[amending this section and section 1383 of this title] shall be effective for payments that would otherwise be made on or after the date of the enactment of this Act (Dec. 13, 2000).”

**Effective Date of 2004 Amendment**

Pub. L. 108–203, title II, §210(c), Mar. 2, 2004, 118 Stat. 517, provided that: “The amendments and repeal made by this section [amending this section and sections 1008, 1320b–17, and 1383 of this title and repealing section 1320b–18 of this title] shall take effect on the date of enactment of this Act [Mar. 2, 2004], and shall be effective with respect to overpayments under titles II, VIII, and XVI of the Social Security Act [42 U.S.C. 401 et seq., 1001 et seq., 1381 et seq.] that are outstanding on or after such date.”

**Effective Date of 1999 Amendment**

Pub. L. 106–169, title II, §201(c), Dec. 14, 1999, 113 Stat. 1831, provided that: “The amendments made by this section [amending this section and section 1383 of this title] shall apply to overpayments made 12 months or more after the date of the enactment of this Act [Dec. 14, 1999].”


**Effective Date of 1998 Amendment**

Pub. L. 105–306, §8(c), Oct. 28, 1998, 112 Stat. 2930, provided that: “The amendments made by this section [enacting section 1320b–17 of this title and amending this section and section 1383 of this title] shall take effect on the date of the enactment of this Act [Oct. 28, 1998] and shall apply to amounts incorrectly paid which remain outstanding on or after such date.”

**Effective Date of 1994 Amendments**


**Effective Date of 1990 Amendment**


**Effective Date of 1989 Amendment**

Amendment by 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 an Effective Date note under section 1320a–6 of this title.

**Effective Date of 1988 Amendment**

Pub. L. 99–272, title XII, §12113(c), Apr. 7, 1986, 100 Stat. 289, provided that: “The amendments made by this section [amending this section and section 1383 of this title] shall apply only in the case of deaths of which the Secretary is first notified on or after the date of the enactment of this Act [Apr. 7, 1986].”

**Effective Date of 1980 Amendment**

Amendment by Pub. L. 96–265 applicable in the case of payments of monthly insurance benefits under this subchapter, 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 1968 Amendment**

Pub. L. 90–238, title I, §153(b), Jan. 2, 1968, 81 Stat. 861, provided that: “The amendment made by this section [amending this section] shall apply with respect to benefits under title II of the Social Security Act [this subchapter] if the individual to whom such benefits were paid would have been entitled to such benefits in or after the month in which this Act was enacted (January 1968) if the report mentioned in the amendment made by subsection (a) of this section had been correct (but without regard to the provisions of section 202(i)(1) of such Act [42 U.S.C. 402(j)(1)]).”

**Effective Date of 1939 Amendment**

Act Aug. 10, 1939, ch. 666, title II, §201, 53 Stat. 1362, provided that the amendment made by that section is effective Jan. 1, 1940.

**Report on Overpayment Waivers**

Pub. L. 114–74, title VIII, §1845(c), Nov. 2, 2015, 129 Stat. 619, provided that: “Not later than January 1 of each calendar year, the Commissioner of Social Security 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—

“(1) the number and total value of overpayments recovered or scheduled to be recovered by the Social Security Administration during the previous fiscal year of benefits under title II and title XVI [probably means title II and title XVI of act Aug. 14, 1935, ch. 531, which is classified to 42 U.S.C. 401 et seq. and 42 U.S.C. 1381 et seq., respectively, including the terms and conditions of repayment of such overpayments; and

“(2) the number and total value of overpayments waived by the Social Security Administration during the previous fiscal year of benefits under title II and title XVI, respectively.”

§405. Evidence, procedure, and certification for payments

(a) Rules and regulations; procedures

The Commissioner of Social Security shall have full power and authority to make rules and regulations and to establish procedures, not inconsistent with the provisions of this subchapter, which are necessary or appropriate to carry out such provisions, and shall adopt reasonable and proper rules and regulations to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same in order to establish the right to benefits hereunder.

(b) Administrative determination of entitlement to benefits; findings of fact; hearings; investigations; evidentiary hearings in reconsiderations of disability benefit terminations; subsequent applications

(1) The Commissioner of Social Security is directed to make findings of fact, and decisions as to the rights of any individual applying for a 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. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, surviving divorced father, husband, divorced husband, widow, surviving divorced husband, child, or parent who makes a showing in writing that his or her
rights may be prejudiced by any decision the Commissioner of Social Security has rendered, the Commissioner shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, 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. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. 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 rules of evidence applicable to court procedure.

(2) In any case where—
(A) an individual is a recipient of disability insurance benefits, or of child’s, widow’s, or widower’s insurance benefits based on disability,
(B) 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
(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Commissioner of Social Security not to be entitled to such benefits,

any reconsideration of the finding described in subparagraph (B), in connection with a reconsideration by the Commissioner of Social Security (before any hearing under paragraph (1) on the issue of such entitlement) of the Commissioner’s determination described in subparagraph (C), shall be made only after opportunity for an evidentiary hearing, with regard to the finding described in subparagraph (B), which is reasonably accessible to such individual. Any reconsideration of a finding described in subparagraph (B) may be made either by the State agency or the Commissioner of Social Security where the finding was originally made by the State agency, and shall be made by the Commissioner of Social Security where the finding was originally made by the Commissioner of Social Security. In the case of a reconsideration by a State agency of a finding described in subparagraph (B) which was originally made by such State agency, the evidentiary hearing shall be held by an adjudicatory unit of the State agency other than the unit that made the finding described in subparagraph (B). In the case of a reconsideration by the Commissioner of Social Security of a finding described in subparagraph (B) which was originally made by the Commissioner of Social Security, the evidentiary hearing shall be held by a person other than the person or persons who made the finding described in subparagraph (B).

(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit 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 benefit under this subchapter if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), 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 benefits 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.

(B) In any notice of an adverse determination with respect to which a review may be requested under paragraph (1), the Commissioner of Social Security shall describe in clear and specific language the effect on possible entitlement to benefits under this subchapter of choosing to reapply in lieu of requesting review of the determination.

(c) Wage records

(1) For the purposes of this subsection—
(A) The term “year” means a calendar year when used with respect to wages and a taxable year when used with respect to self-employment income.
(B) The term “time limitation” means a period of three years, three months, and fifteen days.
(C) The term “survivor” means an individual’s spouse, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, child, or parent, who survives such individual.
(D) The term “period” when used with respect to self-employment income means a taxable year and when used with respect to wages means—
(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1986 or regulations thereunder (or on reports filed by a State under section 418(e)1 of this title (as in effect prior to December 31, 1986) or regulations thereunder),
(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or
(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

(2)(A) On the basis of information obtained by or submitted to the Commissioner of Social Security, and after such verification thereof as the Commissioner deems necessary, the Commissioner of Social Security shall establish and maintain records of the amounts of wages paid to, and the amounts of self-employment income derived by, each individual and of the periods in which such wages were paid and such income was derived and, upon request, shall inform any individual or his survivor, or the legal rep-
resentative of such individual or his estate, of
the amounts of wages and self-employment in-
come of such individual and the periods during
which such wages were paid and such income
was derived, as shown by such records at the
time of such request.

(B)(i) In carrying out the Commissioner’s du-
ties under subparagraph (A) and subparagraph
(F), the Commissioner of Social Security shall
take affirmative measures to assure that social
security account numbers will, to the maximum
extent practicable, be assigned to all members
of appropriate groups or categories of individ-
uals by assigning such numbers (or ascertaining
that such numbers have already been assigned):

(I) to aliens at the time of their lawful ad-
mission to the United States either for perma-
nent residence or under other authority of law
permitting them to engage in employment in
the United States and to other aliens at such
time as their status is so changed as to make
it lawful for them to engage in such employ-
ment;

(II) to any individual who is an applicant for
or recipient of benefits under any program fi-
nanced in whole or in part from Federal funds
including any child on whose behalf such bene-
fits are claimed by another person; and

(III) to any other individual when it appears
that he could have been but was not assigned
an account number under the provisions of
subclauses (I) or (II) but only after such investi-
gation as is necessary to establish to the sat-
isfaction of the Commissioner of Social Secu-
ritv, the identity of such individual, the fact
that an account number has not already been
assigned to such individual, and the fact that
such individual is a citizen or a noncitizen
who is not, because of his alien status, prohib-
ited from engaging in employment;

and, in carrying out such duties, the Commis-
sioner of Social Security is authorized to take
affirmative measures to assure the issuance of
social security numbers:

(IV) to or on behalf of children who are
below school age at the request of their par-
ents or guardians; and

(V) to children of school age at the time of
their first enrollment in school.

(ii) The Commissioner of Social Security shall
require of applicants for social security account
numbers such evidence as may be necessary to
establish the age, citizenship, or alien status,
and true identity of such applicants, and to de-
terminate which (if any) social security account
number has previously been assigned to such in-
dividual. With respect to an application for a
social security account number for an individual
who has not attained the age of 18 before such
application, such evidence shall include the in-
formation described in subparagraph (C)(ii).

(iii) In carrying out the requirements of this
subparagraph, the Commissioner of Social Secu-
ritv shall enter into such agreements as may be
necessary with the Attorney General and other
officials and with State and local welfare agen-
cies and school authorities (including nonpublic
school authorities).

(C)(i) It is the policy of the United States that
any State (or political subdivision thereof) may,
in the administration of any tax, general public
assistance, driver’s license, or motor vehicle
registration law within its jurisdiction, utilize
the social security account numbers issued by
the Commissioner of Social Security for the pur-
pose of establishing the identification of individ-
uals affected by such law, and may require any
individual who is or appears to be so affected
to furnish to such State (or political subdivision
thereof) or any agency thereof having adminis-
trative responsibility for the law involved, the
social security account number (or numbers, if
he has more than one such number) issued to
him by the Commissioner of Social Security.

(ii) In the administration of any law involving
the issuance of a birth certificate, each State
shall require each parent to furnish to such
State (or political subdivision thereof) or any
agency thereof having administrative respon-
sibility for the law involved, the social security
account number (or numbers, if the parent has
more than one such number) issued to the par-
ent unless the State (in accordance with regula-
tions prescribed by the Commissioner of Social
Security) finds good cause for not requiring the
furnishing of such number. The State shall
make numbers furnished under this subclause
available to the Commissioner of Social Secu-
ritv and the agency administering the State’s
plan under part D of subchapter IV in accord-
ance with Federal or State law and regulation.
Such numbers shall not be recorded on the birth
certificate. A State shall not use any social se-
curity account number, obtained with respect to
the issuance by the State of a birth certificate,
for any purpose other than for the enforcement
of child support orders in effect in the State, un-
less section 7(a) of the Privacy Act of 1974 does
not prohibit the State from requiring the disclo-
sure of such number, by reason of the State hav-
ing adopted, before January 1, 1975, a statute or
regulation requiring such disclosure.

