

• Submission type SC 13E1 has been updated to remove the “Is Fee Table/ Exhibit included?” check box from the “Main” tab of the EDGARLink Online interface. As a result, filers are now required to attach an EX-FILING FEES exhibit attachment on a SC 13E1 filing.

III. Amendments to Rule 301 of Regulation S-T

Along with the adoption of the updated Filer Manual, we are amending Rule 301 of Regulation S-T to provide for the incorporation by reference into the Code of Federal Regulations of the current revisions. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

The updated EDGAR Filer Manual is available at <https://www.sec.gov/edgar/filerinformation/current-edgar-filer-manual>.

IV. Administrative Law Matters

Because the Filer Manual and rule amendments relate solely to agency procedures or practice and do not substantially alter the rights and obligations of non-agency parties, publication for notice and comment is not required under the Administrative Procedure Act (“APA”).⁹ It follows that the amendments do not require analysis under requirements of the Regulatory Flexibility Act¹⁰ or a report to Congress under the Small Business Regulatory Enforcement Fairness Act of 1996.¹¹

The effective date for the updated Filer Manual and related rule amendments is April 19, 2024. In accordance with the APA,¹² we find that there is good cause to establish an effective date less than 30 days after publication of these rules. The Commission believes that establishing an effective date less than 30 days after publication of these rules is necessary to coordinate the effectiveness of the updated Filer Manual with the related system upgrades.

V. Statutory Basis

We are adopting the amendments to Regulation S-T under the authority in Sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933,¹³ Sections 3, 12, 13, 14, 15, 15B, 23, and 35A of the Securities Exchange Act of 1934,¹⁴ Section 319 of the Trust Indenture Act of 1939,¹⁵ and Sections 8, 30, 31, and 38

of the Investment Company Act of 1940.¹⁶

List of Subjects in 17 CFR Part 232

Incorporation by reference, Reporting and recordkeeping requirements, Securities.

Text of the Amendments

In accordance with the foregoing, title 17, chapter II of the Code of Federal Regulations is amended as follows:

PART 232—REGULATION S-T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

■ 1. The general authority citation for part 232 continues to read as follows:

Authority: 15 U.S.C. 77c, 77f, 77g, 77h, 77j, 77s(a), 77z-3, 77sss(a), 78c(b), 78l, 78m, 78n, 78o(d), 78w(a), 78ll, 80a-6(c), 80a-8, 80a-29, 80a-30, 80a-37, 80b-4, 80b-6a, 80b-10, 80b-11, 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 2. Section 232.301 is revised to read as follows:

§ 232.301 EDGAR Filer Manual.

Filers must prepare electronic filings in the manner prescribed by the EDGAR Filer Manual, promulgated by the Commission, which sets forth the technical formatting requirements for electronic submissions. The requirements for becoming an EDGAR Filer and updating company data are set forth in the EDGAR Filer Manual, Volume I: “General Information,” Version 41 (December 2022). The requirements for filing on EDGAR are set forth in the updated EDGAR Filer Manual, Volume II: “EDGAR Filing,” Version 69 (March 2024). All of these provisions have been incorporated by reference into the Code of Federal Regulations, which action was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You must comply with these requirements in order for documents to be timely received and accepted. The EDGAR Filer Manual is available for inspection at the Commission and at the National Archives and Records Administration (NARA). The EDGAR Filer Manual is available for website viewing and printing in the Commission’s Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Operating conditions may limit access to the Commission’s Public Reference Room. For information on the availability of the EDGAR Filer

Manual at NARA, visit www.archives.gov/federal-register/cfr/ibr-locations.html or email fr.inspection@nara.gov. The EDGAR Filer Manual may also be obtained from <https://www.sec.gov/edgar/filerinformation/current-edgar-filer-manual>.

By the Commission.

Dated: March 18, 2024.

Vanessa A. Countryman,
Secretary.

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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: Final rule.

SUMMARY: We are finalizing our proposed rule 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. We are also revising the definition of a PA household from a household in which every member receives some kind of PIM payment to a household that has both an SSI applicant or recipient, and at least one other household member who receives one or more of the listed PIM payments (the *any other* definition). If determined to be living in a PA household, inside in-kind support and maintenance (ISM) would no longer need to be developed. The final rule will decrease the number of SSI applicants and recipients charged with ISM from others within their household. In addition, we expect this rule to decrease the amount of income we would deem to SSI applicants and recipients because we will no longer deem as income from ineligible spouses and parents who live in the same household: the value of the SNAP benefits that they receive; any income that was counted or excluded in figuring the amount of that payment; or any income that was used to determine the amount of SNAP benefits to someone else. These policy changes reduce administrative burden for low-income households and SSA.

⁹ 5 U.S.C. 553(b)(A).

¹⁰ 5 U.S.C. 601 through 612.

¹¹ 5 U.S.C. 804(3)(c).

¹² 5 U.S.C. 553(d)(3).

¹³ 15 U.S.C. 77f, 77g, 77h, 77j, and 77s(a).

¹⁴ 15 U.S.C. 78c, 78l, 78m, 78n, 78o, 78o-4, 78w, and 78ll.

¹⁵ 15 U.S.C. 77sss.

¹⁶ 15 U.S.C. 80a-8, 80a-29, 80a-30, and 80a-37.

DATES: This final rule will be effective September 30, 2024.

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

The SSI program provides monthly payments to: (1) adults and children with a disability or blindness; and (2) people aged 65 and older who have little or no income and resources. 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 2024 is \$943 for an individual and \$1,415 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. We calculate ISM considering any shelter that is given to the 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.

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 if an individual is living in another person's household, receives shelter from others living in the household, and others within the household pay for or provide the individual with all of the individual's meals.⁹

Additional circumstances regarding ISM are discussed further in our regulations.¹⁰

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.¹¹ “Deeming” is the process of considering a portion of another person's income to be the income of an SSI applicant or recipient.¹² When our deeming rules apply, it does not matter whether the other person's income is actually available to the applicant or recipient.¹³ 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 18.¹⁴ Likewise, when an adult who is applying for or receiving SSI lives with a spouse who is ineligible for SSI, we deem a portion of the ineligible spouse's

income to the applicant or recipient.¹⁵ 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, based on their relationship with the SSI applicant or recipient, to use some of their income to take care of (some of) the applicant's 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 policy excludes from deeming: the amount of any PIM payments the ineligible parents and spouses receive under the programs listed in the PA household definition;¹⁶ 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.¹⁷ 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. This is based on the premise that the income used to demonstrate eligibility for a PIM program and the PIM payment itself are required for that individual's own needs.

Prior Policy

We previously defined a PA household as one in which every member 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).¹⁸

New Policy

We are making changes based on the Commissioner of Social Security's

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 88 FR 72803, 72804 (2023). 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/SSlants.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).

⁹ See 20 CFR 416.1130(b)(2).

¹⁰ See 20 CFR 416.1130 through 416.1148.

¹¹ See 42 U.S.C. 1382c(f); 20 CFR 416.1160.

¹² See 20 CFR 416.1160.

¹³ See 20 CFR 416.1160, 416.1161.

¹⁴ See 20 CFR 416.1165.

¹⁵ See 20 CFR 416.1163.

¹⁶ See 20 CFR 416.1142(a).

¹⁷ See 20 CFR 416.1161(a)(2) and (3).

