

1972—Pub. L. 92-603 authorized the State, at its option, to include within “aid to the permanently and totally disabled” provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

1965—Pub. L. 89-97 struck out from definition of “aid to the permanently and totally disabled” the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended definition of “aid to the permanently and totally disabled” to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage funds, payment to meet all needs of the individual, special efforts to protect welfare, periodic review, and opportunity for fair hearing, respectively.

1962—Pub. L. 87-543 inserted “(if provided in or after the third month before the month in which the recipient makes application for aid)” before “medical care”.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 221(c) of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a State plan approved under this subchapter, see section 221(e) of Pub. L. 89-97, set out as a note under section 303 of this title.

Amendment by section 402(d) of Pub. L. 89-97 applicable in the case of expenditures made after Dec. 31, 1965, under a state plan approved under subchapter I, X, XIV, or XVI of this chapter, see section 402(e) of Pub. L. 89-97, set out as a note under section 306 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-543 applicable in the case of applications made after Sept. 30, 1962, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, see section 156(e) of Pub. L. 87-543, set out as a note under section 306 of this title.

SUBCHAPTER XV—UNEMPLOYMENT COMPENSATION FOR FEDERAL EMPLOYEES

§§ 1361 to 1364. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661

Section 1361, act Aug. 14, 1935, ch. 531, title XV, § 1501, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1130; amended Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087; July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420; Sept. 13, 1960, Pub. L. 86-778, title V, §§ 531(e), 542(d), 74 Stat. 984, 986, defined terms used in this subchapter. See section 8501 of Title 5, Government Organization and Employees.

Pub. L. 90-248, title IV, § 403(f), Jan. 2, 1968, 81 Stat. 932, amended section 1361(a)(6), (9), without reference to repeal of such section by Pub. L. 89-554, § 8(a).

Section 1362, act Aug. 14, 1935, ch. 531, title XV, § 1502, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1131; amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(A), 74 Stat. 985, provided for compensation of Federal employees under State agreements. See section 8502 of Title 5.

Section 1363, act Aug. 14, 1935, ch. 531, title XV, § 1503, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1132; amended Sept. 13, 1960, Pub. L. 86-778, title V, § 543(b)(1)(B), (C), (c)(1), 74 Stat. 986, provided for compensation of Federal employees in absence of State agreement. See section 8503 of Title 5.

Section 1364, act Aug. 14, 1935, ch. 531, title XV, § 1504, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133; amended Sept. 13, 1960, Pub. L. 86-778, title V, § 542(b)(2), 74 Stat. 986, related to assignment to State of Federal service and wages. See section 8504 of Title 5.

§ 1365. Repealed. Pub. L. 86-442, § 1, Apr. 22, 1960, 74 Stat. 81

Section, act Aug. 14, 1935, ch. 531, title XV, § 1505, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, related to status of a Federal employee who was performing Federal service at time of separation from employment by the United States.

EFFECTIVE DATE OF REPEAL

Repeal effective only with respect to benefit years which began more than thirty days after Apr. 22, 1960, see section 1 of Pub. L. 86-442.

§§ 1366 to 1371. Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 658, 660, 661

Section 1366, act Aug. 14, 1935, ch. 531, title XV, § 1506, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1133, provided for payments to States. See section 8505 of Title 5, Government Organization and Employees.

Section 1367, act Aug. 14, 1935, ch. 531, title XV, § 1507, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1134; amended Aug. 28, 1958, Pub. L. 85-848, § 4, 72 Stat. 1089; Sept. 13, 1960, Pub. L. 86-778, title V, § 531(f), 74 Stat. 984, provided for dissemination of information by both Federal and State agencies. See section 8506 of Title 5.

Section 1368, act Aug. 14, 1935, ch. 531, title XV, § 1508, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to penalties. See section 8507 of Title 5 and section 1919 of Title 18, Crimes and Criminal Procedure.

Section 1369, act Aug. 14, 1935, ch. 531, title XV, § 1509, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to rules and regulations. See section 8508 of Title 5.

Section 1370, act Aug. 14, 1935, ch. 531, title XV, § 1510, as added Sept. 1, 1954, ch. 1212, § 4(a), 68 Stat. 1135, related to authorization of appropriations. See section 5509 of Title 5.

Section 1371, act Aug. 14, 1935, ch. 531, title XV, § 1511, as added Aug. 28, 1958, Pub. L. 85-848, § 3, 72 Stat. 1087; amended Sept. 2, 1958, Pub. L. 85-857, § 13(i)(3), 72 Stat. 1265; Apr. 22, 1960, Pub. L. 86-442, § 2, 74 Stat. 82; Sept. 13, 1960, Pub. L. 86-778, title V, § 542(c), 74 Stat. 986, provided an ex-servicemen's unemployment compensation program. See sections 8521 to 8525 of Title 5.

SUBCHAPTER XVI—SUPPLEMENTAL SECURITY INCOME FOR AGED, BLIND, AND DISABLED

§ 1381. Statement of purpose; authorization of appropriations

For the purpose of establishing a national program to provide supplemental security income to individuals who have attained age 65 or are blind or disabled, there are authorized to be appropriated sums sufficient to carry out this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, § 1601, as added Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465.)

PRIOR PROVISIONS

A prior section 1381, act Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 197, authorized appropriations for grants to States for aid to aged, blind, or disabled, and for medical assistance for aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301, but is set out as a note below in view of its continued applicability to Puerto Rico, Guam, and the Virgin Islands.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

CONTINUATION OF FEDERAL FINANCIAL PARTICIPATION IN EXPERIMENTAL, PILOT, OR DEMONSTRATION PROJECTS APPROVED BEFORE OCTOBER 1973, FOR PERIOD ON-AND-AFTER DECEMBER 31, 1973, WITHOUT DENIAL OR REDUCTION ON ACCOUNT OF SUBCHAPTER XVI PROVISIONS; WAIVER OF SUBCHAPTER XVI RESTRICTIONS FOR INDIVIDUALS; FEDERAL PAYMENTS OF NON-FEDERAL SHARE AS SUPPLEMENTARY PAYMENTS

Subchapter provisions without effect on Federal Financial Participation in Experimental, Pilot or Demonstration Projects approved before Oct. 1, 1973, for period on-and-after Dec. 31, 1973, see section 11 of Pub. L. 93-233, Dec. 31, 1973, 87 Stat. 958, set out as a note under section 1315 of this title.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1601 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1601 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603, and as amended, continues to apply and reads as follows:

§ 1381. Authorization of appropriations

For the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish financial assistance to needy individuals who are 65 years of age or over, are blind, or are 18 years of age or over and permanently and totally disabled, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Commissioner of Social Security, State plans for aid to the aged, blind, or disabled.

(Aug. 14, 1935, ch. 531, title XVI, § 1601, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 197; amended Oct. 17, 1979, Pub. L. 96-88, title V, § 509(b), 93 Stat. 695; Aug. 13, 1981, Pub. L. 97-35, title XXI, § 2184(d)(3), title XXIII, § 2353(m)(1), 95 Stat. 817, 873; Aug. 15, 1994, Pub. L. 103-296, title I, § 107(a)(1), 108 Stat. 1477.)

[Amendment by section 107(a)(1) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

PAYMENTS UNDER CHAPTER PROVISIONS IN EFFECT BEFORE JANUARY 1, 1974, FOR: ACTIVITIES CARRIED OUT THROUGH DECEMBER 31, 1973, UNDER STATE PLANS APPROVED UNDER SUBCHAPTER I, X, XIV, OR XVI PROVISIONS; AND FOR ADMINISTRATIVE ACTIVITIES AFTER JANUARY 1, 1974, CLOSING OUT SUCH ACTIVITIES

Pub. L. 93-233, § 19(b), Dec. 31, 1973, 87 Stat. 974, provided that: "Notwithstanding the provisions of section 301 of the Social Security Amendments of 1972 [enacting this subchapter], the Secretary of Health, Education, and Welfare shall make payments to the 50 States and the District of Columbia after December 31, 1973, in accordance with the provisions of the Social Security Act [this chapter] as in effect prior to January

1, 1974, for (1) activities carried out through the close of December 31, 1973, under State plans approved under title I, X, XIV, or XVI, of such Act [subchapter I, X, XIV, or XVI of this chapter], and (2) administrative activities carried out after December 31, 1973, which such Secretary determines are necessary to bring to a close activities carried out under such State plans."

§ 1381a. Basic entitlement to benefits

Every aged, blind, or disabled individual who is determined under part A of this subchapter to be eligible on the basis of his income and resources shall, in accordance with and subject to the provisions of this subchapter, be paid benefits by the Commissioner of Social Security.

(Aug. 14, 1935, ch. 531, title XVI, § 1602, as added Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465; amended Pub. L. 98-369, div. B, title VI, § 2663(j)(2)(E), July 18, 1984, 98 Stat. 1170; Pub. L. 103-296, title I, § 107(a)(1), Aug. 15, 1994, 108 Stat. 1477.)

PRIOR PROVISIONS

A prior section 1602 of act Aug. 14, 1935, ch. 531, title XVI, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917, formerly classified to section 1382 of this title, set forth the required contents of State plans for aid to the aged, blind, or disabled, and for medical assistance for the aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, § 301.

AMENDMENTS

1994—Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary of Health and Human Services".

1984—Pub. L. 98-369 substituted "Health and Human Services" for "Health, Education, and Welfare".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

PART A—DETERMINATION OF BENEFITS

§ 1382. Eligibility for benefits**(a) "Eligible individual" defined**

(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than \$1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1382b(a) of this title, are not more than (i) in case such individual has a spouse with whom he is living, the applicable amount determined under paragraph (3)(A), or (ii) in case such individual has no spouse with whom he is living, the applicable amount determined under paragraph (3)(B),

shall be an eligible individual for purposes of this subchapter.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than \$2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1382b(a) of this title, are not more than the applicable amount determined under paragraph (3)(A),

shall be an eligible individual for purposes of this subchapter.

(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be \$1,500 prior to January 1, 1985, and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988, and to \$2,000 on January 1, 1989.

(b) Amount of benefits

(1) The benefit under this subchapter for an individual who does not have an eligible spouse shall be payable at the rate of \$1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual.

(2) The benefit under this subchapter for an individual who has an eligible spouse shall be payable at the rate of \$2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual and spouse.

(c) Period for determination of benefits

(1) An individual's eligibility for a benefit under this subchapter for a month shall be determined on the basis of the individual's (and eligible spouse's, if any) income, resources, and other relevant characteristics in such month, and, except as provided in paragraphs (2), (3), (4), (5), and (6), the amount of such benefit shall be determined for such month on the basis of income and other characteristics in the first or, if the Commissioner of Social Security so determines, second month preceding such month. Eligibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Commissioner of Social Security.

(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Commissioner of Social Security so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Commissioner of Social Security so determines, for such month and the following month) shall—

(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.

(3) For purposes of this subsection, an increase in the benefit amount payable under subchapter II of this chapter (over the amount payable in the preceding month, or, at the election of the Commissioner of Social Security, the second preceding month) to an individual receiving benefits under this subchapter shall be included in the income used to determine the benefit under this subchapter of such individual for any month which is—

(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1382f of this title, or

(B) at the election of the Commissioner of Social Security, the month immediately following such month.

(4)(A) Notwithstanding paragraph (3), if the Commissioner of Social Security determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this subchapter for such month may be determined on the basis of such information.

(B) The Commissioner of Social Security shall prescribe by regulation the circumstances in

which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this subchapter.

(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to (A) a State program funded under part A of subchapter IV of this chapter, (B) section 672 of this title (relating to foster care assistance), (C) section 1522(e) of title 8 (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) section 13 of title 25 (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this subchapter of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

(6) The dollar amount in effect under subsection (b) of this section as a result of any increase in benefits under this subchapter by reason of section 1382f of this title shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this subchapter to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.

(7) For purposes of this subsection, an application of an individual for benefits under this subchapter shall be effective on the later of—

(A) the first day of the month following the date such application is filed, or

(B) the first day of the month following the date such individual becomes eligible for such benefits with respect to such application.

(8) The Commissioner of Social Security may waive the limitations specified in subparagraphs (A) and (B) of subsection (e)(1) of this section on an individual's eligibility and benefit amount for a month (to the extent either such limitation is applicable by reason of such individual's presence throughout such month in a hospital, extended care facility, nursing home, or intermediate care facility) if such waiver would promote the individual's removal from such institution or facility. Upon waiver of such limitations, the Commissioner of Social Security shall apply, to the month preceding the month of removal, or, if the Commissioner of Social Security so determines, the two months preceding the month of removal, the benefit rate that is appropriate to such individual's living arrangement subsequent to his removal from such institution or facility.

(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this subchapter of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or simi-

lar purpose shall not be considered to be non-recurring income.

(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this subchapter.

(d) Limitation on amount of gross income earned; "gross income" defined

The Commissioner of Social Security may prescribe the circumstances under which, consistently with the purposes of this subchapter, the gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this subchapter. For purposes of this subsection, the term "gross income" has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1986.

(e) Limitation on eligibility of certain individuals

(1)(A) Except as provided in subparagraphs (B), (C), (D), (E), and (G), no person shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month (subject to subparagraph (G)), in a medical treatment facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX of this chapter, or an eligible individual is a child described in section 1382c(f)(2)(B) of this title, or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance the benefit under this subchapter for such individual for such month shall be payable (subject to subparagraph (E))—

(i) at a rate not in excess of \$360 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of \$360 per year (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the one who is in such facility), and

(II) the applicable rate specified in subsection (b)(1) of this section (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other); and

(iii) at a rate not in excess of \$720 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who has an eligible spouse, if both of them are in such a facility throughout such month.

For purposes of this subsection, a medical treatment facility that provides services described in

section 1396p(c)(1)(C) of this title shall be considered to be receiving payments with respect to an individual under a State plan approved under subchapter XIX of this chapter during any period of ineligibility of such individual provided for under the State plan pursuant to section 1396p(c) of this title.

(C) As used in subparagraph (A), the term “public institution” does not include a publicly operated community residence which serves no more than 16 residents.

(D) A person may be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month throughout which he is a resident of a public emergency shelter for the homeless (as defined in regulations which shall be prescribed by the Commissioner of Social Security); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph more than 6 months in any 9-month period.

(E) Notwithstanding subparagraphs (A) and (B), any individual who—

(i) is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, throughout any month as described in subparagraph (A), or

(ii) is in a medical treatment facility throughout any month as described in subparagraph (B),

(iii) was eligible under section 1382h(a) or (b) of this title for the month preceding such month, and

(iv) under an agreement of the public institution or the medical treatment facility is permitted to retain any benefit payable by reason of this subparagraph,

may be an eligible individual or eligible spouse for purposes of this subchapter (and entitled to a benefit determined on the basis of the rate applicable under subsection (b) of this section) for the month referred to in subclause (i) or (ii) of clause (i) and, if such subclause still applies, for the succeeding month.

(F) An individual who is an eligible individual or an eligible spouse for a month by reason of subparagraph (E) shall not be treated as being eligible under section 1382h(a) or (b) of this title for such month for purposes of clause (ii) of such subparagraph.

(G) A person may be an eligible individual or eligible spouse for purposes of this subchapter, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or is in a medical treatment facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX of this chapter or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance, if it is determined in accordance with subparagraph (H) or (J) that—

(i) such person’s stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particu-

lar month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this subchapter (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to such person in the month prior to the first month throughout which he or she is in the institution or facility.

(H) The Commissioner of Social Security shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.

(I)(i) The Commissioner shall enter into an agreement, with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 402(x)(1)(A)(ii) of this title, under which—

(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the names, social security account numbers, dates of birth, confinement commencement dates, and, to the extent available to the institution, such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out this paragraph and the other provisions of this subchapter; and

(II) the Commissioner shall pay to any such institution, with respect to each individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 402(x)(1)(A)(ii) of this title, a benefit under this subchapter for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this subchapter by reason of confinement based on the information provided by such institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information described in subclause (I) to the Commissioner within 30 days after the date such individual becomes an inmate of such institution, or \$200 (subject to reduction under

clause (ii) if the institution furnishes such information after 30 days after such date but within 90 days after such date.

(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to the institution with respect to the same individual under an agreement entered into under section 402(x)(3)(B) of this title.

(iii) The Commissioner shall maintain, and shall provide on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility and other administrative purposes under such program.

(iv) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this subchapter and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

(J) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under subchapter XVIII or XIX of this chapter. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certification otherwise required under subparagraph (G)(i).

(2) No person shall be an eligible individual or eligible spouse for purposes of this subchapter if, after notice to such person by the Commissioner of Social Security that it is likely that such person is eligible for any payments of the type enumerated in section 1382a(a)(2)(B) of this title, such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3) Notwithstanding anything to the contrary in the criteria being used by the Commissioner of Social Security in determining when a husband and wife are to be considered two eligible individuals for purposes of this subchapter and when they are to be considered an eligible individual with an eligible spouse, the State agency administering or supervising the administration of a State plan under any other program under this chapter may (in the administration of such plan) treat a husband and wife living in the same medical treatment facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this subchapter (rather than two eligible individuals), after they have continuously lived in the same such facility for 6 months, if treating such husband and wife as two eligible individuals would prevent either of them from receiving benefits or assistance under such plan or reduce the amount thereof.

(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if during such month the person is—

(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed; or

(ii) violating a condition of probation or parole imposed under Federal or State law.

(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.

(5) Notwithstanding any other provision of law (other than section 6103 of the Internal Revenue Code of 1986 and section 1306(c) of this title), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any recipient of benefits under this subchapter, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

(B) the location of apprehension of the recipient is within the officer's official duties.

(f) Individuals outside United States; determination of status

(1) Notwithstanding any other provision of this subchapter, no individual (other than a child described in section 1382c(a)(1)(B)(ii) of this title) shall be considered an eligible individual for purposes of this subchapter for any

month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this subchapter with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

(2) For a period of not more than 1 year, the first sentence of paragraph (1) shall not apply to any individual who—

(A) was eligible to receive a benefit under this subchapter for the month immediately preceding the first month during all of which the individual was outside the United States; and

(B) demonstrates to the satisfaction of the Commissioner of Social Security that the absence of the individual from the United States will be—

(i) for not more than 1 year; and

(ii) for the purpose of conducting studies as part of an educational program that is—

(I) designed to substantially enhance the ability of the individual to engage in gainful employment;

(II) sponsored by a school, college, or university in the United States; and

(III) not available to the individual in the United States.

(g) Individuals deemed to meet resources test

In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter I, X, XIV, or XVI of this chapter,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in subsections (a)(1)(B) and (a)(2)(B) of this section during any period that the resources of such individual or such individual and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

(h) Individuals deemed to meet income test

In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter X or XVI of this chapter,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under

which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1382a of this title without application of this subsection.

(i) Application and review requirements for certain individuals

For application and review requirements affecting the eligibility of certain individuals, see section 1383(j) of this title.

(Aug. 14, 1935, ch. 531, title XVI, §1611, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1466; amended Pub. L. 93-66, title II, §210(a), (b), July 9, 1973, 87 Stat. 154; Pub. L. 93-233, §§4(b)(1), (2), 18(d), (e), Dec. 31, 1973, 87 Stat. 953, 968; Pub. L. 93-368, §6(a), Aug. 7, 1974, 88 Stat. 421; Pub. L. 94-566, title V, §§502, 505(a), Oct. 20, 1976, 90 Stat. 2685, 2686; Pub. L. 96-265, title III, §303(c)(2), June 9, 1980, 94 Stat. 453; Pub. L. 97-35, title XXIII, §2341(a), Aug. 13, 1981, 95 Stat. 865; Pub. L. 97-248, title I, §§181(a), 183(a), Sept. 3, 1982, 96 Stat. 404, 405; Pub. L. 98-21, title IV, §403(a), Apr. 20, 1983, 97 Stat. 140; Pub. L. 98-369, div. B, title VI, §§2611(a)-(c), 2663(g)(1), (2), July 18, 1984, 98 Stat. 1130, 1168; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-643, §§3(a), 4(c)(3), (d)(1), 9(a), Nov. 10, 1986, 100 Stat. 3574, 3577, 3579; Pub. L. 100-203, title IX, §§9106(a), 9107, 9113(a), 9115(a), 9119(a), Dec. 22, 1987, 101 Stat. 1330-301, 1330-302, 1330-304, 1330-308; Pub. L. 100-360, title III, §303(c)(2), July 1, 1988, 102 Stat. 762; Pub. L. 101-239, title VIII, §§8009(a), 8010(b), Dec. 19, 1989, 103 Stat. 2463, 2464; Pub. L. 103-66, title XIII, §13735(a), Aug. 10, 1993, 107 Stat. 662; Pub. L. 103-296, title I, §107(a)(4), title II, §§201(b)(3)(A), (B)(i), 204(a), Aug. 15, 1994, 108 Stat. 1478, 1502, 1504, 1508; Pub. L. 104-121, title I, §105(b)(4)(A), Mar. 29, 1996, 110 Stat. 854; Pub. L. 104-193, title I, §108(j), title II, §§201(a), 202(a), (b), 203(a)(1), 204(a), 214(a), Aug. 22, 1996, 110 Stat. 2169, 2185-2187, 2195; Pub. L. 105-33, title V, §§5521, 5522(c), Aug. 5, 1997, 111 Stat. 621, 623; Pub. L. 106-169, title II, §§204, 207(c), 212, Dec. 14, 1999, 113 Stat. 1833, 1838, 1843; Pub. L. 106-170, title IV, §402(a)(3), (c)(1)-(3), Dec. 17, 1999, 113 Stat. 1908, 1909; Pub. L. 108-203, title II, §203(b), title IV, §§433(a), (b), 436(a), Mar. 2, 2004, 118 Stat. 510, 539-541.)

REFERENCES IN TEXT

Section 501(a) of Public Law 96-422, referred to in subsec. (c)(5), is section 501(a) of Pub. L. 96-422, which is set out as a note under section 1522 of Title 8, Aliens and Nationality.

The Internal Revenue Code of 1986, referred to in subsecs. (d) and (e)(5), is classified generally to Title 26, Internal Revenue Code.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (e)(1)(I)(iv), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, as amended, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2. The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of this title, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of this title, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 1382, act Aug. 14, 1935, ch. 531, title XVI, §1602, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, §5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, §221(d)(3), title IV, §403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492, set forth required contents of State plans for aid to aged, blind, or disabled, and for medical assistance for aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, §301, but is set out as a note below in view of its continued applicability to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

2004—Subsec. (c)(2)(B). Pub. L. 108-203, §433(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.”

Subsec. (c)(9). Pub. L. 108-203, §433(a), added par. (9).

Subsec. (c)(10). Pub. L. 108-203, §436(a), added par. (10).

Subsec. (e)(4). Pub. L. 108-203, §203(b)(1), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), in cl. (i), substituted “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed” for “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State”, and added subpars. (B) and (C).

Subsec. (e)(5)(A), (B). Pub. L. 108-203, §203(b)(2), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) the recipient—

“(i) is described in subparagraph (A) or (B) of paragraph (4); and

“(ii) has information that is necessary for the officer to conduct the officer’s official duties; and

“(B) the location or apprehension of the recipient is within the officer’s official duties.”

1999—Subsec. (e)(1)(G). Pub. L. 106-169, §212(b), substituted “subparagraph (H) or (J)” for “subparagraph (H)” in introductory provisions.

Subsec. (e)(1)(I)(i). Pub. L. 106-170, §402(c)(2), substituted “institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is

to confine individuals as described in section 402(x)(1)(A)(ii) of this title,” for “institution described in clause (i) or (ii) of section 402(x)(1)(A) of this title the primary purpose of which is to confine individuals as described in section 402(x)(1)(A) of this title.”

Subsec. (e)(1)(I)(i)(I). Pub. L. 106-170, §402(a)(3)(A), substituted “and the other provisions of this subchapter; and” for “; and”.

Subsec. (e)(1)(I)(i)(II). Pub. L. 106-170, §402(c)(1)(A), inserted “(subject to reduction under clause (ii))” after “\$400” and “\$200”.

Subsec. (e)(1)(I)(ii). Pub. L. 106-170, §402(c)(1)(C), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (e)(1)(I)(ii)(II). Pub. L. 106-170, §402(a)(3)(B), substituted “shall maintain, and shall provide on a reimbursable basis,” for “is authorized to provide, on a reimbursable basis,”.

Pub. L. 106-169, §204, which directed substitution of “shall” for “is authorized to” in cl. (ii)(II), could not be executed in view of the redesignation of cl. (ii) as (iii) by Pub. L. 106-170, §402(c)(1)(B). See note above and Effective Date of 1999 Amendment note below.

Subsec. (e)(1)(I)(iii). Pub. L. 106-170, §402(c)(3)(B), substituted “eligibility and other administrative purposes under such program” for “eligibility purposes”.

Pub. L. 106-170, §402(c)(3)(A), struck out “(II)” before “The Commissioner” and struck out subcl. (I) which read as follows: “The provisions of section 552a of title 5 shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.”

Pub. L. 106-170, §402(c)(1)(B), redesignated cl. (ii) as (iii). Former cl. (iii) redesignated (iv).

Subsec. (e)(1)(I)(iv). Pub. L. 106-170, §402(c)(1)(B), redesignated cl. (iii) as (iv).

Subsec. (e)(1)(J). Pub. L. 106-169, §212(a), added subpar. (J).

Subsec. (e)(4). Pub. L. 106-169, §207(c)(1), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows:

“(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this subchapter during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under subchapter IV of this chapter, subchapter XIX of this chapter, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this subchapter.

“(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.”

Subsec. (e)(5). Pub. L. 106-169, §207(c)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (e)(6). Pub. L. 106-169, §207(c)(2), (3), redesignated par. (6) as (5) and substituted “(4)” for “(5)”.

1997—Subsec. (e)(1)(B). Pub. L. 105-33, §5522(c)(1)(A), (D), in introductory provisions, substituted “medical treatment facility” for “hospital, extended care facility, nursing home, or intermediate care facility” and in closing provisions, substituted “medical treatment facility that provides services described in section 1396p(c)(1)(C) of this title” for “hospital, extended care facility, nursing home, or intermediate care facility which is a ‘medical institution or nursing facility’ within the meaning of section 1396p(c) of this title”.

Subsec. (e)(1)(B)(ii). Pub. L. 105-33, §5522(c)(1)(B), struck out “hospital, home or” before “facility” in introductory provisions and “hospital, home, or” before “facility” in subcl. (I).

Subsec. (e)(1)(B)(iii). Pub. L. 105-33, §5522(c)(1)(C), struck out “hospital, home, or” before “facility”.

Subsec. (e)(1)(E)(i)(II), (iii). Pub. L. 105-33, §5522(c)(2), substituted “medical treatment facility” for “hospital, extended care facility, nursing home, or intermediate care facility”.

Subsec. (e)(1)(G). Pub. L. 105-33, §5522(c)(3), substituted “or is in a medical treatment” for “or which is a hospital, extended care facility, nursing home, or intermediate care” and inserted “or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance” after “subchapter XIX of this chapter”.

Subsec. (e)(1)(I)(I). Pub. L. 105-33, §5521(c), substituted “this paragraph” for “paragraph (1)”.

Subsec. (e)(1)(I)(II). Pub. L. 105-33, §5521(b), substituted “individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 402(x)(1)(A)(ii) of this title, a benefit under this subchapter for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this subchapter by reason of confinement based on the information provided by such institution” for “inmate of the institution who is eligible for a benefit under this subchapter for the month preceding the first month throughout which such inmate is in such institution and becomes ineligible for such benefit as a result of the application of this subparagraph”.

Subsec. (e)(3). Pub. L. 105-33, §5522(c)(4), substituted “same medical treatment facility” for “same hospital, home, or facility” and “same such facility” for “same such hospital, home, or facility”.

Subsec. (e)(6). Pub. L. 105-33, §5521(a), inserted “and section 1306(c) of this title” after “of 1986”.

1996—Subsec. (e)(5)(A). Pub. L. 104-193, §108(j), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a State plan approved under part A of subchapter IV of this chapter (relating to aid to families with dependent children).”

Subsec. (c)(7)(A), (B). Pub. L. 104-193, §204(a), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

“(A) the date such application is filed, or
“(B) the date such individual first becomes eligible for such benefits with respect to such application.”

Subsec. (e)(1)(B). Pub. L. 104-193, §214(a), inserted “or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance” after “section 1382c(f)(2)(B) of this title.”

Subsec. (e)(1)(I). Pub. L. 104-193, §203(a)(1), added subpar. (I).

Subsec. (e)(3). Pub. L. 104-193, §201(a), redesignated par. (5) as (3).

Pub. L. 104-121 struck out par. (3) which related to limitation on eligibility for benefits by reason of disability based on alcoholism or drug addiction.

Subsec. (e)(4). Pub. L. 104-193, §201(a), added par. (4).

Subsec. (e)(5). Pub. L. 104-193, §§201(a), 202(a), added par. (5) and redesignated former par. (5) as (3).

Subsec. (e)(6). Pub. L. 104-193, §202(b), added par. (6).
1994—Subsecs. (c), (d), (e)(1)(D), (H), (2). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (e)(3)(A). Pub. L. 103-296, §201(b)(3)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1382c(a)(3) of this title) shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treat-

ment and with requirements imposed by the Secretary under subparagraph (B).”

Pub. L. 103-296, §107(a)(4), in subpar. (A) as amended by Pub. L. 103-296, §201(b)(3)(A), substituted “Commissioner of Social Security” for “Secretary” and “Commissioner’s” for “Secretary’s” wherever appearing.

Subsec. (e)(3)(B). Pub. L. 103-296, §201(b)(3)(B)(i), designated existing provisions as cl. (i), struck out “The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.” after first sentence, and added cls. (ii) and (iii).

Pub. L. 103-296, §107(a)(4), in subpar. (B) as amended by Pub. L. 103-296, §201(b)(3)(B)(i), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in cl. (iii)(II)(aa).

Subsec. (e)(5). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (f). Pub. L. 103-296, §204(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(2)(B). Pub. L. 103-296, §107(a)(4), in subpar. (B) as added by Pub. L. 103-296, §204(a), substituted “Commissioner of Social Security” for “Secretary”.

1993—Subsec. (c)(1). Pub. L. 103-66, §13735(a)(1), substituted “(5), and (6)” for “and (5)”.

Subsec. (c)(6) to (8). Pub. L. 103-66, §13735(a)(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

1989—Subsec. (e)(1)(B). Pub. L. 101-239, §8010(b), inserted “or an eligible individual is a child described in section 1382c(f)(2)(B) of this title,” before “the benefit under this subchapter” in introductory provisions.

Subsec. (f). Pub. L. 101-239, §8009(a), inserted “(other than a child described in section 1382c(a)(1)(B)(ii) of this title)” after “no individual”.

1988—Subsec. (e)(1)(B). Pub. L. 100-360 inserted at end “For purposes of this subsection, a hospital, extended care facility, nursing home, or intermediate care facility which is a ‘medical institution or nursing facility’ within the meaning of section 1396p(c) of this title shall be considered to be receiving payments with respect to an individual under a State plan approved under subchapter XIX of this chapter during any period of ineligibility of such individual provided for under the State plan pursuant to section 1396p(c) of this title.”

1987—Subsec. (c)(1). Pub. L. 100-203, §9106(a)(1), substituted “paragraphs (2), (3), (4), and (5)” for “paragraphs (2), (3), and (4)”.

Subsec. (c)(5) to (7). Pub. L. 100-203, §9106(a)(2), (3), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (e)(1)(A). Pub. L. 100-203, §9115(a)(1), substituted “(E), and (G)” for “and (E)”.

Subsec. (e)(1)(B). Pub. L. 100-203, §9115(a)(2), inserted “(subject to subparagraph (G))” after “throughout any month”.

Subsec. (e)(1)(B)(i) to (iii). Pub. L. 100-203, §9119(a), in cls. (i) and (ii)(I) substituted “\$360 per year” for “\$300 per year” and in cl. (iii) substituted “\$720 per year” for “\$600 per year”.

Subsec. (e)(1)(D). Pub. L. 100-203, §9113(a), substituted “6 months in any 9-month period” for “three months in any 12-month period”.

Subsec. (e)(1)(G), (H). Pub. L. 100-203, §9115(a)(3), added subpars. (G) and (H).

Subsec. (e)(5). Pub. L. 100-203, §9107, substituted “living in the same hospital, home, or facility” for “sharing a room or comparable accommodation in a hospital, home, or facility” and “lived in the same such hospital, home, or facility” for “shared such a room or accommodation”.

1986—Subsec. (d). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e)(1). Pub. L. 99-643, §3(a), in subpar. (A) substituted “(D), and (E)” for “and (D)”, in subpar. (B) inserted “(subject to subparagraph (E))” after “shall be payable”, and added subpars. (E) and (F).

Subsec. (e)(4). Pub. L. 99-643, §4(d)(1), struck out par. (4) which read as follows: “No benefit shall be payable

under this subchapter, except as provided in section 1382h of this title (or section 1382e(c)(3) of this title), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1382c(a)(3)(F) of this title for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1382c(a)(4)(D)(i) of this title.”

Subsec. (e)(5). Pub. L. 99-643, §9(a), added par. (5).

Subsec. (i). Pub. L. 99-643, §4(c)(3), added subsec. (i). 1984—Subsec. (a)(1)(B). Pub. L. 98-369, §2611(a), substituted “the applicable amount determined under paragraph (3)(A)” for “\$2,250” and “the applicable amount determined under paragraph (3)(B)” for “\$1,500”.

Subsec. (a)(2)(B). Pub. L. 98-369, §2611(b), substituted “the applicable amount determined under paragraph (3)(A)” for “\$2,250”.

Subsec. (a)(3). Pub. L. 98-369, §2611(c), added par. (3).

Subsec. (c). Pub. L. 98-369, §2663(g)(1), amended heading.

Subsec. (g). Pub. L. 98-369, §2663(g)(2), substituted “or such individual” for “or individuals” in provisions following par. (3).

1983—Subsec. (e)(1)(A). Pub. L. 98-21, §403(a)(1), inserted reference to subpar. (D).

Subsec. (e)(1)(D). Pub. L. 98-21, §403(a)(2), added subpar. (D).

1982—Subsec. (c)(1). Pub. L. 97-248, §183(a)(1), inserted reference to pars. (3) and (4).

Subsec. (c)(2). Pub. L. 97-248, §181(a), in par. (2) redesignated existing provisions as provisions preceding subpar. (A) and subpar. (A), and added subpar. (B).

Subsec. (c)(3) to (6). Pub. L. 97-248, §§181(a), 183(a)(2), (3), struck out par. (3) providing that an application shall be effective as of the first day of the month in which it is filed, added par. (3) providing that an application shall be effective on the later of the date it is filed or the date such individual first becomes eligible for such benefits with respect to such application and redesignated such par. (3) as (5), redesignated par. (4) as (6), and added pars. (3) and (4).

1981—Subsec. (c). Pub. L. 97-35 substituted provision that eligibility and benefit amount generally be determined on a one-month retrospective basis, with for the first month of eligibility, the month in which the application is filed, eligibility and benefit amount both determined on a prospective basis for provision that eligibility and benefit amount be determined on a quarterly prospective basis and inserted provision authorizing the Secretary to grant waivers.

1980—Subsec. (e)(4). Pub. L. 96-265 added par. (4).

1976—Subsec. (e)(1)(A). Pub. L. 94-566, §505(a), inserted reference to subparagraph (C).

Subsec. (e)(1)(B)(ii). Pub. L. 94-566, §502, inserted “of the one who is in such hospital, home, or facility” after “section 1382a(b) of this title” in parenthetical provisions that follow “the rate of \$300 per year” and inserted “(reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other)” after “the applicable rate specified in subsection (b)(1) of this section”.

Subsec. (e)(1)(C). Pub. L. 94-566, §505(a), added subpar. (C).

1974—Pub. L. 93-368 inserted “(or, if greater, the amount determined under section 1382f of this title)” after “\$1,752” in subssecs. (a)(1)(A) and (b)(1) and “\$2,628” in subssecs. (a)(2)(A) and (b)(2).

1973—Subsec. (a)(1)(A). Pub. L. 93-233, §4(b)(1), substituted “\$1,752” for “\$1,680”.

Pub. L. 93-66, §210(a), substituted “\$1,680” for “\$1,560”.

Subsec. (a)(2)(A). Pub. L. 93-233, §4(b)(2), substituted “\$2,628” for “\$2,520”.

Pub. L. 93-66, §210(b), substituted “\$2,520” for “\$2,340”.

Subsec. (b)(1). Pub. L. 93-233, §4(b)(1), substituted “\$1,752” for “\$1,680”.

Pub. L. 93-66, §210(a), substituted “\$1,680” for “\$1,560”.

Subsec. (b)(2). Pub. L. 93-233, §4(b)(2), substituted “\$2,628” for “\$2,520”.

Pub. L. 93-66, §210(b), substituted “\$2,520” for “\$2,340”.

Subsec. (g). Pub. L. 93-233, §18(d), incorporated existing provisions in text designated as cl. (1), added cls. (2) and (3), and substituted final December “1973” for “1972”.

Subsec. (h). Pub. L. 93-233, §18(e), incorporated existing text in provisions designated as cls. (1) and (2), added cls. (3) and (4), redesignated former cls. (1) and (2) as items (A) and (B), and in item (A) inserted “under which he or they received such aid or assistance for December 1973”.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 203(b) of Pub. L. 108-203 effective on the first day of the first month that begins on or after the date that is 9 months after Mar. 2, 2004, see section 203(d) of Pub. L. 108-203, set out as a note under section 402 of this title.

Pub. L. 108-203, title IV, §433(c), Mar. 2, 2004, 118 Stat. 540, provided that: “The amendments made by this section [amending this section] shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act [Mar. 2, 2004].”

Pub. L. 108-203, title IV, §436(b), Mar. 2, 2004, 118 Stat. 541, provided that: “The amendments made by this section [amending this section] shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act [Mar. 2, 2004].”

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by section 402(a)(3) of Pub. L. 106-170 applicable to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after December 1999, see section 402(a)(4) of Pub. L. 106-170, set out as a note under section 402 of Title 42, The Public Health and Welfare.

Pub. L. 106-170, title IV, §402(c)(4), Dec. 17, 1999, 113 Stat. 1909, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act [section 402(x)(1)(A)(ii) of this title] in section 1611(e)(1)(I)(i) of the Social Security Act [subsec. (e)(1)(I)(i) of this section], as amended by paragraph (2) of this subsection, shall be deemed a reference to such section 202(x)(1)(A)(ii) of such Act as amended by subsection (b)(1)(C) of this section.”

Amendment by section 207(c) of Pub. L. 106-169 applicable to statements and representations made on or after Dec. 14, 1999, see section 207(e) of Pub. L. 106-169, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 108(j) of Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

Section 201(b) of Pub. L. 104-193 provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 22, 1996].”

Section 202(c) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 22, 1996].”

Section 203(a)(2) of Pub. L. 104-193 provided that: “The amendment made by this subsection [amending this section] shall apply to individuals whose period of confinement in an institution commences on or after the first day of the seventh month beginning after the month in which this Act is enacted [August 1996].”

Section 204(d) of Pub. L. 104-193 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1382c and 1383 of this title] shall apply to applications for benefits under title XVI of the Social Security Act [this subchapter] filed on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments.

“(2) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term ‘benefits under title XVI of the Social Security Act’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [section 1382e(a) of this title], and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out below].”

Section 214(b) of Pub. L. 104-193 provided that: “The amendment made by this section [amending this section] shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments.”

Section 105(b)(5) of Pub. L. 104-121, as amended by Pub. L. 105-33, title V, §5525(a), (b), Aug. 5, 1997, 111 Stat. 624, provided that:

“(A) The amendments made by paragraphs (1) and (4) [amending this section and sections 1382c and 1383c of this title] shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, supplemental security income benefits under title XVI of the Social Security Act [this subchapter] based on disability on or after the date of the enactment of this Act [Mar. 29, 1996], and, in the case of any individual who has applied for, and whose claim has been finally adjudicated with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

“(B) The amendments made by paragraphs (2) and (3) [enacting section 1383e of this title and amending section 1383 of this title] shall take effect on July 1, 1996, with respect to any individual—

“(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act [Mar. 29, 1996], or

“(ii) whose eligibility for benefits is based upon an eligibility redetermination made pursuant to subparagraph (C).

“(C) Within 90 days after the date of the enactment of this Act [Mar. 29, 1996], the Commissioner of Social Security shall notify each individual who is eligible for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection [enacting section 1383e of this title and amending this section and sections 1382c, 1383, and 1383c of this title]. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the eligibility redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

“(D) For purposes of this paragraph, an individual’s claim, with respect to supplemental security income benefits under title XVI of the Social Security Act [this subchapter] based on disability, which has been denied in whole before the date of the enactment of this Act [Mar. 29, 1996], may not be considered to be finally adjudicated before such date if, on or after such date—

“(i) there is pending a request for either administrative or judicial review with respect to such claim, or

“(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner does not perform the eligibility redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such eligibility redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual’s eligibility is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 1614(a)(4) of the Social Security Act [section 1382c(a)(4) of this title] shall not apply to such redetermination.

“(F) For purposes of this paragraph, the phrase ‘supplemental security income benefits under title XVI of the Social Security Act’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [section 1382e(a) of this title] and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out below].”

[Amendment by Pub. L. 105-33 to section 105(b)(5) of Pub. L. 104-121, set out above, effective as if included in the enactment of section 105 of Pub. L. 104-121, see section 5528(c)(1) of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 903 of this title.]

EFFECTIVE DATE OF 1994 AMENDMENT; SUNSET PROVISION

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title. Section 201(b)(3)(C), (E), of Pub. L. 103-296 provided that:

“(C) SUNSET OF 36-MONTH RULE.—Section 1611(e)(3)(A)(v) of the Social Security Act [subsec. (e)(3)(A)(v) of this section] (added by subparagraph (A) of this paragraph) shall cease to be effective with respect to benefits for months after September 2004.

“(E) EFFECTIVE DATE.—

“(i) IN GENERAL.—Except as otherwise provided in this paragraph [amending this section and section 1383c of this title and enacting provisions set out as notes below], the amendments made by this paragraph shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act [this subchapter] by reason of disability which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994]. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after such date of enactment.

“(ii) REFERRAL AND MONITORING AGENCIES.—The amendments made by subparagraph (B) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Aug. 15, 1994].

“(iii) TERMINATION AFTER 36 MONTHS.—Clause (v) of section 1611(e)(3)(A) of the Social Security Act [subsec. (e)(3)(A) of this section] (added by the amendment made by subparagraph (A) of this paragraph) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act [this subchapter] by reason of disability for months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994].”

Section 204(b) of Pub. L. 103-296 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995."

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13735(b) of Pub. L. 103-66 provided that: "The amendments made by subsection (a) [amending this section] shall apply to benefits paid for months after the calendar year 1994."

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8009(c) of Pub. L. 101-239 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382c of this title] shall apply with respect to benefits for months after March 1990."

Section 8010(c) of Pub. L. 101-239 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382c of this title] shall take effect on the 1st day of the 6th calendar month beginning after the date of the enactment of this Act [Dec. 19, 1989]."

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-360 applicable to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date, see section 303(g)(3) of Pub. L. 100-360, set out as a note under section 1396r-5 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9106(b) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

Section 9107 of Pub. L. 100-203 provided that the amendment made by that section is effective Nov. 10, 1986.

Section 9113(b) of Pub. L. 100-203 provided that: "(1) The amendment made by subsection (a) [amending this section] shall become effective January 1, 1988. "(2) In the application of section 1611(e)(1)(D) of the Social Security Act [subsec. (e)(1)(D) of this section] on and after the effective date of such amendment, months before January 1988 in which a person was an eligible individual or eligible spouse by reason of such section shall not be taken into account."

Section 9115(c) of Pub. L. 100-203 provided that: "The amendments made by this section [amending this section and section 1396a of this title] shall become effective July 1, 1988."

Section 9119(c) of Pub. L. 100-203 provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382g of this title] shall become effective July 1, 1988."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 3(a) and 4(c)(3), (d)(1) of Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

Section 9(b) of Pub. L. 99-643 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1986]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2611(a)-(c) of Pub. L. 98-369 effective Oct. 1, 1984, except as otherwise specifically provided, see section 2646 of Pub. L. 98-369, set out as a note under section 657 of this title.

Amendment by section 2663(g)(1), (2) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 403(b) of Pub. L. 98-21 provided that: "The amendments made by subsection (a) [amending this

section] shall be effective with respect to months after the month in which this Act is enacted [April 1983]."

EFFECTIVE DATE OF 1982 AMENDMENT

Section 181(b) of Pub. L. 97-248 provided that: "The amendment made by this section [amending this section] shall become effective on October 1, 1982."

Section 183(b) of Pub. L. 97-248 provided that: "The amendment made by subsection (a) [amending this section] shall become effective October 1, 1982."

EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITIONAL PROVISIONS

Section 2341(c) of Pub. L. 97-35 provided that:

"(1) The amendments made by this section [amending this section and section 1382a of this title] shall be effective with respect to months after the first calendar quarter which ends more than five months after the month in which this Act is enacted [August 1981].

"(2) The Secretary of Health and Human Services may, under conditions determined by him to be necessary and appropriate, make a transitional payment or payments during the first two months for which the amendments made by this section are effective. A transitional payment made under this section shall be deemed to be a payment of supplemental security income benefits."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, and applicable with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 505(e) of Pub. L. 94-566 provided that: "The amendments [amending this section and section 1382a of this title] and repeals [repealing section 1382e(e) of this title] made by this section, unless otherwise specified therein, shall take effect on October 1, 1976."

EFFECTIVE DATE OF 1973 AMENDMENTS

Section 4(b) of Pub. L. 93-233 provided that the amendments made by section 4(b)(1), (2) of Pub. L. 93-233 are effective with respect to payments for months after June 1974.

Section 210(c) of Pub. L. 93-66, as amended Pub. L. 93-233, §4(a)(1), Dec. 31, 1973, 87 Stat. 953, provided: "The amendments made by this section [amending this section] shall apply with respect to payments for months after December 1973."

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

REGULATIONS

Section 215 of title II of Pub. L. 104-193 provided that: "Within 3 months after the date of the enactment of this Act [Aug. 22, 1996], the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle [subtitle B (§§211-215) of title II of Pub. L. 104-193, amending this section, sections 1382a to 1382c and 1383 of this title, sections 665e and 901 of Title 2, The Congress, and provisions set out as a note under section 401 of this title, and repealing provisions set out as a note below]."