(iii)(I) In the administration of section 9 of the
Food and Nutrition Act of 2008 (7 U.S.C. 2018) in-
volving the determination of the qualifications
of applicants under such Act [7 U.S.C. 2011 et
seq.], the Secretary of Agriculture may require
each applicant retail store or wholesale food
concern to furnish to the Secretary of Agri-
culture the social security account number of
each individual who is an officer of the store or
concern and, in the case of a privately owned ap-
plicant, furnish the social security account
numbers of the owners of such applicant. No of-
fficer or employee of the Department of Agri-
culture shall have access to any such number for
any purpose other than the establishment and
maintenance of a list of the names and social se-
curity account numbers of such individuals for
use in determining those applicants who have
been previously sanctioned or convicted under
section 12 or 15 of such Act (7 U.S.C. 2021 or 2024).

(II) The Secretary of Agriculture may share
any information contained in any list referred
to in subclause (I) with any other agency or in-
strumentality of the United States which other-
wise has access to social security account num-
bers in accordance with this subsection or other
applicable Federal law, except that the Sec-
retary of Agriculture may share such informa-
tion only to the extent that such Secretary de-
determines such sharing would assist in verifying and matching such information against information maintained by such other agency or instrumentality. Any such information shared pursuant to this subclause may be used by such other agency or instrumentality only for the purpose of effective administration and enforcement of the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.] or for the purpose of investigation of violations of other Federal laws or enforcement of such laws.

(III) The Secretary of Agriculture, and the head of any other agency or instrumentality referred to in this subclause, shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the purposes described in subclause (II).

(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause (II), shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.

(V) In the administration of section 506 of the Federal Crop Insurance Act [7 U.S.C. 1506], the Federal Crop Insurance Corporation may require each policyholder and each reinsured company to furnish to the insurer or to the Corporation the social security account number of such policyholder, subject to the requirements of this statute. No officer or employee of the Federal Crop Insurance Corporation shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such Act [7 U.S.C. 1501 et seq.]. The Manager of the Corporation may require each policyholder to provide to the Manager, at such times and in such manner as prescribed by the Manager, the social security account number of each individual that holds or acquires a substantial beneficial interest in the policyholder. For purposes of this clause, the term "substantial beneficial interest" means not less than 5 percent of all beneficial interest in the policyholder. The Secretary of Agriculture shall restrict, to the satisfaction of the Commissioner of Social Security, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States or authorized persons whose duties or responsibilities require access for the administration of the Federal Crop Insurance Act. The Secretary of Agriculture shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of such social security account numbers. For purposes of this clause the term "authorized person" means an officer or employee of an insurer whom the Manager of the Corporation designates by rule, subject to appropriate safeguards including a prohibition against the release of such social security account number (other than to the Corporation) by such person.

(v) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i), such provision shall, on and after October 1, 1976, be null, void, and of no effect. If and to the extent that any such provision is inconsistent with the requirement set forth in clause (ii), such provision shall, on and after October 13, 1988, be null, void, and of no effect.

(vi)(I) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i) above and for the purpose of responding to requests for information from an agency administering a program funded under part A of subchapter IV or an agency operating pursuant to the provisions of part D of such subchapter.

(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 911 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).

(vii) For purposes of this subparagraph, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(viii)(d) Social security account numbers and related records that are obtained or maintained by authorized persons pursuant to any provision of law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.

(II) Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of social security account numbers and related records obtained or maintained by an authorized person pursuant to a provision of law enacted on or after October 1, 1990, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such social security account number or related record in the same manner and to the same extent as such paragraph applies with respect to offers (in ex-
change for any return or return information) described in such paragraph.

(III) For purposes of this clause, the term "authorized person" means an officer or employee of the United States, an officer or employee of any State, political subdivision of a State, or agency of a State or political subdivision of a State, and any other person (or officer or employee thereof), who has or had access to social security account numbers or related records pursuant to any provision of law enacted on or after October 1, 1990. For purposes of this subclause, the term "officer or employee" includes a former officer or employee.

(IV) For purposes of this clause, the term "related record" means any record, list, or compilation that indicates, directly or indirectly, the identity of any individual with respect to whom a social security account number or a request for a social security account number is maintained pursuant to this clause.

(IX) In the administration of the provisions of chapter 81 of title 5 and the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 901 et seq.), the Secretary of Labor may require by regulation that any person filing a notice of injury or a claim for benefits under such provisions provide as part of such notice or claim such person's social security account number, subject to the requirements of this clause. No officer or employee of the Department of Labor shall have access to any such number for any purpose other than the establishment of a system of records necessary for the effective administration of such provisions. The Secretary of Labor shall restrict, to the satisfaction of the Commissioner of Social Security, access to such social security account numbers obtained pursuant to this clause to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of such provisions. The Secretary of Labor shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.

(x) The Secretary of Health and Human Services, and the Exchanges established under section 1311 of the Patient Protection and Affordable Care Act [42 U.S.C. 18031], are authorized to collect and use the names and social security account numbers of individuals as required to administer the provisions of, and the amendments made by, the such Act.  

(xi) No Federal, State, or local agency may display the Social Security 4 account number of any individual, or any derivative of such number, on any check issued for any payment by the Federal, State, or local agency.

(xii) No Federal, State, or local agency may employ, or enter into a contract for the use or employment of, prisoners in any capacity that would allow such prisoners access to the Social Security 4 account numbers of other individuals. For purposes of this clause, the term "prisoner" means an individual confined in a jail, prison, or other penal institution or correctional facility pursuant to such individual's conviction of a criminal offense.

(xiii) The Secretary of Health and Human Services, in consultation with the Commissioner of Social Security, shall establish cost-effective procedures to ensure that a Social Security 4 account number (or derivative thereof) is not displayed, coded, or embedded on the Medicare card issued to an individual who is entitled to benefits under part A of subchapter XVIII or enrolled under part B of subchapter XVIII and that any other identifier displayed on such card is not identifiable as a Social Security 4 account number (or derivative thereof).

(D)(i) It is the policy of the United States that—

(I) any State (or any political subdivision of a State) and any authorized blood donation facility may utilize the social security account numbers issued by the Commissioner of Social Security for the purpose of identifying blood donors, and

(II) any State (or political subdivision of a State) may require any individual who donates blood within such State (or political subdivision) to furnish to such State (or political subdivision), to any agency thereof having related administrative responsibility, or to any authorized blood donation facility the social security account number (or numbers, if the donor has more than one such number) issued to the donor by the Commissioner of Social Security.

(ii) If and to the extent that any provision of Federal law enacted before November 10, 1988, is inconsistent with the policy set forth in clause (i), such provision shall, on and after November 10, 1988, be null, void, and of no effect.

(iii) For purposes of this subparagraph—

(I) the term "authorized blood donation facility" means an entity described in section 1320b-11(h)(1)(B) of this title, and

(II) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.

(E)(i) It is the policy of the United States that—

(I) any State (or any political subdivision of a State) may utilize the social security account numbers issued by the Commissioner of Social Security for the additional purposes described in clause (ii) if such numbers have been collected and are otherwise utilized by such State (or political subdivision) in accordance with applicable law, and

(II) any district court of the United States may use, for such additional purposes, any such social security account numbers which have been so collected and are so utilized by any State.

(ii) The additional purposes described in this clause are the following:

(I) Identifying duplicate names of individuals on master lists used for jury selection purposes.

(II) Identifying on such master lists those individuals who are ineligible to serve on a jury by reason of their conviction of a felony.
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subparagraph (D).

term "State" has the meaning such term has in paragraph (D).

The Commissioner of Social Security shall require, as a condition for receipt of benefits under this subchapter, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Commissioner of Social Security or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.

The Commissioner of Social Security shall issue a social security card to each individual at the time of issuance of a social security account number to such individual. The social security card shall be made of banknote paper, and to the maximum extent practicable shall be a card which cannot be counterfeited.

The Commissioner of Social Security shall share with the Secretary of the Treasury the information obtained by the Commissioner pursuant to the second sentence of subparagraph (B)(ii) and to subparagraph (C)(ii) for the purpose of administering those sections of the Internal Revenue Code of 1986 which grant tax benefits based on support or residence of children.

The Commissioner's records shall be evidence for the purpose of proceedings before the Commissioner of Social Security or any court of the amounts of wages paid to, and self-employment income derived by, an individual and of the periods in which such wages were paid and such income was derived. The absence of an entry in such records as to wages alleged to have been paid to, or as to self-employment income alleged to have been derived by, an individual in any period shall be evidence that no such alleged wages were paid to, or that no such alleged income was derived by, such individual during such period.

Prior to the expiration of the time limitation following any year the Commissioner of Social Security may, if it is brought to the Commissioner's attention that any entry of wages or self-employment income in the Commissioner's records as to wages alleged to have been paid to, or the self-employment income alleged to have been derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon any such request. Written notice of the Commissioner's decision on any such request shall be given to the individual who made the request.

To correct errors apparent on the face of such records--

(A) the Commissioner's records (with changes, if any, made pursuant to paragraph (5) of this subsection) of the amounts of wages paid to, and self-employment income derived by, an individual during any period in such year shall be conclusive for the purposes of this subchapter;

(B) the absence of an entry in the Commissioner's records as to the wages alleged to have been paid by an employer to an individual during any period in such year shall be presumptive evidence for the purposes of this subchapter that no such alleged wages were paid to such individual in such period; and

(C) the absence of an entry in the Commissioner's records as to the self-employment income alleged to have been derived by an individual in such year shall be conclusive for the purposes of this subchapter that no such alleged self-employment income was derived by such individual in such year unless it is shown that he filed a tax return of his self-employment income for such year before the expiration of the time limitation following such year, in which case the Commissioner of Social Security shall include in the Commissioner's records the self-employment income of such individual for such year.

After the expiration of the time limitation following any year in which wages were paid or alleged to have been paid to, or self-employment income was derived or alleged to have been derived by, an individual, the Commissioner of Social Security may change or delete any entry with respect to wages or self-employment income in the Commissioner's records of such year for such individual or include in the Commissioner's records of such year any omitted item of wages or self-employment income but only--

(A) if an application for monthly benefits or for a lump-sum death payment was filed within the time limitation following such year; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon the application for monthly benefits or lump-sum death payment;

(B) if within the time limitation following such year an individual or his survivor makes a request for a change or deletion, or for an inclusion of an omitted item, and alleges in writing that the Commissioner's records of the wages paid to, or the self-employment income derived by, such individual in such year are in one or more respects erroneous; except that no such change, deletion, or inclusion may be made pursuant to this subparagraph after a final decision upon such request. Written notice of the Commissioner's decision on any such request shall be given to the individual who made the request;

(C) if an application for monthly benefits or for a lump-sum death payment was filed with the Commissioner of Social Security, under subchapter E of chapter 1 or subchapter A of chapter 9 of the
Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954 or the Internal Revenue Code of 1986, or under regulations made under authority of such title, subchapter, or chapter;

(ii) wage reports filed by a State pursuant to an agreement under section 418 of this title or regulations of the Commissioner of Social Security thereunder; or

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title (as in effect prior to December 31, 1986), if such assessments are made within the period specified in subsection (q) of such section (as so in effect), or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

except that no amount of self-employment income of an individual for any taxable year (if such return or statement was filed after the expiration of the time limitation following the taxable year) shall be included in the Commissioner's records pursuant to this subparagraph;

(G) to correct errors made in the allocation, to individuals or periods, of wages or self-employment income entered in the records of the Commissioner of Social Security;

(H) to include wages paid during any period in such year to an individual by an employer;

(I) to enter items which constitute remuneration for employment under subsection (o), such entries to be in accordance with certified reports of records made by the Railroad Retirement Board pursuant to section 5(k)(3) of the Railroad Retirement Act of 1937 (45 U.S.C. 228e(k)(3)) or section 7(b)(7) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(7)); or

(J) to include self-employment income for any taxable year, up to, but not in excess of, the amount of wages deleted by the Commissioner of Social Security as payments erroneously included in such records as wages paid to such individual, if such income (or net earnings from self-employment), not already included in such records as self-employment income, is included in a return or statement (referred to in subparagraph (F) of this subsection) filed before the expiration of the time limitation following the taxable year in which such deletion of wages is made.