¹⁸ 20 CFR 416.1142(a) (prior version).

rulemaking authority specified in sections 205(a), 702(a)(5), 1631(d)(1), 1631(e)(1)(A), and 1633(a) of the Social Security Act. Under those sections, the Commissioner may adopt rules regarding, among other things, the nature and extent of evidence needed to establish benefit eligibility, as well as methods of taking and furnishing such evidence.

We are finalizing three changes discussed in the Notice of Proposed Rulemaking (NPRM) that we published on September 29, 2023.¹⁹ First, we are finalizing 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. We are finalizing, without change from the NPRM, the clarification that our definition of “public assistance household,” which we use as a term of art, applies only for purposes of our programs. Second, we are finalizing, without change from the NPRM, our proposed revision to the definition of a PA household in 20 CFR 416.1142(a) of adding SNAP to the existing list of PIM programs.²⁰ Third, we are changing our definition of a PA household from one in which *every* member receives a PIM payment to one in which the household has both an SSI applicant or recipient, and at least one other household member who receives one or more of the listed PIM payments. If determined to be living in a PA household, inside ISM would no longer need to be developed. We discussed this potential change (from *every* to *any other*) in the NPRM and invited public comment; public commenters were largely supportive of the change.²¹

In the event of an invalidation of any part of this rule, our intent is to preserve the remaining portions of the rule to the fullest possible extent. Each of the three changes can be implemented independently of the others, and we intend each of the three changes to be severable from the others. The addition of SNAP to our list of PIM programs in 20 CFR 416.1142(a) is independent of our adoption of the *any other* definition—adding SNAP could be implemented separately even if we did

not adopt the *any other* definition. Likewise, expanding our definition of a PA household by adopting the *any other* definition could be fully implemented whether or not SNAP is added to the list of PIM programs in 20 CFR 416.1142(a). The clarification that our definition of “public assistance household” is a term of art that applies only for purposes of our programs is a minor administrative clarification that is not contingent on the implementation of the two ways in which we are expanding the definition of a PA household with this final rule. If any of these three changes were to be invalidated, the others could still be implemented fully, as these changes relate to three separate aspects of the PA household policy.

During the development of the NPRM, we considered other programs which are often considered means-tested programs, including Medicaid,²² the Low Income Home Energy Assistance Program (LIHEAP),²³ the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC),²⁴ the Housing Choice Voucher Program,²⁵ Project Based Rental Assistance, and Public Housing²⁶ which we discussed in the “Rationale for the Proposed Policy” in the NPRM.²⁷ At this time, we have decided to add SNAP with this expansion and continue to explore adding other programs in the future.

SNAP provides nutrition benefits via an Electronic Benefit Transfer (EBT) card, which can be used to buy groceries at authorized food stores and retailers.²⁸ 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.²⁹ If everyone in the SNAP household is receiving TANF and/or SSI, the household may be deemed “categorically eligible” for SNAP because they have already been

determined eligible for another means-tested program.³⁰ SNAP benefits meet the definition of income in our regulations.³¹ However, SNAP benefits are excluded from our income counting based on Federal statute.³² Because our 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 programs 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, the value of the SNAP benefit, as well as 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.

We also discussed and invited public comment on broadening our definition of a PA household from one in which every member receives a PIM payment to one in which any member other than the SSI applicant or recipient receives a PIM payment. We have decided to adopt this change. Thus, under our new definition of PA household, if there is an SSI applicant or recipient in a household where at least one other member receives one or more of the listed PIM payments, the household will be considered a PA household, and we will not develop for inside ISM.³³

As we discussed in the NPRM, the previous definition of PA household (requiring *every* member to receive a PIM payment) may have disadvantaged individuals in low-income households where household members still needed their income (and resources) to meet their own needs but where a household member was not receiving a PIM payment for reasons unrelated to need.

²² For more information on Medicaid, visit <https://www.medicaid.gov/>.

²³ For more information on LIHEAP, visit <https://www.acf.hhs.gov/ocs/low-income-home-energy-assistance-program-liheap>.

²⁴ For more information on WIC, visit <https://www.fns.usda.gov/wic>.

²⁵ For more information on the Housing Choice Voucher Program, visit <https://www.hud.gov/hcv>.

²⁶ For more information on Public Housing, visit https://www.hud.gov/program_offices/public_indian_housing/programs/ph.

²⁷ 88 FR 67148, 67151.

²⁸ See “How do I receive SNAP benefits?” available at <https://www.fns.usda.gov/snap/recipient/eligibility>.

²⁹ See “Who is in a SNAP household?” and “What are the SNAP income limits?” available at <https://www.fns.usda.gov/snap/recipient/eligibility>.

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

³¹ See 20 CFR 416.1102.

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

³³ “Inside ISM” is ISM that is provided to the SSI applicant or recipient from others within the same household in which the applicant or recipient is living. See POMS SI 00835.465.B.; see also POMS SI 00835.515. In contrast, “[w]hen a person who is not a household member pays a vendor directly for any of the household’s costs or provides the household with [ISM] for less than the current market value (CMV),” we consider this “outside ISM.” See POMS SI 00835.465.C.; see also POMS SI 00835.515. ISM that is neither inside, nor outside—such as ISM provided to only one person in the household—is considered “other ISM.” See POMS SI 00835.630.E.

¹⁹ 88 FR 67148.

²⁰ For more information on SNAP, visit <https://www.fns.usda.gov/snap/supplemental-nutrition-assistance-program>.

²¹ In the NPRM, we referred to this potential change as from *every* to *any other*. In this final rule, we are adopting that proposed change but, for purposes of clarification, have slightly modified the new language defining a PA household in 20 CFR 416.1142(a), such that the *any other* language is no longer used. Because the substance of the new definition is the same as the *any other* proposal, we continue to refer to the new definition as the *any other* definition throughout this final rule.

For example, college students, who do not meet a student exception for SNAP, may not receive SNAP benefits even though the rest of the household does.³⁴ In such circumstances, under our previous definition of PA household, the household would not qualify. But under the expanded definition of PA household that we are adopting, the household would not be disqualified as a PA household simply because one member was not receiving a PIM payment. In fact, many commenters supported the change we are now adopting based on their experiences, under the previous definition, of households that did not qualify for reasons unrelated to need.³⁵

Additionally, when we first established the PA household rule in 1980, we explained that our rule “relied on the fact that other agencies have determined that these individuals [receiving PIM payments] need all their income for their own needs.”³⁶ Because SNAP and several of the other PIM programs listed in our PA household definition provide, or may provide, benefits at the household (or family) level instead of the individual level (e.g., TANF, Refugee Act of 1980, Disaster Relief and Emergency Assistance Act, and general assistance programs of the Bureau of Indian Affairs), we note that in many circumstances a needs-based determination has been made for other household members. We discuss further justification for the change (from *every* member to *any other* member) in the Comments Summary section below.

Comments Summary

We received 221 public comments on our NPRM from September 29 through November 29, 2023. Of the total comments, 219 are available for public viewing at <https://www.regulations.gov/document/SSA-2023-0015-0001>.³⁷

These comments were from:

- Individuals; and
- Advocacy groups, such as the National Organization of Social Security Claimants’ Representatives and the National Association of Disability Representatives.