CONSTRUCTION OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 to be executed as if Pub. L. 106-169 had been enacted after the enactment of Pub. L. 106-170, see section 121(c)(1) of Pub. L. 106-169, set out as a note under section 1396a of this title.

STUDY OF DENIAL OF SSI BENEFITS FOR FAMILY FARMERS

Pub. L. 106-169, title II, §261, Dec. 14, 1999, 113 Stat. 1856, provided that:

“(a) IN GENERAL.—The Commissioner of Social Security shall conduct a study of the reasons why family farmers with resources of less than \$100,000 are denied supplemental security income benefits under title XVI of the Social Security Act [this subchapter], including whether the deeming process unduly burdens and discriminates against family farmers who do not institutionalize a disabled dependent, and shall determine the number of such farmers who have been denied such benefits during each of the preceding 10 years.

“(b) REPORT TO THE CONGRESS.—Within 1 year after the date of the enactment of this Act [Dec. 14, 1999], the Commissioner of Social Security shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report that contains the results of the study, and the determination, required by subsection (a).”

STUDY OF OTHER POTENTIAL IMPROVEMENTS IN COLLECTION OF INFORMATION RESPECTING PUBLIC INMATES

Section 203(b) of Pub. L. 104-193 provided that:

“(1) STUDY.—The Commissioner of Social Security shall conduct a study of the desirability, feasibility, and cost of—

“(A) establishing a system under which Federal, State, and local courts would furnish to the Commissioner such information respecting court orders by which individuals are confined in jails, prisons, or other public penal, correctional, or medical facilities as the Commissioner may require for the purpose of carrying out section 1611(e)(1) of the Social Security Act [subsec. (e)(1) of this section]; and

“(B) requiring that State and local jails, prisons, and other institutions that enter into agreements with the Commissioner under section 1611(e)(1)(I) of the Social Security Act [subsec. (e)(1)(I) of this section] furnish the information required by such agreements to the Commissioner by means of an electronic or other sophisticated data exchange system.

“(2) REPORT.—Not later than 1 year after the date of the enactment of this Act [Aug. 22, 1996], the Commissioner of Social Security shall submit a report on the results of the study conducted pursuant to this subsection to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.”

ADDITIONAL REPORT TO CONGRESS

Section 203(c) of Pub. L. 104-193 provided that: “Not later than October 1, 1998, the Commissioner of Social Security shall provide to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a list of the institutions that are and are not providing information to the Commissioner under section 1611(e)(1)(I) of the Social Security Act (as added by this section) [subsec. (e)(1)(I) of this section].”

STUDY BY GENERAL ACCOUNTING OFFICE

Pub. L. 104-193, title II, §232, Aug. 22, 1996, 110 Stat. 2198, provided that, not later than Jan. 1, 1999, the Comptroller General was to study and report on the impact of the amendments and provisions of title II of Pub. L. 104-193 on the supplemental security income program under this subchapter and extra expenses incurred by families of children receiving benefits under this subchapter not covered by other Federal, State, or local programs.

REPORT TO CONGRESS ON REFERRAL, MONITORING AND TREATMENT ACTIVITIES RELATING TO ALCOHOLICS AND DRUG ADDICTS

Section 201(b)(3)(B)(ii) of Pub. L. 103-296, which directed Secretary of Health and Human Services to submit to Congress, not later than Dec. 31, 1996, a report on the Secretary's activities under subsec. (e)(3)(B) of this section, was repealed by Pub. L. 105-33, title V, §5525(c), Aug. 5, 1997, 111 Stat. 625.

TRANSITION RULES FOR CURRENT BENEFICIARIES

Section 201(b)(3)(F) of Pub. L. 103-296 provided that: “In any case in which an individual is eligible for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] by reason of disability, the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act [Aug. 15, 1994], and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for purposes of section 1611(e)(3)(A)(v) of the Social Security Act [subsec. (e)(3)(A)(v) of this section] (added by the amendment made by subparagraph (A) of this paragraph)—

“(i) the first month of such eligibility beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of such eligibility; and

“(ii) the Secretary shall notify the individual of the requirements of the amendments made by this paragraph [amending this section and section 1383c of this title] no later than 180 days after the date of the enactment of this Act.”

COMMISSION ON CHILDHOOD DISABILITY

Section 202 of Pub. L. 103-296 provided for establishment of a Commission on the Evaluation of Disability to conduct a study, in consultation with the National Academy of Sciences, of effects of definition of “disability” under this subchapter in effect on Aug. 15, 1994, as such definition applied to determining whether a child under age of 18 was eligible to receive benefits under this subchapter, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 was eligible to receive benefits under this subchapter, and further provided for contents of study, appointment of Commission members, administrative provisions, assistance of experts, and for submission of report to Congress not later than Nov. 30, 1995.

DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE

Section 207 of Pub. L. 103-296, which required applicable State agency or Secretary of Health and Human Services to redetermine eligibility of qualified individual for supplemental security income benefits under this subchapter by reason of disability, by applying criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age during 1-year period beginning on date qualified individual attains 18 years of age, and Secretary to conduct such redeterminations with respect to not less than 1/3 of qualified individuals in each of fiscal years 1996 through 1998, defined term “qualified individual”, and provided that such redetermination was to be considered substitute for review required under section 1382c(a)(3)(G) of this title, that redetermination requirement was to have no force or effect after Oct. 1, 1998, and that not later than Oct. 1, 1998, Secretary was to submit to House Ways and Means and Senate Finance Committees report on such activities, was repealed by Pub. L. 104-193, title II, §212(b)(2), Aug. 22, 1996, 110 Stat. 2193.

CONTINUING DISABILITY REVIEWS

Section 208 of Pub. L. 103-296 provided that:

“(a) TEMPORARY ANNUAL MINIMUM NUMBER OF REVIEWS.—During each year of the 3-year period that begins on October 1, 1995, the Secretary of Health and Human Services shall apply section 221(i) of the Social Security Act [section 421(i) of this title] in making disability determinations under title XVI of such Act [this subchapter] with respect to at least 100,000 recipients of supplemental security income benefits under such title.

“(b) REPORT TO THE CONGRESS.—Not later than October 1, 1998, the Secretary of Health and Human Services

shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the activities conducted under subsection (a).”

NOTIFICATION OF POSSIBLE BENEFIT AVAILABILITY TO POTENTIAL SUPPLEMENTAL SECURITY INCOME RECIPIENTS

Section 405 of Pub. L. 98-21 provided that: “Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act [subchapter II of this chapter] who may be eligible for supplemental security income benefits under title XVI of such Act [this subchapter] of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplementary medical insurance.”

ASSISTANCE PAID UNDER CERTAIN HOUSING ACTS NOT CONSIDERED IN DETERMINING ELIGIBILITY FOR BENEFITS UNDER THIS SUBCHAPTER; EFFECTIVE DATE

Pub. L. 94-375, §2(h), Aug. 3, 1976, 90 Stat. 1068, provided that: “Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937 [section 1437 et seq. of this title], the National Housing Act [section 1701 et seq. of Title 12, Banks and Banking], section 101 of the Housing and Urban Development Act of 1965 [section 1701s of Title 12 and sections 1451 and 1465 of this title], or title V of the Housing Act of 1949 [section 1471 et seq. of this title] may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act [this subchapter]. This subsection shall become effective on October 1, 1976.”

SPECIAL \$50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of \$50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a benefit under the supplemental security income benefits program established by this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

ADJUSTMENT OF INDIVIDUAL'S MONTHLY SUPPLEMENTAL SECURITY INCOME PAYMENTS; REGULATIONS; LIMITATIONS

Pub. L. 93-335, §2(b)(2), July 8, 1974, 88 Stat. 291, authorized the Secretary of Health, Education, and Welfare to prescribe regulations for the adjustment of an individual's monthly supplemental security income payment in accordance with any increase to which such individual might be entitled under the amendment made by subsection (a) of this section [amending section 212(a)(3)(B)(i) of Pub. L. 93-66, set out below]; provided that such adjustment in monthly payment, together with the remittance of any prior unpaid increments to which such individual might be entitled under such amendment, was to be made no later than the first day of the first month beginning more than sixty days after July 8, 1974.

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Additional requirement for approval of subchapter XIX State plan for medical assistance respecting medicaid eligibility for individuals receiving mandatory State supplementary payments, see section 13(c) of

Pub. L. 93-233, set out as a note under section 1396a of this title.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; SUPPLEMENTAL SECURITY INCOME BENEFITS FOR ESSENTIAL PERSONS; DEFINITIONS OF QUALIFIED INDIVIDUAL AND ESSENTIAL PERSON

Section 211 of Pub. L. 93-66, as amended by Pub. L. 93-233, §4(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 953, provided that:

“(a)(1) In determining (for purposes of title XVI of the Social Security Act [this subchapter], as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

“(A) the dollar amounts specified in subsection (a)(1)(A) and (2)(A), and subsection (b)(1) and (2), of section 1611 of such Act [this section], shall each be increased by \$876 for each such essential person, and

“(B) the income and resources of such individual shall (for purposes of such title XVI [this subchapter]) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

“(C) does not but would (except for the provisions of subparagraph (B)) meet—

“(i) the criteria established with respect to income in section 1611(a) of such Act [subsec. (a) of this section], or

“(ii) the criteria established with respect to resources by such section 1611(a) [subsec. (a) of this section] (or, if applicable, by section 1611(g) of such Act [subsec. (g) of this section]).

“(2) The provisions of section 1611(g) of the Social Security Act [subsec. (g) of this section] (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

“(b) For purposes of this section, an individual shall be a ‘qualified individual’ only if—

“(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter], and

“(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

“(A) was living in the home of such individual, and

“(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

“(c) The term ‘essential person’, when used in connection with any qualified individual, means a person who—

“(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

“(2) lives in the home of such individual,

“(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] (as in effect after December 1973), and

“(4) is not the eligible spouse (as that term is used in such title XVI [this subchapter]) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person."

[Amendment of section 211(a)(1)(A) of Pub. L. 93-66, set out above, by Pub. L. 93-233 effective with respect to payments for months after June 1974, see section 4(b) of Pub. L. 93-233.]

MANDATORY MINIMUM STATE SUPPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM; DECEMBER 1973 INCOME; TITLE XVI BENEFIT PLUS OTHER INCOME; REDUCTION OF AMOUNT; ADMINISTRATION AGREEMENT; PAYMENTS TO COMMISSIONER; STATE CONSTITUTIONAL RESTRICTION

Section 212 of Pub. L. 93-66, as amended by Pub. L. 93-233, §10, Dec. 31, 1973, 87 Stat. 957; Pub. L. 93-335, §2(a), July 8, 1974, 88 Stat. 291; Pub. L. 96-265, title II, §201(b)(2), June 9, 1980, 94 Stat. 446; Pub. L. 103-66, title XIII, §13731(a)(2), Aug. 10, 1993, 107 Stat. 661; Pub. L. 105-33, title V, §5102(a)(2), (b)(1)(B), Aug. 5, 1997, 111 Stat. 595, 596; Pub. L. 105-78, title V, §516(a)(2), (b)(1)(B), Nov. 13, 1997, 111 Stat. 1518, 1519; Pub. L. 106-170, title IV, §410(a)(2), Dec. 17, 1999, 113 Stat. 1916, provided that:

"(a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to be eligible for payments pursuant to title XIX [subchapter XIX of this chapter], with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Commissioner of Social Security (hereinafter in this section referred to as the 'Commissioner of Social Security') whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

"(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

"(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act [section 1382c(a) of this title], as enacted by section 301 of the Social Security Amendments of 1972), and

"(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title I, X, XIV, or XVI, of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter])

shall be entitled to receive, from the State, the supplementary payment described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

"(C) the month in which such individual dies, or

"(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A);

except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act [this chapter] by reason of the provisions of section 1611(e)(1)(A), (2), or (3) [subsec. (e)(1)(A), (2), or (3) of this section], 1611(f) [subsec. (f) of this section], or 1615(c) of such Act [section 1382d(c) of this title].

"(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection shall (except as provided in subparagraphs (D) and (E)) be an amount equal to (i) the amount by which such individual's 'December 1973 income' (as determined under subparagraph (B)) exceeds the amount of such individual's 'title XVI benefit plus other income' (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

"(B) For purposes of subparagraph (A), an individual's 'December 1973 income' means an amount equal to the aggregate of—

"(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title I, X, XIV, or XVI, of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter]) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92-603 [set out as a note under section 1382e of this title], if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act [section 1382e(a) of this title], and (II) the level of which has been found by the Commissioner of Social Security pursuant to section 8 of Public Law 93-233 [set out as notes under section 1382e of this title and sections 612c, 1431 and 2012 of Title 7, Agriculture] to have been specifically increased so as to include the bonus value of food stamps, and

"(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

"(C) For purposes of subparagraph (A), the amount of an individual's 'title XVI benefit plus other income' for any month means an amount equal to the aggregate of—

"(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act [this subchapter], and

"(ii) the amount of any income of such individual for such month (other than income in the form of a benefit described in clause (i)).

"(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

"(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

"(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such month and for each month thereafter the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act [part A of subchapter IV of this chapter], such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the

supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

“(i) The amount of the reduction (under clause (i)) of any individual’s December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act [part A of subchapter IV of this chapter], and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter].

“(4) Any State having an agreement with the Commissioner of Social Security under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act [section 1382h of this title], or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).

“(b)(1) Any State having an agreement with the Commissioner of Social Security under subsection (a) may enter into an administration agreement with the Commissioner of Social Security whereby the Commissioner of Social Security will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

“(2) Any such administration agreement between the Commissioner of Social Security and a State entered into under this subsection shall provide that the State will (A) certify to the Commissioner of Social Security the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [subchapter I, X, XIV, or XVI of this chapter], together with the amount of such assistance payable to each such individual and the amount of such individual’s December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Commissioner of Social Security with such additional data at such times as the Commissioner of Social Security may reasonably require in order properly, economically, and efficiently to carry out such administration agreement.

“(3)(A) Any State which has entered into an administration agreement under this subsection shall, in accordance with subparagraph (E), pay to the Commissioner of Social Security an amount equal to the expenditures made by the Commissioner of Social Security as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a), plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C).

“(B)(i) The Commissioner of Social Security shall assess each State an administration fee in an amount equal to—

“(I) the number of supplementary payments made by the Commissioner of Social Security on behalf of the State under this subsection for any month in a fiscal year; multiplied by

“(II) the applicable rate for the fiscal year.

“(ii) As used in clause (i), the term ‘applicable rate’ means—

“(I) for fiscal year 1994, \$1.67;

“(II) for fiscal year 1995, \$3.33;

“(III) for fiscal year 1996, \$5.00;

“(IV) for fiscal year 1997, \$5.00;

“(V) for fiscal year 1998, \$6.20;

“(VI) for fiscal year 1999, \$7.60;

“(VII) for fiscal year 2000, \$7.80;

“(VIII) for fiscal year 2001, \$8.10;

“(IX) for fiscal year 2002, \$8.50; and

“(X) for fiscal year 2003 and each succeeding fiscal year—

“(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

“(bb) such different rate as the Commissioner determines is appropriate for the State.

“(iii) Upon making a determination under clause (ii)(X)(bb), the Commissioner of Social Security shall promulgate the determination in regulations, which may take into account the complexity of administering the State’s supplementary payment program.

“(iv) All fees assessed pursuant to this subparagraph shall be transferred to the Commissioner of Social Security at the same time that amounts for such supplementary payments are required to be so transferred.

“(C)(i) The Commissioner of Social Security may charge a State an additional services fee if, at the request of the State, the Commissioner of Social Security provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

“(ii) The additional services fee shall be in an amount that the Commissioner of Social Security determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

“(D)(i) The first \$5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

“(ii) The portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act [this subchapter] and related laws.

“(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act [this subchapter] no later than—

“(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

“(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

“(ii) The Cash Management Improvement Act of 1990 [see Short Title of 1990 Amendment note set out under section 6501 of Title 31, Money and Finance] shall not apply to any payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

“(iii) Notwithstanding clause (i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of supplemental security income benefits under title XVI of the Social Security Act [this subchapter], and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State’s ability to make payment when required by clause (i) are determined by the Commissioner to exist.

“(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be

excluded under section 1612(b)(6) of the Social Security Act [section 1382a(b)(6) of this title] (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act [this subchapter] (as so in effect).

“(2) Supplementary payments made by the Commissioner of Social Security (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title], be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act [section 1382e of this title] (as enacted by section 301 of the Social Security Amendments of 1972); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Commissioner of Social Security, the provisions of subsection (b) of such section 401 [set out as a note under section 1382e of this title].

“(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Commissioner of Social Security under section 1616 of the Social Security Act [section 1382e of this title] under which—

“(1) individuals, other than individuals described in subsection (a)(2)(A) and (B), are entitled to receive supplementary payments, and

“(2) supplementary benefits are payable, to individuals described in subsection (a)(2)(A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

“(e) Except as the Commissioner of Social Security may by regulations otherwise provide, the provisions of title XVI of the Social Security Act [this subchapter] (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title [part B of this subchapter], relating to the terms and conditions under which the benefits authorized by such title [this subchapter] are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Commissioner of Social Security by such title [this subchapter] may, where appropriate, be exercised by him in the administration of this section.

“(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

“(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

“(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act [section 1382e of this title].”

[For effective date of amendment to section 212 of Pub. L. 93-66, set out above, by Pub. L. 106-170, see section 410(b) of Pub. L. 106-170, set out as an Effective Date of 1999 Amendment note under section 1382e of this title.]

[For effective date of amendment to section 212 of Pub. L. 93-66, set out above, by Pub. L. 103-66, see section 13731(b) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 1382e of this title.]

[Section 2(b)(1) of Pub. L. 93-335, July 8, 1974, 88 Stat. 291, provided that the amendment of section 212 of Pub. L. 93-66, set out above, by Pub. L. 93-335 is effective Jan. 1, 1974.]

[Amendment of section 212 of Pub. L. 93-66, set out above, by Pub. L. 96-265 effective Jan. 1, 1981, see section 201(d) of Pub. L. 96-265, as amended, set out as an Effective Date note under section 1382h of this title.]

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Es-

tablish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1602 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1602 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603, and as amended, continues to apply and reads as follows:

§ 1382. State plans for aid to aged, blind, or disabled

(a) Contents

A State plan for aid to the aged, blind, or disabled, must—

(1) except to the extent permitted by the Commissioner of Social Security with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner of Social Security shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Commissioner of Social Security to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Commissioner of Social Security may from time to time require, and comply with such provisions as the Commissioner of Social Security may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or assistance under a State program funded under part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;

(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first \$85 per month of earned income plus one-half of earned income in excess of \$85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first \$80 per month of earned income, the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first \$80 per month of earned income the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than \$7.50 of any income; and

(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b-7 of this title.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which ad-

ministered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of the portion of the State plan for aid to the aged, blind, or disabled which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Commissioner

The Commissioner of Social Security shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that the Commissioner shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for such aid and has resided therein continuously for one year immediately preceding the application; or

(3) any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Commissioner of Social Security as a condition for the approval of such plan under this subchapter. In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind, or disabled was submitted for approval under this subchapter, the Commissioner of Social Security shall approve the plan of such State for aid to the aged, blind, or disabled for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled; but payments under section 1383 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, §1602, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, §5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, §221(d)(3), title IV, §403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492; Aug. 13, 1981, Pub. L. 97-35, title XXI, §2184(d)(4), 95 Stat. 817; July 18, 1984, Pub. L. 98-369, div. B, title VI, §2651(h), 98 Stat. 1150; Aug. 15, 1994, Pub. L. 103-296, title I, §107(a)(4), 108 Stat. 1478; Aug. 22, 1996, Pub. L. 104-193, title I, §108(i), 110 Stat. 2169.)

[Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.]

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

§ 1382a. Income; earned and unearned income defined; exclusions from income

(a) For purposes of this subchapter, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 403(f)(5)(C) of this title but without the application of section 410(j)(3) of this title (and, in the case of cash remuneration paid for service as a member of a uniformed service (other than payments described in paragraph (2)(H) of this subsection or subsection (b)(20)), without regard to the limitations contained in section 409(d) of this title);

(B) net earnings from self-employment, as defined in section 411 of this title (without the application of the second and third sentences following subsection (a)(11),¹ the last paragraph of subsection (a), and section 410(j)(3) of this title), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c);

(C) remuneration received for services performed in a sheltered workshop or work activities center; and

(D) any royalty earned by an individual in connection with any publication of the work of the individual, and that portion of any honorarium which is received for services rendered; and

(2) unearned income means all other income, including—

(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1382 of this title shall be reduced by 33 $\frac{1}{3}$ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an ob-

ligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefor is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) payments to the individual occasioned by the death of another person, to the extent that the total of such payments exceeds the amount expended by such individual for purposes of the deceased person's last illness and burial;

(E) support and alimony payments, and (subject to the provisions of subparagraph (D) excluding certain amounts expended for purposes of a last illness and burial) gifts (cash or otherwise) and inheritances;

(F) rents, dividends, interest, and royalties not described in paragraph (1)(E);

(G) any earnings of, and additions to, the corpus of a trust established by an individual (within the meaning of section 1382b(e) of this title), of which the individual is a beneficiary, to which section 1382b(e) of this title applies, and, in the case of an irrev-

¹ So in original. Probably should be subsection "(a)(15)".

ocable trust, with respect to which circumstances exist under which a payment from the earnings or additions could be made to or for the benefit of the individual; and

(H) payments to or on behalf of a member of a uniformed service for housing of the member (and his or her dependents, if any) on a facility of a uniformed service, including payments provided under section 403 of title 37 for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, or any related provision of law, and any such payments shall be treated as support and maintenance in kind subject to subparagraph (A) of this paragraph.

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Commissioner of Social Security, if such individual is under the age of 22 and is, as determined by the Commissioner of Social Security, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first \$240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual, and

(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973 (or any program established prior to such date but subsequently amended so as to conform to State or Federal constitutional standards), if (i) such payments are made by the State of which the individual receiving such payments is a resident, (ii) eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 or any other age set by the State and residency in such State by such individual, and (iii) on or before September 30, 1985, such individual (I) first becomes an eligible individual or an eligible spouse under this title, and (II) satisfies the twenty-five-year residency requirement of such program as such program was in effect prior to January 1, 1983;

(3) in any calendar quarter, the first—

(A) \$60 of unearned income, and

(B) \$30 of earned income,

of such individual (and such spouse, if any) which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1202 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses

reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Commissioner of Social Security, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this subchapter (or aid under a State plan approved under section 1352 or 1382 of this title) for the month before the month in which he attained age 65), (i) the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, (ii) such additional amounts of earned income of such individual, if such individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Commissioner of Social Security, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first \$780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is a child, one-third of any payment for his support received from an absent parent;

(10) any amounts received for the foster care of a child who is not an eligible individual but

who is living in the same home as such individual and was placed in such home by a public or nonprofit private child-placement or child-care agency;

(11) assistance received under the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.] or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President;

(12) interest income received on assistance funds referred to in paragraph (11) within the 9-month period beginning on the date such funds are received (or such longer periods as the Commissioner of Social Security shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period);

(13) any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Commissioner of Social Security by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy (including both heating and cooling), and which is (A) assistance furnished in kind by a private nonprofit agency, or (B) assistance furnished by a supplier of home heating oil or gas, by an entity providing home energy whose revenues are primarily derived on a rate-of-return basis regulated by a State or Federal governmental entity, or by a municipal utility providing home energy;

(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or section 202(h) of the Housing Act of 1959 [12 U.S.C. 1701q(h)];

(15) the value of any commercial transportation ticket, for travel by such individual (or spouse) among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands, which is received as a gift by such individual (or such spouse) and is not converted to cash;

(16) interest accrued on the value of an agreement entered into by such individual (or such spouse) representing the purchase of a burial space excluded under section 1382b(a)(2)(B) of this title, and left to accumulate;

(17) any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime;

(18) relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act [42 U.S.C. 4636];

(19) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);

(20) special pay received pursuant to section 310 of title 37;

(21) the interest or other earnings on any account established and maintained in accordance with section 1383(a)(2)(F) of this title;

(22) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

(A) in the case of an in-kind gift, if the gift is not converted to cash; or

(B) in the case of a cash gift, only to the extent that the total amount excluded from the income of the individual pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000;

(23) interest or dividend income from resources—

(A) not excluded under section 1382b(a) of this title, or

(B) excluded pursuant to Federal law other than section 1382b(a) of this title;

(24) any annuity paid by a State to the individual (or such spouse) on the basis of the individual's being a veteran (as defined in section 101 of title 38), and blind, disabled, or aged;

(25) any benefit (whether cash or in-kind) conferred upon (or paid on behalf of) a participant in an AmeriCorps position approved by the Corporation for National and Community Service under section 12573 of this title; and

(26) the first \$2,000 received during a calendar year by such individual (or such spouse) as compensation for participation in a clinical trial involving research and testing of treatments for a rare disease or condition (as defined in section 360ee(b)(2) of title 21), but only if the clinical trial—

(A) has been reviewed and approved by an institutional review board that is established—

(i) to protect the rights and welfare of human subjects participating in scientific research; and

(ii) in accord with the requirements under part 46 of title 45, Code of Federal Regulations; and

(B) meets the standards for protection of human subjects as provided under part 46 of title 45, Code of Federal Regulations.

(Aug. 14, 1935, ch. 531, title XVI, §1612, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1468; amended Pub. L. 93-484, §4, Oct. 26, 1974, 88 Stat. 1460; Pub. L. 94-202, §9, Jan. 2, 1976, 89 Stat. 1140; Pub. L. 94-331, §§2(a), 4(a), June 30, 1976, 90 Stat. 781, 782; Pub. L. 94-455, title XXI, §2125, Oct. 4, 1976, 90 Stat. 1920; Pub. L. 94-566,

title V, § 505(b), Oct. 20, 1976, 90 Stat. 2686; Pub. L. 95-171, § 8(a), Nov. 12, 1977, 91 Stat. 1355; Pub. L. 96-222, title I, § 101(a)(2)(B), Apr. 1, 1980, 94 Stat. 195; Pub. L. 96-265, title II, § 202(a), title III, § 302(b), June 9, 1980, 94 Stat. 449, 451; Pub. L. 96-473, § 6(g), Oct. 19, 1980, 94 Stat. 2266; Pub. L. 97-35, title XXIII, § 2341(b), Aug. 13, 1981, 95 Stat. 865; Pub. L. 97-424, title V, § 545(a), Jan. 6, 1983, 96 Stat. 2198; Pub. L. 98-21, title IV, § 404(a), Apr. 20, 1983, 97 Stat. 140; Pub. L. 98-369, div. B, title VI, §§ 2616(a), 2639(b), (c), 2663(g)(3), (4), July 18, 1984, 98 Stat. 1133, 1144, 1145, 1168; Pub. L. 99-514, § 2, title XVIII, § 1883(d)(2), (3), Oct. 22, 1986, 100 Stat. 2095, 2918; Pub. L. 100-203, title IX, § 9120(a), Dec. 22, 1987, 101 Stat. 1330-309; Pub. L. 100-647, title VIII, § 8103(a), Nov. 10, 1988, 102 Stat. 3795; Pub. L. 100-707, title I, § 109(p), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-239, title VIII, §§ 8011(a), 8013(a), Dec. 19, 1989, 103 Stat. 2464; Pub. L. 101-508, title V, §§ 5031(a), 5033(a), 5034(a), 5035(a), title XI, § 1115(b)(1), Nov. 5, 1990, 104 Stat. 1388-224, 1388-225, 1388-414; Pub. L. 103-66, title XIII, § 13733(b), Aug. 10, 1993, 107 Stat. 662; Pub. L. 103-296, title I, § 107(a)(4), Aug. 15, 1994, 108 Stat. 1478; Pub. L. 103-432, title II, §§ 264(a), 267(a), Oct. 31, 1994, 108 Stat. 4467, 4469; Pub. L. 104-193, title II, § 213(c), Aug. 22, 1996, 110 Stat. 2195; Pub. L. 105-306, § 7(a), Oct. 28, 1998, 112 Stat. 2928; Pub. L. 106-169, title II, § 205(b), Dec. 14, 1999, 113 Stat. 1834; Pub. L. 106-554, § 1(a)(1) [title V, § 519], Dec. 21, 2000, 114 Stat. 2763, 2763A-74; Pub. L. 108-203, title IV, §§ 430(a), (b), 432(a), 435(a), Mar. 2, 2004, 118 Stat. 538-540; Pub. L. 110-245, title II, §§ 201, 202(a), 203, June 17, 2008, 122 Stat. 1637, 1638; Pub. L. 111-255, § 3(a), Oct. 5, 2010, 124 Stat. 2641.)

AMENDMENT OF SECTION

For repeal of amendment by section 3(e) of Pub. L. 111-255, see Effective and Termination Dates of 2010 Amendment note below.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (b)(19), (22), is classified generally to Title 26, Internal Revenue Code.

The Disaster Relief and Emergency Assistance Act, referred to in subsecs. (a)(2)(A) and (b)(11), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

Section 1382 of this title, referred to in subsec. (b)(4)(A), (B), is a reference to section 1382 of this title as it existed prior to the general revision of this subchapter by Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974. The prior section (which is set out as a note under section 1382 of this title) continues in effect for Puerto Rico, Guam, and the Virgin Islands.

The United States Housing Act of 1937, referred to in subsec. (b)(14), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The National Housing Act, referred to in subsec. (b)(14), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (b)(14), is section 101 of Pub. L. 89-117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of Title 12 and amended sections 1451 and 1465 of this title.

The Housing Act of 1949, referred to in subsec. (b)(14), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Housing Act of 1949 is classified generally to subchapter III (§ 1471 et seq.) of chapter 8A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of this title and Tables.

The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, referred to in subsec. (b)(18), is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894. Title II of the Act enacted subchapter II (§ 4621 et seq.) of chapter 61 of this title, amended sections 1415, 2473, and 3307 of this title and section 1606 of former Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Tables.

AMENDMENTS

2010—Subsec. (b)(26). Pub. L. 111-255, § 3(a), (e), temporarily added par. (26). See Effective and Termination Dates of 2010 Amendment note below.

2008—Subsec. (a)(1)(A). Pub. L. 110-245, § 201(a), inserted “(and, in the case of cash remuneration paid for service as a member of a uniformed service (other than payments described in paragraph (2)(H) of this subsection or subsection (b)(20)), without regard to the limitations contained in section 409(d) of this title)” before semicolon.

Subsec. (a)(2)(H). Pub. L. 110-245, § 201(b), added subsec. (H).

Subsec. (b)(24). Pub. L. 110-245, § 202(a), added par. (24).

Subsec. (b)(25). Pub. L. 110-245, § 203, added par. (25).

2004—Subsec. (b)(1). Pub. L. 108-203, § 432(a), substituted “under the age of 22 and” for “a child who”.

Subsec. (b)(3). Pub. L. 108-203, § 430(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “(A) the total unearned income of such individual (and such spouse, if any) in a month which, as determined in accordance with criteria prescribed by the Commissioner of Social Security, is received too infrequently or irregularly to be included, if such income so received does not exceed \$20 in such month, and (B) the total earned income of such individual (and such spouse, if any) in a month which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed \$10 in such month;”.

Subsec. (b)(7). Pub. L. 108-203, § 435(a), substituted “fellowship, or gift (or portion of a gift) used to pay” for “or fellowship received for use in paying”.

Subsec. (b)(23). Pub. L. 108-203, § 430(b), added par. (23).

2000—Subsec. (a)(1)(A). Pub. L. 106-554, § 1(a)(1) [title V, § 519(1)], inserted “but without the application of section 410(j)(3) of this title” before semicolon.

Subsec. (a)(1)(B). Pub. L. 106-554, § 1(a)(1) [title V, § 519(2)], substituted “the last” for “and the last” and inserted “, and section 410(j)(3) of this title” after “subsection (a)”.

1999—Subsec. (a)(2)(G). Pub. L. 106-169 added subpar. (G).

1998—Subsec. (b)(22). Pub. L. 105-306 added par. (22).

1996—Subsec. (b)(21). Pub. L. 104-193 added par. (21).

1994—Subsec. (a)(1)(C) to (E). Pub. L. 103-432, § 267(a), redesignated subpars. (D) and (E) as (C) and (D), respectively, and struck out former subpar. (C) which read as follows: “any refund of Federal income taxes made by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income credit) and any payment made by an employer under section 3507 of such Code (relating to advance payment of earned income credit);”.

Subsec. (b)(1), (3)(A), (4)(A), (B), (12), (13). Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (b)(17). Pub. L. 103-432, §264(a), made technical correction to directory language of Pub. L. 101-508, §5035(a)(2). See 1990 Amendment note below.

1993—Subsec. (b)(20). Pub. L. 103-66 added par. (20).

1990—Subsec. (a)(1)(E). Pub. L. 101-508, §5034(a)(1), added subpar. (E).

Subsec. (a)(2)(F). Pub. L. 101-508, §5034(a)(2), inserted "not described in paragraph (1)(E)" after "royalties".

Subsec. (b)(4)(B)(ii). Pub. L. 101-508, §5033(a), struck out "(for purposes of determining the amount of his or her benefits under this subchapter and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility)" after "income of such individual".

Subsec. (b)(16). Pub. L. 101-508, §5035(a)(1), struck out "and" at end.

Subsec. (b)(17). Pub. L. 101-508, §5035(a)(2), as amended by Pub. L. 103-432, §264(a), substituted ";" and " for period at end.

Pub. L. 101-508, §5031(a), added par. (17).

Subsec. (b)(18). Pub. L. 101-508, §5035(a)(3), added par. (18).

Subsec. (b)(19). Pub. L. 101-508, §11115(b)(1)(C), added par. (19).

1989—Subsec. (b)(15). Pub. L. 101-239, §8011(a), added par. (15).

Subsec. (b)(16). Pub. L. 101-239, §8013(a), added par. (16).

1988—Subsecs. (a)(2)(A), (b)(11). Pub. L. 100-707 substituted "Disaster Relief and Emergency Assistance Act" for "Disaster Relief Act of 1974".

Subsec. (b)(14). Pub. L. 100-647 added par. (14).

1987—Subsec. (a)(2)(D), (E). Pub. L. 100-203 amended subpars. (D) and (E) generally. Prior to amendment, subpars. (D) and (E) read as follows:

"(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or \$1,500, whichever is less;

"(E) gifts (cash or otherwise), support and alimony payments, and inheritances; and".

1986—Subsec. (a)(1)(C). Pub. L. 99-514, §1883(d)(2), substituted "section 32" for "section 43".

Pub. L. 99-514, §2, substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

Subsec. (b)(2). Pub. L. 99-514, §1883(d)(3)(A), (B), substituted ", and" for a semicolon in subpar. (A) and a semicolon for a period in subpar. (B).

Subsec. (b)(11) to (13). Pub. L. 99-514, §1883(d)(3)(C), provided for technical corrections relating to concluding punctuation in pars. (11) to (13).

1984—Subsec. (b)(2)(B). Pub. L. 98-369, §2663(g)(3), realigned margin of subpar. (B).

Pub. L. 98-369, §2616(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual."

Subsec. (b)(9). Pub. L. 98-369, §2663(g)(4), inserted a comma after "child".

Subsec. (b)(13). Pub. L. 98-369, §2639(b), temporarily amended par. (13) generally, redesignating former cls. (i) and (ii) as (A) and (B), respectively. See Effective and Termination Dates of 1984 Amendment note below.

1983—Subsec. (b)(13). Pub. L. 98-21 temporarily substituted "any support or maintenance assistance furnished to or on behalf of such individual (and spouse if any) which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) is based on need for such support or maintenance, including assistance received to assist in meeting the costs of home energy

(including both heating and cooling), and which" for "any assistance received to assist in meeting the costs of home energy, including both heating and cooling, which (as determined under regulations of the Secretary by such State agency as the chief executive officer of the State may designate) (A) is based on need for such assistance, and (B)". See Effective and Termination Dates of 1983 Amendments note below.

Pub. L. 97-424 temporarily added par. (13). See Effective and Termination Dates of 1983 Amendments note below.

1981—Subsec. (b)(3). Pub. L. 97-35 substituted "month" for "calendar quarter" wherever appearing, "such month" for "such quarter" wherever appearing, "\$20" for "\$60", and "\$10" for "\$30".

1980—Subsec. (a)(1). Pub. L. 96-473, §6(g)(1), (2), in subpar. (B) substituted "(a)(11)" for "(a)(10)", and redesignated subpar. (C), as added by Pub. L. 96-265, §202(a)(2), as (D).

Pub. L. 96-265, §202(a)(2), added subpar. (C) which was subsequently redesignated (D) by Pub. L. 96-473, §6(g)(2).

Pub. L. 96-222, §101(a)(2)(B)(ii), added subpar. (C).

Subsec. (b)(2)(B). Pub. L. 96-473, §6(g)(3), substituted "monthly" for "Monthly" and substituted a semicolon for the period at end of subpar. (B).

Subsec. (b)(4)(B). Pub. L. 96-265, §302(b), inserted provisions relating to extraordinary work expenses due to severe disability.

1977—Subsec. (b)(12). Pub. L. 95-171 added par. (12).

1976—Subsec. (a)(2)(A)(iii). Pub. L. 94-455 substituted "seventeenth month" for "fifth month".

Pub. L. 94-331, §4(a)(2), added cl. (iii).

Subsec. (b)(2). Pub. L. 94-202 designated existing provisions as par. (A) and added par. (B).

Subsec. (b)(6). Pub. L. 94-566 substituted "assistance, furnished to or on behalf of such individual (and spouse), which" for "assistance described in section 1382e(a) of this title which".

Subsec. (b)(11). Pub. L. 94-331, §2(a)(3), added par. (11).

1974—Subsec. (a)(2)(A). Pub. L. 93-484 designated existing provisions as cl. (i) and added cl. (ii).

EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Pub. L. 111-255, §3(d), Oct. 5, 2010, 124 Stat. 2641, provided that: "The amendments made by this section [amending this section and sections 1382b and 1396a of this title] shall take effect on the date that is the earlier of—

"(1) the effective date of final regulations promulgated by the Commissioner of Social Security to carry out this section and such amendments; or

"(2) 180 days after the date of enactment of this Act [Oct. 5, 2010]."

[Section 3(d) of Pub. L. 111-255, set out above, repealed 5 years after Oct. 5, 2010, see section 3(e) of Pub. L. 111-255, set out below.]

Pub. L. 111-255, §3(e), Oct. 5, 2010, 124 Stat. 2641, provided that: "This Act [amending this section and sections 1382b and 1396a of this title and enacting provisions set out as notes under this section and section 1305 of this title] and the amendments made by this Act are repealed on the date that is 5 years after the date of the enactment of this Act [Oct. 5, 2010]."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-245, title II, §204, June 17, 2008, 122 Stat. 1638, provided that: "The amendments made by this title [amending this section and section 1382b of this title] shall be effective with respect to benefits payable for months beginning after 60 days after the date of the enactment of this Act [June 17, 2008]."

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, §430(c), Mar. 2, 2004, 118 Stat. 538, provided that: "The amendments made by this section [amending this section] shall be effective with respect to benefits payable for months in calendar quar-

ters that begin more than 90 days after the date of the enactment of this Act [Mar. 2, 2004].”

Pub. L. 108-203, title IV, § 432(b), Mar. 2, 2004, 118 Stat. 539, provided that: “The amendment made by this section [amending this section] shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act [Mar. 2, 2004].”

Pub. L. 108-203, title IV, § 435(c), Mar. 2, 2004, 118 Stat. 540, provided that: “The amendments made by this section [amending this section and section 1382b of this title] shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act [Mar. 2, 2004].”

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-169, title II, § 205(d), Dec. 14, 1999, 113 Stat. 1834, provided that: “The amendments made by this section [amending this section and sections 1382b and 1396a of this title] shall take effect on January 1, 2000, and shall apply to trusts established on or after such date.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-306, § 7(c), Oct. 28, 1998, 112 Stat. 2928, provided that: “The amendments made by this section [amending this section and section 1382b of this title] shall apply to gifts made on or after the date that is 2 years before the date of the enactment of this Act [Oct. 28, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Section 213(d) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section and sections 1382b and 1383 of this title] shall apply to payments made after the date of the enactment of this Act [Aug. 22, 1996].”

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by section 264(a) of Pub. L. 103-432 effective as if included in the provision of Pub. L. 101-508 to which the amendment relates at the time such provision became law, see section 264(h) of Pub. L. 103-432, set out as a note under section 1320b-9 of this title.

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13733(c) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and section 1382c of this title] shall take effect on the 1st day of the 2nd month that begins after the date of the enactment of this Act [Aug. 10, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5031(d) of Pub. L. 101-508 provided that: “The amendments made by this section [amending this section and sections 1382b and 1383 of this title] shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990].”

Section 5033(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall apply to benefits payable for calendar months beginning after the date of the enactment of this Act [Nov. 5, 1990].”

Section 5034(b) of Pub. L. 101-508 provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to benefits for months beginning on or after the first day of the 13th calendar month following the month in which this Act is enacted [November 1990].”

Section 5035(c) of Pub. L. 101-508, as amended by Pub. L. 103-66, title XIII, § 13732, Aug. 10, 1993, 107 Stat. 662, provided that: “The amendments made by this section [amending this section and section 1382b of this title]

shall apply with respect to benefits for calendar months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990].”

Section 11115(e) of Pub. L. 101-508 provided that: “The amendments made by subsections (a) though [sic] (c) [amending this section and sections 602 and 1382b of this title] shall apply to determinations of income or resources made for any period after December 31, 1990.”

EFFECTIVE DATE OF 1989 AMENDMENT

Section 8011(b) of Pub. L. 101-239 provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the 1st day of the 3rd calendar month beginning after the date of the enactment of this Act [Dec. 19, 1989].”

Section 8013(c) of Pub. L. 101-239 provided that: “The amendments made by subsections (a) and (b) [amending this section and section 1382b of this title] shall take effect on the 1st day of the 4th month beginning after the date of the enactment of this Act [Dec. 19, 1989].”

EFFECTIVE DATE OF 1988 AMENDMENT

Section 8103(c) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section and section 1382b of this title] shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 [Pub. L. 100-242, see Effective Date of 1988 Amendment note set out under 12 U.S.C. 1701q] at the time of its enactment [Feb. 5, 1988].”

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9120(b) of Pub. L. 100-203 provided that: “The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988.”

EFFECTIVE DATE OF 1984 AMENDMENT

Section 2616(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [July 18, 1984].”

Section 2639(d) of Pub. L. 98-369, as amended by Pub. L. 100-203, title IX, § 9101, Dec. 22, 1987, 101 Stat. 1330-299, provided that: “The amendments made by this section [amending this section and section 602 of this title and repealing section 545(a)-(c) of Pub. L. 97-424 and section 404 of Pub. L. 98-21, which had previously amended this section and section 602 of this title and had provided effective dates for those prior amendments] shall be effective with respect to months which begin after September 30, 1984.”

[Section 9101 of Pub. L. 100-203 provided that the amendment made by that section to section 2639(d) of Pub. L. 98-369, set out as a note above, is effective as of Oct. 1, 1987.]

Amendment by section 2663(g)(3), (4) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENTS

Section 545(c) of Pub. L. 97-424 and section 404(c) of Pub. L. 98-21, which had provided for the effective and termination dates covering the enactment and subsequent amendment of subsec. (b)(13) of this section by section 545(a) of Pub. L. 97-424 and section 404(a) of Pub. L. 98-21, were repealed by section 2639(c), (d) of Pub. L. 98-369, effective with respect to months beginning after Sept. 30, 1984.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective with respect to months after first calendar quarter which ends more than five months after August 1981, with provision for

transitional payments, see section 2341(c) of Pub. L. 97-35, set out as an Effective Date of 1981 Amendment and Transitional Provisions note under section 1382 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS

Section 202(b) of Pub. L. 96-265 provided that: “The amendments made by subsection (a) [amending this section] shall apply only with respect to remuneration received in months after September 1980.”

Amendment by section 302(b) of Pub. L. 96-265 applicable with respect to expenses incurred on or after first day of sixth month which begins after June 9, 1980, see section 302(c) of Pub. L. 96-265, set out as a note under section 423 of this title.

Section 101(b)(1)(B) of Pub. L. 96-222 provided that: “The amendments made by subparagraphs (A) and (B) of subsection (a)(2) [amending this section and section 602 of this title] shall apply to payments for months beginning after December 31, 1979.”

EFFECTIVE DATE OF 1977 AMENDMENT

Section 8(b) of Pub. L. 95-171 provided that: “The amendment made by this section [amending this section] shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 31, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act [Nov. 12, 1977].”

EFFECTIVE DATE OF 1976 AMENDMENTS

Amendment by Pub. L. 94-566 effective Oct. 1, 1976, see section 505(e) of Pub. L. 94-566, set out as a note under section 1382 of this title.

Section 2(b) of Pub. L. 94-331, as amended by Pub. L. 95-171, §6(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: “The amendments made by this Act [amending this section and sections 815, 3402, 6153, and 6154 of Title 26, Internal Revenue Code, and enacting provisions set out as notes under sections 815 and 3402 of Title 26] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976.”

Section 4(b) of Pub. L. 94-331, as amended by Pub. L. 95-171, §7(a), Nov. 12, 1977, 91 Stat. 1355, effective the first day of calendar quarter following Nov. 12, 1977, provided that: “The amendments made by this Act [see section 2(b) of Pub. L. 94-331, set out above] shall be applicable only in the case of catastrophes which occur on or after June 1, 1976.”

EFFECTIVE DATE OF 1974 AMENDMENT

Section 4 of Pub. L. 93-484 provided that the amendment made by that section is effective Jan. 1, 1974.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

FINDINGS

Pub. L. 111-255, §2, Oct. 5, 2010, 124 Stat. 2640, provided that: “Congress finds the following:

“(1) Advances in medicine depend on clinical trial research conducted at public and private research institutions across the United States.

“(2) The challenges associated with enrolling participants in clinical research studies are especially difficult for studies that evaluate treatments for rare diseases and conditions (defined by the Orphan Drug Act [Pub. L. 97-414, see Short Title of 1983 Amendments note set out under section 301 of Title 21, Food and Drugs] as a disease or condition affecting fewer than 200,000 Americans), where the available number of willing and able research participants may be very small.