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection shall be given to the individual whose record is involved or to his survivor, except that (A) in the case of a deletion or reduction with respect to any entry of wages such notice shall be given to such individual only if he has previously been notified by the Commissioner of Social Security of the amount of such individual's wages and self-employment income for the period involved, and (B) such notice shall be given to such survivor only if he or the individual whose record is involved has previously been notified by the Commissioner of Social Security of the amount of such individual's wages and self-employment income for the period involved.

(7) Upon request in writing (within such period, after any change or refusal of a request for a change of the Commissioner's records pursuant to this subsection, as the Commissioner of Social Security may prescribe), opportunity for hearing with respect to such change or refusal shall be afforded to any individual or his survivor. If a hearing is held pursuant to this paragraph the Commissioner of Social Security shall make findings of fact and a decision based upon the evidence adduced at such hearing and shall include any omitted items, or change or delete any entry, in the Commissioner's records as may be required by such findings and decision.

(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of monthly insurance 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.

(9) Decisions of the Commissioner of Social Security under this subsection shall be reviewable by commencing a civil action in the United States district court as provided in subsection (g).

(d) Issuance of subpenas in administrative proceedings

For the purpose of any hearing, investigation, or other proceeding authorized or directed under this subchapter, or relative to any other matter within the Commissioner's jurisdiction hereunder, the Commissioner of Social Security shall have power to issue subpenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the Commissioner of Social Security. Such attendance of witnesses and production of evidence at the designated place of such hearing, investigation, or other proceeding may be required from any place in the United States or in any Territory or possession thereof. Subpenas of the Commissioner of Social Security shall be served by anyone authorized by the Commissioner (1) by delivering a copy thereof to the individual named therein, or (2) by registered mail or by certified mail addressed to such individual at his last dwelling place or principal place of business. A verified return by the individual so serving the subpoena setting forth the manner of service, or, in the case of service by registered mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

(e) Judicial enforcement of subpenas; contempt

In case of contumacy by, or refusal to obey a subpoena duly served upon, any person, any district court of the United States for the judicial district in which said person charged with contumacy or refusal to obey is found or resides or transacts business, upon application by the Commissioner of Social Security, shall have jurisdiction to issue an order requiring such person to appear and give testimony, or to appear
and produce evidence, or both; any failure to obey such order of the court may be punished by said court as contempt thereof.


(g) Judicial review

Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of the Commissioner’s answer the Commissioner of Social Security shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing. The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Commissioner of Social Security or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Commissioner of Social Security, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner’s answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Commissioner of Social Security shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm the Commissioner’s findings of fact or the Commissioner’s decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner’s action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.

(h) Finality of Commissioner’s decision

The findings and decision of the Commissioner of Social Security after a hearing shall be binding upon all individuals who were parties to such hearing. No findings of fact or decision of the Commissioner of Social Security shall be reviewed by any person, tribunal, or governmental agency except as herein provided. No action against the United States, the Commissioner of Social Security, or any officer or employee thereof shall be brought under section 1331 or 1346 of title 28 to recover on any claim arising under this subchapter.

(i) Certification for payment

Upon final decision of the Commissioner of Social Security, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Commissioner of Social Security shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Department of the Treasury, and prior to any action thereon by the Government Accountability Office, shall make payment in accordance with the certification of the Commissioner of Social Security (except that in the case of (A) an individual who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) creditable under the Railroad Retirement Act of 1937 [45 U.S.C. 223a et seq.] or the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], (B) the wife or husband or divorced wife or divorced husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], and (D) any other person entitled to benefits under section 402 of this title on the basis of the wages and self-employment income of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974: Provided, That where a review of the Commissioner’s decision is or may be sought under subsection (g) the Commissioner of Social Security may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in ac-
cordance with a certification by the Commissioner of Social Security.

(j) Representative payees

(1)(A) If the Commissioner of Social Security determines that the interest of any individual under this subchapter would be served thereby, certification of payment of such individual's benefit under this subchapter may be made, regardless of the legal competency or incompetency of the individual, either for direct payment to the individual, or for his or her use and benefit, to another individual, or an organization, with respect to whom the requirements of paragraph (2) have been met (hereinafter in this subsection referred to as the individual's "representative payee"). If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee has misused any individual's benefit paid to such representative payee pursuant to this subsection or section 1007 or 1383(a)(2) of this title, the Commissioner of Social Security shall promptly revoke certification for payment of benefits to such representative payee pursuant to this subsection and certify payment to an alternative representative payee pursuant to this subsection, the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person has been terminated pursuant to section 1383(a)(2)(A)(iii) of this title by reason of misuse of funds paid as benefits under this subchapter, subchapter VIII, or subchapter XVI.

(ii) The Commissioner of Social Security shall establish and maintain a centralized file, which shall be updated periodically and which shall be in a form which renders it readily retrievable by each servicing office of the Social Security Administration. Such file shall consist of—

(I) a list of the names and social security account numbers (or employer identification numbers) of all persons who have been convicted of a violation of section 408, 1011, or 1383a of this title.

(ii) Notwithstanding the provisions of section 502a of title 5 or any other provision of Federal 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 paragraph, 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 402(x)(1)(A)(iv) of this title, and

(II) obtain information concerning whether such person is a person described in section 402(x)(1)(A)(iv) of this title, and

(V) determine whether certification of payment of benefits to such person has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person has been terminated pursuant to section 1383(a)(2)(A)(iii) of this title by reason of misuse of funds paid as benefits under this subchapter, subchapter VIII, or subchapter XVI.

(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee 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 certification and shall, to the extent practicable, include a face-to-face interview with such person, and

(ii) adequate evidence that such certification is in the interest of such individual (as determined by the Commissioner of Social Security in regulations).

(B)(i) As part of the investigation referred to in subparagraph (A)(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 has been submitted with an application for benefits under this subchapter, subchapter VIII, or subchapter XVI,

(II) verify such person's social security account number (or employer identification number),

(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 such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,
voked as described in subparagraph (B)(1)(VI) of the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person pursuant to section 1383(a)(2)(A)(ii) of this title has previously been terminated as described in section 1383(a)(2)(B)(i)(VI) of this title, (i) except as provided in clause (ii), such person is a creditor of such individual who provides such individual with goods or services for consideration, (ii) such person has previously been convicted as described in subparagraph (B)(1)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or (V) such person is a person described in section 402(x)(1)(A)(iv) of this title.

(ii) The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant exemptions to any person from the provisions of clause (i) on a case-by-case basis if such exemption is in the best interest of the individual whose benefits would be paid to such person pursuant to this subsection.

(iii) Clause (i)(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 certification of payment 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 such certification of payment 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.

(iv) The procedures referred to in clause (iii) 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. (v) In the case of an individual described in paragraph (1)(B), when selecting such individual's representative payee, preference shall be given to— (I) a certified community-based nonprofit social service agency (as defined in paragraph (10)), (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. (D)(i) Subject to clause (ii), if the Commissioner of Social Security makes a determination described in the first sentence of paragraph (1) 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 subsection.

(ii) Except as provided in subclause (II), any deferral or suspension of direct payment of a benefit pursuant to clause (i) shall be for a period of not more than 1 month.

(II) Subclause (I) shall not apply in any case in which the individual is, as of the date of the Commissioner's determination, legally incompetent, under the age of 15 years, or described in paragraph (1)(B).

(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Commissioner of Social Security determines is in the best interest of the individual entitled to such benefits. (E)(i) Any individual who is dissatisfied with a determination by the Commissioner of Social Security to certify payment of such individual's benefit to a representative payee under paragraph (1) 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 to the same extent as is provided in subsection (b), and to judicial review of the Commissioner's final decision as is provided in subsection (g).

(ii) In advance of the certification of payment of an individual's benefit to a representative payee under paragraph (1), the Commissioner of Social Security shall provide written notice of the Commissioner's initial determination to certify such payment. Such notice shall be provided to such individual, except that, if such individual—

(I) is under the age of 18, or (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.

(iii) Any notice described in clause (ii) 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 (i) 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.

(3)(A) In any case where payment under this subchapter is made to a person other than the individual entitled to such payment, 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.

(B) Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a State institution. In such cases, the Commissioner of Social Security shall establish a system of accountability monitoring for institutions in each State.

(C) Subparagraph (A) shall not apply in any case where the individual entitled to such payment is a resident of a Federal institution and the other person to whom such payment is made is the institution.

(D) Notwithstanding subparagraphs (A), (B), and (C), the Commissioner of Social Security may require a report at any time from any person receiving payments on behalf of another, if the Commissioner of Social Security has reason to believe that the person receiving such payments is misusing such payments.

(E) In any case in which the person described in subparagraph (A) or (D) receiving payments on behalf of another fails to submit a report required by the Commissioner of Social Security, the Commissioner may, after furnishing notice to such person and the individual entitled to such 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.

(F) The Commissioner of Social Security shall maintain a centralized file, which shall be updated periodically and which shall be in a form which will be readily retrievable by each servicing office of the Social Security Administration, of—

(i) the address and the social security account number (or employer identification number) of each representative payee who is receiving benefit payments pursuant to this subsection, section 1007 of this title, or section 1383(a)(2) of this title, and

(ii) the address and social security account number of each individual for whom each representative payee is reported to be providing services as representative payee pursuant to this subsection, section 1007 of this title, or section 1383(a)(2) of this title.

(G) Each servicing office of the Administration shall maintain a list, which shall be updated periodically, of public agencies and certified community-based nonprofit social service agencies (as defined in paragraph (10)) which are qualified to serve as representative payees pursuant to this subsection or section 1007 or 1383(a)(2) of this title and which are located in the area served by such servicing office.

(4)(A)(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 this subsection if such 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 the individual is described in paragraph (1)(B)).

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 paragraphs (5) and (6). The Commissioner shall adjust annually (after 1985) each dollar amount set forth in subparagraphs (A) and (B) of paragraph (3) to reflect increases in the Consumer Price Index for All Urban Consumers. An adjustment under this paragraph shall be void and shall be treated as misuse by such organization of such individual’s benefits.

(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this subchapter but to whom all past-due benefits have 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).

(B) For purposes of this paragraph, 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 nonprofit social service agency (as defined in paragraph (10)), if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—
(i) regularly provides services as the representative payee, pursuant to this subsection or section 1007 or 1383(a)(2) of this title, concurrently to 5 or more individuals.8  
(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 clause (ii) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) 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.