We carefully considered the public comments we received. More than 95 percent of commenters supported the proposals in the NPRM to add SNAP and to adopt the change from *every* member to *any other* member, meaning the household has both an SSI applicant or recipient, and at least one other household member who receives one or more of the listed PIM payments. Some commenters agreed with the overarching proposals but recommended amendments. Other commenters asked questions and offered opinions on the potential financial and legal implications of the proposals. A few commenters disagreed with the proposals altogether.

We received some comments that were outside the scope of this rulemaking because they did not relate to our proposals either to add SNAP to our list of PIM programs or to change our definition from *every* member to *any other* member. Even though outside the scope, we address some of these other comments where they related to ISM more generally because a response might help the public understand our program better.

The next section summarizes and responds to the public comments.

Comments and Responses

General Support

Comment: Many commenters broadly supported, and encouraged us to quickly finalize and implement, adding SNAP to the list of PIM programs in our definition of a PA household.

Response: We acknowledge and appreciate the support for that change.

Comments Regarding Scope of Change

Comment: Many commenters supported the proposed change in the PA household definition from one in which *every* member receives some kind of PIM payments to one that has both an SSI applicant or recipient, and at least one other household member who receives one or more of the listed PIM payments. Some commenters stated that the *any other* proposal would simplify our processing of SSI claims, save time, and increase the speed with which we serve applicants and recipients. Some commenters noted that some SNAP households face barriers to SNAP enrollment for all household members, including households with: college students who do not meet a student exemption for SNAP; individuals with Able-Bodied Adults Without Dependent (ABAWD) status who are otherwise eligible for SNAP, but who are generally limited to no more than three months of SNAP benefits within a three-year

period if they are not meeting certain work requirements or they do not qualify for an exception; and households with mixed immigration status.³⁸ These commenters stated that such households, where some, but not all, members may be eligible for SNAP, would not benefit from the addition of SNAP to our list of PIM programs unless we adopted the *any other* proposal. In support of this point, commenters stated that the change to *any other* member would be consistent with Executive Order (E.O.) 13985.³⁹

One commenter objected to the examination and discussion of the *any other* proposal because they want further analysis and justification of the change. The commenter suggested that such a change should be explored through an Advance Notice of Proposed Rulemaking.

Response: We carefully considered the comments on the *any other* proposal and have decided to adopt the *any other* change in this final rule.

First, the commenters cited examples of how requiring every member of the household to receive a PIM payment has disadvantaged individuals in low-income households under the previous definition when there was a household member who did not receive a PIM payment for reasons unrelated to need. We found these examples to be persuasive. The commenters noted, for example, that 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 the benefits.⁴⁰ Specifically, several commenters⁴¹ pointed out that some members of a household are not eligible to receive SNAP because of their immigration

³⁸ For additional details on USDA/FNS’s policy regarding families with mixed immigration status, see <https://www.fns.usda.gov/snap/eligibility/citizen/non-citizen-policy>.

³⁹ Executive Order 13985. Advancing Racial Equity and Support for Underserved Communities Through the Federal Government. January 20, 2021. Available at: <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government>.

⁴⁰ For example, adults who have exceeded eligibility time limits and certain non-citizens are not eligible to receive TANF, even if their income is used to determine a household’s eligibility for TANF benefits. See “Characteristics and Financial Circumstances of TANF Recipients Fiscal Year (FY) 2021,” available at https://www.acf.hhs.gov/sites/default/files/documents/ofa/fy2021_characteristics.pdf.

⁴¹ Comments are available to the public at <https://www.regulations.gov>. Search for docket “SSA–2023–0015.” See comments from: National Organization of Social Security Claimants’ Representatives (NOSSCR); California Association of Food Banks (CAFB); Californians for SSI (CA4SSD); Center on Budget and Policy Priorities (CBPP); Justice in Aging; and the Legal Aid Society.

³⁴ See <https://www.fns.usda.gov/snap/students>.

³⁵ See public comments in the rulemaking docket at <https://www.regulations.gov>, under the docket SSA–2023–0015. Examples include Center on Budget and Policy Priorities; Justice in Aging; The Legal Aid Society; and Community Legal Service of Philadelphia.

³⁶ 45 FR 65542, <https://www.federalregister.gov/citation/45-FR-65542>.

³⁷ We excluded two comments. One comment was identical from the same commenter, and one was a partial submission that was missing pages that was resubmitted by the commenter for completeness.

status, even if they would otherwise qualify for SNAP benefits based on their income (or need).⁴² In such a case, under the previous policy, although the SSI recipient lives in a household where all but one of the other members are receiving SNAP, we would not have considered this a PA household because not every member of the household was receiving a PIM payment. As a result, we may have treated the SSI recipient as receiving inside ISM and would have reduced their benefit despite the fact that the household was still sufficiently low income to qualify everyone in the household for the PIM payments based on financial need.

Second, for households with an SSI applicant or recipient and at least one other member who receives means-tested PIM payments, we find it reasonable to conclude that members of the household likely would not be able to provide the SSI applicant or recipient with inside ISM. This conclusion is supported by the data we have about the composition of households that receive the types of PIM payments covered by our PA household policy. This data generally shows that individuals eligible for PIM payments live in low-income households. For example:

- The average monthly income for TANF households is \$958 (or under \$12,000 annually). These income levels indicate that if someone in a household is receiving TANF, the entire household is likely to be low income.⁴³

- In 2014, a study showed that families who receive public assistance are significantly lower income than families who do not, with annual incomes averaging \$33,549 for a family of four who receive at least one form of public assistance versus \$74,597 for a family of four who do not receive any assistance.⁴⁴

- 70 percent of SSI recipients live in households with family incomes below \$30,000, including income from assistance benefits.⁴⁵

⁴² See “Are non-citizens eligible for SNAP?” at <https://www.fns.usda.gov/snap/recipient/eligibility>.

⁴³ See Table 40 (“TANF Recipient Families by Receipt of Non-TANF Income: FY 2021), available at <https://www.acf.hhs.gov/ofa/data/characteristics-and-financial-circumstances-tanf-recipients-fiscal-year-2021>.

⁴⁴ See Program participation and spending patterns of families receiving government means-tested assistance: Monthly Labor Review: U.S. Bureau of Labor Statistics, available at <https://www.bls.gov/opub/mlr/2018/article/program-participation-and-spending-patterns-of-families-receiving-means-tested-assistance.htm>.

⁴⁵ 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>.

- In FY 2020, 81 percent of SNAP households had gross monthly income less than or equal to the poverty line.⁴⁶

- An analysis of families receiving multiple public benefits (but not necessarily where every member received some form of public assistance) found that higher levels of benefit receipt are associated with lower income, earnings, and employment, and greater material hardship.⁴⁷

- A 2013 study found that about 25 percent of SSI recipients lived in a household where the total family income was below 100 percent of the applicable family poverty threshold, even though the household contained at least one member who was not receiving PIM payments. This was true regardless of whether the SSI recipients were individuals/couples or noncouple multi-recipient.⁴⁸

- The 2019 Survey of Income and Program Participation found that in households that receive both TANF and SSI, 85.7 percent (+/- 8.4 percent) have incomes less than 200 percent of the Federal poverty rate, even after all transfers (that is, including the income the household receives from all sources of cash public assistance payments).⁴⁹

- Lastly, related to the policy to add SNAP to the list of PIM programs, among households receiving SSI in 2021, 64.7 percent also qualified for and received SNAP.⁵⁰

Third, as discussed above and in our NPRM, SNAP and several other listed PIM programs provide, or may provide, household-level (or family-level)

⁴⁶ 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>.