“(3) In accordance with ethical standards established by the National Institutes of Health, sponsors

of clinical research may provide payments to trial participants for out-of-pocket costs associated with trial enrollment and for the time and commitment demanded by those who participate in a study. When offering compensation, clinical trial sponsors are required to provide such payments to all participants.

“(4) The offer of payment for research participation may pose a barrier to trial enrollment when such payments threaten the eligibility of clinical trial participants for Supplemental Security Income and Medicaid benefits.

“(5) With a small number of potential trial participants and the possible loss of Supplemental Security Income and Medicaid benefits for many who wish to participate, clinical trial research for rare diseases and conditions becomes exceptionally difficult and may hinder research on new treatments and potential cures for these rare diseases and conditions.”

[Section 2 of Pub. L. 111-255, set out above, repealed 5 years after Oct. 5, 2010, see section 3(e) of Pub. L. 111-255, set out as an Effective and Termination Dates of 2010 Amendment note above.]

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382b. Resources

(a) Exclusions from resources

In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2)(A) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Commissioner of Social Security determines to be reasonable; and

(B) the value of any burial space or agreement (including any interest accumulated thereon) representing the purchase of a burial space (subject to such limits as to size or value as the Commissioner of Social Security may by regulation prescribe) held for the purpose of providing a place for the burial of the individual, his spouse, or any other member of his immediate family;

(3) other property which is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion, as determined in accordance with and subject to limitations prescribed by the Commissioner of Social Security, except that the Commissioner of Social Security shall not establish a limitation on property (including the tools of a tradesperson and the machinery and livestock of a farmer) that is used in a trade or business or by such individual as an employee;

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Commissioner of Social Security, as may be necessary for the fulfillment of such plan;

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 1606(h) and section 1607(c) of title 43;

(6) assistance referred to in section 1382a(b)(11) of this title for the 9-month period beginning on the date such funds are received (or for such longer period as the Commissioner of Social Security shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1382a(b)(12) of this title;

(7) any amount received from the United States which is attributable to underpayments of benefits due for one or more prior months, under this subchapter or subchapter II of this chapter, to such individual (or spouse) or to any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this subchapter; but the application of this paragraph in the case of any such individual (and eligible spouse if any), with respect to any amount so received from the United States, shall be limited to the first 9 months following the month in which such amount is received, and written notice of this limitation shall be given to the recipient concurrently with the payment of such amount;

(8) the value of assistance referred to in section 1382a(b)(14) of this title, paid with respect to the dwelling unit occupied by such individual (or such individual and spouse);

(9) for the 9-month period beginning after the month in which received, any amount received by such individual (or such spouse) from a fund established by a State to aid victims of crime, to the extent that such individual (or such spouse) demonstrates that such amount was paid as compensation for expenses incurred or losses suffered as a result of a crime;

(10) for the 9-month period beginning after the month in which received, relocation assistance provided by a State or local government to such individual (or such spouse), comparable to assistance provided under title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 which is subject to the treatment required by section 216 of such Act [42 U.S.C. 4636];

(11) for the 9-month period beginning after the month in which received—

(A) notwithstanding section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, any refund of Federal income taxes made to such individual (or such spouse) under section 24 of the Internal Revenue Code of 1986 (relating to child tax credit) by reason of subsection (d) thereof; and

(B) any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);

(12) any account, including accrued interest or other earnings thereon, established and maintained in accordance with section 1383(a)(2)(F) of this title;

(13) any gift to, or for the benefit of, an individual who has not attained 18 years of age and who has a life-threatening condition, from an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 which is exempt from taxation under section 501(a) of such Code—

(A) in the case of an in-kind gift, if the gift is not converted to cash; or

(B) in the case of a cash gift, only to the extent that the total amount excluded from the resources of the individual pursuant to this paragraph in the calendar year in which the gift is made does not exceed \$2,000;

(14) for the 9-month period beginning after the month in which received, any amount received by such individual (or spouse) or any other person whose income is deemed to be included in such individual's (or spouse's) income for purposes of this subchapter as restitution for benefits under this subchapter, subchapter II of this chapter, or subchapter VIII of this chapter that a representative payee of such individual (or spouse) or such other person under section 405(j), 1007, or 1383(a)(2) of this title has misused;

(15) for the 9-month period beginning after the month in which received, any grant, scholarship, fellowship, or gift (or portion of a gift) used to pay the cost of tuition and fees at any educational (including technical or vocational education) institution;

(16) for the month of receipt and every month thereafter, any annuity paid by a State to the individual (or such spouse) on the basis of the individual's being a veteran (as defined in section 101 of title 38), and blind, disabled, or aged; and

(17) any amount received by such individual (or such spouse) which is excluded from income under section 1382a(b)(26) of this title (relating to compensation for participation in a clinical trial involving research and testing of treatments for a rare disease or condition).

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is \$1,500 or less, no part of the value of any such policy shall be taken into account.

(b) Disposition of resources; grounds for exemption from disposition requirements

(1) The Commissioner of Social Security shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be considered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

(2) Notwithstanding the provisions of paragraph (1), the Commissioner of Social Security shall not require the disposition of any real property for so long as it cannot be sold because (A) it is jointly owned (and its sale would cause undue hardship, due to loss of housing, for the other owner or owners), (B) its sale is barred by a legal impediment, or (C) as determined under regulations issued by the Commissioner of Social Security, the owner's reasonable efforts to sell it have been unsuccessful.

(c) Disposal of resources for less than fair market value

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

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

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

(iii) The date described in this clause is the first day of the first month in or after which resources were disposed of for less than fair market value and which does not occur in any other period of ineligibility under this paragraph.

(iv) The number of months calculated under this clause shall be equal to—

(I) the total, cumulative uncompensated value of all resources so disposed of by the individual (or the spouse of the individual) on or after the look-back date described in clause (ii)(I); divided by

(II) the amount of the maximum monthly benefit payable under section 1382(b) of this title, plus the amount (if any) of the maximum State supplementary payment corresponding to the State's payment level applicable to the individual's living arrangement and eligibility category that would otherwise be payable to the individual by the Commissioner pursuant to an agreement under section 1382e(a) of this title or section 212(b) of Public Law 93-66, for the month in which occurs the date described in clause (ii)(II),

rounded, in the case of any fraction, to the nearest whole number, but shall not in any case exceed 36 months.

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

(ii) In the case of a trust established by an individual or an individual's spouse (within the meaning of subsection (e) of this section), if from such portion of the trust, if any, that is considered a resource available to the individual

pursuant to subsection (e)(3) of this section (or would be so considered but for the application of subsection (e)(4) of this section) or the residue of the portion on the termination of the trust—

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

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

then, for purposes of this subsection, the payment described in clause (I) or the foreclosure of payment described in clause (II) shall be considered a transfer of resources by the individual or the individual's spouse as of the date of the payment or foreclosure, as the case may be.

(C) An individual shall not be ineligible for benefits under this subchapter by reason of the application of this paragraph to a disposal of resources by the individual or the spouse of the individual, to the extent that—

(i) the resources are a home and title to the home was transferred to—

(I) the spouse of the transferor;

(II) a child of the transferor who has not attained 21 years of age, or is blind or disabled;

(III) a sibling of the transferor who has an equity interest in such home and who was residing in the transferor's home for a period of at least 1 year immediately before the date the transferor becomes an institutionalized individual; or

(IV) a son or daughter of the transferor (other than a child described in subclause (II)) who was residing in the transferor's home for a period of at least 2 years immediately before the date the transferor becomes an institutionalized individual, and who provided care to the transferor which permitted the transferor to reside at home rather than in such an institution or facility;

(ii) the resources—

(I) were transferred to the transferor's spouse or to another for the sole benefit of the transferor's spouse;

(II) were transferred from the transferor's spouse to another for the sole benefit of the transferor's spouse;

(III) were transferred to, or to a trust (including a trust described in section 1396p(d)(4) of this title) established solely for the benefit of, the transferor's child who is blind or disabled; or

(IV) were transferred to a trust (including a trust described in section 1396p(d)(4) of this title) established solely for the benefit of an individual who has not attained 65 years of age and who is disabled;

(iii) a satisfactory showing is made to the Commissioner of Social Security (in accordance with regulations promulgated by the Commissioner) that—

(I) the individual who disposed of the resources intended to dispose of the resources either at fair market value, or for other valuable consideration;

(II) the resources were transferred exclusively for a purpose other than to qualify for benefits under this subchapter; or

(III) all resources transferred for less than fair market value have been returned to the transferor; or

(iv) the Commissioner determines, under procedures established by the Commissioner, that the denial of eligibility would work an undue hardship as determined on the basis of criteria established by the Commissioner.

(D) For purposes of this subsection, in the case of a resource held by an individual in common with another person or persons in a joint tenancy, tenancy in common, or similar arrangement, the resource (or the affected portion of such resource) shall be considered to be disposed of by the individual when any action is taken, either by the individual or by any other person, that reduces or eliminates the individual's ownership or control of such resource.

(E) In the case of a transfer by the spouse of an individual that results in a period of ineligibility for the individual under this subsection, the Commissioner shall apportion the period (or any portion of the period) among the individual and the individual's spouse if the spouse becomes eligible for benefits under this subchapter.

(F) For purposes of this paragraph—

(i) the term "benefits under this subchapter" includes payments of the type described in section 1382e(a) of this title and of the type described in section 212(b) of Public Law 93-66;

(ii) the term "institutionalized individual" has the meaning given such term in section 1396p(e)(3)¹ of this title; and

(iii) the term "trust" has the meaning given such term in subsection (e)(6)(A) of this section.

(2)(A) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this subchapter, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Commissioner of Social Security shall—

(i) inform such individual of the provisions of paragraph (1) and section 1396p(c) of this title providing for a period of ineligibility for benefits under this subchapter and subchapter XIX of this chapter, respectively, for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to clause (ii) will be made available to the State agency administering a State plan under subchapter XIX of this chapter (as provided in subparagraph (B)); and

(ii) obtain from such individual information which may be used in determining whether or not a period of ineligibility for such benefits would be required by reason of paragraph (1) or section 1396p(c) of this title.

(B) The Commissioner of Social Security shall make the information obtained under subparagraph (A)(ii) available, on request, to any State agency administering a State plan approved under subchapter XIX of this chapter.

(d) Funds set aside for burial expenses

(1) In determining the resources of an individual, there shall be excluded an amount, not in excess of \$1,500 each with respect to such indi-

vidual and his spouse (if any), that is separately identifiable and has been set aside to meet the burial and related expenses of such individual or spouse.

(2) The amount of \$1,500, referred to in paragraph (1), with respect to an individual shall be reduced by an amount equal to (A) the total face value of all insurance policies on his life which are owned by him or his spouse and the cash surrender value of which has been excluded in determining the resources of such individual or of such individual and his spouse, and (B) the total of any amounts in an irrevocable trust (or other irrevocable arrangement) available to meet the burial and related expenses of such individual or his spouse.

(3) If the Commissioner of Social Security finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside in cases where the inclusion of any portion of the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1382(a) of this title, the Commissioner shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.

(4) The Commissioner of Social Security may provide by regulations that whenever an amount set aside to meet burial and related expenses is excluded under paragraph (1) in determining the resources of an individual, any interest earned or accrued on such amount (and left to accumulate), and any appreciation in the value of prepaid burial arrangements for which such amount was set aside, shall also be excluded (to such extent and subject to such conditions or limitations as such regulations may prescribe) in determining the resources (and the income) of such individual.

(e) Trusts

(1) In determining the resources of an individual, paragraph (3) shall apply to a trust (other than a trust described in paragraph (5)) established by the individual.

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

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

(C) This subsection shall apply to a trust without regard to—

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

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

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

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

(3)(A) In the case of a revocable trust established by an individual, the corpus of the trust

¹ See References in Text note below.

shall be considered a resource available to the individual.

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

(4) The Commissioner of Social Security may waive the application of this subsection with respect to an individual if the Commissioner determines that such application would work an undue hardship (as determined on the basis of criteria established by the Commissioner) on the individual.

(5) This subsection shall not apply to a trust described in subparagraph (A) or (C) of section 1396p(d)(4) of this title.

(6) For purposes of this subsection—

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

(B) the term “corpus” means, with respect to a trust, all property and other interests held by the trust, including accumulated earnings and any other addition to the trust after its establishment (except that such term does not include any such earnings or addition in the month in which the earnings or addition is credited or otherwise transferred to the trust); and

(C) the term “asset” includes any income or resource of the individual (or of the individual's spouse), including—

(i) any income excluded by section 1382a(b) of this title;

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

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

(I) the individual or spouse;

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

(III) a person or entity (including a court) acting at the direction of, or on the request of, the individual or spouse.

(Aug. 14, 1935, ch. 531, title XVI, §1613, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1470; amended Pub. L. 94-569, §5, Oct. 20, 1976, 90 Stat. 2700; Pub. L. 95-171, §9(a), Nov. 12, 1977, 91 Stat. 1355; Pub. L. 96-611, §5(a), Dec. 28, 1980, 94 Stat. 3567; Pub. L. 97-248, title I, §185(a), (b), Sept. 3, 1982, 96 Stat. 406; Pub. L. 98-369, div. B, title VI, §§2614, 2663(g)(5), July 18, 1984, 98 Stat. 1132, 1168; Pub. L. 100-203, title IX, §§9103(a), 9104(a), 9105(a), 9114(a), Dec. 22, 1987, 101 Stat. 1330-301, 1330-304; Pub. L. 100-360, title III, §303(c)(1), July 1, 1988, 102 Stat. 762; Pub. L. 100-647, title VIII, §8103(b), Nov. 10, 1988, 102 Stat. 3795; Pub. L. 101-239, title VIII, §§8013(b), 8014(a), Dec. 19, 1989, 103 Stat. 2465; Pub. L. 101-508, title V, §§5031(b), 5035(b), title XI, §11115(b)(2), Nov. 5, 1990, 104 Stat. 1388-224, 1388-225, 1388-414; Pub. L. 103-296, title I, §107(a)(4), title III, §321(h)(2), Aug. 15, 1994, 108 Stat. 1478, 1544; Pub. L. 104-193, title II, §213(b),

Aug. 22, 1996, 110 Stat. 2195; Pub. L. 105-306, §7(b), Oct. 28, 1998, 112 Stat. 2928; Pub. L. 106-169, title II, §§205(a), 206(a), Dec. 14, 1999, 113 Stat. 1833, 1834; Pub. L. 108-203, title I, §101(c)(2), title IV, §§431(a), (b), 435(b), Mar. 2, 2004, 118 Stat. 496, 539, 540; Pub. L. 110-245, title II, §202(b), June 17, 2008, 122 Stat. 1637; Pub. L. 111-255, §3(b), Oct. 5, 2010, 124 Stat. 2641.)

AMENDMENT OF SECTION

For repeal of amendment by section 3(e) of Pub. L. 111-255, see Effective and Termination Dates of 2010 Amendment note below.

REFERENCES IN TEXT

The Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, referred to in subsec. (a)(10), is Pub. L. 91-646, Jan. 2, 1971, 84 Stat. 1894, as amended. Title II of the Act enacted subchapter II (§4621 et seq.) of chapter 61 of this title, amended sections 1415, 2473, and 3307 of this title and section 1606 of former Title 49, Transportation, repealed sections 1465 and 3074 of this title, section 2680 of Title 10, Armed Forces, sections 501 to 512 of Title 23, Highways, sections 1231 to 1234 of Title 43, Public Lands, and enacted provisions set out as notes under sections 4601 and 4621 of this title and under sections 501 to 512 of Title 23. For complete classification of title II to the Code, see Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a)(11), (13), is classified generally to Title 26, Internal Revenue Code.

Section 203 of the Economic Growth and Tax Relief Reconciliation Act of 2001, referred to in subsec. (a)(11)(A), is section 203 of Pub. L. 107-16, which is set out as a note under section 24 of Title 26, Internal Revenue Code.

Section 212(b) of Public Law 93-66, referred to in subsec. (c)(1)(A)(iv)(II), (F)(i), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

Section 1396p(e)(3) of this title, referred to in subsec. (c)(1)(F)(ii), was redesignated section 1396p(h)(3) of this title by Pub. L. 109-171, title VI, §§6012(a), 6014(a), 6015(b), Feb. 8, 2006, 120 Stat. 62, 64, 65.

AMENDMENTS

2010—Subsec. (a)(17). Pub. L. 111-255, §3(b), (e), temporarily added par. (17). See Effective and Termination Dates of 2010 Amendment note below.

2008—Subsec. (a)(16). Pub. L. 110-245 added par. (16).

2004—Subsec. (a)(7). Pub. L. 108-203, §431(a), substituted “limited to the first 9 months” for “limited to the first 6 months” and struck out “(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)” after “month in which such amount is received”.

Subsec. (a)(11). Pub. L. 108-203, §431(b), amended par. (11) generally. Prior to amendment, par. (11) read as follows: “for the month of receipt and the following month, any refund of Federal income taxes made to such individual (or such spouse) by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit), and any payment made to such individual (or such spouse) by an employer under section 3507 of such Code (relating to advance payment of earned income credit);”.

Subsec. (a)(14). Pub. L. 108-203, §101(c)(2), added par. (14).

Subsec. (a)(15). Pub. L. 108-203, §435(b), added par. (15).

1999—Subsec. (c). Pub. L. 106-169, §206(a)(1), struck out “Notification of medicaid policy restricting eligibility of institutionalized individuals for benefits based on” before “Disposal” in subsec. heading.

Subsec. (c)(1). Pub. L. 106-169, §206(a)(5), added par. (1). Former par. (1) redesignated (2)(A).

Subsec. (c)(2)(A). Pub. L. 106-169, §206(a)(4), redesignated par. (1) as (2)(A).

Subsec. (c)(2)(A)(i). Pub. L. 106-169, §206(a)(2)(A), (C), redesignated par. (1)(A) as (2)(A)(i), inserted “paragraph (1) and” after “provisions of”, and substituted “benefits under this subchapter and subchapter XIX of this chapter, respectively,” for “benefits under subchapter XIX of this chapter”, “clause (ii)” for “subparagraph (B)”, and “subparagraph (B)” for “paragraph (2)”.

Subsec. (c)(2)(A)(ii). Pub. L. 106-169, §206(a)(2)(B), (C), redesignated par. (1)(B) as (2)(A)(ii), struck out “by the State agency” after “which may be used”, and substituted “paragraph (1) or section 1396p(c) of this title.” for “section 1396p(c) of this title if such individual (or such spouse, if any) enters a medical institution or nursing facility.”

Subsec. (c)(2)(B). Pub. L. 106-169, §206(a)(3), redesignated par. (2) as (2)(B) and substituted “subparagraph (A)(ii)” for “paragraph (1)(B)”.

Subsec. (e). Pub. L. 106-169, §205(a), added subsec. (e). 1998—Subsec. (a)(13). Pub. L. 105-306 added par. (13).

1996—Subsec. (a)(12). Pub. L. 104-193 added par. (12). 1994—Subsec. (a)(2) to (4), (6). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(9) to (11). Pub. L. 103-296, §321(h)(2), struck out “and” at end of par. (9), substituted “; and” for period at end of par. (10) relating to relocation assistance, and redesignated par. (10) relating to refunds of Federal income taxes as (11).

Subsecs. (b) to (d). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner shall” for “he shall” in subsec. (d)(3).

1990—Subsec. (a)(9). Pub. L. 101-508, §5031(b), added par. (9).

Subsec. (a)(10). Pub. L. 101-508, §1115(b)(2), added par. (10) relating to refunds of Federal income taxes.

Pub. L. 101-508, §5053(b), added par. (10) relating to relocation assistance.

1989—Subsec. (a)(2)(B). Pub. L. 101-239, §8013(b), inserted “or agreement (including any interest accumulated thereon) representing the purchase of a burial space”.

Subsec. (a)(3). Pub. L. 101-239, §8014(a), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “other property which, as determined in accordance with and subject to limitations prescribed by the Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;”.

1988—Subsec. (a)(8). Pub. L. 100-647 added par. (8).

Subsec. (c). Pub. L. 100-360 substituted “Notification of medicaid policy restricting eligibility of institutionalized individuals for benefits based on disposal of resources for less than fair market value” for “Disposal of resources for less than fair market value” in heading and amended text generally, substituting pars. (1) and (2) for former pars. (1) to (4).

1987—Subsec. (a)(7). Pub. L. 100-203, §9114(a), inserted “(or to the first 9 months following such month with respect to any amount so received during the period beginning October 1, 1987, and ending September 30, 1989)” after “such amount is received”.

Subsec. (b). Pub. L. 100-203, §9103, designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 100-203, §9104(a)(1), inserted “, and subject to paragraph (4) of this subsection” after “subsection (a) of this section”.

Subsec. (c)(4). Pub. L. 100-203, §9104(a)(2), added par. (4).

Subsec. (d)(1). Pub. L. 100-203, §9105(a)(1), struck out “if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1382(a) of this title” after “individual or spouse”.

Subsec. (d)(3). Pub. L. 100-203, §9105(a)(2), substituted “aside in cases where the inclusion of any portion of

the amount would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1382(a) of this title” for “aside”.

1984—Subsec. (a)(7). Pub. L. 98-369, §2614, added par. (7).

Subsec. (c). Pub. L. 98-369, §2663(g)(5), amended heading.

1982—Subsec. (a)(2). Pub. L. 97-248, §185(a), redesignated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d). Pub. L. 97-248, §185(b), added subsec. (d). 1980—Subsec. (c). Pub. L. 96-611 added subsec. (c).

1977—Subsec. (a)(6). Pub. L. 95-171 added par. (6).

1976—Subsec. (a)(1). Pub. L. 94-569 struck out “, to the extent that its value does not exceed such amount as the Secretary determines to be reasonable” after “the home (including the land that appertains thereto)”.

EFFECTIVE AND TERMINATION DATES OF 2010 AMENDMENT

Amendment by Pub. L. 111-255 effective on the earlier of the effective date of final regulations promulgated by the Commissioner of Social Security to carry out such amendment or 180 days after Oct. 5, 2010, see section 3(d) of Pub. L. 111-255, set out as a note under section 1382a of this title.

Amendment by Pub. L. 111-255 repealed 5 years after Oct. 5, 2010, see section 3(e) of Pub. L. 111-255, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-245 effective with respect to benefits payable for months beginning after 60 days after June 17, 2008, see section 204 of Pub. L. 110-245, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 101(c)(2) of Pub. L. 108-203 applicable to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after Jan. 1, 1995, see section 101(d) of Pub. L. 108-203, set out as a note under section 405 of this title.

Pub. L. 108-203, title IV, §431(c), Mar. 2, 2004, 118 Stat. 539, provided that: “The amendments made by this section [amending this section] shall take effect on the date of enactment of this Act [Mar. 2, 2004], and shall apply to amounts described in paragraph (7) of section 1613(a) of the Social Security Act [subsec. (a)(7) of this section] and refunds of Federal income taxes described in paragraph (11) of such section, that are received by an eligible individual or eligible spouse on or after such date.”

Amendment by section 435(b) of Pub. L. 108-203 applicable to benefits payable for months that begin more than 90 days after Mar. 2, 2004, see section 435(c) of Pub. L. 108-203, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 205(a) of Pub. L. 106-169 effective Jan. 1, 2000, and applicable to trusts established on or after such date, see section 205(d) of Pub. L. 106-169, set out as a note under section 1382a of this title.

Pub. L. 106-169, title II, §206(c), Dec. 14, 1999, 113 Stat. 1837, provided that: “The amendments made by this section [amending this section and section 1396a of this title] shall be effective with respect to disposals made on or after the date of the enactment of this Act [Dec. 14, 1999].”

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-306 applicable to gifts made on or after the date that is 2 years before Oct. 28, 1998, see section 7(c) of Pub. L. 105-306, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 213(b) of Pub. L. 104-193 applicable to payments made after Aug. 22, 1996, see section

213(d) of Pub. L. 104-193, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 321(h)(3) of Pub. L. 103-296 provided that: "The amendments made by this subsection [amending this section and section 1383 of this title] shall take effect on the date of the enactment of this Act [Aug. 15, 1994]."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 5031(b) of Pub. L. 101-508 applicable with respect to benefits for months beginning on or after the first day of the 6th calendar month following November 1990, see section 5031(d) of Pub. L. 101-508, set out as a note under section 1382a of this title.

Amendment by section 5035(b) of Pub. L. 101-508 applicable with respect to benefits for calendar months beginning on or after the first day of the 6th calendar month following November 1990, see section 5035(c) of Pub. L. 101-508, as amended, set out as a note under section 1382a of this title.

Amendment by section 1115(b)(2) of Pub. L. 101-508 applicable to determinations of income or resources made for any period after Dec. 31, 1990, see section 1115(e) of Pub. L. 101-508, set out as a note under section 1382a of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 8013(b) of Pub. L. 101-239 effective on 1st day of 4th month beginning after Dec. 19, 1989, see section 8013(c) of Pub. L. 101-239, set out as a note under section 1382a of this title.

Section 8014(b) of Pub. L. 101-239 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 5th calendar month beginning after the date of the enactment of this Act [Dec. 19, 1989]."

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-647 effective as though included in section 162 of Housing and Community Development Act of 1987, Pub. L. 100-242, at the time of its enactment, on Feb. 5, 1988, see section 8103(c) of Pub. L. 100-647, set out as a note under section 1382a of this title.

Amendment by Pub. L. 100-360 applicable to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date, see section 303(g)(3) of Pub. L. 100-360, set out as a note under section 1396r-5 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9103(b) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

Section 9104(b) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

Section 9105(b) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

Section 9114(b) of Pub. L. 100-203 provided that: "The amendment made by subsection (a) [amending this section] shall become effective January 1, 1988."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2614 of Pub. L. 98-369 effective Oct. 1, 1984, except as otherwise specifically provided, see section 2646 of Pub. L. 98-369, set out as a note under section 657 of this title.

Amendment by section 2663(g)(5) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as chang-

ing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 185(c) of Pub. L. 97-248 provided that: "The amendment made by this section [amending this section] shall take effect on the first day of the second month after the month in which this Act is enacted [September 1982]."

EFFECTIVE DATE OF 1980 AMENDMENT

Section 5(c) of Pub. L. 96-611 provided that: "The amendment made by subsection (a) [amending this section] shall be effective with respect to applications for benefits under title XVI of the Social Security Act [this subchapter] filed on or after the first day of the first month which begins at least 60 days after the date of enactment of this Act [Dec. 28, 1980]."

EFFECTIVE DATE OF 1977 AMENDMENT

Section 9(b) of Pub. L. 95-171 provided that: "The amendment made by this section [amending this section] shall be effective July 1, 1976, with respect to catastrophes which occurred on or after June 1, 1976, and before December 31, 1976. With respect to catastrophes which occurred on or after December 1, 1976, the amendment made by this section shall be effective the first day of the calendar quarter following enactment of this Act [Nov. 12, 1977]."

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382c. Definitions

(a)(1) For purposes of this subchapter, the term "aged, blind, or disabled individual" means an individual who—

(A) is 65 years of age or older, is blind (as determined under paragraph (2)), or is disabled (as determined under paragraph (3)), and

(B)(i) is a resident of the United States, and is either (I) a citizen or (II) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 1182(d)(5) of title 8), or

(ii) is a child who is a citizen of the United States, and who is living with a parent of the child who is a member of the Armed Forces of the United States assigned to permanent duty ashore outside the United States.

(2) An individual shall be considered to be blind for purposes of this subchapter if he has central visual acuity of 20/200 or less in the bet-

ter eye with the use of a correcting lens. An eye which is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees shall be considered for purposes of the first sentence of this subsection as having a central visual acuity of 20/200 or less. An individual shall also be considered to be blind for purposes of this subchapter if he is blind as defined under a State plan approved under subchapter X or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of blindness) for December 1973, so long as he is continuously blind as so defined.

(3)(A) Except as provided in subparagraph (C), an individual shall be considered to be disabled for purposes of this subchapter if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C)(i) An individual under the age of 18 shall be considered disabled for the purposes of this subchapter if that individual has a medically determinable physical or mental impairment, which results in marked and severe functional limitations, and which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(ii) Notwithstanding clause (i), no individual under the age of 18 who engages in substantial gainful activity (determined in accordance with regulations prescribed pursuant to subparagraph (E)) may be considered to be disabled.

(D) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(E) The Commissioner of Social Security shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to

work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Commissioner of Social Security in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Commissioner of Social Security may prescribe. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria shall be found not to be disabled. The Commissioner of Social Security shall make determinations under this subchapter with respect to substantial gainful activity, without regard to the legality of the activity.

(F) Notwithstanding the provisions of subparagraphs (A) through (E), an individual shall also be considered to be disabled for purposes of this subchapter if he is permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for October 1972 and received aid under such plan (on the basis of disability) for December 1973 (and for at least one month prior to July 1973), so long as he is continuously disabled as so defined.

(G) In determining whether an individual's physical or mental impairment or impairments are of a sufficient medical severity that such impairment or impairments could be the basis of eligibility under this section, the Commissioner of Social Security shall consider the combined effect of all of the individual's impairments without regard to whether any such impairment, if considered separately, would be of such severity. If the Commissioner of Social Security does find a medically severe combination of impairments, the combined impact of the impairments shall be considered throughout the disability determination process.

(H)(i) In making determinations with respect to disability under this subchapter, the provisions of sections 421(h), 421(k), and 423(d)(5) of this title shall apply in the same manner as they apply to determinations of disability under subchapter II of this chapter.

(ii)(I) Not less frequently than once every 3 years, the Commissioner shall review in accordance with paragraph (4) the continued eligibility for benefits under this subchapter of each individual who has not attained 18 years of age and is eligible for such benefits by reason of an impairment (or combination of impairments) which is likely to improve (or, at the option of the Commissioner, which is unlikely to improve).

(II) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this subchapter.

(III) If the representative payee refuses to comply without good cause with the requirements of subclause (II), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this subchapter would be served thereby, to the individual.

(IV) Subclause (II) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1383(c) of this title shall not apply to a finding by the Commissioner that the requirements of subclause (II) should not apply to an individual's representative payee.

(iii) If an individual is eligible for benefits under this subchapter by reason of disability for the month preceding the month in which the individual attains the age of 18 years, the Commissioner shall redetermine such eligibility—

(I) by applying the criteria used in determining initial eligibility for individuals who are age 18 or older; and

(II) either during the 1-year period beginning on the individual's 18th birthday or, in lieu of a continuing disability review, whenever the Commissioner determines that an individual's case is subject to a redetermination under this clause.

With respect to any redetermination under this clause, paragraph (4) shall not apply.

(iv)(I) Except as provided in subclause (VI), not later than 12 months after the birth of an individual, the Commissioner shall review in accordance with paragraph (4) the continuing eligibility for benefits under this subchapter by reason of disability of such individual whose low birth weight is a contributing factor material to the Commissioner's determination that the individual is disabled.

(II) A review under subclause (I) shall be considered a substitute for a review otherwise required under any other provision of this subparagraph during that 12-month period.

(III) A representative payee of a recipient whose case is reviewed under this clause shall present, at the time of review, evidence demonstrating that the recipient is, and has been, receiving treatment, to the extent considered medically necessary and available, of the condition which was the basis for providing benefits under this subchapter.

(IV) If the representative payee refuses to comply without good cause with the requirements of subclause (III), the Commissioner of Social Security shall, if the Commissioner determines it is in the best interest of the individual, promptly suspend payment of benefits to the representative payee, and provide for payment of benefits to an alternative representative payee of the individual or, if the interest of the individual under this subchapter would be served thereby, to the individual.

(V) Subclause (III) shall not apply to the representative payee of any individual with respect to whom the Commissioner determines such application would be inappropriate or unnecessary. In making such determination, the Commissioner shall take into consideration the nature of the individual's impairment (or combination of impairments). Section 1383(c) of this title shall not apply to a finding by the Commissioner that the requirements of subclause (III) should not apply to an individual's representative payee.

(VI) Subclause (I) shall not apply in the case of an individual described in that subclause who, at the time of the individual's initial disability determination, the Commissioner determines has an impairment that is not expected to improve within 12 months after the birth of that individual, and who the Commissioner schedules for a continuing disability review at a date that is after the individual attains 1 year of age.

(I) In making any determination under this subchapter with respect to the disability of an individual who has not attained the age of 18 years and to whom section 421(h) of this title does not apply, the Commissioner of Social Security shall make reasonable efforts to ensure that a qualified pediatrician or other individual who specializes in a field of medicine appropriate to the disability of the individual (as determined by the Commissioner of Social Security) evaluates the case of such individual.

(J) Notwithstanding subparagraph (A), an individual shall not be considered to be disabled for purposes of this subchapter if alcoholism or drug addiction would (but for this subparagraph) be a contributing factor material to the Commissioner's determination that the individual is disabled.

(4) A recipient of benefits based on disability under this subchapter may be determined not to be entitled to such benefits on the basis of a finding that the physical or mental impairment on the basis of which such benefits are provided has ceased, does not exist, or is not disabling only if such finding is supported by—

(A) in the case of an individual who is age 18 or older—

(i) substantial evidence which demonstrates that—

(I) there has been any medical improvement in the individual's impairment or combination of impairments (other than medical improvement which is not related to the individual's ability to work), and

(II) the individual is now able to engage in substantial gainful activity; or

(ii) substantial evidence (except in the case of an individual eligible to receive benefits under section 1382h of this title) which—

(I) consists of new medical evidence and a new assessment of the individual's residual functional capacity, and demonstrates that—

(aa) although the individual has not improved medically, he or she is nonetheless a beneficiary of advances in medical or vocational therapy or technology (related to the individual's ability to work), and

(bb) the individual is now able to engage in substantial gainful activity, or

(II) demonstrates that—

(aa) although the individual has not improved medically, he or she has undergone vocational therapy (related to the individual's ability to work), and

(bb) the individual is now able to engage in substantial gainful activity; or

(iii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments is not as disabling as it was considered to be at the time of the most recent prior decision that he or she was under a disability or continued to be under a disability, and that therefore the individual is able to engage in substantial gainful activity; or

(B) in the case of an individual who is under the age of 18—

(i) substantial evidence which demonstrates that there has been medical improvement in the individual's impairment or combination of impairments, and that such impairment or combination of impairments no longer results in marked and severe functional limitations; or

(ii) substantial evidence which demonstrates that, as determined on the basis of new or improved diagnostic techniques or evaluations, the individual's impairment or combination of impairments, is not as disabling as it was considered to be at the time of the most recent prior decision that the individual was under a disability or continued to be under a disability, and such impairment or combination of impairments does not result in marked and severe functional limitations; or

(C) in the case of any individual, substantial evidence (which may be evidence on the record at the time any prior determination of the entitlement to benefits based on disability was made, or newly obtained evidence which relates to that determination) which demonstrates that a prior determination was in error.

Nothing in this paragraph shall be construed to require a determination that an individual receiving benefits based on disability under this subchapter is entitled to such benefits if the prior determination was fraudulently obtained or if the individual is engaged in substantial gainful activity, cannot be located, or fails, without good cause, to cooperate in a review of his or her entitlement or to follow prescribed treatment which would be expected (i) to restore his or her ability to engage in substantial gainful activity, or (ii) in the case of an individual under the age of 18, to eliminate or improve the individual's impairment or combination of impairments so that it no longer results in marked and severe functional limitations. Any determination under this paragraph shall be made on the basis of all the evidence available in the individual's case file, including new evidence concerning the individual's prior or current condition which is presented by the individual or secured by the Commissioner of Social Security.

Any determination made under this paragraph shall be made on the basis of the weight of the evidence and on a neutral basis with regard to the individual's condition, without any initial inference as to the presence or absence of disability being drawn from the fact that the individual has previously been determined to be disabled.

(b) For purposes of this subchapter, the term "eligible spouse" means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual, and who, in a month, is living with such aged, blind, or disabled individual on the first day of the month or, in any case in which either spouse files an application for benefits, on the first day of the month following the date the application is filed, or, in any case in which either spouse requests restoration of eligibility under this subchapter during the month, at the time the request is filed. If two aged, blind, or disabled individuals are husband and wife as described in the preceding sentence, only one of them may be an "eligible individual" within the meaning of section 1382(a) of this title.

(c) For purposes of this subchapter, the term "child" means an individual who is neither married nor (as determined by the Commissioner of Social Security) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Commissioner of Social Security) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.

(d) In determining whether two individuals are husband and wife for purposes of this subchapter, appropriate State law shall be applied; except that—

(1) if a man and woman have been determined to be husband and wife under section 416(h)(1) of this title for purposes of subchapter II of this chapter they shall be considered (from and after the date of such determination or the date of their application for benefits under this subchapter, whichever is later) to be husband and wife for purposes of this subchapter, or

(2) if a man and woman are found to be holding themselves out to the community in which they reside as husband and wife, they shall be so considered for purposes of this subchapter notwithstanding any other provision of this section.

(e) For purposes of this subchapter, the term "United States", when used in a geographical sense, means the 50 States and the District of Columbia.

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security to be inequitable under the circumstances.

(2)(A) For purposes of determining eligibility for and the amount of benefits for any individ-

ual who is a child under age 18, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Commissioner of Social Security to be inequitable under the circumstances.

(B) Subparagraph (A) shall not apply in the case of any child who has not attained the age of 18 years who—

- (i) is disabled;
- (ii) received benefits under this subchapter, pursuant to section 1382(e)(1)(B) of this title, while in an institution described in section 1382(e)(1)(B) of this title;
- (iii) is eligible for medical assistance under a State home care plan approved by the Secretary under the provisions of section 1396n(c) of this title relating to waivers, or authorized under section 1396a(e)(3) of this title; and
- (iv) but for this subparagraph, would not be eligible for benefits under this subchapter.

(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1382j of this title. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(4) For purposes of paragraphs (1) and (2), a spouse or parent (or spouse of such a parent) who is absent from the household in which the individual lives due solely to a duty assignment as a member of the Armed Forces on active duty shall, in the absence of evidence to the contrary, be deemed to be living in the same household as the individual.

(Aug. 14, 1935, ch. 531, title XVI, §1614, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1471; amended Pub. L. 93-233, §9, Dec. 31, 1973, 87 Stat. 957; Pub. L. 96-265, title II, §203(a), title III, §§302(a)(2), 303(c)(1), title V, §504(a), June 9, 1980, 94 Stat. 449, 450, 453, 471; Pub. L. 98-369, div. B, title VI, §2663(g)(6), (7), July 18, 1984, 98 Stat. 1168, 1169; Pub. L. 98-460, §§2(c), 3(a)(2), 4(b), 8(b), 10(b), Oct. 9, 1984, 98 Stat. 1796, 1799, 1800, 1804, 1805; Pub. L. 99-643, §4(d)(2), (3)(A), Nov. 10, 1986, 100 Stat. 3577; Pub. L. 101-239, title VIII, §§8009(b), 8010(a), 8012(a), Dec. 19, 1989, 103 Stat. 2463, 2464; Pub. L. 101-508, title V, §5036(a), Nov. 5, 1990, 104 Stat. 1388-225; Pub. L. 101-649, title I, §162(e)(5), Nov. 29, 1990, 104 Stat. 5011; Pub. L. 103-66, title XIII, §§13733(a), 13734(a), Aug. 10, 1993, 107 Stat. 662; Pub. L. 103-296, title I, §107(a)(4), title II, §201(b)(4)(A), Aug. 15, 1994, 108 Stat. 1478, 1505; Pub. L. 103-432, title II, §221(a), Oct. 31, 1994, 108 Stat. 4462; Pub. L. 104-121, title I, §105(b)(1), Mar. 29, 1996, 110 Stat. 853; Pub. L. 104-193, title II, §§204(c)(1), 211(a), (c), 212(a), (b)(1), (c), Aug. 22, 1996, 110 Stat. 2188, 2189, 2192, 2193; Pub. L. 105-33, title V, §5522(a), (d), Aug. 5, 1997, 111 Stat. 622, 623; Pub. L. 108-203, title IV, §434(a), Mar. 2, 2004, 118 Stat. 540.)

AMENDMENTS

2004—Subsec. (a)(1)(B)(ii). Pub. L. 108-203 inserted “and” after “citizen of the United States,” and struck

out “, and who, for the month before the parent reported for such assignment, received a benefit under this subchapter” before period at end.

1997—Subsec. (a)(3)(H)(iii). Pub. L. 105-33, §5522(a)(1), added subcls. (I) and (II) and concluding provisions and struck out former subcls. (I) and (II) and concluding provisions which read as follows:

“(I) during the 1-year period beginning on the individual's 18th birthday; and

“(II) by applying the criteria used in determining the initial eligibility for applicants who are age 18 or older.

With respect to a redetermination under this clause, paragraph (4) shall not apply and such redetermination shall be considered a substitute for a review or redetermination otherwise required under any other provision of this subparagraph during that 1-year period.”

Subsec. (a)(3)(H)(iv). Pub. L. 105-33, §5522(a)(2), substituted “Except as provided in subclause (VI), not” for “Not” in subcl. (I) and added subcl. (VI).

Subsec. (a)(4). Pub. L. 105-33, §5522(d), made technical correction to directory language of Pub. L. 104-193, §211(c). See 1996 Amendment notes below.

1996—Subsec. (a)(3)(A). Pub. L. 104-193, §211(a)(1), (2), substituted “Except as provided in subparagraph (C), an individual” for “An individual” and struck out “(or, in the case of an individual under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity)” before period at end.

Subsec. (a)(3)(C). Pub. L. 104-193, §211(a)(4), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (a)(3)(D), (E). Pub. L. 104-193, §211(a)(3), redesignated pars. (C) and (D) as (D) and (E), respectively. Former par. (E) redesignated (F).

Subsec. (a)(3)(F). Pub. L. 104-193, §211(a)(3), (5), redesignated subpar. (E) as (F) and substituted “subparagraphs (A) through (E)” for “subparagraphs (A) through (D)”. Former subpar. (F) redesignated (G).

Subsec. (a)(3)(G). Pub. L. 104-193, §211(a)(3), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Subsec. (a)(3)(H). Pub. L. 104-193, §212(a), (b)(1), (c), designated existing provisions as cl. (i) and added cls. (ii) to (iv).

Pub. L. 104-193, §211(a)(3), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Subsec. (a)(3)(I). Pub. L. 104-193, §211(a)(3), redesignated subpar. (H) as (I). Former subpar. (I) redesignated (J).

Pub. L. 104-121 added subpar. (I).

Subsec. (a)(3)(J). Pub. L. 104-193, §211(a)(3), redesignated subpar. (I) as (J).

Subsec. (a)(4). Pub. L. 104-193, §211(c)(7), as amended by Pub. L. 105-33, §5522(d), in first sentence of concluding provisions inserted “(i)” before “to restore” and “, or” before “(ii)” and added cl. (ii).

Pub. L. 104-193, §211(c)(1)-(6), as amended by Pub. L. 105-33, §5522(d), inserted “(A) in the case of an individual who is age 18 or older—” after “if such finding is supported by—”, redesignated former subpars. (A) to (C) as cls. (i) to (iii), respectively, in cl. (i) redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, in cl. (ii) redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, in subcls. (I) and (II) of cl. (ii) redesignated former subcls. (I) and (II) as items (aa) and (bb), respectively, added subpar. (B), redesignated former subpar. (D) as (C), and inserted “in the case of any individual,” before “substantial evidence” in that subpar.

Subsec. (b). Pub. L. 104-193, §204(c)(1), substituted “, on the first day of the month following the date the application is filed, or, in any case in which either spouse requests” for “or requests” and struck out “application or” before “request is filed.”

1994—Subsec. (a)(3)(A). Pub. L. 103-432, §221(a)(1), substituted “an individual” for “a child” before “under the age of 18”.

Subsec. (a)(3)(D). Pub. L. 103-296, §201(b)(4)(A), inserted at end “The Secretary shall make determina-

tions under this subchapter with respect to substantial gainful activity, without regard to the legality of the activity.”

Pub. L. 103-296, §107(a)(4), in subpar. (D) as amended by Pub. L. 103-296, §201(b)(4)(A), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(3)(F). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

Subsec. (a)(3)(H). Pub. L. 103-432, §221(a), substituted “an individual” for “a child”, “the individual” for “the child”, and “such individual” for “such child”.

Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

Subsecs. (a)(4), (c), (f)(1), (2)(A). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

1993—Subsec. (a)(1)(B)(i). Pub. L. 103-66, §13734(a), substituted “and who, for the month before the parent reported for such assignment, received a benefit under this subchapter” for “the District of Columbia, Puerto Rico, and the territories and possessions of the United States, and who, during the month before the parent reported for such assignment, was receiving benefits under this subchapter”.

Subsec. (f)(4). Pub. L. 103-66, §13733(a), added par. (4). 1990—Subsec. (a)(1)(B)(i). Pub. L. 101-649 struck out “section 1153(a)(7) or” after “the provisions of”.

Subsec. (a)(3)(H). Pub. L. 101-508 added subpar. (H).

1989—Subsec. (a)(1)(B). Pub. L. 101-239, §8009(b), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, substituted “, or” for period at end, and added cl. (ii).

Subsec. (b). Pub. L. 101-239, §8012(a), amended first sentence generally. Prior to amendment, first sentence read as follows: “For purposes of this subchapter, the term ‘eligible spouse’ means an aged, blind, or disabled individual who is the husband or wife of another aged, blind, or disabled individual and who has not been living apart from such other aged, blind, or disabled individual for more than six months.”

Subsec. (f)(2). Pub. L. 101-239, §8010(a), designated existing provisions as subpar. (A) and added subpar. (B).

1986—Subsec. (a)(3)(D). Pub. L. 99-643, §4(d)(2)(A), struck out “, except for purposes of subparagraph (F) or paragraph (4),” after “such criteria”.

Subsec. (a)(3)(F) to (H). Pub. L. 99-643, §4(d)(2)(B), redesignated subpars. (G) and (H) as (F) and (G), respectively, and struck out former subpar. (F) which read as follows: “For purposes of this subchapter, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1382(e)(4) of this title, nonetheless be considered (except for purposes of section 1383(a)(5) of this title) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.”

Subsec. (a)(4), (5). Pub. L. 99-643, §4(d)(3)(A), redesignated par. (5) as (4) and struck out former par. (4) which read as follows:

“(A) For purposes of this subchapter, any services rendered during a period of trial work (as defined in subparagraph (B)) by an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection) shall be deemed not to have been rendered by such individual in determining whether his disability has ceased in a month during such period. As used in this paragraph, the term ‘services’ means activity which is performed for remuneration or gain or is de-

termined by the Secretary to be of a type normally performed for remuneration or gain.