(5) 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 certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to such misused benefits. In any case in which a representative payee that—
(A) is not an individual (regardless of whether it is a “qualified organization” within the meaning of paragraph (4)(B)); or
(B) 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 VIII, subchapter XVI, 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 certify for payment 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 paragraph are subject to the limitations of paragraphs of this subsection. The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

(6)(A) 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 located in the United States that receives the benefits payable under this subchapter (alone or in combination with benefits payable under subchapter VIII or subchapter XVI) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 1007 of this title, or section 1383(a)(2) 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 paragraph (10) of this subsection or section 1383(a)(2)(I) of this title); or
(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

(B) 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 subparagraph (A) 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 such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

(i) the number of such 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.

(7)(A) 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 such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such 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 such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual’s alternative representative payee.

(B) The total of the amount certified for payment to such individual or such individual’s alternative representative payee under subparagraph (A) and the amount certified for payment under paragraph (5) may not exceed the total benefit amount misused by the representative payee with respect to such individual.

(8) For purposes of this subsection, the term “benefit based on disability” of an individual means a disability insurance benefit of such individual under section 423 of this title or a

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8So in original. Probably should be followed by “and".
child’s, widow’s, or widower’s insurance benefit of such individual under section 402 of this title based on such individual’s disability.

(9) For purposes of this subsection, 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 of” for purposes of this paragraph.

(10) For purposes of this subsection, 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.

(k) Payments to incompetents

Any payment made after December 31, 1939, under conditions set forth in subsection (j), any payment made before January 1, 1940, to, or on behalf of, a legally incompetent individual, and any payment after December 31, 1939, to a legally incompetent individual without knowledge by the Commissioner of Social Security of incompetency prior to certification of payment, if otherwise valid under this subchapter, shall be a complete settlement and satisfaction of any claim, right, interest in and to such payment.

(l) Delegation of powers and duties by Commissioner

The Commissioner of Social Security is authorized to delegate to any member, officer, or employee of the Social Security Administration designated by the Commissioner any of the powers conferred upon the Commissioner by this section, and is authorized to be represented by the Commissioner’s own attorneys in any court in any case or proceeding arising under the provisions of subsection (e).


(n) Joint payments

The Commissioner of Social Security may, in the Commissioner’s discretion, certify to the Managing Trustee any two or more individuals of the same family for joint payment of the total benefits payable to such individuals for any month, and if one of such individuals dies before a check representing such joint payment is negotiated, payment of the amount of such unmolested check to the surviving individual or individuals may be authorized in accordance with regulations of the Secretary of the Treasury; except that appropriate adjustment or recovery shall be made under subsection 404(a) of this title with respect to so much of the amount of such check as exceeds the amount to which such surviving individual or individuals are entitled under this subchapter for such month.

(o) Crediting of compensation under Railroad Retirement Act

If there is no person who would be entitled, upon application therefor, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], or to a lump-sum payment under section 6(b) of such Act [45 U.S.C. 231e(b)], with respect to the death of an employee (as defined in such Act), then, notwithstanding section 410(a)(9) of this title, compensation (as defined in such Railroad Retirement Act, but excluding compensation attributable as having been paid during any month on account of military service creditable under section 3(1) of such Act [45 U.S.C. 231b(i)] if wages are deemed to have been paid to such employee during such month under subsection (a) or (e) of section 417 of this title) of such employee shall constitute remuneration for employment purposes of determining (A) entitlement to and the amount of any lump-sum death payment under this subchapter on the basis of such employee’s wages and self-employment income and (B) entitlement to and the amount of any monthly benefit under this subchapter, for the month in which such employee died or for any month thereafter, on the basis of such wages and self-employment income. For such purposes, compensation (as so defined) paid in a calendar year before 1978 shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the year in which the employee rendered services for such compensation.

(p) Special rules in case of Federal service

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of subsection (j)(1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the provisions of section 410(o) of this title are applicable, the Commissioner of Social Security shall not make determinations as to the amounts of remuneration for such service, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954 and certifications made pursuant to this subchapter. Such determinations shall be final and conclusive. Nothing in this paragraph shall be construed to affect the Commissioner’s authority to determine under sections 409 and 410 of this title whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.
(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Commissioner of Social Security, to make certification to the Commissioner with respect to any matter determinable for the Commissioner of Social Security by such head or his agents under this subsection, which the Commissioner of Social Security finds necessary in administering this subchapter.

(3) The provisions of paragraphs (1) and (2) of this subsection shall be applicable in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Exchanges, Marine Corps Exchanges, or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Defense, at installations of the Department of Defense for the comfort, pleasure, contentment, and mental and physical improvement of personnel of such Department; and for purposes of paragraphs (1) and (2) of this subsection the Secretary of Defense shall be deemed to be the head of such instrumentality. The provisions of paragraphs (1) and (2) shall be applicable also in the case of service performed by a civilian employee, not compensated from funds appropriated by the Congress, in the Coast Guard Exchanges or other activities, conducted by an instrumentality of the United States subject to the jurisdiction of the Secretary of Homeland Security, at installations of the Coast Guard for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the Coast Guard; and for purposes of paragraphs (1) and (2) the Secretary of Homeland Security shall be deemed to be the head of such instrumentality.

(q) Expedited benefit payments

(1) The Commissioner of Social Security shall establish and put into effect procedures under which expedited payment of monthly insurance benefits under this subchapter will, subject to paragraph (4) of this subsection, be made as set forth in paragraphs (2) and (3) of this subsection.

(2) In any case in which—

(A) an individual makes an allegation that a monthly benefit under this subchapter was due him in a particular month but was not paid to him, and

(B) such individual submits a written request for payment of such benefit—

(i) in the case of an individual who received a regular monthly benefit in the month preceding the month with respect to which such allegation is made, not less than 30 days after the 15th day of the month with respect to which such allegation is made (and in the event that such request is submitted prior to the expiration of such 30-day period, it shall be deemed to have been submitted upon the expiration of such period), and

(ii) in any other case, not less than 90 days after the later of (I) the date on which such benefit is alleged to have been due, or (II) the date on which such individual furnished the last information requested by the Commissioner of Social Security (and such written request will be deemed to be filed on the day on which it was filed, or the ninetieth day after the first day on which the Commissioner of Social Security has evidence that such allegation is true, whichever is later),

the Commissioner of Social Security shall, if the Commissioner finds that benefits are due, certify such benefits for payment, and payment shall be made within 15 days immediately following the date on which the written request is deemed to have been filed.

(3) In any case in which the Commissioner of Social Security determines that there is evidence, although additional evidence might be required for a final decision, that an allegation described in paragraph (2)(A) is true, the Commissioner may make a preliminary certification of such benefit for payment even though the 30-day or 90-day periods described in paragraph (2)(B)(i) and (B)(ii) have not elapsed.

(4) Any payment made pursuant to a certification under paragraph (3) of this subsection shall not be considered an incorrect payment for purposes of determining the liability of the certifying or disbursing officer.

(5) For purposes of this subsection, benefits payable under section 423 of this title shall be treated as monthly insurance benefits payable under this subchapter. However, this subsection shall not apply with respect to any benefit for which a check has been negotiated, or with respect to any benefit alleged to be due under either section 423 of this title, or section 402 of this title to a wife, husband, or child of an individual entitled to or applying for benefits under section 423 of this title, or to a child who has attained age 18 and is under a disability, or to a widow or widower on the basis of being under a disability.

(r) Use of death certificates to correct program information

(1) The Commissioner of Social Security shall undertake to establish a program under which—

(A) States (or political subdivisions thereof) voluntarily contract with the Commissioner of Social Security to furnish the Commissioner of Social Security periodically with information (in a form established by the Commissioner of Social Security in consultation with the States) concerning individuals with respect to whom death certificates (or equivalent documents maintained by the States or subdivisions) have been officially filed with them; and

(B) there will be (i) a comparison of such information on such individuals with information on such individuals in the records being used in the administration of this chapter, (ii) validation of the results of such comparisons, and (iii) corrections in such records to accurately reflect the status of such individuals.

(2) Each State (or political subdivision thereof) which furnishes the Commissioner of Social Security with information on records of deaths in the State or subdivision under this subsection may be paid by the Commissioner of Social Security from amounts available for administration of this chapter the reasonable costs (established by the Commissioner of Social Security.
in consultations with the States) for transcribing and transmitting such information to the Commissioner of Social Security.

(3) In the case of individuals with respect to whom federally funded benefits are provided by (or through) a Federal or State agency other than under this chapter, the Commissioner of Social Security shall to the extent feasible provide such information through a cooperative arrangement with such agency, for ensuring proper payment of those benefits with respect to such individuals if—

(A) under such arrangement the agency provides reimbursement to the Commissioner of Social Security for the reasonable cost of carrying out such arrangement, and

(B) such arrangement does not conflict with the duties of the Commissioner of Social Security under paragraph (1).

(4) The Commissioner of Social Security may enter into similar agreements with States to provide information for their use in programs wholly funded by the States if the requirements of subparagraphs (A) and (B) of paragraph (3) are met.

(5) The Commissioner of Social Security may use or provide for the use of such records as may be corrected under this section, subject to such safeguards as the Commissioner of Social Security determines are necessary or appropriate to protect the information from unauthorized use or disclosure, for statistical and research activities conducted by Federal and State agencies.

(6) Information furnished to the Commissioner of Social Security under this subsection may not be used for any purpose other than the purpose described in this subsection and is exempt from disclosure under section 552 of title 5 and from the requirements of section 552a of such title.

(7) The Commissioner of Social Security shall include information on the status of the program established under this section and impediments to the effective implementation of the program in the 1984 report required under section 904 of this title.

(8)(A) The Commissioner of Social Security shall, upon the request of the official responsible for a State driver's license agency pursuant to the Help America Vote Act of 2002—

(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and

(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.

(B) Information provided pursuant to an agreement under this paragraph shall be provided at such time, in such place, and in such manner as the Commissioner determines appropriate.

(C) The Commissioner shall develop methods to verify the accuracy of information provided by the agency with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver's license number.

(D) For purposes of this paragraph—

(i) the term “applicable information” means information regarding whether—

(I) the name (including the first name and any family forename or surname), the date of birth (including the month, day, and year), and social security number of an individual provided to the Commissioner match the information contained in the Commissioner's records, and

(II) such individual is shown on the records of the Commissioner as being deceased; and

(ii) the term “State driver’s license agency” means the State agency which issues driver's licenses to individuals within the State and maintains records relating to such licensure.

(E) Nothing in this paragraph may be construed to require the provision of applicable information with regard to a request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

(F) Applicable information provided by the Commissioner pursuant to an agreement under this paragraph or by an individual to any agency that has entered into an agreement under this paragraph shall be considered as strictly confidential and shall be used only for the purposes described in this paragraph and for carrying out an agreement under this paragraph. Any officer or employee or former officer or employee of a State, or any officer or employee of a contractor of a State who, without the written authority of the Commissioner, publishes or communicates any applicable information in such individual’s possession by reason of such employment or position as such an officer, shall be guilty of a felony and upon conviction thereof shall be fined or imprisoned, or both, as described in section 408 of this title.