⁴⁷ 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>.

⁴⁸ 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>.

⁴⁹ 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 percent) of these same households had incomes less than 200 percent of the Federal poverty rate. The 2021 SIPP is inclusive of COVID-era stimulus payments and other transfer programs that no longer exist.

⁵⁰ 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>.

benefits (e.g., TANF, Refugee Act of 1980, Disaster Relief and Emergency Assistance Act, and General assistance programs of the Bureau of Indian Affairs). This means a government agency has already determined that a household’s income is sufficiently low such that the household is in need of public assistance. Based on that finding, it is reasonable for us to conclude that household members require their own income (and resources) to meet their own needs.

Finally, regarding the suggestion that we explore whether to adopt the *any other* definition through an ANPRM, we used the NPRM to explore this option. In the NPRM, we discussed the possible policy change, examined evidence that supported the change, invited public comment specifically on the proposed change, and included an estimate and cost analysis from our Office of the Chief Actuary (OCACT) over the fiscal years 2024 to 2033. The OCACT estimate projected SSI payments, and estimated changes for both recipients and new individuals who will be eligible under the revised *any other* definition that would not have been eligible under our previous rules.

Comment: Some commenters encouraged us to go beyond the *any other* proposal and change the definition of a PA household to refer simply to *any* member, including the SSI applicants or recipients themselves.

Response: Under the commenters’ alternative proposal, *every* SSI recipient would live in a PA household and, thus, would be considered not to be receiving ISM from other members of the household (i.e., inside ISM). We do not think that result would be supportable because it would mean that we would never apply the one-third reduction (VTR) rule,⁵¹ which is based on a provision in the Social Security Act.⁵²

Comment: Many commenters encouraged us to expand the definition of PA household to include additional programs, whether in this final rule or in a future rulemaking, including: Medicaid; LIHEAP and similar energy assistance programs; housing assistance from the Department of Housing and Urban Development (HUD); WIC; CHIP; and the earned income tax credit (EITC).

Response: As we discussed in the NPRM,⁵³ this is our first expansion of the definition of a PA household since 1980, when the policy was first established. Therefore, we decided to add SNAP initially and will consider other programs in the future; our

⁵¹ See 20 CFR 416.1131; POMS SI 00835.200.

⁵² See 42 U.S.C. 1382a(a)(2)(A).

⁵³ 88 FR 67152–67153.

choosing not to do so now does not preclude adding other programs via future rulemaking. As discussed in our NPRM, SNAP recipients have been determined to be low-income and, therefore, need their income (and resources) to take care of their own needs, which is consistent with the rationale underlying our policy when it was first established.⁵⁴ The other programs cited by the commenter do not align as easily with the criteria we used. For example, while the benefits of the EITC are concentrated among low-income households, some moderate-income taxpayers are eligible for a small credit, including taxpayers with three or more children earning up to \$63,398 and with up to \$11,000 in investment income (in 2023). This demonstrates that the EITC does not align with the underlying intent of our initially established PA household policy to the extent that SNAP does.

In addition, SNAP has several advantages over other programs that we considered that make it the best fit for this first expansion of our PA household definition. First, SNAP eligibility and receipt have relatively low State variability because SNAP is a nationwide program with relatively uniform eligibility standards. In general, net monthly income limits for SNAP eligibility are set at 100 percent of the poverty level.⁵⁵ In contrast, Medicaid, for example, has varying income limits based on an individual's State of residence.⁵⁶ Likewise, the upper eligibility levels for CHIP vary by State and range widely,⁵⁷ as do the types of CHIP programs and groups covered by States. In contrast, the relative uniformity in SNAP eligibility requirements makes this initial expansion of our PA household policy more consistent and supportable.

Second, SNAP benefits are typically certified for relatively longer periods than other government benefit programs. For example, many SNAP participants are certified for 12 months, and older individuals and individuals with disabilities may be certified for up to 24 or 36 months. In contrast, other 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. For example, LIHEAP benefits, which help low-income households pay for heating or cooling, are typically seasonal, meaning that eligibility can vary within a 12-month period.

Moreover, SNAP does not have a cap on enrollment, meaning those who qualify or meet eligibility requirements receive benefits. This ensures that we can include the entire SNAP-eligible population when we determine what households qualify as PA households. In contrast, programs like WIC, LIHEAP, and HUD housing are capped based on the availability of resources, which means there are waiting lists for those who are financially eligible and priority levels to receive benefits.⁵⁸ As we strive for uniformity across the SSI program, we are concerned that including government benefit programs with enrollment caps or waiting lists may lead to disparate treatment of similarly situated SSI applicants and recipients.

Finally, we note that SNAP participation overlaps to a great extent with participation in other means-tested programs and, thus, by adding SNAP to the definition of PA household, we anticipate that we will also capture many of the individuals who receive benefits from other means-tested programs. We would like to observe how adding SNAP to the PA household definition affects the SSI population before we determine whether to add additional programs, and if so, which programs.

Despite the considerations cited above, we are not precluding adding other programs to the list of PIM payments in our PA Household definition. As well, changes to the programs discussed here might also cause us to reconsider them for inclusion on the list. Expanding the definition of PA household to include additional programs would require further, program-specific consideration.

Use of Data Sharing To Implement New Policy

Comment: One commenter encouraged us to proactively recalculate benefits for existing recipients based on this new rule, rather than waiting until the recipients' next scheduled redetermination. The commenter wanted us to do this to ensure recipients received the benefit of the new policy as soon as possible. The commenter also stated that this process of proactive

recalculation could be simplified by utilizing data we already receive through existing data matches. The commenter further stated that "SSA should conduct Limited Issue reviews of all VTR and ISM records in order to comply with the new rules, as well as of all claims denied in the previous twelve months to identify erroneously denied applicants."

Similarly, many commenters, in their support for finalizing the proposed rule, encouraged us to expand or implement data sharing agreements with State SNAP administrators across the country. They advocated that expanded data sharing with SNAP administrators would be an improvement over using redeterminations to identify and correct "over-reduction" of payment and ineligibility decisions.

Response: We acknowledge and share the commenter's desire to ensure existing recipients receive the benefit of the new PA household policy as soon as possible. However, due to limited resources it is not administratively feasible to conduct Limited Issue reviews of all the VTR and ISM records. Further, this final rule does not apply to any claims denied before its effective date.

Expanding or implementing data sharing agreements with States across the country would involve several important considerations that are outside the scope of this rulemaking, including the interest, capacity, and requirements of the States. We have an established process for data exchanges that we follow to implement any data exchange, including establishing the agreements. We currently have 174 data sharing agreements with States/State agencies under which we provide data for the State/State agency to determine entitlement and eligibility for federally funded benefit programs, including Medicaid, SNAP, and TANF.

Income From Family or Friends

Comment: One commenter expressed concern that our regulations that deem income create a disincentive for SSI recipients to get married, and implied tension or conflict with the Supreme Court's holding in *Obergefell v. Hodges*,⁵⁹ which holds that same-sex couples may not be deprived of the fundamental right to marry.

Response: In general, deeming from a spouse is required by the Social Security Act.⁶⁰ In the context of this rulemaking, as we explained in the NPRM, adding SNAP to our list of PIM programs will "decrease the amount of

⁵⁴ 88 FR 67152.

