039
0960–0174 SSA–8006 (SSI Claims System)	54,718	6	*\$12.81	**24	***\$981,310
0960–0456 SSA–8011–F3 (Paper Form)	10,500	15	\$29.76	**21	***\$421,846
0960–0456 Personal Interview (SSI Claims System)	199,380	15	\$29.76	**21	***\$8,010,291
Totals	323,892	.....	.....	.....	***\$10,964,244

* We based this figure on the average DI payments based on SSA's current FY 2023 data (<https://www.ssa.gov/legislation/2023factsheet.pdf>); on the average U.S. citizen's hourly salary, as reported by Bureau of Labor Statistics data (https://www.bls.gov/oes/current/oes_nat.htm).

** We based this figure on the average FY 2023 wait times for field offices and hearings office, as well as by averaging both the average FY 2023 wait times for field offices and teleservice centers, based on SSA's current management information data.

*** This figure does not represent actual costs that SSA is imposing on recipients of Social Security payments to complete this application; rather, these are theoretical opportunity costs for the additional time respondents will spend to complete the application. *There is no actual charge to respondents to complete the application.*

SSA submitted a single new Information Collection Request which encompasses revisions to information collections currently under OMB Numbers 0960–0174, 0960–0456, and 0960–0529) to OMB for the approval of the changes due to the proposed rule. After approval at the final rule stage, we will adjust the figures associated with the current OMB numbers for these forms to reflect the new burden. We are soliciting comments on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize the burden on respondents, including the use of automated techniques or other forms of information technology. In addition, we are specifically seeking comment on whether you have any questions or suggestions for edits to the forms referenced above in the context of this proposed regulatory change. If you would like to submit comments, please send them to the following locations: Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202–395–6974, Email address: OIRA_Submission@omb.eop.gov Social Security Administration, OLCA, Attn: Reports Clearance Director, Mail Stop 3253 Altmeyer, 6401 Security Blvd., Baltimore MD 21235, Fax: 410–966–2830, Email address: OR.Reports.Clearance@ssa.gov

You can submit comments until November 28, 2023, which is 60 days after the publication of this notice. However, your comments will be most useful if you send them to SSA by October 30, 2023, which is 30 days after publication. To receive a copy of the OMB clearance package, contact the SSA Reports Clearance Officer using any of the above contact methods. We prefer to receive comments by email or fax.

(Catalog of Federal Domestic Assistance Program No. 96.006, Supplemental Security Income)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

The Acting Commissioner of Social Security, Kilolo Kijakazi, Ph.D., M.S.W., having reviewed and approved this document, is delegating the authority to electronically sign this document to Faye I. Lipsky, who is the primary

Federal Register Liaison for SSA, for purposes of publication in the **Federal Register**.

Faye I. Lipsky,

Federal Register Liaison, Office of Legislation and Congressional Affairs, Social Security Administration.

For the reasons stated in the preamble, we propose to amend 20 CFR chapter III, part 416, subpt. K, as set forth below:

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart K—Income

■ 1. The authority citation for subpart K of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1602, 1611, 1612, 1613, 1614(f), 1621, 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, 1383, and 1383b; sec. 211, Pub. L. 93–66, 87 Stat. 154 (42 U.S.C. 1382 note).

■ 2. Amend § 416.1142 by revising paragraphs (a) introductory text and (a)(6) and (7) and adding paragraph (a)(8) to read as follows:

§ 416.1142 If you live in a public assistance household.

(a) *Definition.* For purposes of our programs, a public assistance household is one in which every member receives some kind of public income-maintenance payments. These are payments made under—

* * * * *

(6) State or local government assistance programs based on need (tax credits or refunds are not assistance based on need);

(7) U.S. Department of Veterans Affairs programs (those payments based on need); and

(8) The Supplemental Nutrition Assistance Program (SNAP).

* * * * *

[FR Doc. 2023–21550 Filed 9–28–23; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2017–D–0175]

Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption; and Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of availability.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the availability of two guidance documents that will help sprout operations subject to FDA's final rule entitled "Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption" (the Produce Safety Rule) understand the topics covered in the Produce Safety Rule pertaining to personnel qualifications, training, and hygienic practices; equipment, tools, and buildings; and sampling and testing of spent sprout irrigation water (or in-process sprouts). FDA is issuing a draft guidance entitled, "Draft Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption," which revises a currently issued draft guidance entitled "Compliance with and Recommendations for Implementation of the Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption for Sprout Operations" (January 23, 2017) (the January 2017 draft guidance). In addition, FDA is announcing the availability of a final guidance entitled "Guidance for Industry: Standards for the Growing, Harvesting, Packing, and Holding of Sprouts for Human Consumption," which finalizes portions of the January 2017 draft guidance with additional clarifications in response to comments.

DATES: Submit either electronic or written comments on the draft revised guidance by March 27, 2024 to ensure that FDA considers your comment on the draft revised guidance before we