(9)(A) The Commissioner of Social Security shall, upon the request of the Secretary or the Inspector General of the Department of Health and Human Services—

(i) enter into an agreement with the Secretary or such Inspector General for the purpose of matching data in the system of records of the Social Security Administration and the system of records of the Department of Health and Human Services; and

(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any information disclosed.

(B) For purposes of this paragraph, the term “system of records” has the meaning given such term in section 552a(a)(5) of title 5.

(s) 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 serves the recipient of the notice and a telephone number through which such office can be reached.

(t) Same-day personal interviews at field offices in cases where time is of essence

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—

(1) the receipt of a notice from the Social Security Administration indicating a time limit for response by the individual, or

(2) the theft, loss, or nonreceipt of a benefit payment under this subchapter,

REFERENCES IN TEXT

Subsecs. (e) and (q) of section 418 of this title, referred to in subsec. (c)(1)(A)(i), (v)(f)(ii), which related to payments and reports by States, and to time limitations on assessments, respectively, were repealed, and subsec. (f) of section 418 of this title was redesignated as subsec. (e) by Pub. L. 99–599, title IX, § 9002(c)(1), Oct. 21, 1986, 100 Stat. 171.

Section 7(a) of the Privacy Act of 1974, referred to in subsec. (c)(2)(C), is section 7(a) of Pub. L. 93–579, to payments and reports by States, and to time limitations referred to in subsec. (c)(1)(D)(i), (5)(F)(iii), which related to the Social Security Act, which was classified to subchapter VIII (§ 1001 et seq.) of this chapter, and was omitted from the Code as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1966.

Subchapter E of chapter 1 and subchapter A of chapter 2 of the Internal Revenue Code of 1939, referred to in subsec. (c)(5)(F)(1), were comprised of sections 482 and 1400 to 1432, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1964, Title 26. The Internal Revenue Code of 1964 was redesignated the Internal Revenue Code of 1986 by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095. For table of comparisons of the 1939 Code to the 1986 Code, see Table I preceding section 1 of Title 26, Internal Revenue Code. See also section 7852(b) of Title 26 for provision that references in any other law to a provision of the 1939 Code, unless expressly incompatible with the intent thereof, shall be deemed a reference to the corresponding provision of the 1986 Code.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 7852(b) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.

Chapters 2 and 21 of the Internal Revenue Code of 1964, referred to in subsec. (c)(5)(F)(1), were redesignated chapters 2 and 21 of the Internal Revenue Code of 1966, and are classified to sections 1401 et seq. and 3101 et seq., respectively, of Title 26.

The Peace Corps Act, referred to in subsec. (p)(1), is Pub. L. 87–293, Sept. 22, 1961, 75 Stat. 612, which was classified principally to chapter 34 (§ 2501 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 3122 of Title 26, Internal Revenue Code.


CODIFICATION

October 13, 1988, referred to in subsec. (c)(2)(C)(v), was in the original “the date of the enactment of such subclause”, and was translated as if it read “the date of the enactment of such clause”, as the probable intent of Congress. The clause in question, cl. (i) of subsec. (c)(2)(C), was originally enacted as subcl. (II) of subsec. (c)(2)(B)(i), as 1968 Amendment note below, and was subsequently redesignated as cl. (ii) of subsec. (c)(2)(C), see 1990 Amendment note below.

August 15, 1994, referred to in subsec. (c)(2)(E)(ii), was in the original “the date of the enactment of this subparagraph” and “that date”, which were translated as meaning the date of enactment of Pub. L. 103–296, which added subsec. (c)(2)(E) and redesignated former subsec. (c)(2)(E) as (c)(2)(F).

In subsec. (g), act June 25, 1948, as amended by act May 24, 1949, substituted United States District Court for the District of Columbia, for District Court of the United States for the District of Columbia.


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TITLES 42—THE PUBLIC HEALTH AND WELFARE  § 405
Procedure, by act June 25, 1948, ch. 646, 62 Stat. 869, section 24 of the Judicial Code was classified to section 41 of former Title 28, Judicial Code and Judiciary. For disposition of section 41 of former Title 28, see Table I.


AMENDMENTS


Subsec. (c)(2)(C)(x). Pub. L. 114–10, § 501(a)(2), redesignated cl. (x) prohibiting use of social security account numbers on checks issued for payment by governmental agencies, and cl. (xi) as cls. (xi) and (xii), respectively.


Subsec. (i). Pub. L. 114–74 inserted “or divorced wife or divorced husband” after “the wife or husband”.


Subsec. (g). Pub. L. 108–203, § 411(a), substituted “and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony” for “and a transcript of the additional record and testimony”.


Subsec. (j)(2)(B)(i)(IV) to (VI). Pub. L. 108–203, § 106(a)(2), inserted subcl. (IV) and (V) and redesignated former subcl. (IV) as (VI).


Subsec. (j)(2)(C)(V)(II). Pub. L. 108–203, § 105(a)(1), substituted “a certified community-based nonprofit social service agency (as defined in paragraph (9))” for “any community-based nonprofit social service agency licensed or bonded by the State”.


Subsec. (j)(4)(A)(I). Pub. L. 108–203, § 104(a)(2), which directed amendment of cl. (i) in concluding provisions by substituting “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 paragraphs (5) and (6). The Commissioner” for “The Commissioner” was executed by making the substitution for “The Commissioner of Social Security” to reflect the probable intent of Congress. See 1994 Amendment note below.


Subsec. (j)(5). Pub. L. 108–203, § 101(a)(1), designated first sentence of existing provisions as introductory provisions and inserted “In any case in which a representative payee—” after “misused benefits.”, added subpars. (A) and (B), and designated second sentence of existing provisions as concluding provisions and inserted “misuses all or part of an individual’s benefit paid to such representative payee by the Commissioner of Social Security shall certify for payment 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 paragraph are subject to the limitations of paragraph (7)(B),” before “The Commissioner of Social Security shall make”.

Subsec. (j)(6). Pub. L. 108–203, § 102(b)(1), amended par. (6) generally. Prior to amendment, par. (6) read as follows: “The Commissioner of Social Security shall include as a part of the annual report required under section 904 of this title information with respect to the implementation of the preceding provisions of this subsection, including the number of cases in which the representative payee was changed, the number of cases discovered where there has been a misuse of funds, how any such cases were dealt with by the Commissioner of Social Security, the final disposition of such cases, including any criminal penalties imposed, and such other information as the Commissioner of Social Security determines to be appropriate.”


2001—Subsec. (i). Pub. L. 107–90 inserted “(or five or more years of service, all of which accrues after December 31, 1965)” after “ten years of service”.


Subsec. (j)(2)(B)(I)(IV). Pub. L. 106–169, § 251(b)(2)(D), inserted “, the designation of such person as a rep-
resentative payee has been revoked pursuant to section 1007(a) of this title," before "or payment of benefits" and ``(A)(i)(II). Pub. L. 103-109, § 1735(b), redesignated the cl. (iii) as added by Pub. L. 101-624, § 1735(b), as (viii). Former cl. (vii) added by Pub. L. 101-624, § 1735(b), redesignated (viii).

Subsec. (c)(2)(C)(v). Pub. L. 103-109, § 1735(a)(3), by inserting subcl. (I) designated the cl. (iii) as added by Pub. L. 101-624, § 1735(a)(3), as (viii) and inserted "a social security account number or" before "a request for" in subcl. (IV).


Subsec. (c)(2)(C)(ii). Pub. L. 103-109, § 1735(a)(3), by inserting subcl. (I) designated the cl. (iii) as added by Pub. L. 101-624, § 1735(a)(3), as (viii) and inserted "a social security account number or" before "a request for" in subcl. (IV).


Subsec. (i)(1). Pub. L. 103-296, §201(a)(1)(A), designated existing provisions as subpar. (A), in last sentence inserted “whether the interest of the individual under this subchapter would be served thereby,” after “payee or,” and added subpar. (B).


Subsec. (j)(1)(B). Pub. L. 103-296, §201(a)(2)(A), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in two places in subpar. (B).


Pub. L. 103-296, §107(a)(4), in cl. (v) as added by Pub. L. 103-296, §201(a)(2)(A), substituted “Commissioner’s” for “Secretary’s” in introductory provisions and “Commissioner of Social Security” for “Secretary” in subcl. (IV) and closing provisions.


Subsec. (j)(2)(D)(ii). Pub. L. 103-296, §201(a)(1)(B), substituted “, under the age of 15 years, or (if alcoholism or drug addiction is a contributing factor material to the Secretary’s determination that the individual is under a disability) is eligible for benefits under this subchapter by reason of disability,” for “or under the age of 15”.

Pub. L. 103-296, §107(a)(4), in par. (1) as amended by Pub. L. 103-296, §201(a)(2)(A), substituted “Secretary’s” for “Commissioner’s” for “Secretary’s” in introductory provisions and “Secretary” for “Commissioner” in closing provisions.

Subsec. (j)(4)(A). Pub. L. 103-296, §201(a)(2)(B)(i), redesignated former cls. (i) and (ii) as subcls. (i) and (ii), respectively, added new subcl. (II) and struck out former subcl. (II) (as redesignated) which read as follows: “was in existence on October 1, 1964.”

Subsec. (j)(4)(B). Pub. L. 103-296, §201(a)(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,” substituted “representative payee, if such agency,,” for “representative payee and which,” substituted a period for “,” and at end of cl. (ii), and struck out cl. (iii) which read as follows: “was in existence on October 1, 1988.”

Subsec. (j)(4)(D). Pub. L. 103-296, §201(a)(2)(B)(iii), struck out subpar. (D) which read as follows: “This paragraph shall cease to be effective on July 1, 1994.”


any case where the other person to whom such payment
is made 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 par-
ent or spouse continues to live in the same house-
hold as such individual.”

Subsec. (j)(3)(D). Pub. L. 101–1008, § 5105(b)(1)(A)(ii), (iii), redesignated subpar. (E) as (D) and substituted
“(A), (B), and (C)” for “(A), (B), (C), and (D)”. Former
subpar. (D) redesignated (C).

Subsec. (j)(3)(E), (F). Pub. L. 101–1008, § 5105(b)(1)(A)(i), (iv), added subpars. (E) and (F) and redesignated former
subpar. (E) as (D).

par. (4). Former par. (4) redesignated (5).

Subsec. (j)(5). Pub. L. 101–1008, § 5105(c)(1), added
par. (5) relating to negligent failure of the Secretary to in-
vestigate or monitor. Former par. (5), relating to an-
nual report, redesignated (6).

relating to annual report, as (5).

(6) generally. Prior to amendment, par. (6) read as fol-
ows:

“(A) The Secretary shall make an initial report to each House of the Congress on the implementation of
paragraphs (2) and (3) within 270 days after October 9,
1984.

(B) The Secretary shall include as a part of the an-
nual report required under section 904 of this title, in-
formation with respect to the implementation of para-
graphs (2) and (3), including the number of cases in
which the payee was changed, the number of cases dis-
covered where there has been a misuse of funds, how
any such cases were dealt with by the Secretary, the
final disposition of such cases, including any criminal
penalties imposed, and such other information as the
Secretary determines to be appropriate.”

Pub. L. 101–1008, § 5105(c)(1), redesignated par. (5),
relating to annual report, as (6).