“(B) The term ‘period of trial work’, with respect to an individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under paragraph (3) of this subsection), means a period of months beginning and ending as provided in subparagraphs (C) and (D).

“(C) A period of trial work for any individual shall begin with the month in which he becomes eligible for benefits under this subchapter on the basis of his disability; but no such period may begin for an individual who is eligible for benefits under this subchapter on the basis of a disability if he has had a previous period of trial work while eligible for benefits on the basis of the same disability.

“(D) A period of trial work for any individual shall end with the close of whichever of the following months is the earlier:

“(i) the ninth month, beginning on or after the first day of such period, in which the individual renders services (whether or not such nine months are consecutive); or

“(ii) the month in which his disability (as determined under paragraph (3) of this subsection) ceases (as determined after the application of subparagraph (A) of this paragraph).”

1984—Subsec. (a)(3)(E). Pub. L. 98-369, §2663(g)(6), realigned margin of subpar. (E).

Subsec. (a)(3)(G). Pub. L. 98-460, §4(b), added subpar. (G).

Subsec. (a)(3)(H). Pub. L. 98-460, §8(b), added subpar. (H).

Pub. L. 98-460, §3(a)(2), inserted reference to section 423(d)(5) of this title.

Pub. L. 98-460, §10(b), inserted reference to section 421(k) of this title.

Subsec. (a)(5). Pub. L. 98-460, §2(c), added par. (5).

Subsec. (d)(1). Pub. L. 98-369, §2663(g)(7), substituted “man and woman” for “man and women”.

1980—Subsec. (a)(3)(D). Pub. L. 96-265, §302(a)(2), inserted provisions relating to extraordinary work expenses due to severe disability.

Pub. L. 96-265, §303(c)(1)(B), substituted reference to subparagraph (F) or paragraph (4) for reference to paragraph (4).

Subsec. (a)(3)(F). Pub. L. 96-265, §303(c)(1)(A), added subpar. (F).

Subsec. (f)(2). Pub. L. 96-265, §203(a), substituted “under age 18” for “under age 21”.

Subsec. (f)(3). Pub. L. 96-265, §504(a), added par. (3).

1973—Subsec. (a)(3)(A). Pub. L. 93-233, §9(1), struck out last sentence defining a disabled individual as one permanently and totally disabled as defined under a State plan approved under subchapter XIV or XVI of this chapter as in effect for 1972 and receiving aid under such plan (on the basis of disability for December 1973, so long as the individual is continuously disabled as so defined, which provisions were covered in subsec. (a)(3)(E) of this section.

Subsec. (a)(3)(E). Pub. L. 93-233, §9(2), incorporated provisions of last sentence of subpar. (A) in provisions designated as subpar. (E) and inserted introductory text “Notwithstanding the provisions of subparagraphs (A) through (D)” and parenthetical phrase “(and for at least one month prior to July 1973)” after “December 1973”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, §434(b), Mar. 2, 2004, 118 Stat. 540, provided that: “The amendments made by this section [amending this section] shall be effective with respect to benefits payable for months beginning after the date of enactment of this Act [Mar. 2, 2004], but only on the basis of an application filed after such date.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibil-

ity and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 204(c)(1) of Pub. L. 104-193 applicable to applications for benefits under this subchapter filed on or after Aug. 22, 1996, without regard to whether regulations have been issued to implement amendments by section 204 of Pub. L. 104-193, see section 204(d) of Pub. L. 104-193, set out as a note under section 1382 of this title.

Section 211(d) of Pub. L. 104-193, as amended by Pub. L. 105-33, title V, § 5101, Aug. 5, 1997, 111 Stat. 595, provided that:

“(1) EFFECTIVE DATES.—

“(A) SUBSECTIONS (a) AND (b).—

“(i) IN GENERAL.—The provisions of, and amendments made by, subsections (a) [amending this section] and (b) [110 Stat. 2189] of this section shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title XVI of the Social Security Act [this subchapter] on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such provisions and amendments.

“(ii) DETERMINATION OF FINAL ADJUDICATION.—For purposes of clause (i), no individual’s claim with respect to such benefits may be considered to be finally adjudicated before such date of enactment if, on or after such date, there is pending a request for either administrative or judicial review with respect to such claim that has been denied in whole, or there is pending, with respect to such claim, readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

“(B) SUBSECTION (c).—The amendments made by subsection (c) of this section [amending this section] shall apply with respect to benefits under title XVI of the Social Security Act for months beginning on or after the date of the enactment of this Act, without regard to whether regulations have been issued to implement such amendments.

“(2) APPLICATION TO CURRENT RECIPIENTS.—

“(A) ELIGIBILITY REDETERMINATIONS.—During the period beginning on the date of the enactment of this Act [Aug. 22, 1996] and ending on the date which is 18 months after such date of enactment, the Commissioner of Social Security shall redetermine the eligibility of any individual under age 18 who is eligible for supplemental security income benefits by reason of disability under title XVI of the Social Security Act [this subchapter] as of the date of the enactment of this Act and whose eligibility for such benefits may terminate by reason of the provisions of, or amendments made by, subsections (a) and (b) of this section. Any redetermination required by the preceding sentence that is not performed before the end of the period described in the preceding sentence shall be performed as soon as is practicable thereafter. With respect to any redetermination under this subparagraph—

“(i) section 1614(a)(4) of the Social Security Act (42 U.S.C. 1382c(a)(4)) shall not apply;

“(ii) the Commissioner of Social Security shall apply the eligibility criteria for new applicants for benefits under title XVI of such Act;

“(iii) the Commissioner shall give such redetermination priority over all continuing eligibility reviews and other reviews under such title; and

“(iv) such redetermination shall be counted as a review or redetermination otherwise required to be made under section 208 of the Social Security Independence and Program Improvements Act of 1994 [Pub. L. 103-296, set out as a note under section 1382 of this title] or any other provision of title XVI of the Social Security Act.

“(B) GRANDFATHER PROVISION.—The provisions of, and amendments made by, subsections (a) [amending this section] and (b) [110 Stat. 2189] of this section, and the redetermination under subparagraph (A), shall only apply with respect to the benefits of an individual described in subparagraph (A) for months beginning on or after the later of July 1, 1997, or the date of the redetermination with respect to such individual.

“(C) NOTICE.—Not later than January 1, 1997, the Commissioner of Social Security shall notify an individual described in subparagraph (A) of the provisions of this paragraph. Before commencing a redetermination under the 2nd sentence of subparagraph (A), in any case in which the individual involved has not already been notified of the provisions of this paragraph, the Commissioner of Social Security shall notify the individual involved of the provisions of this paragraph.

“(3) REPORT.—The Commissioner of Social Security shall report to the Congress regarding the progress made in implementing the provisions of, and amendments made by, this section [amending this section, sections 665e and 901 of Title 2, The Congress, and provisions set out as a note under section 401 of this title] on child disability evaluations not later than 180 days after the date of the enactment of this Act [Aug. 22, 1996].

“(4) REGULATIONS.—Notwithstanding any other provision of law, the Commissioner of Social Security shall submit for review to the committees of jurisdiction in the Congress any final regulation pertaining to the eligibility of individuals under age 18 for benefits under title XVI of the Social Security Act [this subchapter] at least 45 days before the effective date of such regulation. The submission under this paragraph shall include supporting documentation providing a cost analysis, workload impact, and projections as to how the regulation will effect the future number of recipients under such title.

“(5) CAP ADJUSTMENT FOR SSI ADMINISTRATIVE WORK REQUIRED BY WELFARE REFORM.—

“(A) AUTHORIZATION.—For the additional costs of continuing disability reviews and redeterminations under title XVI of the Social Security Act, there is hereby authorized to be appropriated to the Social Security Administration, in addition to amounts authorized under section 201(g)(1)(A) of the Social Security Act [section 401(g)(1)(A) of this title], \$150,000,000 in fiscal year 1997 and \$100,000,000 in fiscal year 1998.

“(B) CAP ADJUSTMENT.—[Amended section 901 of Title 2, The Congress.]

“(C) ADJUSTMENTS.—[Amended section 665e of Title 2.]

“(D) CONFORMING AMENDMENT.—[Amended section 103(d)(1) of Pub. L. 104-121, set out as a note under section 401 of this title.]

“(6) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term ‘benefits under title XVI of the Social Security Act’ includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [section 1382e(a) of this title], and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out as a note under section 1382 of this title].”

Section 212(d) of Pub. L. 104-193 provided that: “The amendments made by this section [amending this section and repealing provisions set out as a note under section 1383 of this title] shall apply to benefits for months beginning on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments.”

Amendment by Pub. L. 104-121 applicable to individual who applies for, or whose claim is finally adjudicated with respect to, supplemental security income benefits under this subchapter based on disability on or after Mar. 29, 1996, with special rule in case of individual who has applied for, and whose claim has been fi-

nally adjudicated with respect to, such benefits before Mar. 29, 1996, see section 105(b)(5) of Pub. L. 104-121, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 221(b) of Pub. L. 103-432 provided that: "The amendments made by subsection (a) [amending this section] shall apply to determinations made on or after the date of the enactment of this Act [Oct. 31, 1994]."

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 201(b)(4)(B) of Pub. L. 103-296 provided that: "The amendment made by subparagraph (A) [amending this section] shall take effect on the date of the enactment of this Act [Aug. 15, 1994]."

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by section 13733(a) of Pub. L. 103-66 effective on first day of second month that begins after Aug. 10, 1993, see section 13733(c) of Pub. L. 103-66, set out as a note under section 1382a of this title.

Section 13734(b) of Pub. L. 103-66 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the 1st day of the 3rd month that begins after the date of the enactment of this Act [Aug. 10, 1993]."

EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by Pub. L. 101-649 effective Oct. 1, 1991, and applicable beginning with fiscal year 1992, see section 161(a) of Pub. L. 101-649, set out as a note under section 1101 of Title 8, Aliens and Nationality.

Section 5036(b) of Pub. L. 101-508 provided that: "The amendment made by subsection (a) [amending this section] shall apply to determinations made 6 or more months after the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 8009(b) of Pub. L. 101-239 applicable with respect to benefits for months after March 1990, see section 8009(c) of Pub. L. 101-239, set out as a note under section 1382 of this title.

Amendment by section 8010(a) of Pub. L. 101-239 effective on 1st day of 6th calendar month beginning after Dec. 19, 1989, see section 8010(c) of Pub. L. 101-239, set out as a note under section 1382 of this title.

Section 8012(b) of Pub. L. 101-239 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1990."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 2(c) of Pub. L. 98-460 applicable to determinations made by the Secretary on or after Oct. 9, 1984, with certain enumerated exceptions and qualifications, see section 2(d) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 3(a)(2) of Pub. L. 98-460 applicable to determinations made prior to Jan. 1, 1987, see section 3(a)(3) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 4(b) of Pub. L. 98-460 applicable with respect to determinations made on or after the first day of the first month beginning after 30 days after Oct. 9, 1984, see section 4(c) of Pub. L. 98-460, set out as a note under section 423 of this title.

Amendment by section 8(b) of Pub. L. 98-460 applicable to determinations made after 60 days after Oct. 9, 1984, see section 8(c) of Pub. L. 98-460, set out as a note under section 421 of this title.

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any

right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 203(b) of Pub. L. 96-265 provided that: "The amendment made by subsection (a) [amending this section] shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment."

Amendment by section 302(a)(2) of Pub. L. 96-265 applicable with respect to expenses incurred on or after the first day of the sixth month which begins after June 9, 1980, see section 302(c) of Pub. L. 96-265, set out as a note under section 423 of this title.

Amendment by section 303(c)(1) of Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, and applicable with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

Amendment by section 504(a) of Pub. L. 96-265 effective with respect to individuals applying for supplemental security income benefits under this subchapter for the first time after Sept. 30, 1980, see section 504(c) of Pub. L. 96-265, set out as an Effective Date note under section 1382j of this title.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

REGULATIONS

For provisions requiring Secretary of Health and Human Services to prescribe regulations necessary to implement amendment to this section [adding subsec. (a)(5)] by section 2(c) of Pub. L. 98-460 not later than 180 days after Oct. 9, 1984, see section 2(g) of Pub. L. 98-460, set out as a note under section 423 of this title.

RETROACTIVE BENEFITS

For provisions relating to entitlement to retroactive benefits under section 2 of Pub. L. 98-460, which added subsec. (a)(5) of this section, see section 2(f) of Pub. L. 98-460, set out as a note under section 423 of this title.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382d. Rehabilitation services for blind and disabled individuals

(a) Referral by Commissioner of eligible individuals to appropriate State agency

In the case of any blind or disabled individual who—

- (1) has not attained age 16; and
- (2) with respect to whom benefits are paid under this subchapter,

the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State program under subchapter V of this chapter.

(b) Repealed. Pub. L. 97-35, title XXI, § 2193(c)(8)(B), Aug. 13, 1981, 95 Stat. 828

(c) Repealed. Pub. L. 106-170, title I, § 101(b)(2)(B), Dec. 17, 1999, 113 Stat. 1874

(d) Reimbursement by Commissioner to State agency of costs of providing services to referred individuals

The Commissioner of Social Security is authorized to reimburse the State agency administering or supervising the administration of a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 [29 U.S.C. 720 et seq.] for the costs incurred under such plan in the provision of rehabilitation services to individuals who are referred for such services pursuant to subsection (a) of this section, (1) in cases where the furnishing of such services results in the performance by such individuals of substantial gainful activity for a continuous period of nine months, (2) in cases where such individuals receive benefits as a result of section 1383(a)(6) of this title (except that no reimbursement under this subsection shall be made for services furnished to any individual receiving such benefits for any period after the close of such individual's ninth consecutive month of substantial gainful activity or the close of the month with which his or her entitlement to such benefits ceases, whichever first occurs), and (3) in cases where such individuals, without good cause, refuse to continue to accept vocational rehabilitation services or fail to cooperate in such a manner as to preclude their successful rehabilitation. The determination that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity, the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation, and the determination of the amount of costs to be reimbursed under this subsection shall be made by the Commissioner of Social Security in accordance with criteria determined by the Commissioner in the same manner as under section 422(d)(1) of this title.

(e) Reimbursement for vocational rehabilitation services furnished during certain months of nonpayment of insurance benefits

The Commissioner of Social Security may reimburse the State agency described in subsection (d) of this section for the costs described therein incurred in the provision of rehabilitation services—

(1) for any month for which an individual received—

(A) benefits under section 1382 or 1382h(a) of this title;

(B) assistance under section 1382h(b) of this title; or

(C) a federally administered State supplementary payment under section 1382e of this

title or section 212(b) of Public Law 93-66; and

(2) for any month before the 13th consecutive month for which an individual, for a reason other than cessation of disability or blindness, was ineligible for—

(A) benefits under section 1382 or 1382h(a) of this title;

(B) assistance under section 1382h(b) of this title; or

(C) a federally administered State supplementary payment under section 1382e of this title or section 212(b) of Public Law 93-66.

(Aug. 14, 1935, ch. 531, title XVI, § 1615, as added Pub. L. 92-603, title III, § 301, Oct. 30, 1972, 86 Stat. 1474; amended Pub. L. 94-566, title V, § 501(a), Oct. 20, 1976, 90 Stat. 2683; Pub. L. 96-272, title III, § 304, June 17, 1980, 94 Stat. 529; Pub. L. 97-35, title XXI, § 2193(a)(4), (c)(8), title XXIII, § 2344, Aug. 13, 1981, 95 Stat. 827, 828, 867; Pub. L. 98-369, div. B, title VI, § 2663(g)(8), July 18, 1984, 98 Stat. 1169; Pub. L. 98-460, § 11(b), Oct. 9, 1984, 98 Stat. 1806; Pub. L. 101-508, title V, § 5037(a), Nov. 5, 1990, 104 Stat. 1388-226; Pub. L. 103-296, title I, § 107(a)(4), Aug. 15, 1994, 108 Stat. 1478; Pub. L. 105-33, title V, § 5523, Aug. 5, 1997, 111 Stat. 623; Pub. L. 106-170, title I, § 101(b)(2)(A), (B), Dec. 17, 1999, 113 Stat. 1874.)

REFERENCES IN TEXT

The Rehabilitation Act of 1973, referred to in subsec. (d), is Pub. L. 93-112, Sept. 26, 1973, 87 Stat. 355, as amended. Title I of the Rehabilitation Act of 1973 is classified generally to subchapter I (§ 720 et seq.) of chapter 16 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 701 of Title 29 and Tables.

Section 212(b) of Public Law 93-66, referred to in subsec. (e)(1)(C), (2)(C), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-170, § 101(b)(2)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “In the case of any blind or disabled individual who—

“(1) has not attained age 65, and

“(2) is receiving benefits (or with respect to whom benefits are paid) under this subchapter, the Commissioner of Social Security shall make provision for referral of such individual to the appropriate State agency administering the State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973, or, in the case of any such individual who has not attained age 16, to the State agency administering the State program under subchapter V of this chapter, and (except for individuals who have not attained age 16 and except in such other cases as the Commissioner may determine) for a review not less often than quarterly of such individual's blindness or disability and his need for and utilization of the services made available to him under such plan.”

Subsec. (c). Pub. L. 106-170, § 101(b)(2)(B), struck out subsec. (c) which read as follows: “Every individual age 16 or over with respect to whom the Commissioner of Social Security is required to make provision for referral under subsection (a) of this section shall accept such services as are made available to him under the State plan for vocational and rehabilitation services approved under title I of the Rehabilitation Act of 1973; and no such individual shall be an eligible individual or eligible spouse for purposes of this subchapter if he refuses without good cause to accept services for which he is referred under subsection (a) of this section.”

1997—Subsec. (d). Pub. L. 105-33, §5523(2), substituted “the Commissioner” for “him” after “determined by” in last sentence.

Pub. L. 105-33, §5523(1), which directed insertion of comma after “subsection (a)(1)” in first sentence, was executed by making the insertion after “subsection (a) of this section” to reflect the probable intent of Congress.

1994—Subsec. (a). Pub. L. 103-296 in closing provisions substituted “Commissioner of Social Security” for “Secretary” and “the Commissioner may” for “he may”.

Subsec. (c). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (d). Pub. L. 103-296 substituted “The Commissioner of Social Security is” for “The Secretary is”.

Subsec. (e). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary” in introductory provisions.

1990—Subsec. (e). Pub. L. 101-508 added subsec. (e).

1984—Subsecs. (a), (c). Pub. L. 98-369, §2663(g)(8), substituted “title I of the Rehabilitation Act of 1973” for “the Vocational Rehabilitation Act”.

Subsec. (d). Pub. L. 98-460, §11(b), designated existing provisions of first sentence as cl. (1), added cls. (2) and (3), and inserted requirement that the determination that the vocational rehabilitation services contributed to the successful return of an individual to substantial gainful activity and the determination that an individual, without good cause, refused to continue to accept vocational rehabilitation services or failed to cooperate in such a manner as to preclude successful rehabilitation be made by the Commissioner of Social Security in accordance with criteria determined by him in the same manner as under section 422(d)(1) of this title.

Pub. L. 98-369, §2663(g)(8), substituted “title I of the Rehabilitation Act of 1973” for “the Vocational Rehabilitation Act”.

1981—Subsec. (a). Pub. L. 97-35, §2193(c)(8)(A), substituted “State agency administering the State program under subchapter V of this chapter (except for individuals who have not attained age 16 and except in such other cases” for “appropriate State agency administering the State plan under subsection (b) of this section, and (except in such cases”.

Subsec. (b). Pub. L. 97-35, §2193(c)(8)(B), struck out subsec. (b) which provided criteria for approval of State plans.

Subsec. (d). Pub. L. 97-35, §2344, substituted “is authorized to reimburse” for “is authorized to pay to”, “for the costs incurred” for “the costs incurred”, and “individuals who are referred for such services pursuant to subsection (a) of this section if such services result in their performance of substantial gainful activity which lasts for a continuous period of nine months” for “individuals referred for such services pursuant to subsection (a) of this section” and inserted provision that determination of the amount to be reimbursed be made by the Commissioner of Social Security in accordance with criteria determined by him in the same manner as under section 422(d)(1) of this title.

Subsec. (e). Pub. L. 97-35, §2193(c)(8)(B), struck out subsec. (e) which provided for payment by the Secretary to a State agency charged with administering a State plan under subsec. (b), of the costs incurred each fiscal year from Sept. 30, 1976, to Oct. 1, 1982, in carrying out such State plan.

Subsec. (e)(1). Pub. L. 97-35, §2193(a)(4)(A), inserted “and subject to section 2194(b)(3) of the Maternal and Child Health Services Block Grant Act”.

Subsec. (e)(3). Pub. L. 97-35, §2193(a)(4)(B), substituted “\$24,070,000” for “\$30,000,000”.

1980—Subsec. (e). Pub. L. 96-272 corrected the error under which subsec. (e) had been added as (c) by Pub. L. 94-566 and, in subsec. (e)(1) as so designated, substituted “October 1, 1982” for “October 1, 1979”.

1976—Subsec. (a). Pub. L. 94-566 inserted “or, in the case of any such individual who has not attained age 16, to the appropriate State agency administering the State plan under subsection (b) of this section,” after

“Vocational Rehabilitation Act,” and substituted “need for and utilization of the services” for “need for and utilization of the rehabilitation services”.

Subsec. (b). Pub. L. 94-566 added subsec. (b). Former subsec. (b) was split up and its parts were redistributed into subsecs. (c) and (d), respectively, and amended.

Subsec. (c). Pub. L. 94-566 combined into subsec. (c) the existing provisions of subsec. (c) covering the refusal by referred individuals to accept services and added thereto a part of former subsec. (b) covering the required acceptance of vocational and rehabilitation services by the referred individual, and in that provision substituted “Every individual age 16 or over” for “Every individual”.

Subsec. (d). Pub. L. 94-566 redesignated as subsec. (d) the part of former subsec. (b) covering the payment by the Secretary to the State agency administering a State plan and in the provisions so redesignated substituted “administration of a State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act” for “administration of such State plan”.

Subsec. (e). Pub. L. 94-566 added subsec. (e). See 1980 Amendment note above.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 effective with the first month following one year after Dec. 17, 1999, subject to section 101(d) of Pub. L. 106-170, see section 101(c) of Pub. L. 106-170, set out as an Effective Date note under section 1320b-19 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5037(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990] and shall apply to claims for reimbursement pending on or after such date.”

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98-460 applicable with respect to individuals who receive benefits as a result of section 425(b) or section 1383(a)(6) of this title, or who refuse to continue to accept rehabilitation services or fail to cooperate in an approved vocational rehabilitation program, in or after November 1984, see section 11(c) of Pub. L. 98-460, set out as a note under section 422 of this title.

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE AND TERMINATION DATES OF 1981 AMENDMENT

Section 2193(a)(4)(B) of Pub. L. 97-35 provided that the amendment made by that section is effective for fiscal year 1982.

For effective date, savings, and transitional provisions relating to amendments by section 2193(a)(4)(A) and (c)(8) of Pub. L. 97-35, see section 2194 of Pub. L. 97-35, set out as a note under section 701 of this title.

Section 2344 of Pub. L. 97-35 provided that the amendment made by that section is effective Oct. 1, 1981.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

PUBLICATION OF CRITERIA

Section 501(b) of Pub. L. 94-566 directed Secretary, within 120 days after Oct. 20, 1976, to publish criteria to be employed to determine disability (as defined in subsec. (a)(3) of this section) in the case of persons who have not attained the age of 18.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1382e. Supplementary assistance by State or subdivision to needy individuals

(a) Exclusion of cash payments in determination of income of individuals for purposes of eligibility for benefits; agreement by Commissioner and State for Commissioner to make supplementary payments on behalf of State or subdivision

Any cash payments which are made by a State (or political subdivision thereof) on a regular basis to individuals who are receiving benefits under this subchapter or who would but for their income be eligible to receive benefits under this subchapter, as assistance based on need in supplementation of such benefits (as determined by the Commissioner of Social Security), shall be excluded under section 1382a(b)(6) of this title in determining the income of such individuals for purposes of this subchapter and the Commissioner of Social Security and such State may enter into an agreement which satisfies subsection (b) of this section under which the Commissioner of Social Security will, on behalf of such State (or subdivision) make such supplementary payments to all such individuals.

(b) Agreement between Commissioner and State; contents

Any agreement between the Commissioner of Social Security and a State entered into under subsection (a) of this section shall provide—

(1) that such payments will be made (subject to subsection (c) of this section) to all individuals residing in such State (or subdivision) who are receiving benefits under this subchapter, and

(2) such other rules with respect to eligibility for or amount of the supplementary payments, and such procedural or other general administrative provisions, as the Commissioner of Social Security finds necessary (subject to subsection (c) of this section) to achieve efficient and effective administration of both the program which the Commissioner conducts under this subchapter and the optional State supplementation.

At the option of the State (but subject to paragraph (2) of this subsection), the agreement between the Commissioner of Social Security and such State entered into under subsection (a) of this section shall be modified to provide that the Commissioner of Social Security will make supplementary payments, on and after an effective date to be specified in the agreement as so modified, to individuals receiving benefits determined under section 1382(e)(1)(B) of this title.

(c) Residence requirement by State or subdivision for supplementary payments; disregard of amounts of certain income by State or subdivision in determining eligibility for supplementary payments

(1) Any State (or political subdivision) making supplementary payments described in subsection (a) of this section may at its option impose as a condition of eligibility for such payments, and include in the State's agreement with the Commissioner of Social Security under such subsection, a residence requirement which excludes individuals who have resided in the State (or political subdivision) for less than a minimum period prior to application for such payments.

(2) Any State (or political subdivision), in determining the eligibility of any individual for supplementary payments described in subsection (a) of this section, may disregard amounts of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded, if any.

(3) Any State (or political subdivision) making supplementary payments described in subsection (a) of this section shall have the option of making such payments to individuals who receive benefits under this subchapter under the provisions of section 1382h of this title, or who would be eligible to receive such benefits but for their income.

(d) Payment to Commissioner by State of amount equal to expenditures by Commissioner as supplementary payments; time and manner of payment by State; fees for Federal administration of State supplementary payments

(1) Any State which has entered into an agreement with the Commissioner of Social Security under this section which provides that the Commissioner of Social Security will, on behalf of the State (or political subdivision), make the supplementary payments to individuals who are receiving benefits under this subchapter (or who would but for their income be eligible to receive such benefits), shall, in accordance with paragraph (5), pay to the Commissioner of Social Security an amount equal to the expenditures made by the Commissioner of Social Security as such supplementary payments, plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3).

(2)(A) The Commissioner of Social Security shall assess each State an administration fee in an amount equal to—

(i) the number of supplementary payments made by the Commissioner of Social Security

on behalf of the State under this section for any month in a fiscal year; multiplied by

(i) the applicable rate for the fiscal year.

(B) As used in subparagraph (A), the term “applicable rate” means—

- (i) for fiscal year 1994, \$1.67;
- (ii) for fiscal year 1995, \$3.33;
- (iii) for fiscal year 1996, \$5.00;
- (iv) for fiscal year 1997, \$5.00;
- (v) for fiscal year 1998, \$6.20;
- (vi) for fiscal year 1999, \$7.60;
- (vii) for fiscal year 2000, \$7.80;
- (viii) for fiscal year 2001, \$8.10;
- (ix) for fiscal year 2002, \$8.50; and
- (x) for fiscal year 2003 and each succeeding fiscal year—

(I) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

(II) such different rate as the Commissioner determines is appropriate for the State.

(C) Upon making a determination under subparagraph (B)(x)(II), the Commissioner of Social Security shall promulgate the determination in regulations, which may take into account the complexity of administering the State’s supplementary payment program.

(D) All fees assessed pursuant to this paragraph shall be transferred to the Commissioner of Social Security at the same time that amounts for such supplementary payments are required to be so transferred.

(3)(A) The Commissioner of Social Security may charge a State an additional services fee if, at the request of the State, the Commissioner of Social Security provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this section.

(B) The additional services fee shall be in an amount that the Commissioner of Social Security determines is necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in subparagraph (A).

(4)(A) The first \$5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

(B) That portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this subchapter and related laws.

(5)(A)(i) Any State which has entered into an agreement with the Commissioner of Social Se-

curity under this section shall remit the payments and fees required under this subsection with respect to monthly benefits paid to individuals under this subchapter no later than—

(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

(ii) The Commissioner may charge States a penalty in an amount equal to 5 percent of the payment and the fees due if the remittance is received after the date required by clause (i).

(B) The Cash Management Improvement Act of 1990 shall not apply to any payments or fees required under this subsection that are paid by a State before the date required by subparagraph (A)(i).

(C) Notwithstanding subparagraph (A)(i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of benefits under this subchapter, and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State’s ability to make payment when required by subparagraph (A)(i) are determined by the Commissioner to exist.

(e) State standards; establishment; annual public review; annual certification; payments to individuals

(1) Each State shall establish or designate one or more State or local authorities which shall establish, maintain, and insure the enforcement of standards for any category of institutions, foster homes, or group living arrangements in which (as determined by the State) a significant number of recipients of supplemental security income benefits is residing or is likely to reside. Such standards shall be appropriate to the needs of such recipients and the character of the facilities involved, and shall govern such matters as admission policies, safety, sanitation, and protection of civil rights.

(2) Each State shall annually make available for public review a summary of the standards established pursuant to paragraph (1), and shall make available to any interested individual a copy of such standards, along with the procedures available in the State to insure the enforcement of such standards and a list of any waivers of such standards and any violations of such standards which have come to the attention of the authority responsible for their enforcement.

(3) Each State shall certify annually to the Commissioner of Social Security that it is in compliance with the requirements of this subsection.

(4) Payments made under this subchapter with respect to an individual shall be reduced by an amount equal to the amount of any supplementary payment (as described in subsection (a) of this section) or other payment made by a State (or political subdivision thereof) which is made for or on account of any medical or any

other type of remedial care provided by an institution of the type described in paragraph (1) to such individual as a resident or an inpatient of such institution if such institution is not approved as meeting the standards described in such paragraph by the appropriate State or local authorities.

(Aug. 14, 1935, ch. 531, title XVI, §1616, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1474; amended Pub. L. 93-233, §14, Dec. 31, 1973, 87 Stat. 965; Pub. L. 94-566, title V, §505(c), (d), Oct. 20, 1976, 90 Stat. 2687; Pub. L. 96-265, title II, §201(b)(1), June 9, 1980, 94 Stat. 446; Pub. L. 97-35, title XXIII, §2353(n), Aug. 13, 1981, 95 Stat. 873; Pub. L. 99-272, title XII, §12201(b), Apr. 7, 1986, 100 Stat. 290; Pub. L. 103-66, title XIII, §13731(a)(1), Aug. 10, 1993, 107 Stat. 660; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478; Pub. L. 105-33, title V, §5102(a)(1), (b)(1)(A), Aug. 5, 1997, 111 Stat. 595, 596; Pub. L. 105-78, title V, §516(a)(1), (b)(1)(A), Nov. 13, 1997, 111 Stat. 1517, 1518; Pub. L. 106-170, title IV, §410(a)(1), Dec. 17, 1999, 113 Stat. 1916.)

REFERENCES IN TEXT

The Cash Management Improvement Act of 1990, referred to in subsec. (d)(5)(B), is Pub. L. 101-453, Oct. 24, 1990, 104 Stat. 1058. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 6501 of Title 31, Money and Finance, and Tables.

AMENDMENTS

1999—Subsec. (d)(1). Pub. L. 106-170, §410(a)(1)(A), substituted “in accordance with paragraph (5)” for “at such times and in such installments as may be agreed upon between the Commissioner of Social Security and such State”.

Subsec. (d)(5). Pub. L. 106-170, §410(a)(1)(B), added par. (5).

1997—Subsec. (d)(2)(B)(iii) to (x). Pub. L. 105-33, §5102(a)(1)(A), and Pub. L. 105-78, §516(a)(1)(A), amended subpar. (B) identically, striking out “and” at end of cl. (iii), adding cls. (iv) to (x) and striking out former cl. (iv) which read as follows: “for fiscal year 1997 and each succeeding fiscal year, \$5.00, or such different rate as the Commissioner of Social Security determines is appropriate for the State.”

Subsec. (d)(2)(C). Pub. L. 105-33, §5102(a)(1)(B), and Pub. L. 105-78, §516(a)(1)(B), amended subpar. (C) identically, substituting “subparagraph (B)(x)(II)” for “subparagraph (B)(iv)”.

Subsec. (d)(4). Pub. L. 105-78, §516(b)(1)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows:

“(4)(A) The first \$5 of each administration fee assessed pursuant to paragraph (2), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

“(B) That portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to paragraph (3), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this subchapter and related laws. The amounts so credited shall not be scored as receipts under section 902 of title 2, and the amounts so credited shall be credited as a discretionary offset to discretionary spending to the extent that the amounts so credited are made available for expenditure in appropriations Acts.”

Pub. L. 105-33, §5102(b)(1)(A), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “All

administration fees and additional services fees collected pursuant to this subsection shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.”

1994—Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner conducts” for “he conducts” in subsec. (b)(2).

1993—Subsec. (d). Pub. L. 103-66 designated existing provisions as par. (1), inserted before period at end “, plus an administration fee assessed in accordance with paragraph (2) and any additional services fee charged in accordance with paragraph (3)”, and added pars. (2) to (4).

1986—Subsec. (b). Pub. L. 99-272 inserted provision at end relating to modification of the agreement at the option of the State to provide for supplementary payments on and after an effective date specified in the agreement.

1981—Subsec. (e)(2). Pub. L. 97-35 struck out “, as a part of the services program planning procedures established pursuant to section 1397c of this title” after “available for public review”.

1980—Subsec. (c)(3). Pub. L. 96-265 added par. (3).

1976—Subsec. (e). Pub. L. 94-566, §505(d), added subsec. (e), effective Oct. 1, 1977. Pub. L. 94-566, §505(c), repealed former subsec. (e) which provided for reduction of supplemental security income payments to individuals provided institutional medical or other remedial care, State financed under Federal grants for medical assistance, effective Oct. 1, 1976. See Effective Date of 1976 Amendment note below.

1973—Subsec. (e). Pub. L. 93-233 added subsec. (e).

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title IV, §410(b), Dec. 17, 1999, 113 Stat. 1917, as amended by Pub. L. 106-554, §1(a)(1) [title V, §515], Dec. 21, 2000, 114 Stat. 2763, 2763A-72, provided that: “The amendments made by subsection (a) [amending this section and provisions set out as a note under section 1382 of this title] shall apply to payments and fees arising under an agreement between a State and the Commissioner of Social Security under section 1616 of the Social Security Act (42 U.S.C. 1382e) or under section 212 of Public Law 93-66 (42 U.S.C. 1382 note) with respect to monthly benefits paid to individuals under title XVI of the Social Security Act [this subchapter] for months after September 2001 (October 2001 in the case of a State with a fiscal year that coincides with the Federal fiscal year), without regard to whether the agreement has been modified to reflect such amendments or the Commissioner has promulgated regulations implementing such amendments.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 13731(b) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and provisions set out as a note under section 1382 of this title] shall apply to supplementary payments made pursuant to section 1616(a) of the Social Security Act [subsec. (a) of this section] or section 212(a) of Public Law 93-66 [set out as a note under section 1382 of this title] for any calendar month beginning after September 30, 1993, and to services furnished after such date, regardless of whether regulations to implement such amendments have been promulgated by such date, or whether any agreement entered into under such section 1616(a) or such section 212(a) has been modified.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-265 effective Jan. 1, 1981, see section 201(d) of Pub. L. 96-265, as amended, set out as an Effective Date note under section 1382h of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 505(c) of Pub. L. 94-566 effective Oct. 1, 1976, see section 505(e) of Pub. L. 94-566, set out as a note under section 1382 of this title.

Section 505(d) of Pub. L. 94-566 provided that the amendment made by that section is effective Oct. 1, 1977.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

LIMITATIONS ON AUTHORIZATION OF APPROPRIATIONS

Section 516(b)(2) of Pub. L. 105-78 provided that: "From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act [subsec. (d)(4)(B) of this section] and section 212(b)(3)(D)(ii) of Public Law 93-66 [set out as a note under section 1382 of this title] to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed \$35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter, for administrative expenses in carrying out the supplemental security income program under title XVI of the Social Security Act [this subchapter] and related laws."

Section 5102(b)(2) of Pub. L. 105-33 provided that: "From amounts credited pursuant to section 1616(d)(4)(B) of the Social Security Act [subsec. (d)(4)(B) of this section] and section 212(b)(3)(D)(ii) of Public Law 93-66 [set out as a note under section 1382 of this title] to the special fund established in the Treasury of the United States for State supplementary payment fees, there is authorized to be appropriated an amount not to exceed \$35,000,000 for fiscal year 1998, and such sums as may be necessary for each fiscal year thereafter."

PERIOD WITHIN WHICH CALIFORNIA MAY MAKE CASH PAYMENTS IN LIEU OF FOOD STAMPS TO RECIPIENTS OF SUPPLEMENTAL SECURITY INCOME BENEFITS

Pub. L. 95-458, §5(b), Oct. 14, 1978, 92 Stat. 1261, provided that: "No additional cash payment under title XVI of the Social Security Act [this subchapter] may be made pursuant to the third sentence of section 8(d) of Public Law 93-233 (as added by subsection (a) of this section) [amending a note under this section] for any month beginning before October 1, 1978, or ending after September 30, 1979."

ELIGIBILITY OF SUPPLEMENTAL SECURITY INCOME RECIPIENTS FOR FOOD STAMPS

Section 8(c) of Pub. L. 93-233, as amended by Pub. L. 95-113, title XIII, §1302(a)(3), Sept. 29, 1977, 91 Stat. 979, provided that: "For purposes of section 6(g) of the Food Stamp Act of 1977 [now the Food and Nutrition Act of 2008] [section 2015(g) of Title 7, Agriculture] and subsections (b)(3) [set out as a note under section 612c of Title 7] and (f) [set out below] of this section, the level of State supplementary payment under section 1616(a) [subsec. (a) of this section] shall be found by the Secretary to have been specifically increased so as to include the bonus value of food stamps (1) only if, prior to October 1, 1973, the State has entered into an agreement with the Secretary or taken other positive steps which demonstrate its intention to provide supplementary payments under section 1616(a) [subsec. (a) of this section] at a level which is at least equal to the maximum level which can be determined under section 401(b)(1) of the Social Security Amendments of 1972 [set out as a note under this section] and which is such that

the limitation on State fiscal liability under section 401 [set out as a note under this section] does result in a reduction in the amount which would otherwise be payable to the Secretary by the State, and (2) only with respect to such months as the State may, at its option, elect."

[Section 1302(b) of Pub. L. 95-113 provided that the amendment of section 8(c) of Pub. L. 93-233 by section 1302(a)(3) of Pub. L. 95-113 is effective Oct. 1, 1977.]

Section 8(d) of Pub. L. 93-233, as added by Pub. L. 94-379, §1(a), Aug. 10, 1976, 90 Stat. 1111, and amended by Pub. L. 95-458, §5(a), Oct. 14, 1978, 92 Stat. 1260; Pub. L. 97-18, §2, June 30, 1981, 95 Stat. 102; Pub. L. 97-35, title XXIII, §2342(a), Aug. 13, 1981, 95 Stat. 866, provided that: "Upon the request of a State, the Secretary shall find, for purposes of the provisions specified in subsection (c) [set out above], that the level of such State's supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] has been specifically increased for any month so as to include the bonus value of food stamps (and that such State meets the applicable requirements of subsection (c)(1) if—

"(1) the Secretary has found (under this subsection or subsection (c), as in effect in December 1980) that such State's supplementary payments in December 1980 were increased to include the bonus value of food stamps; and

"(2) such State continues without interruption to meet the requirements of section 1618 of such Act [section 1382g of this title] for each month after the month referred to in paragraph (1) and up to and including the month for which the Secretary is making the determination."

[Section 2 of Pub. L. 97-18 provided that the amendment of section 8(d) of Pub. L. 93-233, set out above, by Pub. L. 97-18 is effective for the period July 1, 1981, to Aug. 31, 1981.]

[Section 2342(b) of Pub. L. 97-35 provided that the amendment of section 8(d) of Pub. L. 93-233, set out above, by section 2342(a) of Pub. L. 97-35 is effective July 1, 1981.]

ADJUSTED PAYMENT LEVEL; PAYMENT LEVEL MODIFICATION

Section 8(e), formerly §8(d) of Pub. L. 93-233, as renumbered §8(e) by Pub. L. 94-379, §1(a), Aug. 10, 1976, 90 Stat. 1111, provided that: "Section 401(b)(1) of the Social Security Amendments of 1972 [set out below] is amended by striking out everything after the word 'exceed' and inserting in lieu thereof: 'a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plans'."

Section 8(f), formerly §8(e), of Pub. L. 93-233, as amended by Pub. L. 93-335, §1(b), July 8, 1974, 88 Stat. 291; Pub. L. 94-44, §3(b), June 28, 1975, 89 Stat. 235; Pub. L. 94-365, §2(2), July 14, 1976, 90 Stat. 990, and renumbered §8(f) and amended by Pub. L. 94-379, §1(a), (b), Aug. 10, 1976, 90 Stat. 1111; Pub. L. 95-59, §3(2), June 30, 1977, 91 Stat. 255; Pub. L. 95-113, title XIII, §1302(a)(4), Sept. 29, 1977, 91 Stat. 979, provided that: "The amendment made by subsection (e) [set out above] shall not be effective in any State which provides supplementary payments of the type described in section 1616(a) of the Social Security Act [subsec. (a) of this section] the level of which has been found by the Secretary to have been specifically increased so as to include the bonus value of food stamps."

[Amendment of section 8(e) [now §8(f)] of Pub. L. 93-233 by section 1(b) of Pub. L. 93-335, effective July 1, 1974, see section 1(c) of Pub. L. 93-335, set out as a note below.]

[Section 1(c) of Pub. L. 93-335, July 8, 1974, 88 Stat. 291, provided that amendments by section 1(a), (b) of Pub. L. 93-335 to section 8(a)(1), (2), (b)(1)-(3), and (e) of Pub. L. 93-233, Dec. 31, 1973, 87 Stat. 956, set out as notes under this section and sections 612c, 1431 and 2012 of Title 7, Agriculture, is effective as of July 1, 1974.]

[Section 3 of Pub. L. 95-59 provided that the amendment of section 8(f) of Pub. L. 93-233, set out above, by section 3(2) of Pub. L. 95-59 is effective July 1, 1977.]

[Section 1302(b) of Pub. L. 95-113 provided that the amendment of section 8(f) of Pub. L. 93-233, set out above, by section 1302(a)(4) of Pub. L. 95-113 is effective Oct. 1, 1977.]

COMMODITY DISTRIBUTION PROGRAM: INDIVIDUAL RECEIVING SUPPLEMENTAL SECURITY INCOME BENEFITS AS MEMBER OF HOUSEHOLD FOR ANY PURPOSE OF PROGRAM

Individual receiving supplemental security income benefits or payments as part of benefits or payments described in subsec. (a) of this section as member of a household for any purpose of the food distribution program, see section 4(c) of Pub. L. 93-86, set out as a note under section 612c of Title 7, Agriculture.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

LIMITATION ON FISCAL LIABILITY OF STATES FOR PAYMENT TO SECRETARY OF SUPPLEMENTARY PAYMENTS MADE BY SECRETARY PURSUANT TO AGREEMENT

Pub. L. 92-603, title IV, §401, Oct. 30, 1972, 86 Stat. 1485, as amended by Pub. L. 93-233, §18(h), Dec. 31, 1973, 87 Stat. 969; Pub. L. 94-566, title V, §504(a), Oct. 20, 1976, 90 Stat. 2686; Pub. L. 94-585 §2(b), Oct. 21, 1976, 90 Stat. 2902; Pub. L. 97-248, title I, §184(a), Sept. 3, 1982, 96 Stat. 406; Pub. L. 110-234, title IV, §4115(c)(1)(A)(ii), (vi), (B)(iv), May 22, 2008, 122 Stat. 1109; Pub. L. 110-246, §4(a), title IV, §4115(c)(1)(A)(ii), (vi), (B)(iv), June 18, 2008, 122 Stat. 1664, 1870, 1871, provided that:

“(a)(1) The amount payable to the Secretary by a State for any fiscal year, other than fiscal year 1974, pursuant to its agreement or agreements under section 1616 of the Social Security Act [this section] shall not exceed the non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of the State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] (as defined in subsection (c) of this section), and the amount payable for fiscal year 1974 pursuant to such agreement or agreements shall not exceed one-half of the non-Federal share of such expenditures.

“(2) Paragraph (1) of this subsection shall only apply with respect to that portion of the supplementary payments made by the Secretary on behalf of the State under such agreements in any fiscal year which does not exceed in the case of any individual the difference between—

“(A) the adjusted payment level under the appropriate approved plan of such State as in effect for January 1972 (as defined in subsection (b) of this section), and

“(B) the benefits under title XVI of the Social Security Act [this subchapter] (subject to the second sentence of this paragraph), plus income not excluded under section 1612(b) of such Act [section 1382a(b) of this title] in determining such benefits, paid to such individual in such fiscal year,

and shall not apply with respect to supplementary payments to any individual who (i) is not required by section 1616 of such Act [this section] to be included in any such agreement administered by the Secretary and (ii) would have been ineligible (for reasons other than income) for payments under the appropriate approved State plan as in effect for January 1972. In determining

the difference between the level specified in subparagraph (A) and the benefits and income described in subparagraph (B) there shall be excluded any part of any such benefit which results from (and would not be payable but for) any cost-of-living increase in such benefits under section 1617 of such Act [section 1382f of this title] (or any general increase enacted by law in the dollar amounts referred to in such section) becoming effective after June 30, 1977.

“(b)(1) For purposes of subsection (a), the term ‘adjusted payment level under the appropriate approved plan of a State as in effect for January 1972’ means the amount of the money payment which an individual with no other income would have received under the plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [subchapters I, X, XIV, or XVI of this chapter], as may be appropriate, and in effect for January 1972; except that the State may, at its option, increase such payment level with respect to any such plan by an amount which does not exceed the sum of—

“(A) a payment level modification (as defined in paragraph (2) of this subsection) with respect to such plan, and

“(B) the bonus value of food stamps [probably should be ‘benefits’] in such State for January 1972 (as defined in paragraph (3) of this subsection).