⁵⁵ See "What are the SNAP income limits?" available at <https://www.fns.usda.gov/snap/recipient/eligibility>. Note that Alaska and Hawaii have separate, higher income eligibility standards for the SNAP program.

⁵⁶ <https://www.medicaid.gov/medicaid/national-medicaid-chip-program-information/medicaid-childrens-health-insurance-program-basic-health-program-eligibility-levels/index.html>

⁵⁷ *Id.*

⁵⁸ Dorn, Stan, et al. (2013). Overlapping Eligibility and Enrollment: Human Services and Health Programs Under the Affordable Care Act. The Urban Institute. https://aspe.hhs.gov/sites/default/files/private/pdf/76961/rpt_integrationproject.pdf.

⁵⁹ 576 U.S. 644 (2015).

⁶⁰ 42 U.S.C. 1382c(f)(1).

income we [will] deem to SSI applicants and recipients because we [will] no longer deem income from ineligible spouses . . . who receive SNAP benefits and live in the same household.” There is no tension or conflict between spouse-to-spouse deeming and the Supreme Court’s holding in *Obergefell*: spouse-to-spouse deeming applies equally to opposite-sex couples and same-sex couples.

Comment: Several commenters made a broad suggestion to entirely eliminate ISM because counting ISM discourages friends and family from providing assistance to disabled loved ones, while one commenter acknowledged that a statutory change would be required to eliminate ISM.

Response: We acknowledge the commenters’ desired policy change, but as the one commenter stated, entirely removing ISM from our income calculations would require a statutory change.⁶¹

Opposition to the Rule

Comment: One commenter opposed the proposed rulemaking because the NPRM did not extensively discuss the distinctions in the definitions of household composition for SSI and SNAP.

Response: This rulemaking does not change the definition of a household for SSI purposes⁶² or for SNAP purposes.⁶³ The commenter did not explain how the distinctions in the household composition definitions are relevant to our addition of SNAP, and we do not believe that the distinctions preclude us from adding SNAP to our regulatory list.

Comment: One commenter asserted that because a federal food-stamp program existed in 1980, when the PA household policy was first created, the relative increase in SNAP participation since that time does not sufficiently justify the change to include SNAP in the list of PIM programs in our definition of a PA household. The commenter further noted that “the large increase in SNAP users and concurrent decline in the poverty rate since 1980 . . . is not a relevant indication of increased need.”

Response: When we first established the PA household policy in 1980, we explained that it was based on the idea that if the other individuals in the

household were receiving a PIM payment, they needed their income (and resources) to meet their own needs. This meant they could not support the SSI applicant or recipient because they had no extra income (or resources) to share. The determination of need, made by the applicable Federal or State agency providing the PIM payments, supported the assumption that the others in the household could not provide ISM to the SSI applicant or recipient. The fluctuations in the overall poverty rate in the United States are not directly relevant to whether the household members are able to provide ISM to the SSI applicant or recipient. As we discussed in the NPRM, when the PA household policy was first created in 1980, the list of PIM programs in our definition of a PA household reflected the most widely used means-tested public benefit programs at that time.⁶⁴ The nationwide food-stamp program began in 1974—just six years before the establishment of the PA household policy—and had approximately 21.1 million participants in 1980.⁶⁵ In contrast, approximately 42.1 million people receive SNAP benefits today,⁶⁶ making SNAP now one of the most widely used public benefit programs. As we discussed in the NPRM, we have not updated our list of PIM programs for the PA household policy since 1980, despite the significant shifts in the landscape of public assistance programs since that time. SNAP recipients have been determined to be low-income and, therefore, need their income (and resources) to meet their own needs.⁶⁷ Indeed, a USDA report from 2019 showed that approximately 80 percent of all SNAP households had gross monthly income that was less than or equal to the Federal poverty level.⁶⁸

Comment: One commenter opposed adding other programs, such as “in-kind assistance programs like food and medical care,” that are not cash assistance programs, to the programs listed in our definition of a PA household. Further, the commenter

asserted that we had taken an inconsistent stance by calling our treatment of food “insignificant” in a different rulemaking⁶⁹ but “including SNAP . . . as significant” in this PA household rulemaking.

Response: Regarding the commenter’s statement that we should not add in-kind assistance programs like food and medical care to our PA household definition, we have determined that means-tested programs largely have shifted over the last several decades from cash assistance programs toward voucher-based or in-kind support programs. Because of this shift over time, we have a reduced ability to effectively identify the individuals we intended to serve under our PA household definition.

As we noted in the NPRM, SNAP benefits meet our definition of income in 20 CFR 416.1102.⁷⁰ The commenter’s reference to our NPRM on *Omitting Food from In-Kind Support and Maintenance* is generally outside the scope of this rulemaking. However, we note that, contrary to the commenter’s assertion, we have not described food assistance as “insignificant,” nor is food assistance treated inconsistently under the two rules. Here, we are adding SNAP benefits to the list of PIM programs under the PA household policy. This change means that if the household has both an SSI applicant or recipient, and at least one other household member who receives SNAP benefits (or other PIM payments listed in the PA household definition), we will not develop inside ISM because we consider that the household is sufficiently low income such that the members need all of their income (and resources) to meet their own needs—they are not able to share with or provide ISM to the SSI applicant or recipient. In contrast, under the final rule *Omitting Food from In-Kind Support and Maintenance*, we removed food from our calculations of ISM. More importantly, it is less accurate to compare potentially partial, inconsistent food assistance that an individual receives from family or friends with something like SNAP, a Federal benefit one can only qualify for after demonstrating they do not have enough income or resources to fulfill their own basic nutrition needs.

Comment: One commenter described the NPRM as incomplete because there was “no federalism, no distributional

⁶⁴ See 88 FR 67151–52.

⁶⁵ See Congressional Budget Office, “The Food Stamp Program: Eligibility and Participation,” Nov. 1988, p. 2, available at <https://www.cbo.gov/sites/default/files/100th-congress-1987-1988/reports/88-cbo-0010.pdf>.

⁶⁶ See USDA Food and Nutrition Service (FNS), SNAP Data Tables, “FY19 through FY23 National View Summary,” Sept. 2023, available at <https://www.fns.usda.gov/pd/supplemental-nutrition-assistance-program-snap>.

⁶⁷ See 88 FR 67152.

⁶⁸ See USDA, “Characteristics of Supplemental Nutrition Assistance Program Households: Fiscal Year 2019,” March 2021, Report No. SNAP-20-CHAR, available at: <https://fns-prod.azureedge.us/sites/default/files/resource-files/Characteristics2019.pdf>.

⁶¹ See 42 U.S.C. 1382a(a)(2)(A).

⁶² SSA—POMS: SI 00835.020—Definitions of Terms Used in Living Arrangements (LA) and In-Kind Support and Maintenance (ISM) Instructions—8/2023. <https://secure.ssa.gov/apps10/poms.nsf/lnx/0500835020>.

⁶³ See “Who is in a SNAP household?” at SNAP Eligibility | Food and Nutrition Service ([usda.gov](https://www.fns.usda.gov/snap/recipient/eligibility)). <https://www.fns.usda.gov/snap/recipient/eligibility>.