(6).

out “if there is an absence of an entry in the Secre-
tary’s records of wages having been paid by such em-
ployer to such individual in such period” before semi-
colon at end.

(1).

inserted “and subparagraph (E)” after “subparagraph
(A)’’.

Subsec. (c)(2)(C)(i). Pub. L. 100–485, § 125(a)(1), des-
ignated existing provisions as subcl. (I) and added subcl.
(II).
whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of this title, or the periods in which or for which such wages were paid" and inserted at end "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under section 409 and 410 of this title whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages."  

1961—Subsec. (b). Act Aug. 1, 1956, ch. 836, § 111(a), redefined in paragraphs as par. (1) and added par. (2).  

1960—Subsec. (b). Pub. L. 86–652 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming his privilege against self-incrimination.  


1949—Subsec. (j). Pub. L. 81–453 provided that the term "minister" be substituted for the term "pastor" throughout this title.  


1941—Subsec. (g). Pub. L. 76–776, § 702(a), inserted sentence providing that any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.  

1939—Subsec. (p)(1). Pub. L. 76–776, § 702(a), provided that the term "Secretary of the Treasury" be substituted for the term "the Fiscal Service of the Department of the Treasury" throughout this title.  

1937—Subsec. (c)(1)(A). Pub. L. 95–216, § 353(c)(2)(A), struck out "(as defined in section 411(e) of this title)" after "taxable year".  


1934—Subsec. (b). Pub. L. 78–202 substituted provisions that a request for a hearing following the decision of the Secretary be made within sixty days after notice of such decision is received for provisions which authorized the Secretary to prescribe by regulation the period within which to file a request, including the limitation that the period so prescribed be not less than six months after notice of the decision was mailed.  


1927—Subsec. (a). Pub. L. 69–345, § 233, substituted "annuity under section 2 of the Railroad Retirement Act of 1947" for "section 5 of the Railroad Retirement Act of 1937", "section 6(b) of such Act" for "subsection (f)(1) of such section", and "section 3(i) of such Act" for "section 4 of such Act".  

1925—Subsec. (c)(2). Pub. L. 69–403 designated existing provisions as par. (A) and added par. (B).  

1920—Subsec. (f). Pub. L. 61–672 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming his privilege against self-incrimination.  

1918—Subsec. (g). Pub. L. 61–403, § 2661(h)(2), substituted "Department of Health and Human Services" for "Federal Security Agency".  

subsection [amending this section] shall apply with respect to employment of prisoners, or entry into contract with prisoners, after the date that is 1 year after the date of enactment of this Act [Dec. 18, 2010]."

**Effective Date of 2008 Amendment**


**Effective Date of 2004 Amendments**

Pub. L. 108–458, title VII, § 7214(b), Dec. 17, 2004, 118 Stat. 3852, provided that: "The amendment made by subsection (a)(2) [amending this section] shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act [Dec. 17, 2004]."


Pub. L. 108–203, title I, §103(d), Mar. 2, 2004, 118 Stat. 503, provided that: "The amendments made by this section [amending this section and sections 1307, 1382b, and 1383 of this title] shall apply 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 January 1, 1995."

Pub. L. 108–203, title I, §104(c), Mar. 2, 2004, 118 Stat. 504, provided that: "The amendments made by this section [amending this section and sections 1383 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108–203, title I, §105(d), Mar. 2, 2004, 118 Stat. 505, provided that: "The amendments made by this section [amending this section and sections 1382b, and 1383 of this title] shall apply to any case of 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 the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108–203, title I, §106(d), Mar. 2, 2004, 118 Stat. 506, provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to any case of 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 the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108–203, title IV, §411(b), Mar. 2, 2004, 118 Stat. 577, provided that: "The amendments made by this section [amending this section] shall apply with respect to final determinations issued (upon request) on or after the date of the enactment of this Act [Mar. 2, 2004]."

**Effective Date of 2001 Amendment**

Pub. L. 107–90, title I, §103(j), Dec. 21, 2001, 115 Stat. 882, provided that: "The amendments made by this sec-
tion [amending this section and sections 231a to 231f, 231q, and 231r of Title 45, Railroads] shall take effect on January 1, 2002.''

**Effective Date of 1997 Amendment**


"(A) The amendment made by paragraph (1)(A) [amending this section] shall apply to applications made after the date which is 180 days after the date of the enactment of this Act [Aug. 5, 1997];

"(B) The amendments made by subparagraphs (B) and (C) of paragraph (1) [amending this section] shall apply to information obtained on, before, or after the date of the enactment of this Act."

**Effective Date of 1996 Amendments**

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 AID program, see section 116 of Pub. L. 104–193, as amended, set out as an Effective Date note under section 601 of this title.


"(A) The amendments made by paragraphs (1) and (4) [amending sections 422 and 425 of this title] shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] 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) [amending this section and section 422 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 before the date of the enactment of this Act [Mar. 29, 1996]; or

"(ii) whose entitlement to benefits is based upon an entitlement 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 entitled to monthly insurance benefits under the Social Security Act based on disability for the month in which such Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection [amending this section and sections 422, 423, and 425 of this title]. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability 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 entitlement 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 benefits under title II based on disability, which has been denied in whole before the date of the enactment of this Act, 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 or order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) [42 U.S.C. 423(f)] shall not apply to such redetermination."


**Effective Date of 1994 Amendment**

Amendment by section 107(a)(1), (2), (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.


"(I) GENERAL RULE.—Except as provided in clause (ii), the amendments made by this paragraph [amending this section] shall apply with respect to benefits paid in months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994].

"(II) TREATMENT OF CURRENT BENEFICIARIES.—In any case in which—

"(i) an individual is entitled to benefits based on disability (as defined in section 205(j)(7) of the Social Security Act [42 U.S.C. 406(j)(7)], as amended by this section),

"(ii) 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, and

"(III) alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is under a disability,

the amendments made by this paragraph shall apply with respect to benefits paid in months in which such individual is notified by the Secretary in writing that alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the Secretary is therefore required to make a certification of payment of such individual's benefits to a representative payee."

Pub. L. 103–296, title II, §201(a)(2)(B)(ii), Aug. 15, 1994, 108 Stat. 1491, provided that: "The amendments made by this section shall apply to determinations made before, on, or after the date of the enactment of this Act [Aug. 15, 1994]."

Pub. L. 103–296, title II, §201(a)(2)(D), Aug. 15, 1994, 108 Stat. 1494, provided that: "Except as provided in subparagraph (B)(ii) [set out 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]."


Pub. L. 103–296, title II, §206(d)(3), Aug. 15, 1994, 108 Stat. 1515, provided that: "The amendments made by this subsection [amending this section and section 1383 of this title] shall take effect on October 1, 1994, and shall apply to determinations made before, on, or after such date."

Pub. L. 103–296, title III, §304(c), Aug. 15, 1994, 108 Stat. 1521, provided that: "The amendments made by this section [amending this section and section 1320b–10 of this title] shall take effect on October 1, 1994, and shall apply to determinations made before, on, or after such date."

Pub. L. 103–296, title III, §306(c), Aug. 15, 1994, 108 Stat. 1524, provided that: "The amendments made by this section [amending this section and section 8506 of this title] shall apply to determinations made before, on, or after such date."

of this title] shall take effect on the date of the enactment of this Act [Aug. 15, 1994].''

Pub. L. 103–296, title III, §321(f)(5), Aug. 15, 1994, 108 Stat. 542, provided that: "Each amendment made by this subsection [amending this section and sections 406, 423, 1330a–6, and 1383 of this title] shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508] to which such amendment relates, except that the amendments made by paragraph (3)(B) [amending sections 406 and 1330a–6 of this title] shall take effect with respect to paragraphs 120 days after the date of the enactment of this Act [Aug. 15, 1994]."

**Effective Date of 1990 Amendments**

Amendment by section 1735(a), (b) of Pub. L. 101–624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1735(c)(2) of Pub. L. 101–624, set out as a note under section 1202 of Title 7, Agriculture.


"(A) USE AND SELECTION OF REPRESENTATIVE PAYEES.—The amendments made by paragraphs (1) and (2) [amending this section and section 1383 of this title] shall take effect July 1, 1991, and shall apply only with respect to—

"(i) certifications of payment of benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] to representative payees made on or after such date; and

"(ii) provisions for payment of benefits under title XVI of such Act [42 U.S.C. 1381 et seq.] to representative payees made on or after such date.

"(B) COMPENSATION OF REPRESENTATIVE PAYEES.—The amendments made by paragraph (3) [amending this section and section 1383 of this title] shall take effect July 1, 1991, and the Secretary of Health and Human Services shall prescribe initial regulations necessary to carry out such amendments not later than such date."

Pub. L. 101–508, title V, §5105(a)(5), Nov. 5, 1990, 104 Stat. 1388–263, provided that: "The amendments made by subsection (c) [amending this section and section 1383 of this title] shall apply with respect to violations occurring on or after such date."

"(C) AMENDMENTS OF REPRESENTATIVE PAYEES.—The amendments made by subsection (d) [amending this section and section 1383 of this title] shall take effect October 1, 1991, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(c)(3)(E) of the Social Security Act [42 U.S.C. 405(c)(3)(E)] as amended by subparagraph (A) of this paragraph] are satisfied as of such date."

Pub. L. 101–508, title V, §5105(c)(1), Nov. 5, 1990, 104 Stat. 1388–266, provided that: "The amendments made by paragraph (1) [amending this section and section 1383 of this title] shall take effect with respect to annual reports issued for years after 1991."

Pub. L. 101–508, title V, §5107(b), Nov. 5, 1990, 104 Stat. 1388–269, provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to adverse determinations made on or after January 1, 1991."

Pub. L. 101–508, title V, §5109(b), Nov. 5, 1990, 104 Stat. 1388–271, provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to notices issued on or after January 1, 1991."

**Effective Date of 1989 Amendment**

Pub. L. 101–239, title X, §10303(c), Dec. 19, 1989, 103 Stat. 2483, provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990."

**Effective Date of 1988 Amendments**

Pub. L. 100–647, title VIII, §800(b), Nov. 10, 1988, 102 Stat. 3787, provided that: "The amendments made by this section [amending this section] shall apply to benefits entitlement to which the sixth month following the month in which this Act is enacted [November 1988]."

Amendment by section 801(a)(1) of Pub. L. 100–647 applicable to determinations relating to service commenced in any position on or after Nov. 10, 1988, see section 801(a)(4) of Pub. L. 100–647, set out under section 3122 of Title 26, Internal Revenue Code.

Amendment by section 801(a)(1) of Pub. L. 100–647 effective Nov. 10, 1988, except that any amendment to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.], or to Title 26, as added or amended by a provision of a particular Public Law which is so referred to, effective as though included or reflected in the relevant provisions of that Public Law at the time of its enactment, see section 801(b)(2) of Pub. L. 100–647, set out as a note under section 3111 of Title 26.

Pub. L. 100–485, title I, §125(b), Oct. 13, 1988, 102 Stat. 2354, provided that: "The amendments made by subsection (a) [amending this section] shall become effective on the first day of the 25th month which begins on or after the date of the enactment of this Act [Oct. 13, 1988]."