“(2) For purposes of paragraph (1), the term ‘payment level modification’ with respect to any State plan means that amount by which a State which for January 1972 made money payments under such plan to individuals with no other income which were less than 100 per centum of its standard of need could have increased such money payments without increasing (if it reduced its standard of need under such plan so that such increased money payments equaled 100 per centum of such standard of need) the non-Federal share of expenditures as aid or assistance for quarters in calendar year 1972 under the plans of such State approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter].

“(3) For purposes of paragraph (1), the term ‘bonus value of benefits in a State for January 1972’ (with respect to an individual) means—

“(A) the face value of the benefit allotment which would have been provided to such an individual under the Food Stamp Act of 1964 [now the Food and Nutrition Act of 2008, 7 U.S.C. 2011 et seq.] for January 1972, reduced by

“(B) the charge which such an individual would have paid for such benefit allotment, if the income of such individual, for purposes of determining the charge it would have paid for its benefit allotment, had been equal to the adjusted payment level under the State plan (including any payment level modification with respect to the plan adopted pursuant to paragraph (2) (but not including any amount under this paragraph)). The total face value of benefits and the cost thereof in January 1972 shall be determined in accordance with rules prescribed by the Secretary of Agriculture in effect in such month.

“(c) For purposes of this section, the term ‘non-Federal share of expenditures as aid or assistance for quarters in the calendar year 1972 under the plans of a State approved under titles I, X, XIV, and XVI of the Social Security Act’ [subchapters I, X, XIV, and XVI of this chapter] means the difference between—

“(1) the total expenditures in such quarters under such plans for aid or assistance (excluding expenditures authorized under section 1119 of such Act [section 1319 of this title] for repairing the home of an individual who was receiving aid or assistance under one of such plans (as such section was in effect prior to the enactment of this Act)), and

“(2) the total of the amounts determined under sections 3, 1003, 1403, and 1603 of the Social Security Act [sections 303, 1203, 1353, and 1383 note of this title], under section 1118 of such Act [section 1318 of this title], and under section 9 of the Act of April 19, 1950 [section 639 of Title 25, Indians], for such State with respect to such expenditures in such quarters.

“(d) In addition to the amount which a State must pay to the Secretary for the fiscal year 1983 or the fiscal year 1984, as determined under subsection (a), the State shall also pay, for the fiscal year 1983, 60 percent of the further amount that would be payable but for the limit specified in subsection (a), and, for the fiscal year 1984, 80 percent of such further amount. For each fiscal year thereafter, the limit prescribed in subsection (a) shall be inapplicable and a State shall pay to the Secretary the full amount of any supplementary payments he makes on behalf of such State.”

[Amendment of section 401(a)(2) of Pub. L. 92-603, set out above, by Pub. L. 94-585 inserting parenthetical text in subpar. (B) and enacting last sentence, such amendments being identical to amendments by Pub. L. 94-566 less the words “and before July 1, 1979” following “June 30, 1977”, effective with respect to benefits payable for months after June 1977, see section 2(c) of Pub. L. 94-585, set out as a note under section 1382g of this title.]

[Amendment of section 401(a)(2) of Pub. L. 92-603, set out above, by Pub. L. 94-566 inserting parenthetical text in subpar. (B) and enacting last sentence effective under provisions of Pub. L. 94-566, title V, §504(b), Oct. 20, 1976, 90 Stat. 2686, with respect to benefits payable for months after June 1977.]

[Amendment of section 401 of Pub. L. 92-603, set out above, by section 18(h) of Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233.]

[Section 184(b) of Pub. L. 97-248 provided that: “The amendment made by subsection (a) [amending section 401 of Pub. L. 92-603, set out above] shall become effective on the date of the enactment of this Act [Sept. 3, 1982].”]

TRANSITIONAL ADMINISTRATION OF PROGRAMS BY STATE
PURSUANT TO AGREEMENT BETWEEN STATE AND SECRETARY

Section 402 of Pub. L. 92-603, as amended by Pub. L. 93-233, §18(i), Dec. 31, 1973, 87 Stat. 970, provided that: “In order for a State to be eligible for any payments pursuant to title IV, V, XVI, or XIX of the Social Security Act [subchapter IV, V, XVI, or XIX of this chapter] with respect to expenditures for the third and fourth quarters in the fiscal year ending June 30, 1974, and any quarter in the fiscal year ending June 30, 1975, and for the purpose of providing an orderly transition from State to Federal administration of the Supplemental Security Income Program, such State shall enter into an agreement with the Secretary of Health, Education, and Welfare under which the State agencies responsible for administering or for supervising the administration of the plans approved under titles I, X, XIV, and XVI of the Social Security Act [subchapters I, X, XIV, and XVI of this chapter] will, on behalf of the Secretary, administer all or such part or parts of the program established by section 301 of this Act [enacting this subchapter], during such portion of the third and fourth quarters of the fiscal year ending June 30, 1974, and any quarter of the fiscal year ending June 30, 1975, as may be provided in such agreement.”

ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN
RATHER THAN SEPARATE PLANS

Pub. L. 87-543, §141(b), July 25, 1962, 76 Stat. 205, provided that: “No payment may be made to a State under title I, X, or XIV of the Social Security Act [subchapter I, X, or XIV of this chapter] for any period for which such State receives any payments under title XVI of such Act or any period thereafter.”

OVERPAYMENT OR UNDERPAYMENT ADJUSTMENTS

Pub. L. 87-543, §141(f), July 25, 1962, 76 Stat. 205, provided that: “In the case of any State which has a State plan approved under title XVI of the Social Security Act [this subchapter], any overpayment or underpayment which the Secretary determines was made to such State under section 3, 1003, or 1403 of such Act [section 303, 1203, or 1353 of this title] with respect to a

period before the approval of the plan under such title XVI, and with respect to which adjustment has not been already made under subsection (b) of such section 3, 1003, or 1403 [section 303(b), 1203, or 1353 of this title], shall, for purposes of section 1603(b) of such Act [section 1383(b) of this title prior to its omission on Oct. 30, 1972], be considered an overpayment or underpayment (as the case may be) made under section 1603 of such Act [section 1383 of this title as it existed prior to Oct. 30, 1972].”

§ 1382f. Cost-of-living adjustments in benefits

(a) Increase of dollar amounts

Whenever benefit amounts under subchapter II of this chapter are increased by any percentage effective with any month as a result of a determination made under section 415(i) of this title—

(1) each of the dollar amounts in effect for such month under subsections (a)(1)(A), (a)(2)(A), (b)(1), and (b)(2) of section 1382 of this title, and subsection (a)(1)(A) of section 211 of Public Law 93-66, as specified in such subsections or as previously increased under this section, shall be increased by the amount (if any) by which—

(A) the amount which would have been in effect for such month under such subsection but for the rounding of such amount pursuant to paragraph (2), exceeds

(B) the amount in effect for such month under such subsection; and

(2) the amount obtained under paragraph (1) with respect to each subsection shall be further increased by the same percentage by which benefit amounts under subchapter II of this chapter are increased for such month, or, if greater (in any case where the increase under subchapter II of this chapter was determined on the basis of the wage increase percentage rather than the CPI increase percentage), the percentage by which benefit amounts under subchapter II of this chapter would be increased for such month if the increase had been determined on the basis of the CPI increase percentage, (and rounded, when not a multiple of \$12, to the next lower multiple of \$12), effective with respect to benefits for months after such month.

(b) Publication in Federal Register of new dollar amounts

The new dollar amounts to be in effect under section 1382 of this title and under section 211 of Public Law 93-66 by reason of subsection (a) of this section shall be published in the Federal Register together with, and at the same time as, the material required by section 415(i)(2)(D) of this title to be published therein by reason of the determination involved.

(c) Additional increases

Effective July 1, 1983—

(1) each of the dollar amounts in effect under subsections (a)(1)(A) and (b)(1) of section 1382 of this title, as previously increased under this section, shall be increased by \$240 (and the dollar amount in effect under subsection (a)(1)(A) of section 211 of Public Law 93-66, as previously so increased, shall be increased by \$120); and

(2) each of the dollar amounts in effect under subsections (a)(2)(A) and (b)(2) of section 1382

of this title, as previously increased under this section, shall be increased by \$360.

(Aug. 14, 1935, ch. 531, title XVI, §1617, as added Pub. L. 93-368, §6(b), Aug. 7, 1974, 88 Stat. 421; amended Pub. L. 97-248, title I, §182(a), Sept. 3, 1982, 96 Stat. 404; Pub. L. 98-21, title IV, §401, Apr. 20, 1983, 97 Stat. 138.)

REFERENCES IN TEXT

Section 211 of Public Law 93-66, referred to in subsecs. (a)(1), (b), and (c)(1), is section 211 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 154, as amended, which is set out as a note under section 1382 of this title.

AMENDMENTS

1983—Subsec. (a)(2). Pub. L. 98-21, §401(b), inserted provision that the amount obtained under par. (1) with respect to each subsection shall be further increased by the percentage by which benefit amounts under subchapter II of this chapter would be increased for such month if the increase had been determined on the basis of the CPI increase percentage, if greater, in any case where the increase under subchapter II of this chapter was determined on the basis of the wage increase percentage rather than the CPI increase percentage.

Subsec. (b). Pub. L. 98-21, §401(a)(2), substituted "subsection (a) of this subsection" for "this section".

Subsec. (c). Pub. L. 98-21, §401(a)(1), added subsec. (c). 1982—Pub. L. 97-248 redesignated existing provisions as subsec. (a), revised method of computation into pars. (1) and (2) and among other changes increased base for rounding-off from a multiple of \$1.20 to a multiple of \$12.00, and struck out provisions relating to publication of increased dollar amounts in the Federal Register, and added subsec. (b).

EFFECTIVE DATE OF 1982 AMENDMENT

Section 182(b) of Pub. L. 97-248 provided that: "The amendment made by this section [amending this section] shall become effective on October 1, 1982."

COST-OF-LIVING INCREASES; COST-OF-LIVING COMPUTATION QUARTER DETERMINATIONS

Payment of increased benefits under program covered in subchapter II of this chapter, see section 1 of Pub. L. 98-604, set out as a note under section 415 of this title.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

§ 1382g. Payments to State for operation of supplementation program

(a) Eligibility; agreement with Commissioner

In order for any State which makes supplementary payments of the type described in section 1382e(a) of this title (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), on or after June 30, 1977, to be eligible for payments pursuant to subchapter XIX of this chapter with respect to expenditures for any calendar quarter which begins—

(1) after June 30, 1977, or, if later,

(2) after the calendar quarter in which it first makes such supplementary payments,

such State must have in effect an agreement with the Commissioner of Social Security whereby the State will—

(3) continue to make such supplementary payments, and

(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

(b) Levels of supplementary payments

(1) The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) of this section with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1382f of this title are not less than its expenditures for such payments in the preceding twelve-month period.

(2) For purposes of determining under paragraph (1) whether a State's expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of supplemental security income benefits are not less than the State's expenditures for such payments in the preceding 12-month period, the Commissioner of Social Security, in computing the State's expenditures, shall disregard, pursuant to a 1-time election of the State, all expenditures by the State for retroactive supplementary payments that are required to be made in connection with the retroactive supplemental security income benefits referred to in section 5041 of the Omnibus Budget Reconciliation Act of 1990.

(c) Election to apply subsection (a)(4)

Any State which satisfies the requirements of this section solely by reason of subsection (b) of this section for a particular month or months in any 12-month period (described in such subsection) ending on or after June 30, 1982, may elect, with respect to any month in any subsequent 12-month period (so described), to apply subsection (a)(4) of this section as though the reference to December 1976 in such subsection were a reference to the month of December which occurred in the 12-month period immediately preceding such subsequent period.

(d) Determinations respecting any portion of period July 1, 1980, through June 30, 1981

The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) of this section with respect to the levels of its supplementary payments for any portion of the period July 1, 1980, through June 30, 1981, if the State's expenditures for such payments in that twelve-month period were not less than its expenditures for such payments for the period July 1, 1976, through June 30, 1977 (or, if the State made no supplementary payments in the period July 1, 1976, through June 30, 1977, the expenditures for the first twelve-month period extending from July 1 through June 30 in which the State made such payments).

(e) Meeting subsection (a)(4) requirements for any month after March 1983

(1) For any particular month after March 1983, a State which is not treated as meeting the requirements imposed by paragraph (4) of subsection (a) of this section by reason of subsection (b) of this section shall be treated as meeting such requirements if and only if—

(A) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1382(b) of this title and section 211(a)(1)(A) of Public Law 93-66, for that particular month,

is not less than—

(B) the combined level of its supplementary payments (to recipients of the type involved) and the amounts payable (to or on behalf of such recipients) under section 1382(b) of this title and section 211(a)(1)(A) of Public Law 93-66, for March 1983, increased by the amount of all cost-of-living adjustments under section 1382f of this title (and any other benefit increases under this subchapter) which have occurred after March 1983 and before that particular month.

(2) In determining the amount of any increase in the combined level involved under paragraph (1)(B) of this subsection, any portion of such amount which would otherwise be attributable to the increase under section 1382f(c) of this title shall be deemed instead to be equal to the amount of the cost-of-living adjustment which would have occurred in July 1983 (without regard to the 3-percent limitation contained in section 415(i)(1)(B) of this title) if section 111 of the Social Security Amendments of 1983 had not been enacted.

(f) Passthrough relating to optional State supplementation

The Commissioner of Social Security shall not find that a State has failed to meet the requirements imposed by subsection (a) of this section with respect to the levels of its supplementary payments for the period January 1, 1984, through December 31, 1985, if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels (other than to recipients of benefits determined under section 1382(e)(1)(B) of this title) are not less than those in effect in December 1976, increased by a percentage equal to the percentage by which payments under section 1382(b) of this title and section 211(a)(1)(A) of Public Law 93-66 have been increased as a result of all adjustments under section 1382f(a) and (c) of this title which have occurred after December 1976 and before February 1986.

(g) Mandatory pass-through of increased personal needs allowance

In order for any State which makes supplementary payments of the type described in section 1382e(a) of this title (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66) to recipients of benefits determined under section 1382(e)(1)(B) of this title, on or after October 1, 1987, to be eligible for payments pursuant to sub-

chapter XIX of this chapter with respect to any calendar quarter which begins—

(1) after October 1, 1987, or, if later

(2) after the calendar quarter in which it first makes such supplementary payments to recipients of benefits so determined,

such State must have in effect an agreement with the Commissioner of Social Security whereby the State will—

(3) continue to make such supplementary payments to recipients of benefits so determined, and

(4) maintain such supplementary payments to recipients of benefits so determined at levels which assure (with respect to any particular month beginning with July 1988) that—

(A) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1382(e)(1)(B) of this title for that particular month,

is not less than—

(B) the combined level of such supplementary payments and the amounts payable to or on behalf of such recipients under section 1382(e)(1)(B) of this title for October 1987 (or, if no such supplementary payments were made for that month, the combined level for the first subsequent month for which such payments were made), increased—

(i) in a case to which clause (i) of such section 1382(e)(1)(B) of this title applies or (with respect to the individual or spouse who is in the hospital, home, or facility involved) to which clause (ii) of such section applies, by \$5, and

(ii) in a case to which clause (iii) of such section 1382(e)(1)(B) of this title applies, by \$10.

(Aug. 14, 1935, ch. 531, title XVI, §1618, as added Pub. L. 94-585, §2(a), Oct. 21, 1976, 90 Stat. 2901; amended Pub. L. 97-248, title I, §186, Sept. 3, 1982, 96 Stat. 407; Pub. L. 97-377, title I, §147, Dec. 21, 1982, 96 Stat. 1917; Pub. L. 98-21, title IV, §402, Apr. 20, 1983, 97 Stat. 139; Pub. L. 98-369, div. B, title VI, §2663(g)(9), July 18, 1984, 98 Stat. 1169; Pub. L. 99-272, title XII, §12201(a), Apr. 7, 1986, 100 Stat. 289; Pub. L. 100-203, title IX, §9119(b), Dec. 22, 1987, 101 Stat. 1330-309; Pub. L. 103-296, title I, §107(a)(4), title II, §209(a), Aug. 15, 1994, 108 Stat. 1478, 1517.)

REFERENCES IN TEXT

Sections 211(a)(1)(A) and 212(a) of Public Law 93-66, referred to in subsecs. (a), (e)(1), (f), and (g), are sections 211(a)(1)(A) and 212(a) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 154, 155, as amended, which are set out as notes under section 1382 of this title.

Section 5041 of the Omnibus Budget Reconciliation Act of 1990, referred to in subsec. (b)(2), is section 5041 of Pub. L. 101-508, title V, Nov. 5, 1990, 104 Stat. 1388-227, which is not classified to the Code.

Section 111 of the Social Security Amendments of 1983, referred to in subsec. (e)(2), is section 111 of Pub. L. 98-21, title I, Apr. 20, 1983, 97 Stat. 72, which amended sections 402, 403, 415, and 430 of this title and enacted provisions set out as notes under sections 402 and 415 of this title and section 5123 of Title 38, Veterans' Benefits.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (b). Pub. L. 103-296, §209(a), designated existing provisions as par. (1) and added par. (2).

Pub. L. 103-296, §107(a)(4), in subsec. (b) as amended by Pub. L. 103-296, §209(a), substituted "Commissioner of Social Security" for "Secretary" in two places.

Subsecs. (d), (f), (g). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

1987—Subsec. (g). Pub. L. 100-203 added subsec. (g).

1986—Subsec. (f). Pub. L. 99-272 added subsec. (f).

1984—Subsec. (d). Pub. L. 98-369, §2663(g)(9)(A), realigned margin of subsec. (d).

Pub. L. 98-369, §2663(g)(9)(B), (C), struck out the comma after "levels of its", and inserted a comma after "1980" and after "1976", wherever appearing.

1983—Subsecs. (c), (d). Pub. L. 98-21 redesignated subsec. (c), added by Pub. L. 97-377, as (d).

Subsec. (e). Pub. L. 98-21 added subsec. (e).

1982—Subsec. (c). Pub. L. 97-377 added subsec. (c) relating to conditions under which the Secretary shall not find that a State has failed to meet the requirements of subsec. (a)(4) of this section concerning levels of supplementary payments.

Pub. L. 97-248 added subsec. (c) relating to conditions under which a State may elect to apply subsec. (a)(4) of this section.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 209(b) of Pub. L. 103-296 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to increases in the level of supplemental security income benefits under title XVI of the Social Security Act [this subchapter] whether occurring before, on, or after the date of the enactment of this Act [Aug. 15, 1994]."

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 effective July 1, 1988, see section 9119(c) of Pub. L. 100-203, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section 2(c) of Pub. L. 94-585 provided that: "The provisions of this section [enacting this section and provisions set out as a note under section 1382e of this title] shall be effective with respect to benefits payable for months after June 1977."

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

§ 1382h. Benefits for individuals who perform substantial gainful activity despite severe medical impairment

(a) Eligible individuals

(1) Except as provided in section 1383(j) of this title, any individual who was determined to be an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1382 of this

title (or a federally administered State supplementary payment) for a month and whose earnings in a subsequent month exceed the amount designated by the Commissioner of Social Security ordinarily to represent substantial gainful activity shall qualify for a monthly benefit under this subsection for such subsequent month (which shall be in lieu of any benefit under section 1382 of this title) equal to an amount determined under section 1382(b)(1) of this title (or, in the case of an individual who has an eligible spouse, under section 1382(b)(2) of this title), and for purposes of subchapter XIX of this chapter shall be considered to be receiving supplemental security income benefits under this subchapter, for so long as—

(A) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability; and

(B) the income of such individual, other than income excluded pursuant to section 1382a(b) of this title, is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1382 of this title and such individual meets all other non-disability-related requirements for eligibility for benefits under this subchapter.

(2) The Commissioner of Social Security shall make a determination under paragraph (1)(A) with respect to an individual not later than 12 months after the first month for which the individual qualifies for a benefit under this subsection.

(b) Blind or disabled individuals receiving supplemental security income benefits

(1) Except as provided in section 1383(j) of this title, for purposes of subchapter XIX of this chapter, any individual who was determined to be a blind or disabled individual eligible to receive a benefit under section 1382 of this title or any federally administered State supplementary payment for a month and who in a subsequent month is ineligible for benefits under this subchapter (and for any federally administered State supplementary payments) because of his or her income shall, nevertheless, be considered to be receiving supplemental security income benefits for such subsequent month provided that the Commissioner of Social Security determines under regulations that—

(A) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, meets all non-disability-related requirements for eligibility for benefits under this subchapter;

(B) the income of such individual would not, except for his earnings and increases pursuant to section 415(i) of this title in the level of monthly insurance benefits to which the individual is entitled under subchapter II of this chapter that occur while such individual is considered to be receiving supplemental security income benefits by reason of this subsection, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1382(b) of this title (if he were otherwise eligible for such payments);

(C) the termination of eligibility for benefits under subchapter XIX of this chapter would seriously inhibit his ability to continue his employment; and

(D) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this subchapter (including any federally administered State supplementary payments), benefits under subchapter XIX of this chapter, and publicly funded attendant care services (including personal care assistance), which would be available to him in the absence of such earnings.

(2)(A) Determinations made under paragraph (1)(D) shall be based on information and data updated no less frequently than annually.

(B) In determining an individual's earnings for purposes of paragraph (1)(D), there shall be excluded from such earnings an amount equal to the sum of any amounts which are or would be excluded under clauses (ii) and (iv) of section 1382a(b)(4)(B) of this title (or under clauses (ii) and (iii) of section 1382a(b)(4)(A) of this title) in determining his or her income.

(3) In the case of a State that exercises the option under section 1396a(f) of this title, any individual who—

(A)(i) qualifies for a benefit under subsection (a) of this section, or

(ii) meets the requirements of paragraph (1); and

(B) was eligible for medical assistance under the State plan approved under subchapter XIX of this chapter in the month immediately preceding the first month in which the individual qualified for a benefit under such subsection or met such requirements,

shall remain eligible for medical assistance under such plan for so long as the individual qualifies for a benefit under such subsection or meets such requirements.

(c) Continuing disability or blindness reviews; limitation

Subsection (a)(2) of this section and section 1383(j)(2)(A) of this title shall not be construed, singly or jointly, to require more than 1 determination during any 12-month period with respect to the continuing disability or blindness of an individual.

(d) Information and training programs

The Commissioner of Social Security and the Secretary of Education shall jointly develop and disseminate information, and establish training programs for staff personnel, with respect to the potential availability of benefits and services for disabled individuals under the provisions of this section. The Commissioner of Social Security shall provide such information to individuals who are applicants for and recipients of benefits based on disability under this subchapter and shall conduct such programs for the staffs of the district offices of the Social Security Administration. The Secretary of Education shall conduct such programs for the staffs of the State Vocational Rehabilitation agencies, and in cooperation with such agencies shall also provide such information to other appropriate individuals and to public and private

organizations and agencies which are concerned with rehabilitation and social services or which represent the disabled.

(Aug. 14, 1935, ch. 531, title XVI, §1619, as added Pub. L. 96-265, title II, §201(a), June 9, 1980, 94 Stat. 445; amended Pub. L. 97-35, title XXIII, §2353(o), Aug. 13, 1981, 95 Stat. 873; Pub. L. 98-460, §14(b), Oct. 9, 1984, 98 Stat. 1808; Pub. L. 99-643, §§4(a), (b), (c)(2), 7(a), Nov. 10, 1986, 100 Stat. 3575, 3577, 3579; Pub. L. 101-508, title V, §§5032(a), 5039(a), Nov. 5, 1990, 104 Stat. 1388-224, 1388-226; Pub. L. 103-296, title I, §107(a)(1), (4), title II, §205(a), Aug. 15, 1994, 108 Stat. 1477, 1478, 1509.)

AMENDMENTS

1994—Subsecs. (a)(1), (2), (b)(1). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (b)(1)(B). Pub. L. 103-296, §205(a), inserted "and increases pursuant to section 415(i) of this title in the level of monthly insurance benefits to which the individual is entitled under subchapter II of this chapter that occur while such individual is considered to be receiving supplemental security income benefits by reason of this subsection" after "earnings".

Subsec. (d). Pub. L. 103-296, §107(a)(1), substituted "Commissioner of Social Security" for "Secretary of Health and Human Services" in two places.

1990—Subsec. (b)(1). Pub. L. 101-508, §5032(a), struck out "under age 65" after "any individual" in introductory provisions.

Subsecs. (c), (d). Pub. L. 101-508, §5039(a), added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (a). Pub. L. 99-643, §4(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1382(b) of this title or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1382(e)(4) of this title or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1382(b)(1) of this title (or, in the case of an individual who has an eligible spouse, under section 1382(b)(2) of this title), and for purposes of subchapter XIX of this chapter shall be considered a disabled individual receiving supplemental security income benefits under this subchapter, for so long as the Secretary determines that—

"(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this subchapter; and

"(2) the income of such individual, other than income excluded pursuant to section 1382a(b) of this title, is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1382(b) of this title (if he were otherwise eligible for such payments)."

Subsec. (a)(1). Pub. L. 99-643, §4(c)(2)(A), substituted "Except as provided in section 1383(j) of this section, any individual" for "Any individual".

Subsec. (b). Pub. L. 99-643, §4(b)(1)-(4), substituted "meets" for "continues to meet" in former par. (1) and "(including any federally administered State supplementary payments), benefits under subchapter XIX of this chapter, and publicly funded attendant care services (including personal care assistance)," for "and subchapter XIX of this chapter" in former par. (4), redesignated former pars. (1) to (4) as subpars. (A) to (D), re-

spectively, of par. (1), and substituted introductory provisions of such par. (1) for former undesignated introductory provisions which read as follows: "For purposes of subchapter XIX of this chapter, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

"(i) a payment of supplemental security income benefits under section 1382(b) of this title on the basis of blindness or disability,

"(ii) a supplementary payment under section 1382e of this title or under section 212 of Public Law 93-66 on such basis,

"(iii) a payment of monthly benefits under subsection (a) of this section, or

"(iv) a supplementary payment under section 1382e(c)(3) of this title, shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—".

Subsec. (b)(1). Pub. L. 99-643, §4(c)(2)(B), substituted "Except as provided in section 1383(j) of this title, for purposes of" for "For purposes of".

Subsec. (b)(2). Pub. L. 99-643, §4(b)(5), added par. (2).

Subsec. (b)(3). Pub. L. 99-643, §7(a), added par. (3).

1984—Subsec. (c). Pub. L. 98-460 added subsec. (c).

1981—Subsec. (a). Pub. L. 97-35, §2353(o)(1), substituted in provision preceding par. (1) "subchapter XIX of this chapter" for "subchapters XIX and XX of this chapter".

Subsec. (b). Pub. L. 97-35, §2353(o), substituted in provision preceding cl. (i) and in par. (4) "subchapter XIX of this chapter" for "subchapters XIX and XX of this chapter" and in par. (3) "subchapter XIX of this chapter" for "subchapter XIX or XX of this chapter".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(1), (4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 205(b) of Pub. L. 103-296 provided that: "The amendment made by subsection (a) [amending this section] shall apply to eligibility determinations for months after December 1994."

EFFECTIVE DATE OF 1990 AMENDMENT

Section 5032(b) of Pub. L. 101-508 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990]."

Section 5039(c) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall take effect on the date of the enactment of this Act [Nov. 5, 1990]."

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE

Section 201(d) of Pub. L. 96-265, as amended by Pub. L. 98-460, §14(a), Oct. 9, 1984, 98 Stat. 1808; Pub. L. 99-643, §2, Nov. 10, 1986, 100 Stat. 3574, provided that: "The amendments made by subsections (a) and (b) [enacting this section and amending section 1382e of this title and provisions set out as a note under section 1382 of this title] shall become effective on January 1, 1981."

[Section 10(a) of Pub. L. 99-643 provided that: "The amendment made by section 2 [amending section 201(d)

of Pub. L. 96-265, set out above] shall become effective on the date of the enactment of this Act [Nov. 10, 1986]."]

SEPARATE ACCOUNTS WITH RESPECT TO BENEFITS PAYABLE; EVALUATION OF PROGRAM

Section 201(e) of Pub. L. 96-265 provided that: "The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) [enacting this section and amending section 1382e of this title and provisions set out as a note under section 1382 of this title] so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act [subchapters II, XVI, XIX, and XX of this chapter]."

§ 1382i. Medical and social services for certain handicapped persons

(a) Authorization of appropriations for pilot program

There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

(b) State allotments

(1) The total sum of \$18,000,000 shall be allotted to the States for such program by the Commissioner of Social Security, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

(A) The total sum of \$6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

(B) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

(C) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Commissioner of Social Security on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term "supplemental security income benefits" includes payments made pursuant to an agreement under section 1382e(a) of this title or under section 212(b) of Public Law 93-66.

(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to

use the full amount of any such allotment, shall certify to the Commissioner of Social Security the amount of such allotment which it does not intend to use, and the State's allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Commissioner of Social Security may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State's allotment for that year by an equivalent amount.

(c) Requisite features of State plans

In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d) of this section, a State (during such period) must have a plan, approved by the Commissioner of Social Security as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1382 or 1382h of this title or assistance under a State plan approved under section 1396a of this title, and which—

(1) declares the intent of the State to participate in the pilot program;

(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual's ability to continue his employment would be significantly inhibited without such assistance and (B) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him under this subchapter and subchapters XIX and XX of this chapter in the absence of those earnings;

(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

(5) describes the medical and social services to be provided under the plan;

(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under subchapters XIX and XX of this chapter (with the Federal payments being made under subsection (d) of this section rather than under those subchapters), specifies the particular mechanisms and procedures to be used in providing such services; and

(7) contains such other provisions as the Commissioner of Social Security may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

(d) Payments to States; computation of payments

(1) From its allotment under subsection (b) of this section for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Commissioner of Social Security shall from time to time pay to each State which has a plan approved under subsection (c) of this section an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

(2) The method of computing and making payments under this section shall be as follows:

(A) The Commissioner of Social Security shall, prior to each period for which a payment is to be made to a State, estimate the amount to be paid to the State for such period under the provisions of this section.

(B) From the allotment available therefor, the Commissioner of Social Security shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which the Commissioner finds that the Commissioner's estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such period under this section.

(e) Rules and regulations

Within nine months after June 9, 1980, the Commissioner of Social Security shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

(f) Reports

Each State participating in the pilot program under this section shall from time to time report to the Commissioner of Social Security on the operation and results of such program in that State, with particular emphasis upon the work incentive effects of the program. On or before October 1, 1983, the Commissioner of Social Security shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with the Commissioner's findings and recommendations.

(Aug. 14, 1935, ch. 531, title XVI, §1620, as added Pub. L. 96-265, title II, §201(c), June 9, 1980, 94 Stat. 446; amended Pub. L. 97-35, title XXIII,

§ 2353(p), Aug. 13, 1981, 95 Stat. 874; Pub. L. 103-296, title I, § 107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

REFERENCES IN TEXT

Section 212(b) of Public Law 93-66, referred to in subsec. (b)(2), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

AMENDMENTS

1994—Subsecs. (b) to (f). Pub. L. 103-296, § 107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner finds that the Commissioner’s” for “he finds that his” in subsec. (d)(2)(B), and “the Commissioner’s” for “his” in subsec. (f).

1981—Subsec. (c). Pub. L. 97-35 struck out provision following par. (7) that the plan under this section may be developed and submitted as a separate State plan or may be submitted in the form of an amendment to the State’s plan under section 1397b(d) of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

§ 1382j. Attribution of sponsor’s income and resources to aliens

(a) Attribution as unearned income

For purposes of determining eligibility for and the amount of benefits under this subchapter for an individual who is an alien, the income and resources of any person who (as a sponsor of such individual’s entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor’s spouse, shall be deemed to be the income and resources of such individual (in accordance with subsections (b) and (c) of this section) for a period of 3 years after the individual’s entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(b) Determination of amount and resources

(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

(A) The total yearly rate of earned and unearned income (as determined under section 1382a(a) of this title) of such sponsor and such sponsor’s spouse (if such spouse is living with the sponsor) shall be determined for such year.

(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the maximum amount of the Federal benefit under this subchapter for such year which would be payable to an eligible individual who has no other income and who does not have an eligible spouse (as determined under section 1382(b)(1) of this title), plus (ii) one-half of the amount determined under clause (i) multiplied by the number of individuals who

are dependents of such sponsor (or such sponsor’s spouse if such spouse is living with the sponsor), other than such alien and such alien’s spouse.

(C) The amount of income which shall be deemed to be unearned income of such alien shall be at a yearly rate equal to the amount determined under subparagraph (B). The period for determination of such amount shall be the same as the period for determination of benefits under section 1382(c) of this title.

(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any year shall be determined as follows:

(A) The total amount of the resources (as determined under section 1382b of this title) of such sponsor and such sponsor’s spouse (if such spouse is living with the sponsor) shall be determined.

(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the applicable amount determined under section 1382(a)(3)(B) of this title in the case of a sponsor who has no spouse with whom he is living, or (ii) the applicable amount determined under section 1382(a)(3)(A) of this title in the case of a sponsor who has a spouse with whom he is living.

(C) The resources of such sponsor (and spouse) as determined under subparagraphs (A) and (B) shall be deemed to be resources of such alien in addition to any resources of such alien.

(c) Support and maintenance

In determining the amount of income of an alien during the period of 3 years after such alien’s entry into the United States, the reduction in dollar amounts otherwise required under section 1382a(a)(2)(A)(i) of this title shall not be applicable if such alien is living in the household of a person who is a sponsor (or such sponsor’s spouse) of such alien, and is receiving support and maintenance in kind from such sponsor (or spouse), nor shall support or maintenance furnished in cash or kind to an alien by such alien’s sponsor (to the extent that it reflects income or resources which were taken into account in determining the amount of income and resources to be deemed to the alien under subsection (a) or (b) of this section) be considered to be income of such alien under section 1382a(a)(2)(A) of this title.

(d) Information and documentation; agreements with Secretary of State and Attorney General

(1) Any individual who is an alien shall, during the period of 3 years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this subchapter, be required to provide to the Commissioner of Social Security such information and documentation with respect to his sponsor as may be necessary in order for the Commissioner of Social Security to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the Commissioner of Social Security such information and documentation

as the Commissioner of Social Security may request and which such alien or his sponsor provided in support of such alien's immigration application.

(2) The Commissioner of Social Security shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Commissioner of Social Security, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

(e) Joint and several liability of alien and sponsor for overpayments

Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment made to such alien during the period of 3 years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid to the Commissioner of Social Security or recovered in accordance with section 1383(b) of this title shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this chapter.

(f) Exemptions

(1) The provisions of this section shall not apply with respect to any individual who is an "aged, blind, or disabled individual" for purposes of this subchapter by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3) of this title), from and after the onset of the impairment, if such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence.

(2) The provisions of this section shall not apply with respect to any alien who is—

(A) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 1153(a)(7) of title 8;

(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 1157(c)(1) of title 8;

(C) paroled into the United States as a refugee under section 1182(d)(5) of title 8; or

(D) granted political asylum by the Attorney General.

(Aug. 14, 1935, ch. 531, title XVI, §1621, as added Pub. L. 96-265, title V, §504(b), June 9, 1980, 94 Stat. 471; amended Pub. L. 98-369, div. B, title VI, §§2611(d), 2663(g)(10), July 18, 1984, 98 Stat. 1131, 1169; Pub. L. 103-152, §7(a)(1), (b)(1), Nov. 24, 1993, 107 Stat. 1519; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

REFERENCES IN TEXT

Section 1153(a)(7) of title 8, referred to in subsec. (f)(2)(A), to be deemed a reference to such section as in effect prior to Apr. 1, 1980, and to sections 1157 and 1158 of Title 8, Aliens and Nationality. See section 203(h) of

Pub. L. 96-212, set out as a note under section 1153 of Title 8.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary" wherever appearing, except where appearing before "of State" in subsec. (d)(2).

1993—Pub. L. 103-152, §7(b)(1), substituted "3 years" for "5 years" in subsecs. (a), (c), (d)(1), and (e).

Pub. L. 103-152, §7(a)(1), substituted "5 years" for "three years" in subsecs. (a), (c), (d)(1), and (e).

1984—Subsec. (b)(2)(B). Pub. L. 98-369, §2611(d), substituted "the applicable amount determined under section 1382(a)(3)(B) of this title" for "\$1,500" and "the applicable amount determined under section 1382(a)(3)(A) of this title" for "\$2,250".

Subsec. (e). Pub. L. 98-369, §2663(g)(10), substituted "severally" for "severably".

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Section 7(a)(2) of Pub. L. 103-152 provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 1994."

Section 7(b)(2) of Pub. L. 103-152 provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1996."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2611(d) of Pub. L. 98-369 effective Oct. 1, 1984, except as otherwise specifically provided, see section 2646 of Pub. L. 98-369, set out as a note under section 657 of this title.

Amendment by section 2663(g)(10) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section 504(c) of Pub. L. 96-265 provided that: "The amendments made by this section [enacting this section and amending section 1382c of this title] shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act [this subchapter] for the first time after September 30, 1980."

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1382k. Repealed. Pub. L. 97-123, § 2(h), Dec. 29, 1981, 95 Stat. 1661

Section, act Aug. 14, 1935, ch. 531, title XVI, §1622, as added Aug. 13, 1981, Pub. L. 97-35, title XXII, §2201(g), 95 Stat. 833, related to benefits for individuals formerly receiving minimum benefits.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to benefits for months after December 1981, see section 2(j)(2) of Pub. L. 97-123, set out as an Effective Date of 1981 Amendment note under section 415 of this title.

Pub. L. 97-35, title XXII, §2201(h), Aug. 13, 1981, 95 Stat. 834, which provided for the effective date of this section and the other enactments and amendments made by section 2201 of Pub. L. 97-35, was repealed by Pub. L. 97-123, §2(j)(1), Dec. 29, 1981, 95 Stat. 1661.

PART B—PROCEDURAL AND GENERAL PROVISIONS

§ 1383. Procedure for payment of benefits**(a) Time, manner, form, and duration of payments; representative payees; promulgation of regulations**

(1) Benefits under this subchapter shall be paid at such time or times and (subject to paragraph (10)) in such installments as will best effectuate the purposes of this subchapter, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed \$10).

(2)(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

(ii)(I) Upon a determination by the Commissioner of Social Security that the interest of such individual would be served thereby, such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual, or an organization, with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's "representative payee") for the use and benefit of the individual or eligible spouse.

(II) In the case of an individual eligible for benefits under this subchapter by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.

(iii) If the Commissioner of Social Security or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 405(j)(1) or 1007 of this title, the Commissioner of Social Security shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this subchapter would be served thereby, to the individual or eligible spouse.

(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this subchapter for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term "use and benefit" for purposes of this clause.

(B)(i) Any determination made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

(I) an investigation by the Commissioner of Social Security of the person to serve as representative payee, which shall be conducted in

advance of such payment, and shall, to the extent practicable, include a face-to-face interview with such person; and

(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Commissioner of Social Security in regulations).

(ii) As part of the investigation referred to in clause (i)(I), the Commissioner of Social Security shall—

(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under subchapter II of this chapter, subchapter VIII of this chapter, or this subchapter;

(II) verify the social security account number (or employer identification number) of such person;

(III) determine whether such person has been convicted of a violation of section 408, 1011, or 1383a of this title;

(IV) obtain information concerning whether the person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year;

(V) obtain information concerning whether such person is a person described in section 1382(e)(4)(A) of this title; and

(VI) determine whether payment of benefits to such person has been terminated pursuant to subparagraph (A)(iii), whether the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, and whether certification of payment of benefits to such person has been revoked pursuant to section 405(j) of this title, by reason of misuse of funds paid as benefits under subchapter II of this chapter, subchapter VIII of this chapter, or this subchapter.

(iii) Benefits of an individual may not be paid to any other person pursuant to subparagraph (A)(ii) if—

(I) such person has previously been convicted as described in clause (ii)(III);

(II) except as provided in clause (iv), payment of benefits to such person pursuant to subparagraph (A)(ii) has previously been terminated as described in clause (ii)(VI), the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or certification of payment of benefits to such person under section 405(j) of this title has previously been revoked as described in section 405(j)(2)(B)(i)(VI) of this title;

(III) except as provided in clause (v), such person is a creditor of such individual who provides such individual with goods or services for consideration;

(IV) the person has previously been convicted as described in clause (ii)(IV) of this subparagraph, unless the Commissioner determines that the payment would be appropriate notwithstanding the conviction; or

(V) such person is a person described in section 1382(e)(4)(A) of this title.

(iv) The Commissioner of Social Security shall prescribe regulations under which the Commis-

sioner of Social Security may grant an exemption from clause (iii)(II) to any person on a case-by-case basis if such exemption would be in the best interest of the individual or eligible spouse whose benefits under this subchapter would be paid to such person pursuant to subparagraph (A)(ii).

(v) Clause (iii)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

(I) a relative of such individual if such relative resides in the same household as such individual;

(II) a legal guardian or legal representative of such individual;

(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State;

(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the payment of benefits under this subchapter to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom the payment of such benefits would serve the best interests of such individual; or

(V) an individual who is determined by the Commissioner of Social Security, on the basis of written findings and under procedures which the Commissioner of Social Security shall prescribe by regulation, to be acceptable to serve as a representative payee.

(vi) The procedures referred to in clause (v)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Commissioner of Social Security, that—

(I) such individual poses no risk to the beneficiary;

(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest; and

(III) no other more suitable representative payee can be found.

(vii) In the case of an individual described in subparagraph (A)(ii)(II), when selecting such individual's representative payee, preference shall be given to—

(I) a certified community-based nonprofit social service agency (as defined in subparagraph (I));

(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities;

(III) a State or local government agency with fiduciary responsibilities; or

(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Commissioner of Social Security deems it appropriate,

unless the Commissioner of Social Security determines that selection of a family member would be appropriate.

(viii) Subject to clause (ix), if the Commissioner of Social Security makes a determination described in subparagraph (A)(ii) with respect to

any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Commissioner of Social Security may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subparagraph.

(ix)(I) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (viii) shall be for a period of not more than 1 month.

(II) Subclause (I) shall not apply in any case in which the individual or eligible spouse is, as of the date of the Commissioner's determination, legally incompetent, under the age of 15 years, or described in subparagraph (A)(ii)(II).

(x) Payment pursuant to this subparagraph of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual, or to the representative payee upon such selection, as a single sum or over such period of time as the Commissioner of Social Security determines is in the best interests of the individual entitled to such benefits.

(xi) Any individual who is dissatisfied with a determination by the Commissioner of Social Security to pay such individual's benefits to a representative payee under this subchapter, or with the designation of a particular person to serve as representative payee, shall be entitled to a hearing by the Commissioner of Social Security, and to judicial review of the Commissioner's final decision, to the same extent as is provided in subsection (c) of this section.

(xii) In advance of the first payment of an individual's benefit to a representative payee under subparagraph (A)(ii), the Commissioner of Social Security shall provide written notice of the Commissioner's initial determination to make any such payment. Such notice shall be provided to such individual, except that, if such individual—

(I) is under the age of 15,

(II) is an unemancipated minor under the age of 18, or

(III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

(xiii) Any notice described in clause (xii) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (xi) of such individual or of such individual's legal guardian or legal representative—

(I) to appeal a determination that a representative payee is necessary for such individual,

(II) to appeal the designation of a particular person to serve as the representative payee of such individual, and

(III) to review the evidence upon which such designation is based and submit additional evidence.

(xiv) Notwithstanding the provisions of section 552a of title 5 or any other provision of Fed-

eral or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1306(c) of this title), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this subparagraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique identity of such person, and notifies the Commissioner that—

(I) such person is described in section 1382(e)(4)(A) of this title,

(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

(III) the location or apprehension of such person is within the officer's official duties.

(C)(i) In any case where payment is made under this subchapter to a representative payee of an individual or spouse, the Commissioner of Social Security shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Commissioner of Social Security shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

(ii) Clause (i) shall not apply in any case where the representative payee is a State institution. In such cases, the Commissioner of Social Security shall establish a system of accountability monitoring for institutions in each State.

(iii) Clause (i) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the representative payee is the institution.

(iv) Notwithstanding clauses (i), (ii), and (iii), the Commissioner of Social Security may require a report at any time from any representative payee, if the Commissioner of Social Security has reason to believe that the representative payee is misusing such payments.

(v) In any case in which the person described in clause (i) or (iv) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security under clause (i) or (iv), the Commissioner may, after furnishing notice to the person and the individual entitled to the payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.

(D)(i) Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to subparagraph (A)(ii) if the fee does not exceed the lesser of—

(I) 10 percent of the monthly benefit involved, or

(II) \$25.00 per month (\$50.00 per month in any case in which an individual is described in subparagraph (A)(ii)(II)).

A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of subparagraphs (E) and (F). The Commissioner of Social Security shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(i)(2)(A) of this title, except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00. Any agreement providing for a fee in excess of the amount permitted under this clause shall be void and shall be treated as misuse by the organization of such individual's benefits.

(ii) For purposes of this subparagraph, the term "qualified organization" means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any certified community-based non-profit social service agency (as defined in subparagraph (I)), if the agency, in accordance with any applicable regulations of the Commissioner of Social Security—

(I) regularly provides services as a representative payee pursuant to subparagraph (A)(ii) or section 405(j)(4) or 1007 of this title concurrently to 5 or more individuals; and

(II) demonstrates to the satisfaction of the Commissioner of Social Security that such agency is not otherwise a creditor of any such individual.

The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant an exception from subclause (II) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

(iii) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under clause (i) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, or imprisoned not more than 6 months, or both.

(iv) In the case of an individual who is no longer eligible for benefits under this subchapter but to whom any amount of past-due benefits under this subchapter has not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).

(E) RESTITUTION.—In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. In any case in which a representative payee that—

(i) is not an individual (regardless of whether it is a “qualified organization” within the meaning of subparagraph (D)(ii)); or

(ii) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this subchapter, subchapter II of this chapter, subchapter VIII of this chapter, or any combination of such subchapters;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall pay to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this subparagraph are subject to the limitations of subparagraph (H)(ii). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

(F)(i)(I) Each representative payee of an eligible individual under the age of 18 who is eligible for the payment of benefits described in subclause (II) shall establish on behalf of such individual an account in a financial institution into which such benefits shall be paid, and shall thereafter maintain such account for use in accordance with clause (ii).