⁶⁹ The commenter appears to be referring to the NPRM the agency published on “Omitting Food from In-Kind Support and Maintenance.” See 88 FR 9779 (Feb. 15, 2023).

⁷⁰ See 88 FR 67151.

analysis, no alternatives considered[.]” The commenter also desired estimates of costs from Medicaid, and other programs using an SSI Financial Eligibility Model (FEM). The same commenter asserted that data from the Survey of Income and Program Participation (SIPP) was better for this rulemaking than the Current Population Survey (CPS) data used in our proposed rule. The commenter asserted that CPS data undercounts income and suggested our estimates might be incorrect.

Response: Regarding federalism, section 1(a) of E.O. 13132 defines “policies that have federalism implications” as “refer[ring] to regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.”⁷¹ As stated in the NPRM and this final rule, we analyzed the rule in accordance with the principles and criteria established by E.O. 13132 and determined that the rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. As also stated in the NPRM and this final rule, we also determined that the rule will not preempt any State law or State regulation or affect States’ abilities to discharge traditional State governmental functions. We maintain that those determinations are accurate, and the commenter did not give any reason to believe they are not.

As a matter of protocol, the estimates prepared by SSA’s Office of the Chief Actuary (OCACT) focus on the impact on SSA. The commenter is incorrect in stating regarding the NPRM that “no alternatives [were] considered[.]” For example, the reasons that we provided in support of the proposal, particularly in the “Rationale for the Proposed Policy” section of the NPRM, demonstrate that we considered the proposal against the alternative of making no change.⁷² Also, as we stated in the “Proposed Policy” section of the NPRM, “[d]uring the development of [the NPRM], we considered other means-tested programs, including Medicaid, the Low Income Home Energy Assistance Program (LIHEAP), the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), the Housing Choice Voucher Program, Project Based Rental

Assistance, and Public Housing, which we discuss[ed] in the ‘Rationale for the Proposed Policy’ section” of the NPRM.⁷³

With regard to the commenter’s assertion that SIPP data was better for this rulemaking than CPS data, in our development of the estimated Federal SSI program cost effects, we did not use the income fields from the CPS to estimate the effects of this proposal. The CPS was only used for the purpose of determining how many SSI households were also receiving SNAP and would thus be impacted by implementation of the proposal. Regarding the research cited in the NPRM that used the CPS, the CPS Annual Social and Economic Supplement (CPS ASEC) is the source of official poverty measures, and we consider it sufficiently reliable for other government estimates. A chief advantage of the CPS ASEC over the SIPP (used by the FEM) is larger sample size. Because PA households represent a small fraction of the SSI caseload, we rely on the larger data source to make more precise estimates. Even the CPS ASEC does not include enough cases to support the additional detailed analyses that the commenter would like to see.

Comment: Two commenters stated that the NPRM should comply with the Fiscal Responsibility Act of 2023, known as the Administrative Pay-As-You-Go Act of 2023.⁷⁴

Response: This rule complies with the Administrative Pay-As-You-Go Act of 2023. That Act does not impose requirements at the NPRM stage. Additionally, this final rule is not subject to the Act’s requirements because it is not estimated to increase direct spending by at least \$100 million for FY 2024 (the first fiscal year during the 10-year period). See section 266 of the Act.

Comment: One commenter opposed the proposed rule based on the administrative implementation cost of \$105 million because, in the commenter’s view, it conflicts with our anticipated administrative burden reduction from simplified calculations. The commenter also stated that there will be more redeterminations and more applications because of the new policy.

Response: To clarify, administrative costs to implement a new regulation (stemming from a variety of sources, such as new systems) are distinct from non-financial administrative burden sources such as time, ease, and efficiency. Administrative costs and non-financial burdens, then, will not necessarily move in the same direction.

As explained in the NPRM, we anticipate this policy change will result in administrative costs that will be only partially offset by administrative savings. At the same time, we expect processing time savings because employees will spend less time developing household expenses and making inside ISM determinations. Nonetheless, as the comment suggests, we estimated that there will be costs to process additional claims, reconsiderations, and appeals. As we stated in the NPRM, we anticipate that this expansion of our PA household policy will increase the amount of monthly SSI benefits for those to whom the policy applies and make more individuals eligible for SSI benefits. Consequently, we anticipate that there will be additional costs to process redeterminations and post-eligibility actions associated with this rule change.

In summary, we acknowledge what the commenter is expressing, and we provided revised estimate text in the preamble to clarify that the administrative burden would be reduced in a subset of cases, which would only partially offset the greater amount of costs from newly eligible recipients. However, as further discussed in the preamble and in the Regulatory Impact Analysis, we have determined that the benefits of the rule justify the costs, and that the rule can have administrative benefits even while it imposes administrative costs.

Comment: One commenter asserted that using SNAP to confirm SSI eligibility will result in overpayments in multiple programs, thereby increasing financial burdens on beneficiaries to repay the funds. The commenter stated that “SNAP income and asset testing has changed dramatically with the creation and expansion of Broad-Based Categorical Eligibility (BBCE). This has contributed to a massive increase in SNAP participation rolls and a greater reliance on recipient self-attestation—the number one contributor to program overpayments.” The commenter also asserted that our proposed rule “will increase the participation in SSI, not decrease as imagined in [the] NPRM.”

Response: Under this final rule, receipt of SNAP is not dispositive of the applicant’s or recipient’s SSI eligibility. It is true that under this final rule, receipt of SNAP by one or more household members (other than the SSI applicant or recipient) may factor into our determination of whether the SSI applicant or recipient lives in a PA household, but this is advantageous to the individual applying for or receiving SSI. If the SSI applicant or recipient lives in a PA household, that means

⁷¹ See <https://www.govinfo.gov/content/pkg/FR-1999-08-10/html/99-20729.htm>.

⁷² See 88 FR 67148, 67151–52 (Sept. 29, 2023).

⁷³ Id. at 67150–51 (footnotes omitted).

⁷⁴ Public Law 118–5, div. B, title III.

only that we consider the SSI applicant or recipient not to be receiving ISM from members of the household—not necessarily that the SSI applicant or recipient is eligible for SSI.

We carefully considered the commenter's reservations about SNAP. However, we continue to maintain that adding SNAP is consistent with the rationales and purposes of our PA household policy, as discussed in the NPRM and in this final rule. We would add, first, that we find it reasonable and supportable to consider a needs-based eligibility determination by a government entity, on a matter within its competence, as reliable. Second, an overpayment determination for a given type of benefit does not necessarily mean that the applicant or recipient was not entitled or eligible to receive *any* such benefits for the period at issue; and our PA household policy looks at receipt of a PIM payment generally, not the *amount* of the PIM payment. Third, if we determined, in light of another government entity's overpayment determination, that a household member did not receive a PIM payment, we could and would make a correction, as appropriate and subject to all our usual rules, including administrative finality.⁷⁵ Fourth, BBCE “is a policy in which households may become categorically eligible for SNAP because they qualify for a non-cash Temporary Assistance for Needy Families (TANF) or state maintenance of effort (MOE) funded benefit.”⁷⁶ BBCE is consistent with our longstanding list of PIM programs, which includes both TANF and State or local government assistance programs based on need.⁷⁷

Lastly, contrary to the commenter's statement, our proposed rule did not indicate that we anticipated a decrease in SSI participation. In the NPRM, we stated that there would be a “decrease [in] the number of SSI applicants and recipients charged with in-kind support and maintenance (ISM)” and a “decrease [in] 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.”⁷⁸

Comment: One commenter suggested reducing administrative burden when we determine eligibility by conducting mandatory verifications of all income and assets in SSI applications, because self-attestation creates “an environment

favorable to first and third-party fraud[.]” The commenter stated that “the ‘pay and chase’ implications in overpayment recoveries infers an administrative burden upon state and local welfare agencies.”