**Effective Date of 1986 Amendment**

Amendment by Pub. L. 99–509 effective with respect to payments due with respect to wages paid after Dec. 31, 1986, including wages paid after such date by a State or political subdivision thereof that modified an agreement pursuant to section 418(e)(2) of this title prior to Oct. 21, 1986, with certain exceptions, see section 9002(d) of Pub. L. 99–509 set out as a note under section 418 of this title.

**Effective Date of 1984 Amendments**

Pub. L. 98–460, §16(d), Oct. 9, 1984, 98 Stat. 1811, provided that: "The amendments made by this section [amending this section and sections 408, 1383, and 1383a of this title] shall become effective on the date of the enactment of this Act [Oct. 9, 1984], and, in the case of the amendments made by subsection (c) [amending sections 408 and 1383a of this title], shall apply with respect to violations occurring on or after such date."

Amendment by section 2661(b) of Pub. L. 98–369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98–21, see section 2664(a) of Pub. L. 98–369, set out as a note under section 401 of this title.

Amendment by section 2663(a)(4), (j) 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 Amendments**

Amendment by sections 301(d) and 309(i) of Pub. L. 98–21 applicable only with respect to monthly payments payable under this subchapter for months after April, 1983, see section 310 of Pub. L. 98–21, set out as a note under section 402 of this title.

Pub. L. 98–21, title III, §345(b), Apr. 20, 1983, 97 Stat. 137, provided that: "The amendments made by this section [amending this section] shall apply with respect to all new and replacement social security cards issued more than 193 days after the date of the enactment of this Act [Apr. 20, 1983]."

Pub. L. 97–455, §4(b), Jan. 12, 1983, 96 Stat. 2500, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to reconsiderations of findings described in section 266(b)(2)(B) of the Social Security Act [42 U.S.C. 405(b)(2)(B)] which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984."

**Effective Date of 1980 Amendment**

Pub. L. 96–365, title III, §305(c), June 9, 1980, 94 Stat. 457, provided that: "The amendments made by this sec-
tion [amending this section and section 1383 of this title] shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted [June, 1960].”

**Effective Date of 1978 Amendment**
Amendment by Pub. L. 95–600 effective Oct. 4, 1976, see section 703(c) of Pub. L. 95–600, set out as a note under section 46 of Title 26, Internal Revenue Code.

**Effective Date of 1977 Amendment**

**Effective Date of 1976 Amendment**
Amendment by Pub. L. 94–205, § 5, Jan. 1, 1976, 89 Stat. 1136, provided that: “The amendments made by the first two sections of this Act [amending section 1383 of this title], and the provisions of section 3 [enacting provisions set out as a note under section 1383 of this title], shall take effect on the date of the enactment of this Act [Jan. 2, 1976]. The amendment made by section 4 of this Act [amending this section] shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act [amending section 1383 of this title], to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act.”

**Effective Date of 1974 Amendment**

**Effective Date of 1970 Amendment**
Amendment by Pub. L. 91–432 effective on sixtieth day following Oct. 15, 1970, and not to affect any immunity to whom any individual is entitled under this section by reason of any testimony given before sixtieth day following Oct. 15, 1970, see section 260 of Pub. L. 91–452, set out as an Effective Date; Savings Provisions note under section 6001 of Title 18, Crimes and Criminal Procedure.

**Effective Date of 1968 Amendment**
Amendment by Pub. L. 90–298, title I, §171(b), Jan. 2, 1968, 81 Stat. 877, provided that: “The amendment made by subsection (a) of this section [amending this section] shall be effective with respect to written requests filed under section 206(c) of the Social Security Act [42 U.S.C. 406(c)] after June 30, 1968.”

**Effective Date of 1965 Amendment**
Amendment by section 308(d)(9), (10) of Pub. L. 89–97 applicable with respect to monthly insurance benefits under this subchapter beginning with the second month following July 1965, but, in the case of an individual who was not entitled to a monthly insurance benefit under section 402 of this title for the first month following July 1965, only on the basis of an application filed in or after July 1965, see section 308(e) of Pub. L. 89–97, set out as a note under section 402 of this title.

**Effective Date of 1961 Amendment**
Amendment by Pub. L. 87–293 applicable with respect to service performed after Sept. 22, 1961, but in the case of persons serving under the Peace Corps agency established by executive order applicable with respect to service performed on or after the effective date of enrollment, see section 202(c) of Pub. L. 87–293, set out as a note under section 3121 of Title 26, Internal Revenue Code.

**Effective Date of 1960 Amendment**
Amendment by section 102(f)(2) of Pub. L. 86–778 effective on first day of second calendar year following 1960, see section 102(r)(3) of Pub. L. 86–778, set out as a note under section 418 of this title.

**Effective Date of 1956 Amendments**
Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957, see Act Aug. 1, 1956, ch. 837, title VI, §603(a), 70 Stat. 831, provided that: “The amendment made by subsection (a) [amending this section] shall be effective upon enactment [Aug. 1, 1956]; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 306(b) of the Social Security Act [42 U.S.C. 406(b)], as amended by subsection (a) of this section, with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act may not terminate for such individual less than six months after the date of enactment of this Act.”

**Effective Date of 1954 Amendment**
Amendment by act Sept. 1, 1954, ch. 1206, title I, §101(n), 68 Stat. 1061, provided that: “The amendments made by paragraphs (1), (2), and (3) of subsection (a) [amending section 101(n) of this title] shall be applicable only with respect to taxable years beginning after 1954. The amendments made by paragraphs (4), (5), and (6) of subsection (a) [amending sections 101(o) and 101(p) of this title] shall be applicable only with respect to services performed after 1954. The amendments made by subsection (b) [amending section 101(q) of this title] shall be effective January 1, 1955. The other amendments made by this section (other than the amendments made by subsections (h), (i), (j) and (m)[i] [amending section 401 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act, the amendments made by paragraphs (1), (2), and (4) of subsection (g) [amending section 401 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act, the amendments made by subsection (c) [amending this section] shall become effective October 1, 1954. The amendments made by subsection (b) [amending section 401 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act, the amendments made by paragraphs (1), (2), and (4) of subsection (g) [amending section 401 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act, the amendments made by paragraphs (1), (2), and (4) of subsection (g) [amending section 401 of this title] shall be applicable only with respect to services performed after 1954. For purposes of this subsection, net earnings from self-employment so credited to any individual who served on or after September 1, 1954, shall be deemed to have been derived after 1954.”
Effective Date of 1950 Amendment
Act Aug. 28, 1950, ch. 809, title I, §108(d), 64 Stat. 521, provided that: "The amendments made by subsections (a) and (c) of this section [amending this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending this section] shall take effect January 1, 1951, except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205(c) of the Social Security Act (42 U.S.C. 405(c)) as in effect prior to the enactment of this Act [Aug. 28, 1950]."

Act Aug. 28, 1950, ch. 809, title I, §101(b)(2), 64 Stat. 488, provided that: "Section 205(m) of the Social Security Act (42 U.S.C. 405(m)) is repealed effective with respect to monthly payments under section 202 of the Social Security Act (42 U.S.C. 402), as amended by this Act, for months after August 1950."

Effective Date of 1939 Amendment
Act Aug. 10, 1939, ch. 666, title II, §201, 53 Stat. 1362, provided that the amendment made by that section is effective Jan. 1, 1940.

Repeals: Amendments and Application of Amendments Unaffected
Section 302(b)(3) of Pub. L. 87–263, cited as a credit to this section, was repealed by Pub. L. 89–572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulation, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, section 5(b) of Pub. L. 89–572, set out as a note under section 2515 of Title 22, Foreign Relations and Intercourse.

Termination of Trust Territory of the Pacific Islands
For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

Pub. L. 114–10, title V, §519, Apr. 16, 2015, 129 Stat. 175, provided that: "Except as explicitly provided in this subtitle (subsection A (§§ 501–519) of title V of Pub. L. 114–10, amending this section and sections 1320a–7a, 1395b–7, 1395s, 1395m, 1395w–104, 1395x, 1395y, 1395kk, 1395kk–1, 1395ddi, and 1395ii of this title and enacting provisions set out as notes under this section and sections 1320a–7a, 1395b–7, 1395s, 1395m, 1395y, 1395kk, and 1395kk–1 of this title), nothing in this subtitle, including the amendments made by this subtitle, shall be construed as preventing the use of notice and comment rulemaking in the implementation of the provisions of, and the amendments made by, this subtitle."

Pub. L. 114–10, title V, §501(b), Apr. 16, 2015, 129 Stat. 163, provided that: "In implementing clause (xii) of section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)), as added by subsection (a)(3), the Secretary of Health and Human Services shall do the following:

(a) In general.—Establish a cost-effective process that involves the least amount of disruption to, as well as necessary assistance for, Medicare beneficiaries and health care providers, such as a process that provides such beneficiaries with access to assistance through a toll-free telephone number and provides outreach to providers.

(b) Consideration of Medicare beneficiary identification.—Consider implementing a process, similar to the process involving Railroad Retirement Board beneficiaries, under which a Medicare beneficiary identifier which is not a Social Security account number (or derivative thereof) is used external to the Department of Health and Human Services and is convertible over to a Social Security account number (or derivative thereof) for use internal to such Department and the Social Security Administration."

Social Security Act Amendments
Pub. L. 115–59, Sept. 13, 2017, 131 Stat. 1152, provided that:

"SECTION 1. SHORT TITLE.
"This Act may be cited as the ‘Social Security Number Fraud Prevention Act of 2017.’"

"SEC. 2. RESTRICTION OF SOCIAL SECURITY NUMBERS ON DOCUMENTS SENT BY MAIL.

(a) Restriction.—An agency may not include the social security account number of an individual on any document sent by mail unless the head of the agency determines that the inclusion of the social security account number on the document is necessary.

(b) Regulations.—Not later than 5 years after the date of the enactment of this Act, and not later than the first, second, third, fourth, and fifth-year anniversary of such date of enactment, the head of each CFO Act agency shall submit to the Committee on Ways and Means and the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Finance and the Committee on Homeland Security and Governmental Affairs of the Senate, and any other appropriate authorizing committees of the House of Representatives and the Senate, a report on the implementation of subsection (a) that includes the following:

(1) the title and identification number of any document used by the CFO Act agency during the previous year that includes the complete social security account number of an individual;

(2) for the first report submitted, a plan that describes how the CFO Act agency will comply with the requirements of subsection (a);

(3) for the final report submitted, the title and identification number of each document used by the CFO Act agency for which the head of the agency has determined, in accordance with regulations issued pursuant to subsection (b), that the inclusion of a social security account number on such document is necessary, and the rationale for such determination.

(c) Definitions.—In this section:

(1) Agency.—The term ‘agency’ means the agencies listed in paragraphs (1) and (2) of section 901(b) of title 31, United States Code.

(2) CFO Act agency.—The term ‘CFO Act agency’ means the agencies listed in paragraphs (1) and (2) of section 901(b) of title 31, United States Code.

(d) Effective Date.—Subsection (a) shall apply with respect to any document sent by mail on or after the date that is 5 years after the date of the enactment of this Act.