(II) Benefits described in this subclause are past-due monthly benefits under this subchapter (which, for purposes of this subclause, include State supplementary payments made by the Commissioner pursuant to an agreement under section 1382e of this title or section 212(b) of Public Law 93-66) in an amount (after any withholding by the Commissioner for reimbursement to a State for interim assistance under subsection (g) of this section and payment of attorney fees under subsection (d)(2)(B) of this section) that exceeds the product of—

(aa) 6, and

(bb) the maximum monthly benefit payable under this subchapter to an eligible individual.

(ii)(I) A representative payee shall use funds in the account established under clause (i) to pay for allowable expenses described in subclause (II).

(II) An allowable expense described in this subclause is an expense for—

(aa) education or job skills training;

(bb) personal needs assistance;

(cc) special equipment;

(dd) housing modification;

(ee) medical treatment;

(ff) therapy or rehabilitation; or

(gg) any other item or service that the Commissioner determines to be appropriate;

provided that such expense benefits such individual and, in the case of an expense described in item (bb), (cc), (dd), (ff), or (gg), is related to the impairment (or combination of impairments) of such individual.

(III) The use of funds from an account established under clause (i) in any manner not authorized by this clause—

(aa) by a representative payee shall be considered a misapplication of benefits for all purposes of this paragraph, and any representative payee who knowingly misapplies benefits

from such an account shall be liable to the Commissioner in an amount equal to the total amount of such benefits; and

(bb) by an eligible individual who is his or her own payee shall be considered a misapplication of benefits for all purposes of this paragraph and in any case in which the individual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied.

(IV) This clause shall continue to apply to funds in the account after the child has reached age 18, regardless of whether benefits are paid directly to the beneficiary or through a representative payee.

(iii) The representative payee may deposit into the account established under clause (i) any other funds representing past due benefits under this subchapter to the eligible individual, provided that the amount of such past due benefits is equal to or exceeds the maximum monthly benefit payable under this subchapter to an eligible individual (including State supplementary payments made by the Commissioner pursuant to an agreement under section 1382e of this title or section 212(b) of Public Law 93-66).

(iv) The Commissioner of Social Security shall establish a system for accountability monitoring whereby such representative payee shall report, at such time and in such manner as the Commissioner shall require, on activity respecting funds in the account established pursuant to clause (i).

(G)(i) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency that receives the benefits payable under this subchapter (alone or in combination with benefits payable under subchapter II of this chapter or subchapter VIII of this chapter) to another individual pursuant to the appointment of the person or agency as a representative payee under this paragraph, section 405(j) of this title, or section 1007 of this title in any case in which—

(I) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

(II) the representative payee is a certified community-based nonprofit social service agency (as defined in subparagraph (I) of this paragraph or section 405(j)(10) of this title); or

(III) the representative payee is an agency (other than an agency described in subclause (II)) that serves in that capacity with respect to 50 or more such individuals.

(ii) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to clause (i) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this subchapter. Each such report shall describe

in detail all problems identified in the reviews and any corrective action taken or planned to be taken to correct the problems, and shall include—

- (I) the number of the reviews;
- (II) the results of such reviews;
- (III) the number of cases in which the representative payee was changed and why;
- (IV) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;
- (V) the number of cases discovered in which there was a misuse of funds;
- (VI) how any such cases of misuse of funds were dealt with by the Commissioner;
- (VII) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and
- (VIII) such other information as the Commissioner deems appropriate.

(H)(i) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual's benefit that was paid to the representative payee under this paragraph, the representative payee shall be liable for the amount misused, and the amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this subchapter to the representative payee for all purposes of this chapter and related laws pertaining to the recovery of the overpayments. Subject to clause (ii), upon recovering all or any part of the amount, the Commissioner shall make payment of an amount equal to the recovered amount to such individual or such individual's alternative representative payee.

(ii) The total of the amount paid to such individual or such individual's alternative representative payee under clause (i) and the amount paid under subparagraph (E) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

(I) For purposes of this paragraph, the term "certified community-based nonprofit social service agency" means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.

(3) The Commissioner of Social Security may by regulation establish ranges of incomes within which a single amount of benefits under this subchapter shall apply.

(4) The Commissioner of Social Security—

(A) may make to any individual initially applying for benefits under this subchapter who

is presumptively eligible for such benefits for the month following the date the application is filed and who is faced with financial emergency a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility, which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months; and

(B) may pay benefits under this subchapter to an individual applying for such benefits on the basis of disability or blindness for a period not exceeding 6 months prior to the determination of such individual's disability or blindness, if such individual is presumptively disabled or blind and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) of this section solely because such individual is determined not to be disabled or blind.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3) of this title), and who ceases to be blind or to be under such disability, shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

(6) Notwithstanding any other provision of this subchapter, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3) of this title) shall not be terminated or suspended because the blindness or other physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

(A) such individual is participating in a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1320b-19 of this title or another program of vocational rehabilitation services, employment services, or other support services approved by the Commissioner of Social Security, and

(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the blindness and disability benefit rolls.

(7)(A) In any case where—

(i) an individual is a recipient of benefits based on disability or blindness under this subchapter,

(ii) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits, and

(iii) a timely request for review or for a hearing is pending with respect to the determination that he is not so entitled,

such individual may elect (in such manner and form and within such time as the Commissioner of Social Security shall by regulations prescribe) to have the payment of such benefits continued for an additional period beginning with the first month beginning after October 9, 1984, for which (under such determination) such benefits are no longer otherwise payable, and ending with the earlier of (I) the month preceding the month in which a decision is made after such a hearing, or (II) the month preceding the month in which no such request for review or a hearing is pending.

(B)(i) If an individual elects to have the payment of his benefits continued for an additional period under subparagraph (A), and the final decision of the Commissioner of Social Security affirms the determination that he is not entitled to such benefits, any benefits paid under this subchapter pursuant to such election (for months in such additional period) shall be considered overpayments for all purposes of this subchapter, except as otherwise provided in clause (ii).

(ii) If the Commissioner of Social Security determines that the individual's appeal of his termination of benefits was made in good faith, all of the benefits paid pursuant to such individual's election under subparagraph (A) shall be subject to waiver consideration under the provisions of subsection (b)(1) of this section.

(C) The provisions of subparagraphs (A) and (B) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after October 9, 1984, or prior to such date but only on the basis of a timely request for review or for a hearing.

(8)(A) In any case in which an administrative law judge has determined after a hearing as provided in subsection (c) of this section that an individual is entitled to benefits based on disability or blindness under this subchapter and the Commissioner of Social Security has not issued the Commissioner's final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month in which such 110-day period expires and ending with the month in which such final decision is issued.

(B) For purposes of subparagraph (A), in determining whether the 110-day period referred to in subparagraph (A) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Commissioner's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

(C) Any benefits currently paid under this subchapter pursuant to this paragraph (for the months described in subparagraph (A)) shall not be considered overpayments for any purposes of this subchapter, unless payment of such benefits was fraudulently obtained.

(9) Benefits under this subchapter shall not be denied to any individual solely by reason of the refusal of the individual to accept an amount of-

ferred as compensation for a crime of which the individual was a victim.

(10)(A) If an individual is eligible for past-due monthly benefits under this subchapter in an amount that (after any withholding for reimbursement to a State for interim assistance under subsection (g) of this section and payment of attorney fees under subsection (d)(2)(B) of this section) equals or exceeds the product of—

(i) 3, and

(ii) the maximum monthly benefit payable under this subchapter to an eligible individual (or, if appropriate, to an eligible individual and eligible spouse),

then the payment of such past-due benefits (after any such reimbursement to a State and payment of attorney fees under subsection (d)(2)(B) of this section) shall be made in installments as provided in subparagraph (B).

(B)(i) The payment of past-due benefits subject to this subparagraph shall be made in not to exceed 3 installments that are made at 6-month intervals.

(ii) Except as provided in clause (iii), the amount of each of the first and second installments may not exceed an amount equal to the product of clauses (i) and (ii) of subparagraph (A).

(iii) In the case of an individual who has—

(I) outstanding debt attributable to—

(aa) food,

(bb) clothing,

(cc) shelter, or

(dd) medically necessary services, supplies or equipment, or medicine; or

(II) current expenses or expenses anticipated in the near term attributable to—

(aa) medically necessary services, supplies or equipment, or medicine, or

(bb) the purchase of a home, and

such debt or expenses are not subject to reimbursement by a public assistance program, the Secretary under subchapter XVIII of this chapter, a State plan approved under subchapter XIX of this chapter, or any private entity legally liable to provide payment pursuant to an insurance policy, pre-paid plan, or other arrangement, the limitation specified in clause (ii) may be exceeded by an amount equal to the total of such debt and expenses.

(C) This paragraph shall not apply to any individual who, at the time of the Commissioner's determination that such individual is eligible for the payment of past-due monthly benefits under this subchapter—

(i) is afflicted with a medically determinable impairment that is expected to result in death within 12 months; or

(ii) is ineligible for benefits under this subchapter and the Commissioner determines that such individual is likely to remain ineligible for the next 12 months.

(D) For purposes of this paragraph, the term "benefits under this subchapter" includes supplementary payments pursuant to an agreement for Federal administration under section 1382e(a) of this title, and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66.

(b) Overpayments and underpayments; adjustment, recovery, or payment of amounts by Commissioner

(1)(A) Whenever the Commissioner of Social Security finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

(i) to any surviving spouse of such individual, whether or not the individual's eligible spouse, if (within the meaning of the first sentence of section 402(i) of this title) such surviving husband or wife was living in the same household with the individual at the time of his death or within the 6 months immediately preceding the month of such death, or

(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding the month of such death, to such parent or parents.

(B) The Commissioner of Social Security (i) shall make such provision as the Commissioner finds appropriate in the case of payment of more than the correct amount of benefits with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this subchapter, or be against equity and good conscience, or (because of the small amount involved) impede efficient or effective administration of this subchapter, and (ii) shall in any event make the adjustment or recovery (in the case of payment of more than the correct amount of benefits), in the case of an individual or eligible spouse receiving monthly benefit payments under this subchapter (including supplementary payments of the type described in section 1382e(a) of this title and payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), in amounts which in the aggregate do not exceed (for any month) the lesser of (I) the amount of his or their benefit under this subchapter for that month or (II) an amount equal to 10 percent of his or their income for that month (including such benefit but excluding payments under subchapter II of this chapter when recovery is made from subchapter II payments pursuant to section 1320b-17 of this title and excluding income excluded pursuant to section 1382a(b) of this title), and in the case of an individual or eligible spouse to whom a lump sum is payable under this subchapter (including under section 1382e(a) of this title or under an agreement entered into under section 212(a) of Public Law 93-66) shall, as at least one means of recovering such overpayment, make the adjustment or recovery from the lump sum payment in an amount equal to not less than the lesser of the amount of the overpayment or the lump sum payment, unless fraud, willful misrepresentation, or concealment

of material information was involved on the part of the individual or spouse in connection with the overpayment, or unless the individual requests that such adjustment or recovery be made at a higher or lower rate and the Commissioner of Social Security determines that adjustment or recovery at such rate is justified and appropriate. The availability (in the case of an individual who has been paid more than the correct amount of benefits) of procedures for adjustment or recovery at a limited rate under clause (ii) of the preceding sentence shall not, in and of itself, prevent or restrict the provision (in such case) of more substantial relief under clause (i) of such sentence.

(2) Notwithstanding any other provision of this section, when any payment of more than the correct amount is made to or on behalf of an individual who has died, and such payment—

(A) is made by direct deposit to a financial institution;

(B) is credited by the financial institution to a joint account of the deceased individual and another person; and

(C) such other person is the surviving spouse of the deceased individual, and was eligible for a payment under this subchapter (including any State supplementation payment paid by the Commissioner of Social Security) as an eligible spouse (or as either member of an eligible couple) for the month in which the deceased individual died,

the amount of such payment in excess of the correct amount shall be treated as a payment of more than the correct amount to such other person. If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee.

(3) If any overpayment with respect to an individual (or an individual and his or her spouse) is attributable solely to the ownership or possession by such individual (and spouse if any) of resources having a value which exceeds the applicable dollar figure specified in paragraph (1)(B) or (2)(B) of section 1382(a) of this title by \$50 or less, such individual (and spouse if any) shall be deemed for purposes of the second sentence of paragraph (1) to have been without fault in connection with the overpayment, and no adjustment or recovery shall be made under the first sentence of such paragraph, unless the Commissioner of Social Security finds that the failure of such individual (and spouse if any) to report such value correctly and in a timely manner was knowing and willful.

(4)(A) With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31 and in section 5514 of title 5, all as in effect immediately after April 26, 1996.

(B) For purposes of subparagraph (A), the term "delinquent amount" means an amount—

(i) in excess of the correct amount of payment under this subchapter;

(ii) paid to a person after such person has attained 18 years of age; and

(iii) determined by the Commissioner of Social Security, under regulations, to be otherwise unrecoverable under this section after such person ceases to be a beneficiary under this subchapter.

(5) For payments for which adjustments are made by reason of a retroactive payment of benefits under subchapter II of this chapter, see section 1320a-6 of this title.

(6) For provisions relating to the cross-program recovery of overpayments made under programs administered by the Commissioner of Social Security, see section 1320b-17 of this title.

(7)(A) In the case of payment of less than the correct amount of benefits to or on behalf of any individual, no payment shall be made to such individual pursuant to this subsection during any period for which such individual—

(i) is not an eligible individual or eligible spouse under section 1382(e)(1) of this title because such individual is an inmate of a public institution that is a jail, prison, or other penal institution or correctional facility the purpose of which is to confine individuals as described in clause (ii) or (iii) of section 402(x)(1)(A) of this title, or

(ii) is not an eligible individual or eligible spouse under section 1382(e)(4) of this title,

until such person is no longer considered an ineligible individual or ineligible spouse under section 1382(e)(1) or 1382(e)(4) of this title.

(B) Nothing in subparagraph (A) shall be construed to limit the Commissioner's authority to withhold amounts, make adjustments, or recover amounts due under this subchapter, subchapter II, or subchapter VIII that would be deducted from a payment that would otherwise be payable to such individual but for such subparagraph.

(c) Hearing to determine eligibility or amount of benefits; subsequent application; time within which to request hearing; time for determinations of Commissioner pursuant to hearing; judicial review

(1)(A) The Commissioner of Social Security is directed to make findings of fact, and decisions as to the rights of any individual applying for payment under this subchapter. Any such decision by the Commissioner of Social Security which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Commissioner's determination and the reason or reasons upon which it is based. The Commissioner of Social Security shall provide reasonable notice and opportunity for a hearing to any individual who is or claims to be an eligible individual or eligible spouse and is in disagreement with any determination under this subchapter with respect to eligibility of such individual for benefits, or the amount of such individual's benefits, if such individual requests a hearing on the matter in disagreement within sixty days after notice of such determination is received, and, if a hearing is held, shall, on the basis of

evidence adduced at the hearing affirm, modify, or reverse the Commissioner's findings of fact and such decision. The Commissioner of Social Security is further authorized, on the Commissioner's own motion, to hold such hearings and to conduct such investigations and other proceedings as the Commissioner may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, the Commissioner may administer oaths and affirmations, examine witnesses, and receive evidence. Evidence may be received at any hearing before the Commissioner of Social Security even though inadmissible under the rules of evidence applicable to court procedure. The Commissioner of Social Security shall specifically take into account any physical, mental, educational, or linguistic limitation of such individual (including any lack of facility with the English language) in determining, with respect to the eligibility of such individual for benefits under this subchapter, whether such individual acted in good faith or was at fault, and in determining fraud, deception, or intent.

(B)(i) A failure to timely request review of an initial adverse determination with respect to an application for any payment under this subchapter or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any payment under this subchapter if the applicant demonstrates that the applicant, or any other individual referred to in subparagraph (A), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for payments in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 421 of this title.

(ii) In any notice of an adverse determination with respect to which a review may be requested under subparagraph (A), the Commissioner of Social Security shall describe in clear and specific language the effect on possible eligibility to receive payments under this subchapter of choosing to reapply in lieu of requesting review of the determination.

(2) Determination on the basis of such hearing, except to the extent that the matter in disagreement involves a disability (within the meaning of section 1382c(a)(3) of this title), shall be made within ninety days after the individual requests the hearing as provided in paragraph (1).

(3) The final determination of the Commissioner of Social Security after a hearing under paragraph (1) shall be subject to judicial review as provided in section 405(g) of this title to the same extent as the Commissioner's final determinations under section 405 of this title.

(d) Procedures applicable; prohibition on assignment of payments; representation of claimants; maximum fees; penalties for violations

(1) The provisions of section 407 of this title and subsections (a), (d), and (e) of section 405 of this title shall apply with respect to this part to the same extent as they apply in the case of subchapter II of this chapter.

(2)(A) The provisions of section 406 of this title (other than subsections (a)(4) and (d) thereof) shall apply to this part to the same extent as they apply in the case of subchapter II of this chapter, except that such section shall be applied—

(i) by substituting, in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)¹ the phrase “(as determined before any applicable reduction under section 1383(g) of this title, and reduced by the amount of any reduction in benefits under this subchapter or subchapter II of this chapter made pursuant to section 1320a-6(a) of this title)” for the parenthetical phrase contained therein;

(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase “paragraph (7)(A) or (8)(A) of section 1383(a) of this title or the requirements of due process of law” for the phrase “subsection (g) or (h) of section 423 of this title”;

(iii) by substituting, in subsection (a)(2)(C)(i), the phrase “under subchapter II of this chapter” for the phrase “under subchapter XVI of this chapter”;

(iv) by substituting, in subsection (b)(1)(A), the phrase “pay the amount of such fee” for the phrase “certify the amount of such fee for payment” and by striking, in subsection (b)(1)(A), the phrase “or certified for payment”;

(v) by substituting, in subsection (b)(1)(B)(ii), the phrase “deemed to be such amounts as determined before any applicable reduction under section 1383(g) of this title, and reduced by the amount of any reduction in benefits under this subchapter or subchapter II of this chapter made pursuant to section 1320a-6(a) of this title” for the phrase “determined before any applicable reduction under section 1320a-6(a) of this title”;² and

(vi) by substituting, in subsection (e)(1)—

(I) “subparagraphs (B) and (C) of section 1383(d)(2) of this title” for “the preceding provisions of this section”; and

(II) “subchapter XVI” for “this subchapter”.

(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this subchapter and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under subsection (g) of this section and reduced by the amount of any reduction in benefits under this subchapter or subchapter II of this chapter pursuant to section 1320a-6(a) of this title), or

(ii) the amount of past-due benefits available after any applicable reductions under subsection (g) of this section and section 1320a-6(a) of this title.

(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant's past-

due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative's fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003³ take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 415(i)(2)(A)(ii) of this title, except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant's past-due benefits.

(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the claimant whose claim gave rise to the assessment.

(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this subchapter and related laws.

(D) The Commissioner of Social Security shall notify each claimant in writing, together with the notice to such claimant of an adverse determination, of the options for obtaining attorneys to represent individuals in presenting their cases before the Commissioner of Social Security. Such notification shall also advise the claimant of the availability to qualifying claimants of legal services organizations which provide legal services free of charge.

¹ So in original. Probably should be followed by a comma.

² So in original. Closing parenthesis after “title” probably should not appear.

³ See References in Text note below.

(e) Administrative requirements prescribed by Commissioner; criteria; reduction of benefits to individual for noncompliance with requirements; payment to homeless

(1)(A) The Commissioner of Social Security shall, subject to subparagraph (B) and subsection (j) of this section, prescribe such requirements with respect to the filing of applications, the suspension or termination of assistance, the furnishing of other data and material, and the reporting of events and changes in circumstances, as may be necessary for the effective and efficient administration of this subchapter.

(B)(i) The requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) shall require that eligibility for benefits under this subchapter 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 only provided to eligible individuals (or eligible spouses) and that the amounts of such benefits are correct. For this purpose and for purposes of federally administered supplementary payments of the type described in section 1382e(a) of this title (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Commissioner of Social Security shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1986, and any information which may be available from State systems under section 1320b-7 of this title, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a)(6) and (c) of such section 1320b-7 of this title.

(ii)(I) The Commissioner of Social Security may require each applicant for, or recipient of, benefits under this subchapter to provide authorization by the applicant or recipient (or by any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient for such benefits) for the Commissioner to obtain (subject to the cost reimbursement requirements of section 1115(a) of the Right to Financial Privacy Act [12 U.S.C. 3415]) from any financial institution (within the meaning of section 1101(1) of such Act [12 U.S.C. 3401(1)]) any financial record (within the meaning of section 1101(2) of such Act [12 U.S.C. 3401(2)]) held by the institution with respect to the applicant or recipient (or any such other person) whenever the Commissioner determines the record is needed in connection with a determination with respect to such eligibility or the amount of such benefits.

(II) Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(1)], an authorization provided by an applicant or recipient (or any other person whose income or resources are material to the determination of the eligibility of the applicant or recipient) pursuant to subclause (I) of this clause shall remain effective until the earliest of—

(aa) the rendering of a final adverse decision on the applicant's application for eligibility for benefits under this subchapter;

(bb) the cessation of the recipient's eligibility for benefits under this subchapter; or

(cc) the express revocation by the applicant or recipient (or such other person referred to in subclause (I)) of the authorization, in a written notification to the Commissioner.

(III)(aa) An authorization obtained by the Commissioner of Social Security pursuant to this clause shall be considered to meet the requirements of the Right to Financial Privacy Act [12 U.S.C. 3401 et seq.] for purposes of section 1103(a) of such Act [12 U.S.C. 3403(a)], and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act [12 U.S.C. 3404(a)].

(bb) The certification requirements of section 1103(b) of the Right to Financial Privacy Act [12 U.S.C. 3403(b)] shall not apply to requests by the Commissioner of Social Security pursuant to an authorization provided under this clause.

(cc) A request by the Commissioner pursuant to an authorization provided under this clause is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act [12 U.S.C. 3404(a)(3)] and the flush language of section 1102 of such Act [12 U.S.C. 3402].

(IV) The Commissioner shall inform any person who provides authorization pursuant to this clause of the duration and scope of the authorization.

(V) If an applicant for, or recipient of, benefits under this subchapter (or any such other person referred to in subclause (I)) refuses to provide, or revokes, any authorization made by the applicant or recipient for the Commissioner of Social Security to obtain from any financial institution any financial record, the Commissioner may, on that basis, determine that the applicant or recipient is ineligible for benefits under this subchapter.

(C) For purposes of making determinations under section 1382(e) of this title, the requirements prescribed by the Commissioner of Social Security pursuant to subparagraph (A) of this paragraph shall require each administrator of a nursing home, extended care facility, or intermediate care facility, within 2 weeks after the admission of any eligible individual or eligible spouse receiving benefits under this subchapter, to transmit to the Commissioner a report of the admission.

(2) In case of the failure by any individual to submit a report of events and changes in circumstances relevant to eligibility for or amount of benefits under this subchapter as required by the Commissioner of Social Security under paragraph (1), or delay by any individual in submitting a report as so required, the Commissioner of Social Security (in addition to taking any other action the Commissioner may consider appropriate under paragraph (1)) shall reduce any benefits which may subsequently become payable to such individual under this subchapter by—

(A) \$25 in the case of the first such failure or delay,

(B) \$50 in the case of the second such failure or delay, and

(C) \$100 in the case of the third or a subsequent such failure or delay,

except where the individual was without fault or good cause for such failure or delay existed.

(3) The Commissioner of Social Security shall provide a method of making payments under this subchapter to an eligible individual who does not reside in a permanent dwelling or does not have a fixed home or mailing address.

(4) A translation into English by a third party of a statement made in a foreign language by an applicant for or recipient of benefits under this subchapter shall not be regarded as reliable for any purpose under this subchapter unless the third party, under penalty of perjury—

(A) certifies that the translation is accurate; and

(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.

(5) In any case in which it is determined to the satisfaction of the Commissioner of Social Security that an individual failed as of any date to apply for benefits under this subchapter by reason of misinformation provided to such individual by any officer or employee of the Social Security Administration relating to such individual's eligibility for benefits under this subchapter, such individual shall be deemed to have applied for such benefits on the later of—

(A) the date on which such misinformation was provided to such individual, or

(B) the date on which such individual met all requirements for entitlement to such benefits (other than application therefor).

(6) In any case in which an individual visits a field office of the Social Security Administration and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit is occasioned by—

(A) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

(B) the theft, loss, or nonreceipt of a benefit payment under this subchapter,

the Commissioner of Social Security shall ensure that the individual is granted a face-to-face interview at the office with an officer or employee of the Social Security Administration before the close of business on the day of the visit.

(7)(A)(i) The Commissioner of Social Security shall immediately redetermine the eligibility of an individual for benefits under this subchapter if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Commissioner of Social Security with regard to recipients in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

(ii) When redetermining the eligibility, or making an initial determination of eligibility, of an individual for benefits under this subchapter, the Commissioner of Social Security

shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

(B) For purposes of subparagraph (A), similar fault is involved with respect to a determination if—

(i) an incorrect or incomplete statement that is material to the determination is knowingly made; or

(ii) information that is material to the determination is knowingly concealed.

(C) If, after redetermining the eligibility of an individual for benefits under this subchapter, the Commissioner of Social Security determines that there is insufficient evidence to support such eligibility, the Commissioner of Social Security may terminate such eligibility and may treat benefits paid on the basis of such insufficient evidence as overpayments.

(8)(A) The Commissioner of Social Security shall request the Immigration and Naturalization Service or the Centers for Disease Control to provide the Commissioner of Social Security with whatever medical information, identification information, and employment history either such entity has with respect to any alien who has applied for benefits under this subchapter to the extent that the information is relevant to any determination relating to eligibility for such benefits under this subchapter.

(B) Subparagraph (A) shall not be construed to prevent the Commissioner of Social Security from adjudicating the case before receiving such information.

(9) Notwithstanding any other provision of law, the Commissioner shall, at least 4 times annually and upon request of the Immigration and Naturalization Service (hereafter in this paragraph referred to as the "Service"), furnish the Service with the name and address of, and other identifying information on, any individual who the Commissioner knows is not lawfully present in the United States, and shall ensure that each agreement entered into under section 1382e(a) of this title with a State provides that the State shall furnish such information at such times with respect to any individual who the State knows is not lawfully present in the United States.

(f) Furnishing of information by Federal agencies

The head of any Federal agency shall provide such information as the Commissioner of Social Security needs for purposes of determining eligibility for or amount of benefits, or verifying other information with respect thereto.

(g) Reimbursement to States for interim assistance payments

(1) Notwithstanding subsection (d)(1) of this section and subsection (b) of this section as it relates to the payment of less than the correct amount of benefits, the Commissioner of Social Security may, upon written authorization by an individual, withhold benefits due with respect to that individual and may pay to a State (or a political subdivision thereof if agreed to by the Commissioner of Social Security and the State) from the benefits withheld an amount sufficient to reimburse the State (or political subdivision)

for interim assistance furnished on behalf of the individual by the State (or political subdivision).

(2) For purposes of this subsection, the term “benefits” with respect to any individual means supplemental security income benefits under this subchapter, and any State supplementary payments under section 1382e of this title or under section 212 of Public Law 93-66 which the Commissioner of Social Security makes on behalf of a State (or political subdivision thereof), that the Commissioner of Social Security has determined to be due with respect to the individual at the time the Commissioner of Social Security makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3). A cash advance made pursuant to subsection (a)(4)(A) of this section shall not be considered as the first payment of benefits for purposes of the preceding sentence.

(3) For purposes of this subsection, the term “interim assistance” with respect to any individual means assistance financed from State or local funds and furnished for meeting basic needs (A) during the period, beginning with the month following the month in which the individual filed an application for benefits (as defined in paragraph (2)), for which he was eligible for such benefits, or (B) during the period beginning with the first month for which the individual’s benefits (as defined in paragraph (2)) have been terminated or suspended if the individual was subsequently found to have been eligible for such benefits.

(4) In order for a State to receive reimbursement under the provisions of paragraph (1), the State shall have in effect an agreement with the Commissioner of Social Security which shall provide—

(A) that if the Commissioner of Social Security makes payment to the State (or a political subdivision of the State as provided for under the agreement) in reimbursement for interim assistance (as defined in paragraph (3)) for any individual in an amount greater than the reimbursable amount authorized by paragraph (1), the State (or political subdivision) shall pay to the individual the balance of such payment in excess of the reimbursable amount as expeditiously as possible, but in any event within ten working days or a shorter period specified in the agreement; and

(B) that the State will comply with such other rules as the Commissioner of Social Security finds necessary to achieve efficient and effective administration of this subsection and to carry out the purposes of the program established by this subchapter, including protection of hearing rights for any individual aggrieved by action taken by the State (or political subdivision) pursuant to this subsection.

(5) The provisions of subsection (c) of this section shall not be applicable to any disagreement concerning payment by the Commissioner of Social Security to a State pursuant to the preceding provisions of this subsection nor the amount retained by the State (or political subdivision).

(h) Payment of certain travel expenses

The Commissioner of Social Security shall pay travel expenses, either on an actual cost or com-

puted basis, to individuals for travel incident to medical examinations requested by the Commissioner of Social Security in connection with disability determinations under this subchapter, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1382c(e) of this title) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this subchapter. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Commissioner of Social Security) because of such person’s health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person’s health condition, as specified in such regulations. The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.

(i) Unnegotiated checks; notice to Commissioner; payment to States; notice to States; investigation of payees

(1) The Secretary of the Treasury shall, on a monthly basis, notify the Commissioner of Social Security of all benefit checks issued under this subchapter which include amounts representing State supplementary payments as described in paragraph (2) and which have not been presented for payment within one hundred and eighty days after the day on which they were issued.

(2) The Commissioner of Social Security shall from time to time determine the amount representing the total of the State supplementary payments made pursuant to agreements under section 1382e(a) of this title and under section 212(b) of Public Law 93-66 which is included in all such benefit checks not presented for payment within one hundred and eighty days after the day on which they were issued, and shall pay each State (or credit each State with) an amount equal to that State’s share of all such amount. Amounts not paid to the States shall be returned to the appropriation from which they were originally paid.

(3) The Commissioner of Social Security, upon notice from the Secretary of the Treasury under paragraph (1), shall notify any State having an agreement described in paragraph (2) of all such benefit checks issued under that State’s agreement which were not presented for payment within one hundred and eighty days after the day on which they were issued.

(4) The Commissioner of Social Security shall, to the maximum extent feasible, investigate the whereabouts and eligibility of the individuals

whose benefit checks were not presented for payment within one hundred and eighty days after the day on which they were issued.

(j) Application and review requirements for certain individuals

(1) Notwithstanding any provision of section 1382 or 1382h of this title, any individual who—

(A) was an eligible individual (or eligible spouse) under section 1382 of this title or was eligible for benefits under or pursuant to section 1382h of this title, and

(B) who, after such eligibility, is ineligible for benefits under or pursuant to both such sections for a period of 12 consecutive months (or 24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10 or section 502(f) of title 32),

may not thereafter become eligible for benefits under or pursuant to either such section until the individual has reapplied for benefits under section 1382 of this title and been determined to be eligible for benefits under such section, or has filed a request for reinstatement of eligibility under subsection (p)(2) of this section and been determined to be eligible for reinstatement.

(2)(A) Notwithstanding any provision of section 1382 of this title or section 1382h of this title (other than subsection (c) thereof), any individual who was eligible for benefits pursuant to section 1382h(b) of this title, and who—

(i)(I) on the basis of the same impairment on which his or her eligibility under such section 1382h(b) of this title was based becomes eligible (other than pursuant to a request for reinstatement under subsection (p) of this section) for benefits under section 1382 or 1382h(a) of this title for a month that follows a period during which the individual was ineligible for benefits under sections 1382 and 1382h(a) of this title, and

(II) has earned income (other than income excluded pursuant to section 1382a(b) of this title) for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1382(b) of this title for that month (if he or she were otherwise eligible for such payments); or

(ii)(I) on the basis of the same impairment on which his or her eligibility under such section 1382h(b) of this title was based becomes eligible under section 1382h(b) of this title for a month that follows a period during which the individual was ineligible under section 1382 of this title and section 1382h of this title, and

(II) has earned income (other than income excluded pursuant to section 1382a(b) of this title) for such month or for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1382(b) of this title for that month (if he or she were otherwise eligible for such payments);

shall, upon becoming eligible (as described in clause (i)(I) or (ii)(I)), be subject to a prompt re-

view of the type described in section 1382c(a)(4) of this title.

(B) If the Commissioner of Social Security determines pursuant to a review required by subparagraph (A) that the impairment upon which the eligibility of an individual is based has ceased, does not exist, or is not disabling, such individual may not thereafter become eligible for a benefit under or pursuant to section 1382 of this title or section 1382h of this title until the individual has reapplied for benefits under section 1382 of this title and been determined to be eligible for benefits under such section.

(k) Notifications to applicants and recipients

The Commissioner of Social Security shall notify an individual receiving benefits under section 1382 of this title on the basis of disability or blindness of his or her potential eligibility for benefits under or pursuant to section 1382h of this title—

(1) at the time of the initial award of benefits to the individual under section 1382 of this title (if the individual has attained the age of 18 at the time of such initial award), and

(2) at the earliest time after an initial award of benefits to an individual under section 1382 of this title that the individual's earned income for a month (other than income excluded pursuant to section 1382a(b) of this title) is \$200 or more, and periodically thereafter so long as such individual has earned income (other than income so excluded) of \$200 or more per month.

(l) Special notice to blind individuals with respect to hearings and other official actions

(1) In any case where an individual who is applying for or receiving benefits under this subchapter on the basis of blindness is entitled (under subsection (c) of this section or otherwise) to receive notice from the Commissioner of Social Security of any decision or determination made or other action taken or proposed to be taken with respect to his or her rights under this subchapter, such individual shall at his or her election be entitled either (A) to receive a supplementary notice of such decision, determination, or action, by telephone, within 5 working days after the initial notice is mailed, (B) to receive the initial notice in the form of a certified letter, or (C) to receive notification by some alternative procedure established by the Commissioner of Social Security and agreed to by the individual.

(2) The election under paragraph (1) may be made at any time; but an opportunity to make such an election shall in any event be given (A) to every individual who is an applicant for benefits under this subchapter on the basis of blindness, at the time of his or her application, and (B) to every individual who is a recipient of such benefits on the basis of blindness, at the time of each redetermination of his or her eligibility. Such an election, once made by an individual, shall apply with respect to all notices of decisions, determinations, and actions which such individual may thereafter be entitled to receive under this subchapter until such time as it is revoked or changed.

(m) Pre-release procedures for institutionalized persons

The Commissioner of Social Security shall develop a system under which an individual can apply for supplemental security income benefits under this subchapter prior to the discharge or release of the individual from a public institution.

(n) Concurrent SSI and supplemental nutrition assistance program applications by institutionalized individuals

The Commissioner of Social Security and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subchapter shall also be permitted to apply at the same time for participation in the supplemental nutrition assistance program authorized under the Food and Nutrition Act of 2008 (7 U.S.C. 2011 et seq.).

(o) Notice requirements

The Commissioner of Social Security shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this subchapter by the Commissioner of Social Security or by a State agency—

- (1) is written in simple and clear language, and
- (2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.

(p) Reinstatement of eligibility on the basis of blindness or disability

(1)(A) Eligibility for benefits under this subchapter shall be reinstated in any case where the Commissioner determines that an individual described in subparagraph (B) has filed a request for reinstatement meeting the requirements of paragraph (2)(A) during the period prescribed in subparagraph (C). Reinstatement of eligibility shall be in accordance with the terms of this subsection.

(B) An individual is described in this subparagraph if—

- (i) prior to the month in which the individual files a request for reinstatement—
 - (I) the individual was eligible for benefits under this subchapter on the basis of blindness or disability pursuant to an application filed therefor; and
 - (II) the individual thereafter was ineligible for such benefits due to earned income (or earned and unearned income) for a period of 12 or more consecutive months;
- (ii) the individual is blind or disabled and the physical or mental impairment that is the basis for the finding of blindness or disability is the same as (or related to) the physical or mental impairment that was the basis for the

finding of blindness or disability that gave rise to the eligibility described in clause (i);

(iii) the individual's blindness or disability renders the individual unable to perform substantial gainful activity; and

(iv) the individual satisfies the nonmedical requirements for eligibility for benefits under this subchapter.

(C)(i) Except as provided in clause (ii), the period prescribed in this subparagraph with respect to an individual is 60 consecutive months beginning with the month following the most recent month for which the individual was eligible for a benefit under this subchapter (including section 1382h of this title) prior to the period of ineligibility described in subparagraph (B)(i)(II).

(ii) In the case of an individual who fails to file a reinstatement request within the period prescribed in clause (i), the Commissioner may extend the period if the Commissioner determines that the individual had good cause for the failure to so file.

(2)(A)(i) A request for reinstatement shall be filed in such form, and containing such information, as the Commissioner may prescribe.

(ii) A request for reinstatement shall include express declarations by the individual that the individual meets the requirements specified in clauses (ii) through (iv) of paragraph (1)(B).

(B) A request for reinstatement filed in accordance with subparagraph (A) may constitute an application for benefits in the case of any individual who the Commissioner determines is not eligible for reinstated benefits under this subsection.

(3) In determining whether an individual meets the requirements of paragraph (1)(B)(ii), the provisions of section 1382c(a)(4) of this title shall apply.

(4)(A) Eligibility for benefits reinstated under this subsection shall commence with the benefit payable for the month following the month in which a request for reinstatement is filed.

(B)(i) Subject to clause (ii), the amount of the benefit payable for any month pursuant to the reinstatement of eligibility under this subsection shall be determined in accordance with the provisions of this subchapter.

(ii) The benefit under this subchapter payable for any month pursuant to a request for reinstatement filed in accordance with paragraph (2) shall be reduced by the amount of any provisional benefit paid to such individual for such month under paragraph (7).

(C) Except as otherwise provided in this subsection, eligibility for benefits under this subchapter reinstated pursuant to a request filed under paragraph (2) shall be subject to the same terms and conditions as eligibility established pursuant to an application filed therefor.

(5) Whenever an individual's eligibility for benefits under this subchapter is reinstated under this subsection, eligibility for such benefits shall be reinstated with respect to the individual's spouse if such spouse was previously an eligible spouse of the individual under this subchapter and the Commissioner determines that such spouse satisfies all the requirements for eligibility for such benefits except requirements related to the filing of an application. The provisions of paragraph (4) shall apply to the rein-

stated eligibility of the spouse to the same extent that they apply to the reinstated eligibility of such individual.

(6) An individual to whom benefits are payable under this subchapter pursuant to a reinstatement of eligibility under this subsection for twenty-four months (whether or not consecutive) shall, with respect to benefits so payable after such twenty-fourth month, be deemed for purposes of paragraph (1)(B)(i)(I) to be eligible for such benefits on the basis of an application filed therefor.

(7)(A) An individual described in paragraph (1)(B) who files a request for reinstatement in accordance with the provisions of paragraph (2)(A) shall be eligible for provisional benefits payable in accordance with this paragraph, unless the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration under paragraph (2)(A)(ii) is false. Any such determination by the Commissioner shall be final and not subject to review under paragraph (1) or (3) of subsection (c) of this section.

(B)(i) Except as otherwise provided in clause (ii), the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual under this subchapter with the same kind and amount of income.

(ii) If the individual has a spouse who was previously an eligible spouse of the individual under this subchapter and the Commissioner determines that such spouse satisfies all the requirements of section 1382c(b) of this title except requirements related to the filing of an application, the amount of a provisional benefit for a month shall equal the amount of the monthly benefit that would be payable to an eligible individual and eligible spouse under this subchapter with the same kind and amount of income.

(C)(i) Provisional benefits shall begin with the month following the month in which a request for reinstatement is filed in accordance with paragraph (2)(A).

(ii) Provisional benefits shall end with the earliest of—

(I) the month in which the Commissioner makes a determination regarding the individual's eligibility for reinstated benefits;

(II) the fifth month following the month for which provisional benefits are first payable under clause (i); or

(III) the month in which the Commissioner determines that the individual does not meet the requirements of paragraph (1)(B)(i) or that the individual's declaration made in accordance with paragraph (2)(A)(ii) is false.

(D) In any case in which the Commissioner determines that an individual is not eligible for reinstated benefits, any provisional benefits paid to the individual under this paragraph shall not be subject to recovery as an overpayment unless the Commissioner determines that the individual knew or should have known that the individual did not meet the requirements of paragraph (1)(B).

(8) For purposes of this subsection other than paragraph (7), the term "benefits under this subchapter" includes State supplementary pay-

ments made pursuant to an agreement under section 1382e(a) of this title or section 212(b) of Public Law 93-66.

(Aug. 14, 1935, ch. 531, title XVI, §1631, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1475; amended Pub. L. 93-233, §18(g), Dec. 31, 1973, 87 Stat. 969; Pub. L. 93-368, §5, Aug. 7, 1974, 88 Stat. 420; Pub. L. 94-202, §§1, 2, Jan. 2, 1976, 89 Stat. 1135; Pub. L. 94-365, §1, July 14, 1976, 90 Stat. 990; Pub. L. 94-569, §4(a), Oct. 20, 1976, 90 Stat. 2700; Pub. L. 96-222, title I, §101(a)(2)(C), Apr. 1, 1980, 94 Stat. 195; Pub. L. 96-265, title III, §§301(b), 305(b), 310(b), title V, §501(c), June 9, 1980, 94 Stat. 450, 457, 459, 470; Pub. L. 96-473, §6(h), Oct. 19, 1980, 94 Stat. 2266; Pub. L. 97-35, title XXIII, §2343(a), Aug. 13, 1981, 95 Stat. 866; Pub. L. 97-248, title I, §187(a), Sept. 3, 1982, 96 Stat. 407; Pub. L. 98-369, div. B, title VI, §§2612(a), 2613, 2651(j), 2663(g)(11), (12), July 18, 1984, 98 Stat. 1131, 1150, 1169; Pub. L. 98-460, §§7(b), 16(b), Oct. 9, 1984, 98 Stat. 1803, 1809; Pub. L. 99-272, title XII, §12113(b), Apr. 7, 1986, 100 Stat. 288; Pub. L. 99-514, §2, title XVIII, §1883(d)(1), Oct. 22, 1986, 100 Stat. 2095, 2918; Pub. L. 99-570, title XI, §§11005(a), 11006, Oct. 27, 1986, 100 Stat. 3207-169; Pub. L. 99-643, §§4(c)(1), (d)(3)(B), 5, 8(a), Nov. 10, 1986, 100 Stat. 3576-3579; Pub. L. 100-203, title IX, §§9109(a), 9110(a), (b), 9111(a)(1), 9112(a), 9123, Dec. 22, 1987, 101 Stat. 1330-302 to 1330-304, 1330-313; Pub. L. 100-647, title VIII, §8001(b), Nov. 10, 1988, 102 Stat. 3779; Pub. L. 101-239, title X, §§10302(b)(1), 10303(b), 10305(e), 10307(a)(2), (b)(2), Dec. 19, 1989, 103 Stat. 2482, 2483, 2485; Pub. L. 101-508, title V, §§5031(c), 5038(a), 5039(b), 5040, 5105(a)(1)(B), (2)(A)(ii), (3)(A)(ii), (c)(2), (d)(1)(B), 5106(a)(2), (c), 5107(a)(2), 5109(a)(2), 5113(b), Nov. 5, 1990, 104 Stat. 1388-224, 1388-226, 1388-227, 1388-255, 1388-258, 1388-261, 1388-265, 1388-266, 1388-268, 1388-269, 1388-271, 1388-273; Pub. L. 103-296, title I, §107(a)(4), title II, §§201(b)(1)(A), (B), (2)(A), (B), 206(a)(2), (d)(2), (f)(1), title III, §321(f)(2)(B), (3)(A), (h)(1), Aug. 15, 1994, 108 Stat. 1478, 1499-1501, 1509, 1514, 1515, 1541, 1544; Pub. L. 103-387, §6(a), Oct. 22, 1994, 108 Stat. 4077; Pub. L. 103-432, title II, §§264(b), (e)-(g), 267(b), 268, Oct. 31, 1994, 108 Stat. 4468-4470; Pub. L. 104-121, title I, §105(b)(2), Mar. 29, 1996, 110 Stat. 853; Pub. L. 104-193, title II, §§204(b), (c)(2), 213(a), 221(a), (b), title IV, §404(c), Aug. 22, 1996, 110 Stat. 2188, 2194, 2196, 2197, 2267; Pub. L. 105-33, title V, §§5522(b), 5564, Aug. 5, 1997, 111 Stat. 622, 639; Pub. L. 105-306, §8(b)(2), Oct. 28, 1998, 112 Stat. 2929; Pub. L. 106-169, title II, §§201(b), 202(a), 203(a), 213, 251(b)(9), Dec. 14, 1999, 113 Stat. 1831, 1832, 1843, 1856; Pub. L. 106-170, title I, §§101(b)(2)(C), 112(b), Dec. 17, 1999, 113 Stat. 1874, 1884; Pub. L. 108-203, title I, §§101(c)(1), (3), 102(a)(2), (b)(3), 103(c), 104(b), 105(c), 106(c), title II, §210(b)(4), title III, §302(a), (b), Mar. 2, 2004, 118 Stat. 496, 497, 500, 502, 503, 505, 506, 517, 519, 521; Pub. L. 109-163, div. A, title VI, §689, Jan. 6, 2006, 119 Stat. 3337; Pub. L. 109-171, title VII, §7502(a), Feb. 8, 2006, 120 Stat. 154; Pub. L. 110-234, title IV, §4002(b)(1)(A), (B), (2)(V), May 22, 2008, 122 Stat. 1095-1097; Pub. L. 110-246, §4(a), title IV, §4002(b)(1)(A), (B), (2)(V), June 18, 2008, 122 Stat. 1664, 1857, 1858; Pub. L. 111-115, §2(b), Dec. 15, 2009, 123 Stat. 3029; Pub. L. 111-142, §3(b)(1), Feb. 27, 2010, 124 Stat. 39.)

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsecs. (a)(2)(B)(xiv) and (e)(1)(B)(i), is classified generally to Title 26, Internal Revenue Code.

Section 212 of Public Law 93-66, referred to in subsecs. (a)(2)(F)(i)(II), (iii), (10)(D), (b)(1)(B), (e)(1)(B)(i), (g)(2), (i)(2), and (p)(8), is section 212 of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, which is set out in a note under section 1382 of this title.

