

(A) The Commissioner of Social Security shall, prior to each period for which a payment is to be made to a State, estimate the amount to be paid to the State for such period under the provisions of this section.

(B) From the allotment available therefor, the Commissioner of Social Security shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this subsection) by which the Commissioner finds that the Commissioner's estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such period under this section.

(e) Rules and regulations

Within nine months after June 9, 1980, the Commissioner of Social Security shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

(f) Reports

Each State participating in the pilot program under this section shall from time to time report to the Commissioner of Social Security on the operation and results of such program in that State, with particular emphasis upon the work incentive effects of the program. On or before October 1, 1983, the Commissioner of Social Security shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with the Commissioner's findings and recommendations.

(Aug. 14, 1935, ch. 531, title XVI, §1620, as added Pub. L. 96-265, title II, §201(c), June 9, 1980, 94 Stat. 446; amended Pub. L. 97-35, title XXIII, §2353(p), Aug. 13, 1981, 95 Stat. 874; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

Editorial Notes

REFERENCES IN TEXT

Section 212(b) of Public Law 93-66, referred to in subsec. (b)(2), is section 212(b) of Pub. L. 93-66, title II, July 9, 1973, 87 Stat. 155, which is set out as a note under section 1382 of this title.

AMENDMENTS

1994—Subsecs. (b) to (f). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "the Commissioner finds that the Commissioner's" for "he finds that his" in subsec. (d)(2)(B), and "the Commissioner's" for "his" in subsec. (f).

1981—Subsec. (c). Pub. L. 97-35 struck out provision following par. (7) that the plan under this section may be developed and submitted as a separate State plan or may be submitted in the form of an amendment to the State's plan under section 1397b(d) of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of

Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

§ 1382j. Attribution of sponsor's income and resources to aliens

(a) Attribution as unearned income

For purposes of determining eligibility for and the amount of benefits under this subchapter for an individual who is an alien, the income and resources of any person who (as a sponsor of such individual's entry into the United States) executed an affidavit of support or similar agreement with respect to such individual, and the income and resources of the sponsor's spouse, shall be deemed to be the income and resources of such individual (in accordance with subsections (b) and (c)) for a period of 3 years after the individual's entry into the United States. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.

(b) Determination of amount and resources

(1) The amount of income of a sponsor (and his spouse) which shall be deemed to be the unearned income of an alien for any year shall be determined as follows:

(A) The total yearly rate of earned and unearned income (as determined under section 1382a(a) of this title) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined for such year.

(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the maximum amount of the Federal benefit under this subchapter for such year which would be payable to an eligible individual who has no other income and who does not have an eligible spouse (as determined under section 1382(b)(1) of this title), plus (ii) one-half of the amount determined under clause (i) multiplied by the number of individuals who are dependents of such sponsor (or such sponsor's spouse if such spouse is living with the sponsor), other than such alien and such alien's spouse.

(C) The amount of income which shall be deemed to be unearned income of such alien shall be at a yearly rate equal to the amount determined under subparagraph (B). The period for determination of such amount shall be the same as the period for determination of benefits under section 1382(c) of this title.

(2) The amount of resources of a sponsor (and his spouse) which shall be deemed to be the resources of an alien for any year shall be determined as follows:

(A) The total amount of the resources (as determined under section 1382b of this title) of such sponsor and such sponsor's spouse (if such spouse is living with the sponsor) shall be determined.

(B) The amount determined under subparagraph (A) shall be reduced by an amount equal to (i) the applicable amount determined under section 1382(a)(3)(B) of this title in the case of a sponsor who has no spouse with whom he is living, or (ii) the applicable amount determined under section 1382(a)(3)(A) of this title in the case of a sponsor who has a spouse with whom he is living.

(C) The resources of such sponsor (and spouse) as determined under subparagraphs (A) and (B) shall be deemed to be resources of such alien in addition to any resources of such alien.

(c) Support and maintenance

In determining the amount of income of an alien during the period of 3 years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1382a(a)(2)(A)(i) of this title shall not be applicable if such alien is living in the household of a person who is a sponsor (or such sponsor's spouse) of such alien, and is receiving support and maintenance in kind from such sponsor (or spouse), nor shall support or maintenance furnished in cash or kind to an alien by such alien's sponsor (to the extent that it reflects income or resources which were taken into account in determining the amount of income and resources to be deemed to the alien under subsection (a) or (b)) be considered to be income of such alien under section 1382a(a)(2)(A) of this title.

(d) Information and documentation; agreements with Secretary of State and Attorney General

(1) Any individual who is an alien shall, during the period of 3 years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this subchapter, be required to provide to the Commissioner of Social Security such information and documentation with respect to his sponsor as may be necessary in order for the Commissioner of Social Security to make any determination required under this section, and to obtain any cooperation from such sponsor necessary for any such determination. Such alien shall also be required to provide to the Commissioner of Social Security such information and documentation as the Commissioner of Social Security may request and which such alien or his sponsor provided in support of such alien's immigration application.

(2) The Commissioner of Social Security shall enter into agreements with the Secretary of State and the Attorney General whereby any information available to such persons and required in order to make any determination under this section will be provided by such persons to the Commissioner of Social Security, and whereby such persons shall inform any sponsor of an alien, at the time such sponsor executes an affidavit of support or similar agreement, of the requirements imposed by this section.