Social Security Act Amendments
“(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 1 year after the date of enactment of this Act [Dec. 17, 2004]—

(A) restrict the issuance of multiple replacement social security cards to any individual to 3 per year and 10 for the life of the individual, except that the Commissioner may allow for reasonable exceptions from the limits under this paragraph on a case-by-case basis in compelling circumstances;

(B) establish minimum standards for the verification of documents or records submitted by an individual to establish eligibility for an original or replacement social security card, other than for purposes of enumeration at birth; and

(C) require independent verification of any birth record submitted by an individual to establish eligibility for a social security account number, other than for purposes of enumeration at birth, except that the Commissioner may allow for reasonable exceptions from the requirement for independent verification under this subparagraph on a case by case basis in compelling circumstances; and

(2) notwithstanding section 205(r) of the Social Security Act (42 U.S.C. 655(r)) and any agreement entered into thereunder, not later than 18 months after the date of enactment of this Act with respect to death indicators and not later than 36 months after the date of enactment of this Act with respect to fraud indicators, add death and fraud indicators to the social security number verification systems for employers, State agencies issuing driver’s licenses and identity cards, and other verification routines that the Commissioner determines to be appropriate.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 18 months after the date of enactment of this Act [Dec. 17, 2004], the task force shall establish, and the Commissioner shall provide for the implementation of, security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) ENUMERATION AT BIRTH.—

(1) IMPROVEMENT OF APPLICATION PROCESS.—As soon as practicable after the date of enactment of this Act [Dec. 17, 2004], the Commissioner of Social Security shall undertake to make improvements to the enumeration at birth program for the issuance of social security account numbers to newborns. Such improvements shall be designed to prevent—

(A) the assignment of social security account numbers to unnamed children;

(B) the issuance of more than 1 social security account number to the same child; and

(C) other opportunities for fraudulently obtaining a social security account number.

(2) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall transmit to each House of Congress a report specifying in detail the extent to which the improvements required under paragraph (1) have been made.

(d) STUDY REGARDING PROCESS FOR ENUMERATION AT BIRTH.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act [Dec. 17, 2004], the Commissioner of Social Security shall conduct a study to determine the most efficient options for ensuring the integrity of the process for enumeration at birth. The study shall include an examination of available methods for reconciling hospital birth records with birth registrations submitted to agencies of States and political subdivisions thereof and with information provided to the Commissioner as part of the process for enumeration at birth.

(2) REPORT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Commissioner shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate regarding the results of the study conducted under paragraph (1).

(B) CONTENTS.—The report submitted under subparagraph (A) shall contain such recommendations for legislative changes as the Commissioner considers necessary to implement needed improvements in the process for enumeration at birth.

(2) Authorization of Appropriations.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD


(a) DEVELOPMENT.—

(1) IN GENERAL.—The Commissioner of Social Security (in this section referred to as the ‘Commissioner’) shall, in accordance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) ASSISTANCE BY ATTORNEY GENERAL.—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) STUDIES AND REPORTS.—

(1) IN GENERAL.—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) ELEMENTS OF STUDIES.—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) DISTRIBUTION OF REPORTS.—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act [Sept. 30, 1996].

Similar provisions were contained in the following prior act:


NINETY-DAY DELAY IN DEFEHRAL OR SUSPENSION OF BENEFITS FOR CURRENT BENEFICIARIES

Pub. L. 103–296, title II, § 202(a)(1)(C), Aug. 15, 1994, 108 Stat. 1491, provided that: ‘‘In the case of an individual who, as of 180 days after the date of enactment of this Act [Aug. 15, 1994], has been determined to be under a disability, if alcoholism or drug addiction is a
contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(j)(2)(D) of the Social Security Act (42 U.S.C. 405(j)(2)(D)), make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph [set out above], until such time during such period as the selection of a representative payee is made pursuant to section 205(j) of such Act (42 U.S.C. 405(j))."

**STUDY REGARDING FEASIBILITY, COST, **

**AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION**

Pub. L. 103-296, title II, §201(a)(1)(D), Aug. 15, 1994, 108 Stat. 1491, required the Secretary of Health and Human Services, as soon as practicable after Aug. 15, 1994, to conduct a study of the feasibility, cost, and equity of requiring representative payees for all disability beneficiaries under title II or XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material to the determination of disability; the feasibility, cost, and equity of providing benefits through non-cash means; and the extent to which child beneficiaries and children's representative payees are afflicted by drug addiction or alcoholism and ways of addressing such affliction, and required the Secretary to submit a report to the appropriate committees of Congress by Dec. 31, 1995.

**ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI CASES**

Pub. L. 103-296, title II, §206(g), Aug. 15, 1994, 108 Stat. 1516, as amended by Pub. L. 103-296, title I, §101(f), Aug. 15, 1994, 108 Stat. 1483, provided that: "The Commissioner of Social Security shall annually 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 extent to which the Commissioner has exercised his authority to review cases of entitlement to monthly insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) and supplemental security income cases under title XVI of such Act (42 U.S.C. 1381 et seq.), and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud."

**REPORT ON FEASIBILITY OF OBTAINING READY ACCESS TO CERTAIN CRIMINAL FRAUD RECORDS**

Pub. L. 101-508, title V, §5105(a)(2)(B), Nov. 5, 1990, 104 Stat. 1388-262, provided that, as soon as practicable after Nov. 5, 1990, the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, was to study the feasibility of establishing and maintaining a current list of the names and social security account numbers of individuals who had been convicted of a violation of 18 U.S.C. 495 for use in investigations undertaken pursuant to 42 U.S.C. 405(j)(2) or 42 U.S.C. 1383(a)(2)(B), and to submit study results and recommendations to the appropriate committees of Congress by July 1, 1992.

**REPORTS ON ORGANIZATIONS SERVING AS REPRESENTATIVE PAYEES AND FEES FOR SERVICES**

Pub. L. 101-508, title V, §5105(a)(3)(B), Nov. 5, 1990, 104 Stat. 1388-262, required the Secretary of Health and Human Services to transmit a report to the appropriate committees of Congress by Jan. 1, 1993, setting forth the number and types of qualified organizations which had served as representative payees and had collected fees for such service pursuant to any amendment made by section 5105(a)(3)(A) of Pub. L. 101-508 (amending this section and section 1383 of this title), and required the Comptroller General of the United States to conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge such fees and to transmit a report to the appropriate committees of Congress by July 1, 1992.

**STUDY RELATING TO FEASIBILITY OF SCREENING OF INDIVIDUALS WITH CRIMINAL RECORDS**

Pub. L. 101-508, title V, §5105(a)(4), Nov. 5, 1990, 104 Stat. 1388-262, required the Secretary of Health and Human Services, as soon as practicable after Nov. 5, 1990, to conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circumstances under which such applicants could be allowed to serve as representative payees and to transmit study results to the appropriate committees of Congress by July 1, 1992.

**STUDY RELATING TO MORE STRINGENT OVERSIGHT OF HIGH-RISK REPRESENTATIVE PAYEES**

Pub. L. 101-508, title V, §5105(b)(2), Nov. 5, 1990, 104 Stat. 1388-263, required the Secretary of Health and Human Services, as soon as practicable after Nov. 5, 1990, to conduct a study of the need for a more stringent accounting system for high-risk representative payees than was otherwise generally provided under 42 U.S.C. 405(j)(3) or 42 U.S.C. 1383(a)(2)(C), and to report results to the appropriate committees of Congress by July 1, 1992.

**DEMONSTRATION PROJECTS RELATING TO PROVISION OF INFORMATION TO LOCAL AGENCIES PROVIDING CHILD AND ADULT PROTECTIVE SERVICES**

Pub. L. 101-508, title V, §5105(b)(3), Nov. 5, 1990, 104 Stat. 1388-263, required the Secretary of Health and Human Services, as soon as practicable after Nov. 5, 1990, to implement a demonstration project to make available to the State agencies responsible for regulating care facilities or providing for child and adult protective services a list of addresses where benefits under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) were received by five or more individuals, and to report to the appropriate committees of Congress by July 1, 1992, on the feasibility and desirability of legislation implementing the programs established pursuant to section 5105(b)(3) of Pub. L. 101-508 on a permanent basis.

**COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS**

Pub. L. 99-603, title I, §101(f), Nov. 6, 1986, 100 Stat. 3573, directed the Comptroller General of the United States to investigate technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting and to report to the appropriate committees of Congress not later than one year after Nov. 6, 1986.

**CONDUCT OF FACE-TO-FACE RECONSIDERATIONS IN DISABILITY CASES**

Pub. L. 97-455, §5, Jan. 12, 1983, 96 Stat. 2500, provided that: "The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance of the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act (42 U.S.C. 405(b)(2)) (as added by section 4 of this Act). For this purpose the Secretary shall—"
§ 405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering State and local employees; effective date

Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health and Human Services, after January 2, 1976, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 418(e) of this title.


REFERENCES IN TEXT

Subsec. (e) of section 418 of this title, referred to in text, which related to payments and reports by States, was repealed, and subsec. (f) of section 418 of this title was redesignated as subsec. (e), by Pub. L. 99–560, title IX, §9022(c)(1), Oct. 21, 1986, 100 Stat. 1971.

COMPARISON

Section was not enacted as part of the Social Security Act which comprises this chapter.

CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in text pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

Time for Making Social Security Contributions With Respect to Covered State and Local Employees

Pub. L. 96–265, title V, §503(c), June 9, 1980, 94 Stat. 471, provided that: "The provisions of section 7 of Public Law 94–202 [42 U.S.C. 405a] shall not be applicable to any regulation which becomes effective on or after July 1, 1980, and which is designed to carry out the purposes of subsection (a) of this section [amending section 418 of this title]."

§ 406. Representation of claimants before Commissioner

(a) Recognition of representatives; fees for representation before Commissioner

(1) The Commissioner of Social Security may prescribe rules and regulations governing the recognition of agents or other persons, other than attorneys as hereinafter provided, representing claimants before the Commissioner of Social Security, and may require of such agents or other persons, before being recognized as representatives of claimants that they shall show that they are of good character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their cases. An attorney in good standing who is admitted to practice before the highest court of the State, Territory, District, or insular possession of his residence or before the Supreme Court of the United States or the inferior Federal courts, shall be entitled to represent claimants before the Commissioner of Social Security. Notwithstanding the preceding sentences, the Commissioner, after due notice and opportunity for hearing; (A) may refuse to recognize as a representative already recognized, any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice or who has been disqualified from participating in or appearing before any Federal program or agency, and (B) may refuse to recognize, and may disqualify, as a non-attorney representative any attorney who has been disbarred or suspended from any court or bar to which he or she was previously admitted to practice. A representative who has been disqualified or suspended pursuant to this section from appearing before the Social Security Administration as a result of collecting or receiving a fee in excess of the amount authorized shall be barred from appearing before the Social Security Administration as a representative until full restitution is made to the claimant and, thereafter, may be considered for reinstatement only under such rules as the Commissioner may prescribe. The Commissioner of Social Security may, after due notice and opportunity for hearing, suspend or prohibit from further practice before the Commissioner any such person, agent, or attorney who refuses to comply with the Commissioner’s rules and regulations or who violates any provision of this section for which a penalty is prescribed. The Commissioner of Social Security may, by rule and regulation, pre-