Response: Verification of “all income and assets in SSI applications” is outside the scope of this rulemaking. However, we note that in administering the SSI program, we carefully ensure that our policies and procedures are consistent with the requirement in the Social Security Act: “that eligibility for [SSI] benefits . . . will not be determined solely on the basis of declarations by the applicant concerning eligibility factors or other relevant facts, and that relevant information will be verified from independent or collateral sources and additional information obtained as necessary in order to assure that such benefits are provided only to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct.”⁷⁹

Regarding our PA household policy, we do not rely on self-attestation alone. For initial claims, we “substantiate receipt of PA payments” (or PIM payments) with “evidence . . . [in] the form of an award letter, report of contact with the paying agency, etc.”; and, in post-eligibility situations, we appropriately document or substantiate PIM payments depending on indications of a changed living arrangement.⁸⁰ Lastly, after over 40 years of applying our PA household policy, we are aware of no evidence that the policy as such leads to overpayments or that overpayments occur with respect to PA household determinations more than other comparable determinations.

Miscellaneous Comments

Comment: One commenter asserted the proposed rule would not benefit the quality of life of all U.S. citizens and that “[t]here is no defined option to revert changes if [the rulemaking] proves to be incorrect.”

Response: Under the Social Security Act, we have broad authority to make and revise rules and regulations, consistent with the Act, that are necessary or appropriate for the administration of our programs, including the SSI program.⁸¹ Adding SNAP to the list of PIM programs in our definition of a PA household and adopting the *any other* definition are proper exercises of the Commissioner's

rulemaking authority under the Act, and these changes are appropriate and justified. For the reasons articulated in the NPRM and this final rule, we believe these changes will help us administer the SSI program and provide better support to individuals with limited income and resources. Administering the SSI program as we have been charged to do benefits the public more broadly and the common good.

Comment: One commenter opposed the proposed rule in light of inflation, which “is presenting challenges for low/no income individuals with their SSI payment and SNAP benefits taken together. Any cuts to their SSI payment at this time will place such individuals at a disadvantage in paying their bills and living with dignity in their households.” The commenter also suggested that we tax “the super-rich” and “[s]top illegal immigrants at the border and stop them from exploiting the benefits budgeted for legal residents with genuine needs.”

Response: This rulemaking will not result in cuts to SSI payments. We anticipate that the expansion of our PA household policy will increase SSI payments for those to whom the policy applies. Taxation and border control are outside our administrative authority and outside the scope of this rulemaking. Immigration status may be relevant for SSI purposes, but changes to national immigration policy are outside the scope of this rulemaking.

Regulatory Procedures

E.O. 12866, as Amended by E.O. 14094

We consulted with the OMB, and OMB determined that this final rule meets the criteria for a significant regulatory action under section (3)(f)(1) of E.O. 12866, as amended by E.O. 14094, and is subject to OMB review.

Anticipated Transfers to Our Program

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 rule would result in a total increase in Federal SSI payments of \$15 billion over fiscal years 2024 through 2033, assuming implementation of this rule beginning on September 30, 2024. When the effects of implementing this rule are fully realized, the annual increase in Federal SSI payments is estimated to be about two percent relative to what would have occurred under previous rules. To estimate the impact, OCACT used the Annual and Social Economic Supplement (ASEC) to the Current

⁷⁵ See 20 CFR 416.1488.

⁷⁶ <https://www.fns.usda.gov/snap/broad-based-categorical-eligibility>.

⁷⁷ See 20 CFR 416.1142(a)(1), (6).

⁷⁸ 88 FR 67148, 67148.

⁷⁹ 42 U.S.C. 1383(e)(1)(B)(i).

⁸⁰ POMS SI 00835.130E.

⁸¹ See 42 U.S.C. 405(a), 902(a)(5), 1383(d)(1), 1383b(a).

Population Survey (CPS) and our administrative data. We expect that adding SNAP to the list of PIM programs and changing to the *any other* definition of a PA household will increase the number of PA households for which we do not charge inside ISM, which will increase Federal SSI payments for these recipients. In addition, we expect that no longer deeming income from ineligible spouses and parents whose income is used to determine eligibility for or amount of SNAP payments will also increase Federal SSI payments. We expect that implementation of this final rule will also cause some individuals to receive Federal SSI payments who would not have been eligible under the previous rules.

According to our Office of the Chief Information Officer, Office of Benefit Information Systems, as of January 2023, there were 303,609 SSI recipients living in a PA household according to the previous definition, approximately four percent of our total 7.5 million SSI recipients.⁸² We expect the share of SSI recipients living in a PA household, as defined under this rule, to increase substantially when this final rule is implemented. Specifically, OCACT estimates that once this rule is implemented and the effects have stabilized, in fiscal year 2033 roughly 277,000 Federal SSI recipients (4 percent of all SSI recipients) will have an increase in monthly payments compared to current rules, and an additional 109,000 individuals (1 percent increase) will receive Federal SSI payments who would not have been eligible under current rules.

Additionally, the expansions of our PA household definition could result in a reduction of SNAP benefits due to potential interaction between SSI and SNAP. 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.⁸³ 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 the expansions of 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 change could affect individuals participating in other programs within these households.

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 \$83 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 final rule, more individuals will be newly eligible for SSI benefits than under the current rule, resulting in additional costs to process additional claims, reconsiderations, appeals, redeterminations, and post-eligibility actions. In addition to the costs, our estimate also includes processing time savings as field office employees will not have to spend time developing for household expenses/contributions or the full income of deemors (ineligible parents and spouses) or go through the inside ISM determination process during initial claims, pre-effectuation reviews, redeterminations, and post-eligibility actions. While our estimate includes savings due to the reduction in processing times for affected cases, we expect that the costs to process new claims, reconsiderations, and appeals for additional newly eligible individuals will outweigh the savings.

Anticipated Qualitative Costs & Benefits

We anticipate qualitative benefits from the 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.

Additionally, the revision will reduce administrative burdens for SSI applicants or recipients. Under our finalized policy, the list of PIM programs includes SNAP, and the definition of PA household has changed to refer to a household which has both the SSI applicant or recipient, and at least one other household member who receives a PIM payment. Once we identify that an SSI applicant or recipient lives in a PA household, the applicant or recipient would not have to provide household expenses information.

Our change from every member to *any other* member receiving a PIM payment to meet the definition of a PA household further simplifies the development of living arrangements and ISM, reduces SSA's administrative costs and compliance costs during initial determinations and redeterminations for applicants and recipients living in PA households, and reduces ISM complexities that lead to payment errors. Removing the requirement that every member be in receipt of a PIM payment will help ensure that we reach more SSI applicants and recipients 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. For example, the change to *any other* will save time for individuals, household members, and us, since we will no longer have to develop for the entire household once we identify one other person in the household receiving a PIM payment. We acknowledge that if the individual receiving the PIM payment leaves the household we would subsequently inquire if there is another household member also receiving a PIM payment, and this would impose a small administrative burden. However, this burden is not meaningfully different from those caused by other changes in circumstances that would lead us to verify whether the SSI recipient remains eligible for SSI benefits. We anticipate this final rule will still reduce administrative burden overall.