Section 302 of the Social Security Protection Act of 2003, referred to in subsec. (d)(2)(C)(ii)(I), probably means section 302 of the Social Security Protection Act of 2004, Pub. L. 108-203, which amended this section and enacted provisions set out as a note under this section.

The Right to Financial Privacy Act, referred to in subsec. (e)(1)(B)(ii)(III)(aa), probably means the Right to Financial Privacy Act of 1978, title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (n), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

CODIFICATION

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

PRIOR PROVISIONS

A prior section 1383, act Aug. 14, 1935, ch. 531, title XVI, §1603, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 200; amended July 30, 1965, Pub. L. 89-97, title I, §122, title II, §221(d)(4), title IV, §401(b), 79 Stat. 353, 359, 414; Jan. 2, 1968, Pub. L. 90-248, title II, §212(d), 81 Stat. 898; Oct. 20, 1972, Pub. L. 92-512, title III, §301(b), (d), (e), 86 Stat. 946, 947, related to determination of amounts payable to States, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, §301, but is set out below in view of its continued applicability to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

2010—Subsec. (d)(2)(A)(vi). Pub. L. 111-142 added cl. (vi).

2009—Subsec. (b)(7). Pub. L. 111-115 added par. (7).

2008—Subsec. (n). Pub. L. 110-246, §4002(b)(1)(A), (B), (2)(V), substituted “supplemental nutrition assistance program” for “food stamp program” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

2006—Subsec. (a)(10)(A)(i). Pub. L. 109-171 substituted “3” for “12”.

Subsec. (j)(1)(B). Pub. L. 109-163 inserted “(or 24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10 or section 502(f) of title 32)” after “for a period of 12 consecutive months”.

2004—Subsec. (a)(2)(A)(iv). Pub. L. 108-203, §101(c)(3), added cl. (iv).

Subsec. (a)(2)(B)(ii)(IV) to (VI). Pub. L. 108-203, §103(c)(1), added subcls. (IV) and (V) and redesignated former subcl. (IV) as (VI).

Subsec. (a)(2)(B)(iii)(II). Pub. L. 108-203, §103(c)(2), substituted “clause (ii)(VI)” for “clause (ii)(IV)” and “section 405(j)(2)(B)(i)(VI)” for “section 405(j)(2)(B)(i)(IV)”.

Subsec. (a)(2)(B)(iii)(IV), (V). Pub. L. 108-203, §103(c)(3), added subcls. (IV) and (V).

Subsec. (a)(2)(B)(vii)(I). Pub. L. 108-203, §102(a)(2)(A), substituted “a certified community-based nonprofit so-

cial service agency (as defined in subparagraph (I))” for “a community-based nonprofit social service agency licensed or bonded by the State”.

Subsec. (a)(2)(B)(xiv). Pub. L. 108-203, §103(c)(4), added cl. (xiv).

Subsec. (a)(2)(C)(v). Pub. L. 108-203, §106(c), added cl. (v).

Subsec. (a)(2)(D)(i). Pub. L. 108-203, §104(b), in introductory provisions, substituted “Except as provided in the next sentence, a” for “A” and, in concluding provisions, substituted “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of subparagraphs (E) and (F). The Commissioner” for “The Commissioner”.

Subsec. (a)(2)(D)(ii). Pub. L. 108-203, §102(a)(2)(B), substituted “or any certified community-based nonprofit social service agency (as defined in subparagraph (I)), if the agency, in accordance” for “or any community-based nonprofit social service agency, which—

“(I) is bonded or licensed in each State in which the agency serves as a representative payee; and

“(II) in accordance”;

redesignated items (aa) and (bb) as subclauses (I) and (II), respectively, realigned margins, and substituted “subclause (II)” for “subclause (II)(bb)” in concluding provisions.

Subsec. (a)(2)(E). Pub. L. 108-203, §101(c)(1), inserted second and third sentences.

Subsec. (a)(2)(F)(i)(II). Pub. L. 108-203, §302(b)(1), inserted “and payment of attorney fees under subsection (d)(2)(B) of this section” after “subsection (g) of this section” in introductory provisions.

Subsec. (a)(2)(G). Pub. L. 108-203, §102(b)(3), amended subpar. (G) generally, substituting provisions relating to periodic onsite reviews and annual report on the results of such reviews for provisions directing the Commissioner of Social Security to include as part of the annual report required under former section 904 of this title certain information with respect to the implementation of the preceding provisions of this par.

Subsec. (a)(2)(G)(i)(II). Pub. L. 108-203, §105(c)(1), substituted “section 405(j)(10)” for “section 405(j)(9)”.

Subsec. (a)(2)(H). Pub. L. 108-203, §105(c)(2), added subpar. (H) and struck out former subpar. (H) which read as follows: “The Commissioner of Social Security shall make an initial report to each House of the Congress on the implementation of subparagraphs (B) and (C) within 270 days after October 9, 1984. The Commissioner of Social Security shall include in the annual report required under section 904 of this title, information with respect to the implementation of subparagraphs (B) and (C), including the same factors as are required to be included in the Commissioner’s report under section 405(j)(4)(B) of this title.”

Subsec. (a)(2)(I). Pub. L. 108-203, §102(a)(2)(C), added subpar. (I).

Subsec. (a)(10)(A). Pub. L. 108-203, §302(b)(2), inserted “and payment of attorney fees under subsection (d)(2)(B) of this section” after “subsection (g) of this section” in introductory provisions and after “State” in concluding provisions.

Subsec. (b)(1)(B). Pub. L. 108-203, §210(b)(4)(A), substituted “excluding payments under subchapter II of this chapter when recovery is made from subchapter II payments pursuant to section 1320b-17 of this title and excluding” for “excluding any other” and struck out “50 percent of” before “the lump sum payment.”.

Subsec. (b)(6). Pub. L. 108-203, §210(b)(4)(B), added par. (6) and struck out former par. (6) which read as follows: “For provisions relating to the recovery of benefits incorrectly paid under this subchapter from benefits payable under subchapter II of this chapter, see section 1320b-17 of this title.”

Subsec. (d)(2)(A). Pub. L. 108-203, §302(a)(1), in introductory provisions, substituted “section 406” for “sec-

tion 406(a)", "(other than subsections (a)(4) and (d) thereof)" for "(other than paragraph (4) thereof)", and "such section" for "paragraph (2) thereof".

Subsec. (d)(2)(A)(i). Pub. L. 108-203, § 302(a)(2), substituted "in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)" for "in subparagraphs (A)(ii)(I) and (C)(i)," and struck out "and" at end.

Subsec. (d)(2)(A)(ii) to (v). Pub. L. 108-203, § 302(a)(3), added cls. (ii) to (v) and struck out former cl. (ii) which read as follows: "by substituting 'section 1383(a)(7)(A) of this title or the requirements of due process of law' for 'subsection (g) or (h) of section 423 of this title'."

Subsec. (d)(2)(B) to (D). Pub. L. 108-203, § 302(a)(4), added subpars. (B) and (C) and redesignated former subpar. (B) as (D).

1999—Subsec. (a)(2)(A)(iii). Pub. L. 106-169, § 251(b)(9)(A), inserted "or 1007" after "405(j)(1)".

Subsec. (a)(2)(B)(ii)(I). Pub. L. 106-169, § 251(b)(9)(B), inserted "subchapter VIII of this chapter," before "or this subchapter".

Subsec. (a)(2)(B)(ii)(III). Pub. L. 106-169, § 251(b)(9)(C), inserted "1011," before "or 1383a".

Subsec. (a)(2)(B)(ii)(IV). Pub. L. 106-169, § 251(b)(9)(D), inserted "whether the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title," before "and whether certification" and "subchapter VIII of this chapter," before "or this subchapter".

Subsec. (a)(2)(B)(iii)(II). Pub. L. 106-169, § 251(b)(9)(E), inserted "the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title," before "or certification".

Subsec. (a)(2)(D)(ii)(II)(aa). Pub. L. 106-169, § 251(b)(9)(F), inserted "or 1007" after "405(j)(4)".

Subsec. (a)(6)(A). Pub. L. 106-170, § 101(b)(2)(C), substituted "a program consisting of the Ticket to Work and Self-Sufficiency Program under section 1320b-19 of this title or another program of vocational rehabilitation services, employment services, or other support services" for "a program of vocational rehabilitation services".

Subsec. (b)(1)(B)(ii). Pub. L. 106-169, § 202(a), inserted "monthly" before "benefit payments" and "and in the case of an individual or eligible spouse to whom a lump sum is payable under this subchapter (including under section 1382e(a) of this title or under an agreement entered into under section 212(a) of Public Law 93-66) shall, as at least one means of recovering such overpayment, make the adjustment or recovery from the lump sum payment in an amount equal to not less than the lesser of the amount of the overpayment or 50 percent of the lump sum payment," before "unless fraud".

Subsec. (b)(2). Pub. L. 106-169, § 201(b), inserted at end "If any payment of more than the correct amount is made to a representative payee on behalf of an individual after the individual's death, the representative payee shall be liable for the repayment of the overpayment, and the Commissioner of Social Security shall establish an overpayment control record under the social security account number of the representative payee."

Subsec. (b)(4) to (6). Pub. L. 106-169, § 203(a), added par. (4) and redesignated former pars. (4) and (5) as (5) and (6), respectively.

Subsec. (e)(1)(B). Pub. L. 106-169, § 213, designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (j)(1). Pub. L. 106-170, § 112(b)(2)(A), inserted before period at end "or has filed a request for reinstatement of eligibility under subsection (p)(2) of this section and been determined to be eligible for reinstatement".

Subsec. (j)(2)(A)(i)(I). Pub. L. 106-170, § 112(b)(2)(B), inserted "(other than pursuant to a request for reinstatement under subsection (p) of this section)" after "eligible".

Subsec. (p). Pub. L. 106-170, § 112(b)(1), added subsec. (p).

1998—Subsec. (b)(5). Pub. L. 105-306 added par. (5).

1997—Subsec. (a)(2)(F)(ii)(III)(bb). Pub. L. 105-33, § 5522(b)(1), substituted "in any case in which the indi-

vidual knowingly misapplies benefits from such an account, the Commissioner shall reduce future benefits payable to such individual (or to such individual and his spouse) by an amount equal to the total amount of such benefits so misapplied" for "the total amount of such benefits so used shall be considered to be the uncompensated value of a disposed resource and shall be subject to the provisions of section 1382b(c) of this title".

Subsec. (a)(2)(F)(iii). Pub. L. 105-33, § 5522(b)(2), added cl. (iii) and struck out former cl. (iii) which read as follows: "The representative payee may deposit into the account established pursuant to clause (i)—

"(I) past-due benefits payable to the eligible individual in an amount less than that specified in clause (i)(II), and

"(II) any other funds representing an underpayment under this subchapter to such individual, provided that the amount of such underpayment is equal to or exceeds the maximum monthly benefit payable under this subchapter to an eligible individual."

Subsec. (e)(9). Pub. L. 105-33, § 5564, substituted "not lawfully present in the United States" for "unlawfully in the United States" in two places.

1996—Subsec. (a)(1). Pub. L. 104-193, § 221(b), inserted "(subject to paragraph (10))" before "in such installments".

Subsec. (a)(2)(A)(ii)(II). Pub. L. 104-121, § 105(b)(2)(A), amended subcl. (II) generally. Prior to amendment, subcl. (II) read as follows: "In the case of an individual eligible for benefits under this subchapter by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is disabled, the payment of such benefits to a representative payee shall be deemed to serve the interest of the individual under this subchapter. In any case in which such payment is so deemed under this subclause to serve the interest of an individual, the Commissioner of Social Security shall include, in the individual's notification of such eligibility, a notice that alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is disabled and that the Commissioner of Social Security is therefore required to pay the individual's benefits to a representative payee."

Subsec. (a)(2)(B)(vii). Pub. L. 104-121, § 105(b)(2)(B), substituted "described in subparagraph (A)(ii)(II)" for "eligible for benefits under this subchapter by reason of disability, if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is disabled".

Subsec. (a)(2)(B)(ix)(II). Pub. L. 104-121, § 105(b)(2)(C), substituted "described in subparagraph (A)(ii)(II)" for "(if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is disabled) is eligible for benefits under this subchapter by reason of disability."

Subsec. (a)(2)(D)(i)(II). Pub. L. 104-121, § 105(b)(2)(D), substituted "described in subparagraph (A)(ii)(II)" for "eligible for benefits under this subchapter by reason of disability and alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is disabled".

Subsec. (a)(2)(F) to (H). Pub. L. 104-193, § 213(a), added subpar. (F) and redesignated former subpars. (F) and (G) as (G) and (H), respectively.

Subsec. (a)(4)(A). Pub. L. 104-193, § 204(b), inserted "for the month following the date the application is filed" after "is presumptively eligible for such benefits" and "which shall be repaid through proportionate reductions in such benefits over a period of not more than 6 months" before semicolon.

Subsec. (a)(10). Pub. L. 104-193, § 221(a), added par. (10).

Subsec. (e)(6) to (8). Pub. L. 104-193, § 404(c)(1), redesignated pars. (6), relating to suspicion of fraud or similar fault, and (7) as (7) and (8), respectively.

Subsec. (e)(9). Pub. L. 104-193, § 404(c)(2), added par. (9).

Subsec. (g)(3). Pub. L. 104-193, § 204(c)(2), inserted "following the month" after "beginning with the month".

1994—Subsec. (a)(2). Pub. L. 103-432, §264(e), inserted par. (2) designation.

Subsec. (a)(2)(A)(ii). Pub. L. 103-296, §201(b)(1)(A)(i), designated existing provisions as subcl. (I), struck out “or in the case of any individual or eligible spouse referred to in section 1382(e)(3)(A) of this title,” after “served thereby,” and added subcl. (II).

Pub. L. 103-296, §107(a)(4), in cl. (ii) as amended by Pub. L. 103-296, §201(b)(1)(A)(i), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in two places in subcl. (II).

Subsec. (a)(2)(A)(iii). Pub. L. 103-296, §201(b)(1)(A)(ii), substituted “to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this subchapter would be served thereby, to the individual or eligible spouse” for “to the individual or eligible spouse or to an alternative representative payee of the individual or eligible spouse”.

Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” in two places.

Subsec. (a)(2)(B)(i)(I), (ii), (iv) to (vi). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(2)(B)(vii). Pub. L. 103-296, §201(b)(2)(A)(ii), added cl. (vii). Former cl. (vii) redesignated (viii).

Pub. L. 103-296, §107(a)(4), in cl. (vii) as added by Pub. L. 103-296, §201(b)(2)(A)(ii), substituted “Commissioner of Social Security” for “Secretary” in two places and “Commissioner’s” for “Secretary’s”.

Subsec. (a)(2)(B)(viii). Pub. L. 103-296, §201(b)(2)(A)(i), (iii), redesignated cl. (vii) as (viii) and substituted “clause (ix)” for “clause (viii)”. Former cl. (viii) redesignated (ix).

Pub. L. 103-296, §201(b)(1)(B), in subcl. (II) substituted “of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is disabled) is eligible for benefits under this subchapter by reason of disability.” for “15 years, or a drug addict or alcoholic referred to in section 1382(e)(3)(A) of this title.”

Pub. L. 103-296, §107(a)(4), in cl. (viii) as redesignated by Pub. L. 103-296, §201(b)(2)(A)(i), substituted “Commissioner of Social Security” for “Secretary” in two places.

Subsec. (a)(2)(B)(ix). Pub. L. 103-296, §201(b)(2)(A)(i), (iv), redesignated cl. (viii) as (ix) and in subcl. (I) substituted “clause (viii)” for “clause (vii)”. Former cl. (ix) redesignated (x).

Pub. L. 103-296, §107(a)(4), in cl. (ix) as redesignated and amended by Pub. L. 103-296, §201(b)(1)(B), (2)(A)(i), substituted “Commissioner’s” for “Secretary’s” in two places in subcl. (II).

Subsec. (a)(2)(B)(x) to (xii). Pub. L. 103-296, §201(b)(2)(A)(i), redesignated cls. (ix) to (xi) as (x) to (xii), respectively. Former cl. (xii) redesignated (xiii).

Pub. L. 103-296, §107(a)(4), in cls. (x) to (xii) as redesignated by Pub. L. 103-296, §201(b)(2)(A)(i), substituted “Commissioner of Social Security” for “Secretary” and “Commissioner’s” for “Secretary’s” wherever appearing.

Subsec. (a)(2)(B)(xiii). Pub. L. 103-296, §201(b)(2)(A)(i), (v), redesignated cl. (xii) as (xiii) and substituted “clause (xii)” for “clause (xi)” and “clause (xi)” for “clause (x)”.

Subsec. (a)(2)(C). Pub. L. 103-296, §107(a)(4), in subpar. (C) as amended by Pub. L. 103-432, §264(f), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(2)(C)(i). Pub. L. 103-432, §264(f)(1), substituted “to a representative payee” for “to representative payee”.

Subsec. (a)(2)(C)(ii). Pub. L. 103-432, §264(f)(2), (3), redesignated cl. (iii) as (ii) and struck out former cl. (ii) which read as follows: “Clause (i) shall not apply in any case where the representative payee is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify

on a periodic basis that such parent or spouse continues to live in the same household as such individual.”

Subsec. (a)(2)(C)(iii). Pub. L. 103-432, §264(f)(3), redesignated cl. (iv) as (iii). Former cl. (iii) redesignated (ii).

Subsec. (a)(2)(C)(iv). Pub. L. 103-432, §264(f)(4), substituted “Notwithstanding clauses (i), (ii), and (iii)” for “Notwithstanding clauses (i), (ii), (iii), and (iv)”.

Pub. L. 103-432, §264(f)(3), redesignated cl. (v) as (iv). Former cl. (iv) redesignated (iii).

Subsec. (a)(2)(C)(v). Pub. L. 103-432, §264(f)(3), redesignated cl. (v) as (iv).

Subsec. (a)(2)(D)(i). Pub. L. 103-296, §201(b)(2)(B)(i)(I)(bb), inserted in closing provisions “The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) of this clause under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(i)(2)(A) of this title, except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00.”

Pub. L. 103-296, §107(a)(4), in cl. (i) as amended by Pub. L. 103-296, §201(b)(2)(B)(i)(I)(bb), substituted “Commissioner of Social Security” for “Secretary” in closing provisions.

Subsec. (a)(2)(D)(i)(II). Pub. L. 103-296, §201(b)(2)(B)(i)(I)(aa), added subcl. (II) and struck out former subcl. (II) which read as follows: “\$25.00 per month.”

Pub. L. 103-296, §104(a)(7), in subcl. (II) as added by Pub. L. 103-296, §201(b)(2)(B)(i)(I)(aa), substituted “Commissioner’s” for “Secretary’s”.

Subsec. (a)(2)(D)(ii). Pub. L. 103-296, §201(b)(2)(B)(ii), in introductory provisions inserted “State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any” after “means any” and a comma after “service agency”, at end of subcl. (I) inserted “and”, and in subcl. (II) inserted “and” at end of item (aa), substituted a period for “; and” at end of item (bb), and struck out item (cc) which read as follows: “was in existence on October 1, 1988.”

Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(2)(D)(iv). Pub. L. 103-296, §201(b)(2)(B)(iii)(II), redesignated cl. (v) as (iv).

Pub. L. 103-296, §201(b)(2)(B)(iii)(I), struck out cl. (iv) which read as follows: “This subparagraph shall cease to be effective on July 1, 1994.”

Subsec. (a)(2)(D)(v). Pub. L. 103-296, §201(b)(2)(B)(iii)(II), redesignated cl. (v) as (iv).

Pub. L. 103-296, §201(b)(2)(B)(i)(II), added cl. (v).

Subsec. (a)(2)(E). Pub. L. 103-296, §321(f)(2)(B)(ii), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 103-296, §107(a)(4), in subpar. (E) as added by Pub. L. 103-296, §321(f)(2)(B)(ii), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (a)(2)(F), (G). Pub. L. 103-296, §321(f)(2)(B)(i), redesignated subpars. (E) and (F) as (F) and (G), respectively.

Pub. L. 103-296, §107(a)(4), in subpars. (F) and (G) as redesignated by Pub. L. 103-296, §321(f)(2)(B)(i), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in subpar. (G).

Subsec. (a)(3), (4), (6) to (8). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing, “the Commissioner’s” for “his” in par. (8)(A), and “Commissioner’s” for “Secretary’s” in par. (8)(B).

Subsec. (b). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “the Commissioner finds” for “he finds” in par. (1)(B).

Subsec. (b)(3) to (5). Pub. L. 103-432, §267(b), redesignated pars. (4) and (5) as (3) and (4), respectively, and

struck out former par. (3) which read as follows: "In any case in which advance payments for a taxable year made by all employers to an individual under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit) exceed the amount of such individual's earned income credit allowable under section 32 of such Code for such year, so that such individual is liable under section 32(g) of such Code for a tax equal to such excess, the Secretary shall provide for an appropriate adjustment of such individual's benefit amount under this subchapter so as to provide payment to such individual of an amount equal to the amount of such benefits lost by such individual on account of such excess advance payments."

Subsec. (c)(1)(A). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "Commissioner's determination" for "Secretary's determination", "the Commissioner's findings" for "his findings", "the Commissioner's own motion" for "his own motion", "the Commissioner may deem" for "he may deem", and "the Commissioner may administer" for "he may administer".

Subsec. (c)(1)(B). Pub. L. 103-432, §264(g), substituted "subparagraph (A)" for "paragraph (1)" in cls. (i) and (ii).

Subsec. (c)(1)(B)(ii). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(3). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" and "Commissioner's" for "Secretary's".

Subsec. (d)(2)(A)(i). Pub. L. 103-296, §321(f)(3)(A), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "by substituting 'section 1320a-6(a) or 1383(g) of this title' for 'section 1320a-6(a) of this title'; and".

Subsec. (d)(2)(B). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places.

Subsec. (e)(1). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (e)(1)(C). Pub. L. 103-387 added subpar. (C).

Subsec. (e)(2), (3). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "the Commissioner may" for "he may" in par. (2).

Subsec. (e)(4). Pub. L. 103-296, §206(a)(2), added par. (4).

Subsec. (e)(5). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in introductory provisions.

Subsec. (e)(6). Pub. L. 103-432, §268, redesignated subpars. (1) and (2) of par. (6), relating to face-to-face interviews in field offices, as subpars. (A) and (B), respectively.

Pub. L. 103-296, §206(d)(2), added par. (6) relating to suspicion of fraud or similar fault.

Pub. L. 103-296, §107(a)(4), in par. (6), relating to suspicion of fraud or similar fault, as added by Pub. L. 103-296, §206(d)(2), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in closing provisions of par. (6) relating to face-to-face interviews in field offices.

Subsec. (e)(7). Pub. L. 103-296, §206(f)(1), added par. (7).

Pub. L. 103-296, §107(a)(4), in par. (7) as added by Pub. L. 103-296, §206(f)(1), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsecs. (f) to (m). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, except where appearing before "of the Treasury" in subsec. (i)(1) and (3).

Subsec. (n). Pub. L. 103-432, §264(b), which directed substitution of "section" for "subsection", could not be executed because of amendment by Pub. L. 103-296, §321(h)(1)(A), which substituted "subchapter" for "subsection". See below.

Pub. L. 103-296, §321(h)(1)(B), redesignated subsec. (n) relating to notice requirements as (o).

Pub. L. 103-296, §321(h)(1)(A), substituted "subchapter" for "subsection" in subsec. (n) relating to concurrent SSI and food stamp applications by institutionalized individuals.

Pub. L. 103-296, §107(a)(4), substituted "The Commissioner of Social Security and" for "The Secretary and" in subsec. (n) relating to concurrent SSI and food stamp applications by institutionalized individuals.

Subsec. (o). Pub. L. 103-296, §321(h)(1)(B), redesignated subsec. (n) relating to notice requirements as (o).

Pub. L. 103-296, §107(a)(4), in subsec. (o) as redesignated by Pub. L. 103-296, §321(h)(1)(B), substituted "Commissioner of Social Security" for "Secretary" in two places in introductory provisions.

1990—Subsec. (a)(2)(A). Pub. L. 101-508, §5105(a)(1)(B)(i), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: "Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1382(e)(3)(A) of this title, the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse)."

Subsec. (a)(2)(B). Pub. L. 101-508, §5105(a)(2)(A)(ii), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "Any determination made under subparagraph (A) that payment should be made to a person other than the individual or spouse entitled to such payment must be made on the basis of an investigation, carried out either prior to such determination or within forty-five days after such determination, and on the basis of adequate evidence that such determination is in the interest of the individual or spouse entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such determinations are adequately reviewed."

Subsec. (a)(2)(C)(i). Pub. L. 101-508, §5105(a)(1)(B)(ii)(I), substituted "representative payee of an individual or spouse" for "a person other than the individual or spouse entitled to such payment".

Subsec. (a)(2)(C)(ii) to (iv). Pub. L. 101-508, §5105(a)(1)(B)(ii)(II), substituted "representative payee" for "other person to whom such payment is made".

Subsec. (a)(2)(C)(v). Pub. L. 101-508, §5105(a)(1)(B)(ii)(III), substituted "representative payee" for "person receiving payments on behalf of another" and for "person receiving such payments".

Subsec. (a)(2)(D). Pub. L. 101-508, §5105(a)(3)(A)(ii)(III)(II), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (a)(2)(E). Pub. L. 101-508, §5105(c)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 101-508, §5105(a)(3)(A)(ii)(I), redesignated subpar. (D) as (E).

Subsec. (a)(2)(F). Pub. L. 101-508, §5105(d)(1)(B), which directed amendment of subsec. (a)(2)(E), as redesignating it as subpar. (E) and amending it generally, was executed to subpar. (E), as added by section 5105(c)(2) of Pub. L. 101-508, as the probable intent of Congress. Prior to amendment, subpar. (E) read as follows: "In cases where the negligent failure of the Secretary to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Secretary shall make payment to the beneficiary or the beneficiary's representative payee of an amount equal to such misused benefits. The Secretary shall make a good faith effort to obtain restitution from the terminated representative payee."

Pub. L. 101-508, §5105(c)(2), redesignated subpar. (E) as (F).

Subsec. (a)(4)(B). Pub. L. 101-508, §5038(a), substituted “6 months” for “3 months”.

Subsec. (a)(6)(A). Pub. L. 101-508, §5113(b)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: “such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and”.

Subsec. (a)(6)(B). Pub. L. 101-508, §5113(b)(2), substituted “Secretary” for “Commissioner of Social Security”.

Subsec. (a)(9). Pub. L. 101-508, §5031(c), added par. (9).

Subsec. (c)(1). Pub. L. 101-508, §5107(a)(2), designated existing provision as subpar. (A) and added subpar. (B).

Subsec. (d)(2)(A). Pub. L. 101-508, §5106(a)(2), amended subpar. (A) generally, substituting cls. (i) and (ii) for former single par. which authorized Secretary to prescribe regulations relating to representation of claimants before the Secretary, representation by attorneys, suspension of representatives, and maximum fees for representation, provided penalties for deceiving claimants and exceeding maximum fees, and required Secretary to maintain in the electronic information retrieval system of the Social Security Administration the identity of representatives of claimants.

Subsec. (h). Pub. L. 101-508, §5106(c), inserted at end “The amount available for payment under this subsection for travel by a representative to attend an administrative proceeding before an administrative law judge or other adjudicator shall not exceed the maximum amount allowable under this subsection for such travel originating within the geographic area of the office having jurisdiction over such proceeding.”

Subsec. (j)(2)(A). Pub. L. 101-508, §5039(b), inserted “(other than subsection (c) thereof)” after first reference to “section 1382h of this title”.

Subsec. (m). Pub. L. 101-508, §5040(1), struck out at end “The Secretary and the Secretary of Agriculture shall develop a procedure under which an individual who applies for supplemental security income benefits under this subchapter shall also be permitted to apply for participation in the food stamp program by executing a single application.”

Subsec. (n). Pub. L. 101-508, §5109(a)(2), added subsec. (n) relating to notice requirements.

Pub. L. 101-508, §5040(2), added subsec. (n) relating to concurrent SSI and food stamp applications by institutionalized individuals.

1989—Subsec. (c)(1). Pub. L. 101-239, §10305(e), inserted at end “The Secretary shall specifically take into account any physical, mental, educational, or linguistic limitation of such individual (including any lack of facility with the English language) in determining, with respect to the eligibility of such individual for benefits under this subchapter, whether such individual acted in good faith or was at fault, and in determining fraud, deception, or intent.”

Subsec. (d)(2). Pub. L. 101-239, §10307(b)(2), designated existing provisions as subpar. (A) and added subpar. (B).

Pub. L. 101-239, §10307(a)(2), inserted at end “The Secretary shall maintain in the electronic information retrieval system used by the Social Security Administration a current record, with respect to any claimant before the Secretary, of the identity of any person representing such claimant in accordance with this paragraph.”

Subsec. (e)(5). Pub. L. 101-239, §10302(b)(1), added par. (5).

Subsec. (e)(6). Pub. L. 101-239, §10303(b), added par. (6).

1988—Subsec. (a)(8). Pub. L. 100-647 added par. (8).

1987—Subsec. (a)(4)(A). Pub. L. 100-203, §9109(a), substituted “a cash advance against such benefits, including any federally-administered State supplementary payments, in an amount not exceeding the monthly amount that would be payable to an eligible individual with no other income for the first month of such presumptive eligibility” for “a cash advance against such benefits in an amount not exceeding \$100”.

Subsec. (a)(6). Pub. L. 100-203, §9112(a), in introductory provision inserted “blindness (as determined under

section 1382c(a)(2) of this title) or” before “disability” and “blindness or other” before “physical”, and in subpar. (B) inserted “blindness and” before “disability”.

Subsec. (g)(2). Pub. L. 100-203, §9110(a), substituted “at the time the Secretary makes the first payment of benefits with respect to the period described in clause (A) or (B) of paragraph (3)” for “at the time the Secretary makes the first payment of benefits”.

Subsec. (g)(3). Pub. L. 100-203, §9110(b), inserted cl. (A) designation after “basic needs” and added cl. (B).

Subsec. (j). Pub. L. 100-203, §9123, redesignated subsec. (j), relating to pre-release procedures for institutionalized persons, as (m).

Subsec. (l). Pub. L. 100-203, §9111(a)(1), added subsec. (l).

Subsec. (m). Pub. L. 100-203, §9123, redesignated subsec. (j), relating to pre-release procedures for institutionalized persons, as (m) and reenacted heading without change.

1986—Subsec. (b)(1). Pub. L. 99-643, §8(a), substituted “(A) Whenever the Secretary” for “Whenever the Secretary”, “by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—” for “by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary (A) shall make”, added subpar. (A)(i) and (ii), substituted “(B) the Secretary (i) shall make such provision” for “such provision”, “and (ii) shall in any event” for “and (B) shall in any event”, “(I) the amount” for “(i) the amount”, “(II) an amount” for “(ii) an amount”, “clause (ii)” for “clause (B)”, and “clause (i)” for “clause (A)”.

Subsec. (b)(2). Pub. L. 99-272 added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(3). Pub. L. 99-514, §2, substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Pub. L. 99-272 redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(4), (5). Pub. L. 99-272 redesignated pars. (3) and (4) as (4) and (5), respectively.

Subsec. (e)(1)(A). Pub. L. 99-643, §4(c)(1)(A), substituted “subparagraph (B) and subsection (j) of this section” for “subparagraph (B)”.

Subsec. (e)(1)(B). Pub. L. 99-514, §2, substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e)(3). Pub. L. 99-570, §11005(a), added par. (3).

Subsec. (g). Pub. L. 99-514, §1883(d)(1), amended heading generally.

Subsec. (j). Pub. L. 99-570, §11006, added subsec. (j) relating to pre-release procedures for institutionalized persons.

Pub. L. 99-643, §4(c)(1)(B), added subsec. (j) relating to application and review requirements for certain individuals.

Subsec. (j)(2)(A). Pub. L. 99-643, §4(d)(3)(B), in subsec. (j) relating to application and review requirements, substituted “section 1382c(a)(4) of this title” for “section 1382c(a)(5) of this title” in closing provisions.

Subsec. (k). Pub. L. 99-643, §5, added subsec. (k).

1984—Subsec. (a)(2). Pub. L. 98-460, §16(b), redesignated existing provisions as subpar. (A) and added subpars. (B) to (D).

Subsec. (a)(7). Pub. L. 98-460, §7(b), added par. (7).

Pub. L. 98-369, §2612(a), inserted “(A)” before “shall make such provision” in second sentence, and added cl. (B).

Subsec. (b)(1). Pub. L. 98-369, §2663(g)(11)(A), substituted “equity and good conscience” for “equity or good conscience”.

Subsec. (b)(2). Pub. L. 98-369, §2663(g)(11)(B), substituted “section 32” and “section 32(g)” for “section 43” and “section 43(g)”, respectively.

Subsec. (b)(3), (4). Pub. L. 98-369, §2613, added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(1). Pub. L. 98-369, §2663(g)(12), substituted “and (e)” for “(e), and (f)”.

Subsec. (e)(1)(B). Pub. L. 98-369, §2651(j), inserted provision that for this purpose and for purposes of federally administered supplementary payments of the type described in section 1382e(a) of this title (including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66), the Secretary shall, as may be necessary, request and utilize information available pursuant to section 6103(l)(7) of the Internal Revenue Code of 1954, and any information which may be available from State systems under section 1320b-7 of this title, and shall comply with the requirements applicable to States (with respect to information available pursuant to section 6103(l)(7)(B) of such Code) under subsections (a)(6) and (c) of such section 1320b-7 of this title.

1982—Subsec. (i)(2). Pub. L. 97-248 substituted “such benefit checks” for “checks payable to individuals entitled to benefits under this subchapter but”.

1981—Subsec. (i). Pub. L. 97-35 added subsec. (i).

1980—Subsec. (a)(6). Pub. L. 96-265, §301(b), added par. (6).

Subsec. (b). Pub. L. 96-473 redesignated par. (2) as added by Pub. L. 96-265, §501(c), as (3).

Pub. L. 96-265, §501(c), designated existing provisions as par. (1) and added par. (2), without reference to identical amendment made by Pub. L. 96-222. Such par. (2) was subsequently redesignated par. (3) by Pub. L. 96-473.

Pub. L. 96-222 designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Pub. L. 96-265, §305(b), inserted provisions relating to information that must accompany a decision of Secretary.

Subsec. (h). Pub. L. 96-265, §310(b), added subsec. (h). 1976—Subsec. (a)(4)(B). Pub. L. 94-569 inserted “or blindness” after “disability” and “or blind” after “disabled” wherever appearing.

Subsec. (c)(1). Pub. L. 94-202, §1, increased authority of Secretary by permitting him to hold hearings on his own motion, to administer oaths, examine witnesses, and receive evidence at hearings, and increased time within which a request for a hearing be made after notice of Secretary’s determination is received from thirty to sixty days.

Subsec. (c)(2). Pub. L. 94-202, §1, reenacted par. (2) without change.

Subsec. (c)(3). Pub. L. 94-202, §1, struck out exception to judicial review which made factual determinations by the Secretary, after a hearing as provided by subsec. (c)(1), final and conclusive.

Subsec. (d)(2), (3). Pub. L. 94-202, §2, struck out par. (2) which related to appointment of individuals to serve as hearing examiners without meeting specific standards prescribed for hearing examiners, and redesignated par. (3) as par. (2).

Subsec. (g). Pub. L. 94-365 struck out par. (6) which provided that provisions of this subsection were to expire on June 30, 1976, at least sixty days prior to which, the Secretary was to submit to Congress a report assessing effects of actions taken pursuant to this subsection and including whatever recommendations the Secretary deemed appropriate.

1974—Subsec. (g). Pub. L. 93-368 added subsec. (g).

1973—Subsec. (a)(4)(B). Pub. L. 93-233 inserted “solely because such individual is determined not to be disabled.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 3(b)(1) of Pub. L. 111-142 shall be fully implemented as provided by the Commissioner of Social Security not later than Mar. 1, 2010, see section 3(c) of Pub. L. 111-142, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-115 effective for payments that would otherwise be made on or after Dec. 15, 2009, see section 2(c) of Pub. L. 111-115, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(A), (B), (2)(V) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VII, §7502(b), Feb. 8, 2006, 120 Stat. 154, provided that: “The amendment made by subsection (a) [amending this section] shall take effect 3 months after the date of the enactment of this Act [Feb. 8, 2006].”

EFFECTIVE AND TERMINATION DATES OF 2004 AMENDMENT

Amendment by section 101(c)(1), (3) of Pub. L. 108-203 applicable to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after Jan. 1, 1995, see section 101(d) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 102(a)(2) of Pub. L. 108-203 effective on the first day of the thirteenth month beginning after Mar. 2, 2004, see section 102(a)(3) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 103(c) of Pub. L. 108-203 effective on the first day of the thirteenth month beginning after Mar. 2, 2004, see section 103(d) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 104(b) of Pub. L. 108-203 applicable to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after Mar. 2, 2004, see section 104(c) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 105(c) of Pub. L. 108-203 applicable to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after Mar. 2, 2004, see section 105(d) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 106(c) of Pub. L. 108-203 effective 180 days after Mar. 2, 2004, see section 106(d) of Pub. L. 108-203, set out as a note under section 405 of this title.

Amendment by section 210(b)(4) of Pub. L. 108-203 effective Mar. 2, 2004, and effective with respect to overpayments under subchapters II, VIII, and XVI of this chapter that are outstanding on or after such date, see section 210(c) of Pub. L. 108-203, set out as a note under section 404 of this title.

Pub. L. 108-203, title III, §302(c), Mar. 2, 2004, 118 Stat. 521, as amended by Pub. L. 111-142, §2(a)(2), Feb. 27, 2010, 124 Stat. 38, provided that:

“The amendments made by this section [amending this section] shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act [42 U.S.C. 1383(d)(2)] on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act [set out as a note under section 406 of this title] of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act [set out as a note under section 406 of this title].”

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by section 101(b)(2)(C) of Pub. L. 106-170 effective with the first month following one year after

Dec. 17, 1999, subject to section 101(d) of Pub. L. 106-170, see section 101(c) of Pub. L. 106-170, set out as an Effective Date note under section 1320b-19 of this title.

Amendment by section 112(b) of Pub. L. 106-170 effective on the first day of the thirteenth month beginning after Dec. 17, 1999, and no benefit to be payable under this subchapter on the basis of a request for reinstatement filed under subsec. (p) of this section before such date, see section 112(c) of Pub. L. 106-170, set out as a note under section 423 of this title.

Amendment by section 201(b) of Pub. L. 106-169 applicable to overpayments made 12 months or more after Dec. 14, 1999, see section 201(c) of Pub. L. 106-169, set out as a note under section 404 of this title.

Pub. L. 106-169, title II, § 202(b), Dec. 14, 1999, 113 Stat. 1832, provided that: "The amendments made by this section [amending this section] shall take effect 12 months after the date of the enactment of this Act [Dec. 14, 1999] and shall apply to amounts incorrectly paid which remain outstanding on or after such date."

Amendment by section 203(a) of Pub. L. 106-169 applicable to debt outstanding on or after Dec. 14, 1999, see section 203(d) of Pub. L. 106-169, set out as a note under section 3701 of Title 31, Money and Finance.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-306 effective Oct. 28, 1998, and applicable to amounts incorrectly paid which remain outstanding on or after such date, see section 8(c) of Pub. L. 105-306, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 5522(b) of Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

Amendment by section 5564 of Pub. L. 105-33 effective as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5582 of Pub. L. 105-33, set out as a note under section 1367 of Title 8, Aliens and Nationality.

EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by section 204(b), (c)(2) of Pub. L. 104-193 applicable to applications for benefits under this subchapter filed on or after Aug. 22, 1996, without regard to whether regulations have been issued to implement amendments by section 204 of Pub. L. 104-193, see section 204(d) of Pub. L. 104-193, set out as a note under section 1382 of this title.

Amendment by section 213(a) of Pub. L. 104-193 applicable to payments made after Aug. 22, 1996, see section 213(d) of Pub. L. 104-193, set out as a note under section 1382a of this title.

Section 221(c) of Pub. L. 104-193 provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section] are effective with respect to past-due benefits payable under title XVI of the Social Security Act [this subchapter] after the third month following the month in which this Act is enacted [August 1996].

"(2) BENEFITS PAYABLE UNDER TITLE XVI.—For purposes of this subsection, the term 'benefits payable under title XVI of the Social Security Act' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [section 1382e(a) of this title], and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out as a note under section 1382 of this title]."

Amendment by Pub. L. 104-121 effective July 1, 1996, with respect to any individual whose claim for benefits is finally adjudicated on or after Mar. 29, 1996, or whose eligibility for benefits is based upon eligibility redetermination made pursuant to section 105(b)(5)(C) of Pub.

L. 104-121, see section 105(b)(5) of Pub. L. 104-121, as amended, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1994 AMENDMENTS

Amendment by section 264(b) and (e)-(g) of Pub. L. 103-432 effective as if included in the provision of Pub. L. 101-508 to which the amendment relates at the time such provision became law, see section 264(h) of Pub. L. 103-432, set out as a note under section 1320b-9 of this title.

Section 6(b) of Pub. L. 103-387 provided that: "The amendment made by subsection (a) [amending this section] shall apply to admissions occurring on or after October 1, 1995."

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 201(b)(1)(C) of Pub. L. 103-296 provided that: "The amendments made by this paragraph [amending this section] shall apply with respect to months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994]."

Section 201(b)(2)(B)(iii)(I) of Pub. L. 103-296 provided that the amendment made by that section is effective July 1, 1994.

Section 201(b)(2)(C) of Pub. L. 103-296 provided that: "Except as provided in subparagraph (B)(iii)(I) [amending this section and enacting provisions set out as a note above], the amendments made by this paragraph [amending this section] shall apply with respect to months beginning after 90 days after the date of the enactment of this Act [Aug. 15, 1994]."

Amendment by section 206(a)(2) of Pub. L. 103-296 applicable to translations made on or after Oct. 1, 1994, see section 206(a)(3) of Pub. L. 103-296, set out as a note under section 405 of this title.

Amendment by section 206(d)(2) of Pub. L. 103-296 effective Oct. 1, 1994, and applicable to determinations made before, on, or after such date, see section 206(d)(3) of Pub. L. 103-296, set out as a note under section 405 of this title.

Section 206(f)(2) of Pub. L. 103-296 provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on October 1, 1994."

Amendment by section 321(f)(2)(B), (3)(A) of Pub. L. 103-296 effective as if included in the provisions of Pub. L. 101-508 to which such amendment relates, see section 321(f)(5) of Pub. L. 103-296, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by section 5031(c) of Pub. L. 101-508 applicable with respect to benefits for months beginning on or after the first day of the 6th calendar month following November 1990, see section 5031(d) of Pub. L. 101-508, set out as a note under section 1382a of this title.

Section 5038(b) of Pub. L. 101-508 provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to benefits for months beginning on or after the first day of the 6th calendar month following the month in which this Act is enacted [November 1990]."

Amendment by section 5105(a)(1)(B), (2)(A)(ii) of Pub. L. 101-508 effective July 1, 1991, and applicable only with respect to (i) certifications of payment of benefits under subchapter II of this chapter to representative payees made on or after such date; and (ii) provisions for payment of benefits under this subchapter to representative payees made on or after such date, and amendment by section 5105(a)(3)(A)(ii) of Pub. L. 101-508 effective July 1, 1991, see section 5105(a)(5) of Pub. L. 101-508 set out as a note under section 405 of this title.

Amendment by section 5105(d)(1)(B) of Pub. L. 101-508 applicable with respect to annual reports issued for years after 1991, see section 5105(d)(2) of Pub. L. 101-508, set out as a note under section 405 of this title.

Amendment by section 5106(a)(2), (c) of Pub. L. 101-508 applicable with respect to determinations made on or

after July 1, 1991, and to reimbursement for travel expenses incurred on or after Apr. 1, 1991, see section 5106(d) of Pub. L. 101-508, set out as a note under section 401 of this title.

Amendment by section 5107(a)(2) of Pub. L. 101-508 applicable with respect to adverse determinations made on or after July 1, 1991, see section 5107(b) of Pub. L. 101-508, set out as a note under section 405 of this title.

Amendment by section 5109(a)(2) of Pub. L. 101-508 applicable with respect to notices issued on or after July 1, 1991, see section 5109(b) of Pub. L. 101-508, set out as a note under section 405 of this title.

Amendment by section 5113(b) of Pub. L. 101-508 effective with respect to benefits payable for months after the eleventh month following November 1990, and applicable only with respect to individuals whose blindness or disability has or may have ceased after such eleventh month, see section 5113(c) of Pub. L. 101-508, set out as a note under section 425 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 10302(b)(2) of Pub. L. 101-239 provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to misinformation furnished on or after the date of the enactment of this Act [Dec. 19, 1989] and to benefits for months after the month in which this Act is enacted [December 1989]."

Amendment by section 10303(b) of Pub. L. 101-239 applicable to visits to field offices of Social Security Administration on or after Jan. 1, 1990, see section 10303(c) of Pub. L. 101-239, set out as a note under section 405 of this title.

Amendment by section 10305(e) of Pub. L. 101-239 applicable with respect to determinations made on or after July 1, 1990, see section 10305(f) of Pub. L. 101-239, set out as a note under section 403 of this title.

Amendment by section 10307(a)(2) of Pub. L. 101-239 effective June 1, 1991, see section 10307(a)(3) of Pub. L. 101-239, set out as a note under section 406 of this title.

Amendment by section 10307(b)(2) of Pub. L. 101-239 applicable with respect to adverse determinations made on or after Jan. 1, 1991, see section 10307(b)(3) of Pub. L. 101-239, set out as a note under section 406 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to determinations by administrative law judges of entitlement to benefits made after 180 days after Nov. 10, 1988, see section 8001(c) of Pub. L. 100-647, set out as a note under section 423 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9109(b) of Pub. L. 100-203 provided that: "The amendment made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [Dec. 22, 1987]."

Section 9110(c) of Pub. L. 100-203 provided that: "The amendments made by this section [amending this section] shall become effective with the 13th month following the month in which this Act is enacted [December 1987], or, if sooner, with the first month for which the Secretary of Health and Human Services determines that it is administratively feasible."

Section 9111(c) of Pub. L. 100-203 provided that: "The amendment made by subsection (a) [amending this section] shall become effective July 1, 1988."