We also anticipate some qualitative costs. Specifically, because of our new definition of a "public assistance household," the SSI applicant or recipient will now need to answer new questions and provide documentation about the public assistance they and others in their household receive, so we can accurately determine if they live in a "public assistance household." As well, since SNAP is being added to the list of programs considered for PA household determinations, processing times may temporarily increase as we

⁸² Annual Statistical Supplement, 2023—Summary of SSI. Available at: <https://www.ssa.gov/policy/docs/statcomps/supplement/2023/7a.html>.

⁸³ 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>.

verify receipt of SNAP benefits. This additional information is a qualitative cost of the regulation, although ultimately, providing the information may be beneficial to the SSI applicant or recipient.

Additionally, the rule change may impose quantitative costs on us due to our increased need for additional development in certain circumstances. For instance, it is possible our regulatory change may incentivize current SSI recipients to change living arrangements to co-locate with family or friends who are receiving SNAP. 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, and if this information is verified by SSA during the initial claim, we would exclude the income for deeming purposes in the SSI program.⁸⁴

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as meeting the criteria in 5 U.S.C. 804(2).

E.O. 13132 (Federalism)

We analyzed this rule in accordance with the principles and criteria established by E.O. 13132 and determined that the rule will not have sufficient federalism implications to warrant the preparation of a federalism assessment. We also determined that this 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 this rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

Paperwork Reduction Act

The final rule requires minor revisions to our existing information collections to expand our definition of PA Household and include SNAP as an example of a PIM program. In addition, the application of the revisions to these rules causes a burden change to our currently approved information collections under 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 also 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. We anticipate this will result in a reduction in the overall burden for these information collections.

We published a notice of proposed rulemaking on September 29, 2023, at 88 FR 67148. In that notice, we solicited comments under the PRA on the burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. The comments section above includes our responses to the PRA-related public comments we received under the NPRM.

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

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⁸⁴ See POMS SI 01320.141.

OMB #; Form #;	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
0960- 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 svstem)	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 final rule:

OMB #; Form #;	Anticipated New Number of Respondents	Estimated Anticipated Burden Per Response from Chart Above (minutes)	Anticipated Estimated Total Burden Under Regulation from Chart Above (hours)	Average Theoretical Hourly Cost Amount (dollars)*	Average Combined Wait Time in Field Office and/or Teleservice Centers (minutes)**	Anticipated Annual Opportunity Cost (dollars)***
0960-0174 SSA-8006 (Paper Form)	12,160	6	1,216	\$13.30*	24**	\$80,864***
0960-0174 SSA-8006 (SSI Claims System)	109,436	6	10,944	\$13.30*	24**	\$727,749***
0960-0456 SSA-8011 (Paper Form)	10,500	15	2,625	\$31.48	21**	\$198,324***
0960-0456 Personal Interview (SSI Claims System)	199,380	15	49,845	\$31.48	21**	\$3,765,889***
0960-0529 SSA-5062 (Paper version)	14,513	30	7,257	\$22.39*	24**	\$292,458***
0960-0529 SSA-5062 (SSI claim system)	14,513	20	4,838	\$22.39*	24**	\$238,297***

OMB #; Form #;	Anticipated New Number of Respondents	Estimated Anticipated Burden Per Response from Chart Above (minutes)	Anticipated Estimated Total Burden Under Regulation from Chart Above (hours)	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- L5063 (Paper version)	14,513	30	7,257	\$22.39*	24**	\$292,458***
0960- 0529 SSA- L5063 (SSI claim system)	14,513	20	4,838	\$22.39*	24**	\$238,297***
Totals	389,528		88,820			\$5,834,336***

* We based this figure on the average DI payments based on SSA's current FY 2024 data

(<https://www.ssa.gov/legislation/2024FactSheet.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); as well as the combined theoretical wages for both DI Payments and Average U.S. Workers.

** We based this figure on the average FY 2024 wait times for field offices and hearings office, as well as by averaging both the average FY 2024 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 final 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.

As we have revised the associated burdens for the above-mentioned forms since we made revisions to the final rule which were not included at the NPRM stage, we are currently soliciting comment on the burden for the forms as shown in the charts above. If you would like to submit comments, please send them to the following locations:

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Office of Management and Budget, Attn: Desk Officer for SSA, Fax Number: 202-395-6974

Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410-966-2830, Email address: OR.Reports.Clearance@ssa.gov

You can submit comments until May 20, 2024, which is 30 days after the publication of this notice. 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.

List of Subjects in 20 CFR Part 416

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

The Commissioner of Social Security, Martin O'Malley, 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 amend 20 CFR chapter III, part 416, as follows:

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: 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, (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 that has both an SSI applicant or recipient, and at least one other household member who receives one or more of the listed 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. 2024-08364 Filed 4-18-24; 8:45 am]

BILLING CODE 4191-02-P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

27 CFR Part 478

[Docket No. ATF 2022R-09; AG Order No. 5921-2024]

RIN 1140-AA57

Bipartisan Safer Communities Act Conforming Regulations

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice.

ACTION: Direct final rule.

SUMMARY: The Department of Justice (“Department”) is amending Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) regulations to implement firearms-related definitions and requirements established by the Bipartisan Safer Communities Act (“BSCA”) and the NICS Denial Notification Act (“NDNA”). These statutes went into effect on June 25,

2022, and October 1, 2022, respectively. It is necessary to make conforming changes to ensure that ATF’s regulations are current and consistent with the applicable statutes. For this reason, this direct final rule incorporates many of the BSCA and NDNA provisions that are applicable to ATF.

DATES: This final rule is effective on July 18, 2024, unless ATF receives any significant adverse comment by May 20, 2024. If ATF receives a significant adverse comment within the stated time that warrants revising the rule (as described under the Public Participation heading in the **SUPPLEMENTARY INFORMATION** section of this regulation), the Department will publish notification in the **Federal Register**, withdrawing this direct final rule before its effective date.

ADDRESSES: You may submit comments, identified by docket number ATF 2022R-09, by either of the following methods—

- *Federal eRulemaking portal:* www.regulations.gov. Follow the instructions for submitting comments.
- *Mail:* ATF Rulemaking Comments, Mail Stop 6N-518, Office of Regulatory Affairs, Enforcement Programs and Services; Bureau of Alcohol, Tobacco, Firearms, and Explosives; 99 New York Ave. NE, Washington, DC 20226; *ATTN: ATF 2022R-09.*

Instructions: All submissions received must include the agency name and docket number (ATF 2022R-09) for this direct final rule. All properly completed comments received through either of the methods described above will be posted without change to the Federal eRulemaking portal,

www.regulations.gov. This includes any personal identifying information (“PII”) submitted in the body of the comment or as part of a related attachment. Commenters who submit through the Federal eRulemaking portal and who do not want any of their PII posted on the internet should omit PII from the body of their comment or in any uploaded attachments. Commenters who submit through mail should likewise omit their PII from the body of the comment and provide any PII on the cover sheet only. For detailed instructions on submitting comments, the scope of comments for this rulemaking, and additional information on the rulemaking process,