Section 9112(b) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by sections 4(c)(1), (d)(3)(B) and 5 of Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

Section 8(b) of Pub. L. 99-643 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to benefits payable for months after May 1986."

Section 11005(c)(1) of Pub. L. 99-570 provided that: "The amendment made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [Oct. 27, 1986]."

Amendment by Pub. L. 99-272 applicable only in the case of deaths of which the Secretary is first notified on or after Apr. 7, 1986, see section 12113(c) of Pub. L. 99-272, set out as a note under section 404 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by section 16(b) of Pub. L. 98-460 effective Oct. 9, 1984, see section 16(d) of Pub. L. 98-460, set out as a note under section 405 of this title.

Amendment by sections 2612(a) and 2613 of Pub. L. 98-369 effective Oct. 1, 1984, except as otherwise specifically provided, see section 2646 of Pub. L. 98-369, set out as a note under section 657 of this title.

Amendment by section 2651(j) of Pub. L. 98-369 effective July 18, 1984, see section 2651(l)(1) of Pub. L. 98-369, set out as an Effective Date note under section 1320b-7 of this title.

Amendment by section 2663(g)(11), (12) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Section 187(b) of Pub. L. 97-248 provided that: "The amendment made by subsection (a) [amending this section] shall become effective October 1, 1982."

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2343(b) of Pub. L. 97-35 provided that: "The amendment made by subsection (a) [amending this section] shall become effective October 1, 1982."

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 301(b) of Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, and applicable with respect to individuals whose disability has not been determined to have ceased prior to such first day, see section 301(c) of Pub. L. 96-265, set out as a note under section 425 of this title.

Amendment by section 305(b) of Pub. L. 96-265 applicable with respect to decisions made on or after the first day of the 13th month following June, 1980, see section 305(c) of Pub. L. 96-265, set out as a note under section 405 of this title.

Amendment by section 501(c) of Pub. L. 96-265 applicable in the case of payments of monthly insurance benefits under subchapter II of this chapter, entitlement for which is determined on or after July 1, 1981, see section 501(d) of Pub. L. 96-265, set out as an Effective Date note under section 1320a-6 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 4(b) of Pub. L. 94-569 provided that: "The amendments made by this section [amending this section] shall apply with respect to months after the month following the month in which this Act is enacted [October 1976]."

Amendment by sections 1 and 2 of Pub. L. 94-202 effective Jan. 2, 1976, with the amendment by section 2 of Pub. L. 94-202, to the extent that it changes the period within which a hearing must be requested, applicable to any decision or determination which is received on or after Jan. 2, 1976, see section 5 of Pub. L. 94-202, set out as a note under section 405 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective Jan. 1, 1974, see section 18(z-3)(1) of Pub. L. 93-233.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

REGULATIONS

Section 222 of title II of Pub. L. 104-193 provided that: "Within 3 months after the date of the enactment of this Act [Aug. 22, 1996], the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle [subtitle C (§§ 221, 222) of title II of Pub. L. 104-193, amending this section]."

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

PAYMENT OF TRAVEL EXPENSES

Pub. L. 102-394, title II, Oct. 6, 1992, 106 Stat. 1807, provided in part: "That for fiscal year 1993 and thereafter, travel expense payments under section 1631(h) of such Act [subsec. (h) of this section] for travel to hearings may be made only when travel of more than seventy-five miles is required".

Similar provisions were contained in the following prior appropriation acts:

- Pub. L. 102-170, title II, Nov. 26, 1991, 105 Stat. 1122.
- Pub. L. 101-517, title II, Nov. 5, 1990, 104 Stat. 2204.
- Pub. L. 101-166, title II, Nov. 21, 1989, 103 Stat. 1173.
- Pub. L. 100-436, title II, Sept. 20, 1988, 102 Stat. 1695.
- Pub. L. 100-202, §101(h) [title II], Dec. 22, 1987, 101 Stat. 1329-256, 1329-270.
- Pub. L. 99-500, §101(i) [H.R. 5233, title II], Oct. 18, 1986, 100 Stat. 1783-287, and Pub. L. 99-591, §101(i) [H.R. 5233, title II], Oct. 30, 1986, 100 Stat. 3341-287.
- Pub. L. 99-178, title II, Dec. 12, 1985, 99 Stat. 1116.
- Pub. L. 98-619, title II, Nov. 8, 1984, 98 Stat. 3318.
- Pub. L. 98-139, title II, Oct. 31, 1983, 97 Stat. 884.
- Pub. L. 97-377, title I, §101(e)(1), Dec. 21, 1982, 96 Stat. 1891.
- Pub. L. 97-92, §101(a) [H.R. 4560, title II], Dec. 15, 1981, 95 Stat. 1183.

DEPOSIT OF OVERPAYMENTS IN GENERAL FUND OF TREASURY

Pub. L. 102-170, title II, Nov. 26, 1991, 105 Stat. 1122, provided: "That for fiscal year 1992 and thereafter, all collections from repayments of overpayments shall be deposited in the general fund of the Treasury."

OPPORTUNITY FOR INDIVIDUALS RECEIVING BENEFITS TO MAKE ELECTION FOR TYPE OF NOTICE OF HEARING OR OTHER OFFICIAL ACTION

Section 9111(a)(2) of Pub. L. 100-203 directed Secretary of Health and Human Services, not later than one year after July 1, 1988, to provide every individual receiving benefits under this subchapter on the basis of blindness an opportunity to make an election under subsec. (l)(1) of this section.

STUDY OF DESIRABILITY AND FEASIBILITY OF SPECIAL NOTICES OF HEARINGS AND OTHER ACTIONS TO OTHER INDIVIDUALS UNABLE TO READ

Section 9111(b) of Pub. L. 100-203 directed Secretary of Health and Human Services to study desirability and feasibility of extending special or supplementary notices of the type provided to blind individuals by subsec. (l) of this section to other individuals who may lack the ability to read and comprehend regular written notices, and report the results of such study to Congress, along with recommendations, within 12 months after Dec. 22, 1987.

DEMONSTRATION PROGRAM TO ASSIST HOMELESS INDIVIDUALS

Section 9117 of Pub. L. 100-203, as amended by Pub. L. 104-66, title I, §1061(e), Dec. 21, 1995, 109 Stat. 720, provided that:

"(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the 'Sec-

retary') is authorized to make grants to States for projects designed to demonstrate and test the feasibility of special procedures and services to ensure that homeless individuals are provided SSI and other benefits under the Social Security Act [this chapter] to which they are entitled and receive assistance in using such benefits to obtain permanent housing, food, and health care. Each project approved under this section shall meet such conditions and requirements, consistent with this section, as the Secretary shall prescribe.

"(b) SCOPE OF PROJECTS.—Projects for which grants are made under this section shall include, more specifically, procedures and services to overcome barriers which prevent homeless individuals (particularly the chronically mentally ill) from receiving and appropriately using benefits, including—

"(1) the creation of cooperative approaches between the Social Security Administration, State and local governments, shelters for the homeless, and other providers of services to the homeless;

"(2) the establishment, where appropriate, of multi-agency SSI Outreach Teams (as described in subsection (c)), to facilitate communication between the agencies and staff involved in taking and processing claims for SSI and other benefits by the homeless who use shelters;

"(3) special efforts to identify homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act [this chapter];

"(4) the provision of special assistance to the homeless in applying for benefits, including assistance in obtaining and developing evidence of disability and supporting documentation for nondisability-related eligibility requirements;

"(5) the provision of special training and assistance to public and private agency staff, including shelter employees, on disability eligibility procedures and evidentiary requirements;

"(6) the provision of ongoing assistance to formerly homeless individuals to ensure their responding to information requests related to periodic redeterminations of eligibility for SSI and other benefits;

"(7) the provision of assistance in ensuring appropriate use of benefit funds for the purpose of enabling homeless individuals to obtain permanent housing, nutrition, and physical and mental health care, including the use, where appropriate, of the disabled individual's representative payee for case management services; and

"(8) such other procedures and services as the Secretary may approve.

"(c) SSI OUTREACH TEAM PROJECTS.—(1) If a State applies for funds under this section for the purpose of establishing a multi-agency SSI Outreach Team, the membership and functions of such Team shall be as follows (except as provided in paragraph (2)):

"(A) The membership of the Team shall include a social services case worker (or case workers, if necessary); a consultative medical examiner who is qualified to provide consultative examinations for the Disability Determination Service of the State; a disability examiner, from the State Disability Determination Service; and a claims representative from an office of the Social Security Administration.

"(B) The Team shall have designated members responsible for—

"(i) identification of homeless individuals who are potentially eligible for SSI or other benefits under the Social Security Act [this chapter];

"(ii) ensuring that such individuals understand their rights under the programs;

"(iii) assisting such individuals in applying for benefits, including assistance in obtaining and developing evidence and supporting documentation relating to disability- and nondisability-related eligibility requirements;

"(iv) arranging transportation and accompanying applicants to necessary examinations, if needed; and

"(v) providing for the tracking and monitoring of all claims for benefits by individuals under the project.

“(2) If the Secretary determines that an application by a State for an SSI Outreach Team Project under this section which proposes a membership and functions for such Team different from those prescribed in paragraph (1) but which is expected to be as effective, the Secretary may waive the requirements of such paragraph.

[(d) Repealed. Pub. L. 104-66, title I, § 1061(e), Dec. 21, 1995, 109 Stat. 720.]

“(e) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated to the Secretary—

“(A) the sum of \$1,250,000 for the fiscal year 1988;

“(B) the sum of \$2,500,000 for the fiscal year 1989; and

“(C) such sums as may be necessary for each fiscal year thereafter.”

NOTIFICATION OF ADJUSTMENT OF BENEFITS BY SECRETARY

Section 2612(b) of Pub. L. 98-369 provided that: “If an adjustment referred to in section 1631(b)(1) of the Social Security Act [subsec. (b)(1) of this section] is in effect with respect to an individual or eligible spouse on the effective date of this subsection [Oct. 1, 1984], and the amount of such adjustment for a month is greater than the amount described in section 1631(b)(1)(B)(ii) of such Act [subsec. (b)(1)(B)(ii) of this section], as added by subsection (a), the Secretary shall notify the individual whose benefits are being adjusted, in writing, of his or her right to have the adjustment reduced to the amount described in such section 1631(b)(1)(B)(ii).”

PAYMENT OF COSTS OF REHABILITATION SERVICES

Amendment to sections 422 and 1382d of this title by section 11(a), (b) of Pub. L. 98-460 applicable with respect to individuals who receive benefits as a result of section 425(b) or section 1383(a)(6) of this title, or who refuse to continue to accept rehabilitation services or fail to cooperate in an approved vocational rehabilitation program, in or after the first month following October 1984, see section 11(c) of Pub. L. 98-460, set out as an Effective Date of 1984 Amendment note under section 422 of this title.

HEARING EXAMINERS APPOINTED PRIOR TO JANUARY 2, 1976

Pub. L. 95-216, title III, § 371, Dec. 20, 1977, 91 Stat. 1559, provided that: “The persons who were appointed to serve as hearing examiners under section 1631(d)(2) of the Social Security Act [subsec. (d)(2) of this section] (as in effect prior to January 2, 1976), and who by section 3 of Public Law 94-202 [set out as a note under this section] were deemed to be appointed under section 3105 of title 5, United States Code (with such appointments terminating no later than at the close of the period ending December 31, 1978), shall be deemed appointed to career-absolute positions as hearing examiners under and in accordance with section 3105 of title 5, United States Code, with the same authority and tenure (without regard to the expiration of such period) as hearing examiners appointed directly under such section 3105, and shall receive compensation at the same rate as hearing examiners appointed by the Secretary of Health, Education, and Welfare [now Health and Human Services] directly under such section 3105. All of the provisions of title 5, United States Code and the regulations promulgated pursuant thereto, which are applicable to hearing examiners appointed under such section 3105, shall apply to the persons described in the preceding sentence.”

Section 3 of Pub. L. 94-202 provided that: “The persons appointed under section 1631(d)(2) of the Social Security Act [subsec. (d)(2) of this section] (as in effect prior to the enactment of this Act) to serve as hearing examiners in hearings under section 1631(c) of such Act [subsec. (c) of this section] may conduct hearings under titles II, XVI, and XVIII of the Social Security Act [subchapters II, XVI, and XVIII of this chapter] if the

Secretary of Health, Education, and Welfare [now Health and Human Services] finds it will promote the achievement of the objectives of such titles [subchapters], notwithstanding the fact that their appointments were made without meeting the requirements for hearing examiners appointed under section 3105 of title 5, United States Code but their appointments shall terminate not later than at the close of the period ending December 31, 1978, and during that period they shall be deemed to be hearing examiners appointed under such section 3105 and subject as such to subchapter II of chapter 5 of title 5, United States Code, to the second sentence of such section 3105, and to all of the other provisions of such title 5 which apply to hearing examiners appointed under such section 3105.”

PRESUMPTIVE DISABILITY BENEFITS; TIME EXTENSION

Pub. L. 93-256, § 1, Mar. 28, 1974, 88 Stat. 52, provided: “That any individual who would be considered disabled under section 1614(a)(3)(E) of the Social Security Act [section 1382c(a)(3)(E) of this title] except that he did not receive aid under the appropriate State plan for at least one month prior to July 1973 may be considered to be presumptively disabled under section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] and may be paid supplemental security income benefits under title XVI of that Act [this subchapter] on the basis of such presumptive disability, and State supplementary payments under section 212 of Public Law 93-66 [set out as a note under section 1382 of this title] as though he had been determined to be disabled within the meaning of section 1614(a)(3) of the Social Security Act [section 1382c(a)(3) of this title], for any month in calendar year 1974 for which it has been determined that he is otherwise eligible for such benefits, without regard to the three-month limitation in section 1631(a)(4)(B) of that Act [subsec. (a)(4)(B) of this section] on the period for which benefits may be paid to presumptively disabled individuals, except that no such benefits may be paid on the basis of such presumptive disability for any month after the month in which the Secretary of Health, Education, and Welfare [now Health and Human Services] has made a determination as to whether such individual is disabled, as defined in section 1614(a)(3)(A) of that Act [section 1382c(a)(3)(A) of this title].”

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1603 of the Social Security Act [this section] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1603 of the Social Security Act [this section] as it existed prior to reenactment by Pub. L. 92-603, and as amended, continues to apply and reads as follows:

§ 1383. Payments to States; quarterly expenditures to exceed average of total expenditures for each quarter of fiscal year ending June 30, 1965

(a) From the sums appropriated therefor, the Commissioner of Social Security shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) Repealed. Pub. L. 97-35, title XXI, § 2184(d)(5)(A), Aug. 13, 1981, 95 Stat. 818.

(2) In the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan, not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of \$45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month; and

(3) Repealed. Pub. L. 97-35, title XXI, §2184(d)(5)(A), Aug. 13, 1981, 95 Stat. 818.

(4) in the case of any State, an amount equal to 50 percent of the total amounts expended during such quarter as found necessary by the Commissioner of Social Security for the proper and efficient administration of the State plan.

(b)(1) Prior to the beginning of each quarter, the Commissioner of Social Security shall estimate the amount to which a State will be entitled under subsection (a) of this section for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Commissioner of Social Security may find necessary.

(2) The Commissioner of Social Security shall then pay, in such installments as the Commissioner may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Commissioner of Social Security determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) The pro rata share to which the United States is equitably entitled, as determined by the Commissioner of Social Security, of the net amount recovered during any quarter by the State or any political subdivision thereof with respect to aid or assistance furnished under the State plan, but excluding any amount of such aid or assistance recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased, shall be considered an overpayment to be adjusted under this subsection.

(4) Upon the making of any estimate by the Commissioner of Social Security under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(Aug. 14, 1935, ch. 531, title XVI, §1603, as added Pub. L. 87-543, title I, §141(a), July 25, 1962, 76 Stat. 200; amended Pub. L. 89-97, title I, §122, title II, §221(d)(4), title IV, §401(b), July 30, 1965, 79 Stat. 353, 359, 414; Pub. L. 90-248, title II, §212(d), Jan. 2, 1968, 81 Stat. 898; Pub. L. 92-512, title III, §301(b), (d), Oct. 20, 1972, 86 Stat. 946, 947; Pub. L. 93-647, §§3(e)(2), 5(e), Jan. 4, 1975, 88 Stat. 2349, 2350; Pub. L. 97-35, title XXI, §2184(d)(5), title XXIII, §2353(m)(2), (3), Aug. 13, 1981, 95 Stat. 818, 873; Pub. L. 99-603, title I, §121(b)(4), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 103-66, title XIII, §13741(b), Aug. 10, 1993, 107 Stat. 663; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

[Amendment by Pub. L. 103-66 effective with respect to calendar quarters beginning on or after Apr. 1, 1994,

with special rule for States whose legislature meets biennially, and does not have regular session scheduled in calendar year 1994, see section 13741(c) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 303 of this title.]

[Amendment by Pub. L. 99-603 effective Oct. 1, 1987, see section 121(c)(2) of Pub. L. 99-603, set out as an Effective Date of 1986 Amendment note under section 502 of this title.]

REIMBURSEMENT FOR ERRONEOUS STATE SUPPLEMENTARY PAYMENTS; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 95-216, title IV, §405, Dec. 20, 1977, 91 Stat. 1564, provided that:

“(a) Notwithstanding any other provision of law, the Secretary of Health, Education, and Welfare [now Health and Human Services] is authorized and directed to pay to each State an amount equal to the amount expended by such State for erroneous supplementary payments to aged, blind, or disabled individuals whenever, and to the extent to which, the Secretary through an audit by the Department of Health, Education, and Welfare [now Health and Human Services] which has been reviewed and concurred in by the Inspector General of such department determines that—

“(1) such amount was paid by such State as a supplementary payment during the calendar year 1974 pursuant to an agreement between the State and the Secretary required by section 212 of the Act entitled ‘An Act to extend the Renegotiation Act of 1951 for one year, and for other purposes’, approved July 9, 1973, [set out as a note under section 1382 of this title], or such amount was paid by such State as an optional State supplementation, as defined in section 1616 of the Social Security Act [section 1382 of this title], during the calendar year 1974,

“(2) the erroneous payments were the result of good faith reliance by such State upon erroneous or incomplete information supplied by the Department of Health, Education, and Welfare [now Health and Human Services], through the State data exchange, or good faith reliance upon incorrect supplemental security income benefit payments made by such department, and

“(3) recovery of the erroneous payments by such State would be impossible or unreasonable.

“(b) There are authorized to be appropriated such sums as are necessary to carry out the provisions of this section.”

§ 1383a. Penalties for fraud

(a) In general

Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit under this subchapter,

(2) at any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to any such benefit,

(3) having knowledge of the occurrence of any event affecting (A) his initial or continued right to any such benefit, or (B) the initial or continued right to any such benefit of any other individual in whose behalf he has applied for or is receiving such benefit, conceals or fails to disclose such event with an intent fraudulently to secure such benefit either in a greater amount or quantity than is due or when no such benefit is authorized, or

(4) having made application to receive any such benefit for the use and benefit of another and having received it, knowingly and willfully converts such benefit or any part thereof

to a use other than for the use and benefit of such other person,

shall be fined under title 18, imprisoned not more than 5 years, or both.

(b) Restitution

(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a) of this section, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

(B) an individual suffering a financial loss due to the defendant's violation of subsection (a) of this section in his or her capacity as the individual's representative payee appointed pursuant to section 1383(a)(2) of this title.

(2) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual's outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this subchapter, subchapter II of this chapter, or subchapter VIII of this chapter by the individual.

(c) Prohibition on certification as representative payee

Any person or entity convicted of a violation of subsection (a) of this section or of section 408 of this title may not be certified as a representative payee under section 1383(a)(2) of this title.

(Aug. 14, 1935, ch. 531, title XVI, §1632, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1478; amended Pub. L. 98-460, §16(c)(1), Oct. 9, 1984, 98 Stat. 1810; Pub. L. 103-296, title II, §206(c)(1), (2), Aug. 15, 1994, 108 Stat. 1513; Pub. L. 108-203, title II, §209(c), Mar. 2, 2004, 118 Stat. 515.)

AMENDMENTS

2004—Subsec. (b). Pub. L. 108-203, §209(c)(2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 108-203, §209(c)(1), (3), redesignated subsec. (b) as (c), struck out “(2)” before “Any person”, and struck out par (1) which read as follows: “If a person or entity violates subsection (a) of this section in the person's or entity's role as, or in applying

to become, a representative payee under section 1383(a)(2) of this title on behalf of another individual (other than the person's eligible spouse), and the violation includes a willful misuse of funds by the person or entity, the court may also require that full or partial restitution of funds be made to such other individual.”

1994—Subsec. (a). Pub. L. 103-296, §206(c)(1), inserted closing provisions and struck out former closing provisions which read as follows: “shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.”

Subsec. (b). Pub. L. 103-296, §206(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows:

“(b)(1) Any person or other entity who is convicted of a violation of any of the provisions of paragraphs (1) through (4) of subsection (a) of this section, if such violation is committed by such person or entity in his role as, or in applying to become, a payee under section 1383(a)(2) of this title on behalf of another individual (other than such person's eligible spouse), in lieu of the penalty set forth in subsection (a) of this section—

“(A) upon his first such conviction, shall be guilty of a misdemeanor and shall be fined not more than \$5,000 or imprisoned for not more than one year, or both; and

“(B) upon his second or any subsequent such conviction, shall be guilty of a felony and shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

“(2) In any case in which the court determines that a violation described in paragraph (1) includes a willful misuse of funds by such person or entity, the court may also require that full or partial restitution of such funds be made to the individual for whom such person or entity was the certified payee.

“(3) Any person or entity convicted of a felony under this section or under section 408 of this title may not be certified as a payee under section 1383(a)(2) of this title.”

1984—Pub. L. 98-460 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-203 applicable with respect to violations occurring on or after Mar. 2, 2004, see section 209(d) of Pub. L. 108-203, set out as a note under section 408 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 206(c)(3) of Pub. L. 103-296 provided that: “The amendments made by this subsection [amending this section] shall apply to conduct occurring on or after October 1, 1994.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-460 effective Oct. 9, 1984, and applicable with respect to violations occurring on or after such date, see section 16(d) of Pub. L. 98-460, set out as a note under section 405 of this title.

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Vir-

gin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383b. Administration

(a) Authority of Commissioner

Subject to subsection (b) of this section, the Commissioner of Social Security may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1382c(a)(2) and (3) of this title in the same manner and subject to the same conditions as provided with respect to disability determinations under section 421 of this title) as may be necessary or appropriate to carry out the Commissioner's functions under this subchapter.

(b) Examination to determine blindness

In determining, for purposes of this subchapter, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

(c) Notification of review

(1) In any case in which the Commissioner of Social Security initiates a review under this subchapter, similar to the continuing disability reviews authorized for purposes of subchapter II of this chapter under section 421(i) of this title, the Commissioner of Social Security shall notify the individual whose case is to be reviewed in the same manner as required under section 421(i)(4) of this title.

(2) For suspension of continuing disability reviews and other reviews under this subchapter similar to reviews under section 421 of this title in the case of an individual using a ticket to work and self-sufficiency, see section 1320b-19(i) of this title.

(d) Regulations regarding completion of plans for achieving self-support

The Commissioner of Social Security shall establish by regulation criteria for time limits and other criteria related to individuals' plans for achieving self-support, that take into account—

(1) the length of time that the individual will need to achieve the individual's employment goal (within such reasonable period as the Commissioner of Social Security may establish); and

(2) other factors determined by the Commissioner of Social Security to be appropriate.

(e) Review of State agency blindness and disability determinations

(1) The Commissioner of Social Security shall review determinations, made by State agencies pursuant to subsection (a) in connection with applications for benefits under this subchapter on the basis of blindness or disability, that individuals who have attained 18 years of age are blind or disabled as of a specified onset date. The Commissioner of Social Security shall review such a determination before any action is taken to implement the determination.

(2)(A) In carrying out paragraph (1), the Commissioner of Social Security shall review—

(i) at least 20 percent of all determinations referred to in paragraph (1) that are made in fiscal year 2006;

(ii) at least 40 percent of all such determinations that are made in fiscal year 2007; and

(iii) at least 50 percent of all such determinations that are made in fiscal year 2008 or thereafter.

(B) In carrying out subparagraph (A), the Commissioner of Social Security shall, to the extent feasible, select for review the determinations which the Commissioner of Social Security identifies as being the most likely to be incorrect.

(Aug. 14, 1935, ch. 531, title XVI, §1633, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1478; amended Pub. L. 93-66, title II, §214, July 9, 1973, 87 Stat. 158; Pub. L. 98-460, §6(b), Oct. 9, 1984, 98 Stat. 1802; Pub. L. 103-296, title I, §107(a)(4), title II, §203(a), Aug. 15, 1994, 108 Stat. 1478, 1508; Pub. L. 106-170, title I, §101(b)(2)(D), Dec. 17, 1999, 113 Stat. 1874; Pub. L. 109-171, title VII, §7501, Feb. 8, 2006, 120 Stat. 154.)

AMENDMENTS

2006—Subsec. (e). Pub. L. 109-171 added subsec. (e).

1999—Subsec. (c). Pub. L. 106-170 designated existing provisions as par. (1) and added par. (2).

1994—Subsec. (a). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" and "the Commissioner's" for "his".

Subsec. (c). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places.

Subsec. (d). Pub. L. 103-296, §203(a), added subsec. (d).

Pub. L. 103-296, §107(a)(4), in subsec. (d) as added by Pub. L. 103-296, §203(a), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

1984—Subsec. (c). Pub. L. 98-460 added subsec. (c).

1973—Subsec. (a). Pub. L. 93-66, §214(1), (2), designated existing provisions as subsec. (a) and made the authority of the Secretary subject to subsec. (b) of this section.

Subsec. (b). Pub. L. 93-66, §214(3), added subsec. (b).

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 effective with the first month following one year after Dec. 17, 1999, subject to section 101(d) of Pub. L. 106-170, see section 101(c) of Pub. L. 106-170, set out as an Effective Date note under section 1320b-19 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 203(b) of Pub. L. 103-296 provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995."

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

INSTITUTION OF NOTIFICATION SYSTEM

For provisions requiring the Secretary to institute the system of notification required by subsec. (c) of this section as soon as practicable after Oct. 9, 1984, see

section 6(c) of Pub. L. 98-460, set out as a note under section 421 of this title.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; PREFERENCE FOR PRESENT STATE AND LOCAL EMPLOYEES

Section 213 of Pub. L. 93-66 provided that: "The Secretary of Health, Education, and Welfare [now Health and Human Services] in the recruitment and selection for employment of personnel whose services will be utilized in the administration of the Federal program of supplemental security income for the aged, blind, and disabled (established by title XVI of the Social Security Act [this subchapter]), shall give a preference, as among applicants whose qualifications are reasonably equal (subject to any preferences conferred by law or regulation on individuals who have been Federal employees and have been displaced from such employment), to applicants for employment who are or were employed in the administration of any State program approved under title I, X, XIV, or XVI of such Act [subchapter I, X, XIV, or XVI of this chapter] and are or were involuntarily displaced from their employment as a result of the displacement of such State program by such Federal program."

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383c. Eligibility for medical assistance of aged, blind, or disabled individuals under State's medical assistance plan

(a) Determination by Commissioner pursuant to agreement between Commissioner and State; costs

The Commissioner of Social Security may enter into an agreement with any State which wishes to do so under which the Commissioner will determine eligibility for medical assistance in the case of aged, blind, or disabled individuals under such State's plan approved under subchapter XIX of this chapter. Any such agreement shall provide for payments by the State, for use by the Commissioner of Social Security in carrying out the agreement, of an amount equal to one-half of the cost of carrying out the agreement, but in computing such cost with respect to individuals eligible for benefits under this subchapter, the Commissioner of Social Security shall include only those costs which are additional to the costs incurred in carrying out this subchapter.

(b) Preservation of benefit status for certain disabled widows and widowers

(1) An eligible disabled widow or widower (described in paragraph (2)) who is entitled to a widow's or widower's insurance benefit based on a disability for any month under section 402(e) or (f) of this title but is not eligible for benefits under this subchapter in that month, and who applies for the protection of this subsection

under paragraph (3), shall be deemed for purposes of subchapter XIX of this chapter to be an individual with respect to whom benefits under this subchapter are paid in that month if he or she—

(A) has been continuously entitled to such widow's or widower's insurance benefits from the first month for which the increase described in paragraph (2)(C) was reflected in such benefits through the month involved, and

(B) would be eligible for benefits under this subchapter in the month involved if the amount of the increase described in paragraph (2)(C) in his or her widow's or widower's insurance benefits, and any subsequent cost-of-living adjustments in such benefits under section 415(i) of this title, were disregarded.

(2) For purposes of paragraph (1), the term "eligible disabled widow or widower" means an individual who—

(A) was entitled to a monthly insurance benefit under subchapter II of this chapter for December 1983,

(B) was entitled to a widow's or widower's insurance benefit based on a disability under section 402(e) or (f) of this title for January 1984 and with respect to whom a benefit under this subchapter was paid in that month, and

(C) because of the increase in the amount of his or her widow's or widower's insurance benefits which resulted from the amendments made by section 134 of the Social Security Amendments of 1983 (Public Law 98-21) (eliminating the additional reduction factor for disabled widows and widowers under age 60), was ineligible for benefits under this subchapter in the first month in which such increase was paid to him or her (and in which a retroactive payment of such increase for prior months was not made).

(3) This subsection shall only apply to an individual who files a written application for protection under this subsection, in such manner and form as the Commissioner of Social Security may prescribe, no later than July 1, 1988.

(4) For purposes of this subsection, the term "benefits under this subchapter" includes payments of the type described in section 1382e(a) of this title or of the type described in section 212(a) of Public Law 93-66.

(c) Loss of benefits upon entitlement to child's insurance benefits based on disability

If any individual who has attained the age of 18 and is receiving benefits under this subchapter on the basis of blindness or a disability which began before he or she attained the age of 22—

(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 402(d) of this title on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

(2) ceases to be eligible for benefits under this subchapter because of such child's insurance benefits or because of the increase in such child's insurance benefits,

such individual shall be treated for purposes of subchapter XIX of this chapter as receiving ben-

efits under this subchapter so long as he or she would be eligible for benefits under this subchapter in the absence of such child's insurance benefits or such increase.

(d) Retention of medicaid when SSI benefits are lost upon entitlement to early widow's or widower's insurance benefits

(1) This subsection applies with respect to any person who—

(A) applies for and obtains benefits under subsection (e) or (f) of section 402 of this title (or under any other subsection of section 402 of this title if such person is also eligible for benefits under such subsection (e) or (f) of this section) being then not entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter, and

(B) is determined to be ineligible (by reason of the receipt of such benefits under section 402 of this title) for supplemental security income benefits under this subchapter or for State supplementary payments of the type described in section 1382e(a) of this title (or payments of the type described in section 212(a) of Public Law 93-66).

(2) For purposes of subchapter XIX of this chapter, each person with respect to whom this subsection applies—

(A) shall be deemed to be a recipient of supplemental security income benefits under this subchapter if such person received such a benefit for the month before the month in which such person began to receive a benefit described in paragraph (1)(A), and

(B) shall be deemed to be a recipient of State supplementary payments of the type referred to in section 1382e(a) of this title (or payments of the type described in section 212(a) of Public Law 93-66) if such person received such a payment for the month before the month in which such person began to receive a benefit described in paragraph (1)(A),

for so long as such person (i) would be eligible for such supplemental security income benefits, or such State supplementary payments (or payments of the type described in section 212(a) of Public Law 93-66), in the absence of benefits described in paragraph (1)(A), and (ii) is not entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter.

(Aug. 14, 1935, ch. 531, title XVI, §1634, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1478; amended Pub. L. 99-272, title XII, §12202(a), Apr. 7, 1986, 100 Stat. 290; Pub. L. 99-643, §6(a), Nov. 10, 1986, 100 Stat. 3578; Pub. L. 100-203, title IX, §§9108, 9116(a), Dec. 22, 1987, 101 Stat. 1330-302, 1330-305; Pub. L. 101-508, title V, §5103(c)(1), Nov. 5, 1990, 104 Stat. 1388-251; Pub. L. 103-296, title I, §107(a)(4), title II, §201(b)(3)(D), Aug. 15, 1994, 108 Stat. 1478, 1504; Pub. L. 104-121, title I, §105(b)(4)(B), Mar. 29, 1996, 110 Stat. 854.)

REFERENCES IN TEXT

Section 134 of the Social Security Amendments of 1983 (Public Law 98-21), referred to in subsec. (b)(2)(C), is section 134 of Pub. L. 98-21, title I, Apr. 20, 1983, 97 Stat. 97, which amended section 402 of this title and enacted provisions set out as a note under section 402 of this title.

Section 212(a) of Public Law 93-66, referred to in subsecs. (b)(4) and (d)(1)(B), (2), is section 212(a) of Pub. L.

93-66, title II, July 9, 1973, 87 Stat. 155, as amended, which is set out as a note under section 1382 of this title.

The effective date of this subsection, referred to in subsec. (c)(1), is July 1, 1987, except as otherwise provided. See section 10(b) of Pub. L. 99-643, set out as an Effective Date of 1986 Amendments note under section 1396a of this title.

AMENDMENTS

1996—Subsec. (e). Pub. L. 104-121 struck out subsec. (e) which read as follows: "Each person to whom benefits under this subchapter by reason of disability are not payable for any month solely by reason of clause (i) or (v) of section 1382(e)(3)(A) of this title shall be treated, for purposes of subchapter XIX of this chapter, as receiving benefits under this subchapter for the month."

1994—Subsecs. (a), (b)(3). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "the Commissioner will" for "he will" in subsec. (a).

Subsec. (e). Pub. L. 103-296, §201(b)(3)(D), added subsec. (e).

1990—Subsec. (d). Pub. L. 101-508 designated existing provisions as par. (1), substituted "This subsection applies with respect to any person who—" for "If any person—" in introductory provisions, redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, in subpar. (A) substituted "being then not entitled" for "as required by section 1382(e)(2) of this title, being then at least 60 years of age but not entitled", in subpar. (B) substituted "section 1382e(a) of this title (or payments of the type described in section 212(a) of Public Law 93-66)." for "section 1382e(a) of this title," and substituted par. (2) for former concluding provisions which read as follows: "such person shall nevertheless be deemed to be a recipient of supplemental security income benefits under this subchapter for purposes of subchapter XIX of this chapter, so long as he or she (A) would be eligible for such supplemental security income benefits, or such State supplementary payments, in the absence of such benefits under section 402 of this title, and (B) is not entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter."

1987—Subsec. (b)(3). Pub. L. 100-203, §9108, substituted "no later than July 1, 1988" for "during the 15-month period beginning with the month in which this subsection is enacted [April 1986]".

Subsec. (d). Pub. L. 100-203, §9116(a), added subsec. (d).

1986—Subsec. (a). Pub. L. 99-272, §12202(a)(1), designated existing provisions as subsec. (a).

Subsec. (b). Pub. L. 99-272, §12202(a)(2), added subsec. (b).

Subsec. (c). Pub. L. 99-643 added subsec. (c).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-121 applicable to any individual who applies for, or whose claim is finally adjudicated with respect to, supplemental security income benefits under this subchapter based on disability on or after Mar. 29, 1996, with special rule in case of any individual who has applied for, and whose claim has been finally adjudicated with respect to, such benefits before Mar. 29, 1996, see section 105(b)(5) of Pub. L. 104-121, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Amendment by section 201(b)(3)(D) of Pub. L. 103-296 applicable with respect to supplemental security income benefits under this subchapter by reason of disability which are otherwise payable in months beginning after 180 days after Aug. 15, 1994, with Secretary of Health and Human Services to issue regulations necessary to carry out such amendment not later than 180 days after Aug. 15, 1994, see section 201(b)(3)(E)(i) of

Pub. L. 103-296, set out as a note under section 1382 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable with respect to medical assistance provided after December 1990, see section 5103(e) of Pub. L. 101-508, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 9108 of Pub. L. 100-203 provided that the amendment made by that section is effective July 1, 1987.

Section 9116(e) of Pub. L. 100-203 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to any individual without regard to whether the determination of his or her ineligibility for supplemental security income benefits by reason of the receipt of benefits under section 202 of the Social Security Act [section 402 of this title] (as described in section 1634(d)(2) of such Act [subsec. (d)(2) of this section]) occurred before, on, or after the date of the enactment of this Act [Dec. 22, 1987]; but no individual shall be eligible for assistance under title XIX of such Act [subchapter XIX of this chapter] by reason of such amendments for any period before July 1, 1988."

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

Section 12202(c) of Pub. L. 99-272 provided that: "The amendment made by subsection (a)(2) [amending this section] shall not have the effect of deeming an individual eligible for medical assistance for any month which begins less than two months after the date of the enactment of this Act [Apr. 7, 1986]."

EFFECTIVE DATE

Section 301 of Pub. L. 92-603 provided that this section is effective Jan. 1, 1974.

NOTICE OF POSSIBLE ELIGIBILITY FOR MEDICAID ASSISTANCE

Section 9116(b) of Pub. L. 100-203 provided that: "The Secretary of Health and Human Services, acting through the Social Security Administration, shall (within 3 months after the date of the enactment of this Act [Dec. 22, 1987]) issue a notice to all individuals who will have attained age 60 but not age 65 as of April 1, 1988, and who received supplemental security income benefits under title XVI of the Social Security Act [this subchapter] prior to attaining age 60 but lost those benefits by reason of the receipt of widow's or widower's insurance benefits (or other benefits as described in section 1634(d)(1) of that Act [subsec. (d)(1) of this section] as added by subsection (a) of this section) under title II of that Act [subchapter II of this chapter]. Each such notice shall set forth and explain the provisions of section 1634(d) of the Social Security Act (as so added), and shall inform the individual that he or she should contact the Secretary or the appropriate State agency concerning his or her possible eligibility for medical assistance benefits under such title XIX [subchapter XIX of this chapter]."

STATE DETERMINATIONS

Section 9116(c) of Pub. L. 100-203 provided that: "Any determination required under section 1634(d) of the Social Security Act [subsec. (d) of this section] with respect to whether an individual would be eligible for benefits under title XVI of such Act [this subchapter] (or State supplementary payments) in the absence of benefits under section 202 [section 402 of this title] shall be made by the appropriate State agency."

Section 6(b) of Pub. L. 99-643 provided that: "Any determination required under section 1634(c) of the Social

Security Act [subsec. (c) of this section] with respect to whether an individual would be eligible for benefits under title XVI of such Act [this subchapter] in the absence of children's benefits (or an increase thereof) shall be made by the appropriate State agency."

IDENTIFICATION OF POTENTIAL BENEFICIARIES UNDER SUBSECTION (b) OF THIS SECTION

Section 12202(b) of Pub. L. 99-272 provided that:

"(1) As soon as possible after the date of the enactment of this Act [Apr. 7, 1986], the Secretary of Health and Human Services shall provide each State with the names of all individuals receiving widow's or widower's insurance benefits under subsection (e) or (f) of section 202 of the Social Security Act [section 402(e) or (f) of this title] based on a disability who might qualify for medical assistance under the plan of that State approved under title XIX of such Act [subchapter XIX of this chapter] by reason of the application of section 1634(b) of the Social Security Act [subsec. (b) of this section].

"(2) Each State shall—

"(A) using the information so provided and any other information it may have, promptly notify all individuals who may qualify for medical assistance under its plan by reason of such section 1634(b) of their right to make application for such assistance,

"(B) solicit their applications for such assistance, and

"(C) make the necessary determination of such individuals' eligibility for such assistance under such section and under such title XIX."

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

§ 1383d. Outreach program for children

(a) Establishment

The Commissioner of Social Security shall establish and conduct an ongoing program of outreach to children who are potentially eligible for benefits under this subchapter by reason of disability or blindness.

(b) Requirements

Under this program, the Commissioner of Social Security shall—

(1) aim outreach efforts at populations for whom such efforts would be most effective; and

(2) work in cooperation with other Federal, State, and private agencies, and nonprofit organizations, which serve blind or disabled individuals and have knowledge of potential recipients of supplemental security income benefits, and with agencies and organizations (including school systems and public and private social service agencies) which focus on the needs of children.

(Aug. 14, 1935, ch. 531, title XVI, §1635, as added Pub. L. 101-239, title VIII, §8008(a), Dec. 19, 1989, 103 Stat. 2463; amended Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

AMENDMENTS

1994—Subsecs. (a), (b). Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary”.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE

Section 8008(b) of Pub. L. 101-239 provided that: “The amendment made by subsection (a) [enacting this section] shall take effect 3 months after the date of the enactment of this Act [Dec. 19, 1989].”

APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

§ 1383e. Treatment referrals for individuals with alcoholism or drug addiction condition

In the case of any individual whose benefits under this subchapter are paid to a representative payee pursuant to section 1383(a)(2)(A)(ii)(II) of this title, the Commissioner of Social Security shall refer such individual to the appropriate State agency administering the State plan for substance abuse treatment services approved under subpart II of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x-21 et seq.).

(Aug. 14, 1935, ch. 531, title XVI, §1636, as added Pub. L. 104-121, title I, §105(b)(3), Mar. 29, 1996, 110 Stat. 854.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in text, is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Subpart II of part B of title XIX of the Act is classified generally to subpart II (§300x-21 et seq.) of part B of subchapter XVII of chapter 6A of this title. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

EFFECTIVE DATE

Section effective July 1, 1996, with respect to any individual whose claim for benefits is finally adjudicated on or after Mar. 29, 1996, or whose eligibility for benefits is based upon eligibility redetermination made pursuant to section 105(b)(5)(C) of Pub. L. 104-121, see section 105(b)(5) of Pub. L. 104-121, as amended, set out as an Effective Date of 1996 Amendment note under section 1382 of this title.

§ 1383f. Annual report on program

(a) In general

Not later than May 30 of each year, the Commissioner of Social Security shall prepare and deliver a report annually to the President and the Congress regarding the program under this subchapter, including—

- (1) a comprehensive description of the program;
- (2) historical and current data on allowances and denials, including number of applications and allowance rates for initial determinations, reconsideration determinations, administra-

tive law judge hearings, appeals council reviews, and Federal court decisions;

(3) historical and current data on characteristics of recipients and program costs, by recipient group (aged, blind, disabled adults, and disabled children);

(4) historical and current data on prior enrollment by recipients in public benefit programs, including State programs funded under part A of subchapter IV of this chapter and State general assistance programs;

(5) projections of future number of recipients and program costs, through at least 25 years;

(6) number of redeterminations and continuing disability reviews, and the outcomes of such redeterminations and reviews;

(7) data on the utilization of work incentives;

(8) detailed information on administrative and other program operation costs;

(9) summaries of relevant research undertaken by the Social Security Administration, or by other researchers;

(10) State supplementation program operations;

(11) a historical summary of statutory changes to this subchapter; and

(12) such other information as the Commissioner deems useful.

(b) Views of individual members of Social Security Advisory Board

Each member of the Social Security Advisory Board shall be permitted to provide an individual report, or a joint report if agreed, of views of the program under this subchapter, to be included in the annual report required under this section.

(Aug. 14, 1935, ch. 531, title XVI, §1637, as added Pub. L. 104-193, title II, §231, Aug. 22, 1996, 110 Stat. 2197.)

§ 1384. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XVI, §1604, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204, related to operation of State plans, prior to the general revision of this subchapter by Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of subchapter XVI of the Social Security Act [this subchapter] by Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1604 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92-603 continues to apply and reads as follows:

§1384. Operation of State plans

If the Commissioner of Social Security, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of the State plan approved under this subchapter, finds—

(1) that the plan has been so changed that it no longer complies with the provisions of section 1332 of this title; or

(2) that in the administration of the plan there is a failure to comply substantially with any such provision;

the Commissioner of Social Security shall notify such State agency that further payments will not be made to the State (or, in the Commissioner's discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure), until the Commissioner of Social Security is satisfied that there will no longer be any such failure to comply. Until the Commissioner is so satisfied the Commissioner shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title XVI, §1604, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204; amended Aug. 15, 1994, Pub. L. 103-296, title I, §107(a)(4), 108 Stat. 1478.)

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

§ 1385. Omitted

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XVI, §1605, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204; amended July 30, 1965, Pub. L. 89-97, title II, §§221(d)(1), (2), 222(b), title IV, §402(b), 79 Stat. 358, 360, 416, defined "aid to the aged, blind, or disabled" and "medical assistance for the aged", prior to the general revision of this subchapter by Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1605 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92-603, and as amended, continues to apply and to read as follows:

§1385. Definitions

(a) For purposes of this subchapter, the term "aid to the aged, blind, or disabled" means money payments to needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Commissioner of Social Security) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1382 of this title includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and re-

sources), meet all the need [sic] of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(b) Repealed. Pub. L. 97-35, title XXI, §2184(d)(6)(B), Aug. 13, 1981, 95 Stat. 818.

(Aug. 14, 1935, ch. 531, title XVI, §1605, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204; amended July 30, 1965, Pub. L. 89-97, title II, §§221(d)(1), (2), 222(b), title IV, §402(b), 79 Stat. 358, 360, 416; Oct. 30, 1972, Pub. L. 92-603, title IV, §§408(d), 409(d), 86 Stat. 1490, 1491; Aug. 13, 1981, Pub. L. 97-35, title XXI, §2184(d)(6), 95 Stat. 818; Aug. 15, 1994, Pub. L. 103-296, title I, §107(a)(4), 108 Stat. 1478.)

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

SUBCHAPTER XVII—GRANTS FOR PLANNING COMPREHENSIVE ACTION TO COMBAT MENTAL RETARDATION

§ 1391. Authorization of appropriations

For the purpose of assisting the States (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) to plan for and take other steps leading to comprehensive State and community action to combat mental retardation, there is authorized to be appropriated the sum of \$2,200,000. There are also authorized to be appropriated, for assisting such States in initiating the implementation and carrying out of planning and other steps to combat mental retardation, \$2,750,000 for the fiscal year ending June 30, 1966, and \$2,750,000 for the fiscal year ending June 30, 1967.

(Aug. 14, 1935, ch. 531, title XVII, §1701, as added Pub. L. 88-156, §5, Oct. 24, 1963, 77 Stat. 275; amended Pub. L. 89-97, title II, §211(a), July 30, 1965, 79 Stat. 356.)

AMENDMENTS

1965—Pub. L. 89-97 authorized appropriations of \$2,750,000 for fiscal years ending June 30, 1966 and 1967 for implementation of mental retardation planning.