(e) Joint and several liability of alien and sponsor for overpayments

Any sponsor of an alien, and such alien, shall be jointly and severally liable for an amount equal to any overpayment made to such alien during the period of 3 years after such alien's entry into the United States, on account of such sponsor's failure to provide correct information under the provisions of this section, except where such sponsor was without fault, or where good cause for such failure existed. Any such overpayment which is not repaid to the Commissioner of Social Security or recovered in accord-

ance with section 1383(b) of this title shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this chapter.

(f) Exemptions

(1) The provisions of this section shall not apply with respect to any individual who is an "aged, blind, or disabled individual" for purposes of this subchapter by reason of blindness (as determined under section 1382c(a)(2) of this title) or disability (as determined under section 1382c(a)(3) of this title), from and after the onset of the impairment, if such blindness or disability commenced after the date of such individual's admission into the United States for permanent residence.

(2) The provisions of this section shall not apply with respect to any alien who is—

(A) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 1153(a)(7) of title 8;

(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 1157(c)(1) of title 8;

(C) paroled into the United States as a refugee under section 1182(d)(5) of title 8; or

(D) granted political asylum by the Attorney General.

(Aug. 14, 1935, ch. 531, title XVI, §1621, as added Pub. L. 96-265, title V, §504(b), June 9, 1980, 94 Stat. 471; amended Pub. L. 98-369, div. B, title VI, §§2611(d), 2663(g)(10), July 18, 1984, 98 Stat. 1131, 1169; Pub. L. 103-152, §7(a)(1), (b)(1), Nov. 24, 1993, 107 Stat. 1519; Pub. L. 103-296, title I, §107(a)(4), Aug. 15, 1994, 108 Stat. 1478.)

Editorial Notes

REFERENCES IN TEXT

Section 1153(a)(7) of title 8, referred to in subsec. (f)(2)(A), to be deemed a reference to such section as in effect prior to Apr. 1, 1980, and to sections 1157 and 1158 of Title 8, Aliens and Nationality. See section 203(h) of Pub. L. 96-212, set out as a note under section 1153 of Title 8.

AMENDMENTS

1994—Subsecs. (d), (e). Pub. L. 103-296 substituted "Commissioner of Social Security" for "Secretary" wherever appearing, except where appearing before "of State" in subsec. (d)(2).

1993—Pub. L. 103-152, §7(b)(1), substituted "3 years" for "5 years" in subsecs. (a), (c), (d)(1), and (e).

Pub. L. 103-152, §7(a)(1), substituted "5 years" for "three years" in subsecs. (a), (c), (d)(1), and (e).

1984—Subsec. (b)(2)(B). Pub. L. 98-369, §2611(d), substituted "the applicable amount determined under section 1382(a)(3)(B) of this title" for "\$1,500" and "the applicable amount determined under section 1382(a)(3)(A) of this title" for "\$2,250".

Subsec. (e). Pub. L. 98-369, §2663(g)(10), substituted "severally" for "severably".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1994 AMENDMENT

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

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-152, §7(a)(2), Nov. 24, 1993, 107 Stat. 1519, provided that: "The amendments made by paragraph (1)

[amending this section] shall take effect on January 1, 1994.”

Pub. L. 103-152, §7(b)(2), Nov. 24, 1993, 107 Stat. 1519, provided that: “The amendments made by paragraph (1) [amending this section] shall take effect on October 1, 1996.”

EFFECTIVE DATE OF 1984 AMENDMENT

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

Amendment by section 2663(g)(10) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE

Pub. L. 96-265, title V, §504(c), June 9, 1980, 94 Stat. 473, provided that: “The amendments made by this section [enacting this section and amending section 1382c of this title] shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] for the first time after September 30, 1980.”

ABOLITION OF IMMIGRATION AND NATURALIZATION SERVICE AND TRANSFER OF FUNCTIONS

For abolition of Immigration and Naturalization Service, transfer of functions, and treatment of related references, see note set out under section 1551 of Title 8, Aliens and Nationality.

§ 1382k. Repealed. Pub. L. 97-123, § 2(h), Dec. 29, 1981, 95 Stat. 1661

Section, act Aug. 14, 1935, ch. 531, title XVI, §1622, as added Aug. 13, 1981, Pub. L. 97-35, title XXII, §2201(g), 95 Stat. 833, related to benefits for individuals formerly receiving minimum benefits.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to benefits for months after December 1981, see section 2(j)(2) of Pub. L. 97-123, set out as an Effective Date of 1981 Amendment note under section 415 of this title.

Pub. L. 97-35, title XXII, §2201(h), Aug. 13, 1981, 95 Stat. 834, which provided for the effective date of this section and the other enactments and amendments made by section 2201 of Pub. L. 97-35, was repealed by Pub. L. 97-123, §2(j)(1), Dec. 29, 1981, 95 Stat. 1661.

PART B—PROCEDURAL AND GENERAL PROVISIONS

§ 1383. Procedure for payment of benefits

(a) Time, manner, form, and duration of payments; representative payees; promulgation of regulations

(1) Benefits under this subchapter shall be paid at such time or times and (subject to paragraph (10)) in such installments as will best effectuate the purposes of this subchapter, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed \$10).

(2)(A)(i) Payments of the benefit of any individual may be made to any such individual or to the eligible spouse (if any) of such individual or partly to each.

(ii)(I) Upon a determination by the Commissioner of Social Security that the interest of

such individual would be served thereby, such payments shall be made, regardless of the legal competency or incompetency of the individual or eligible spouse, to another individual, or an organization, with respect to whom the requirements of subparagraph (B) have been met (in this paragraph referred to as such individual's “representative payee”) for the use and benefit of the individual or eligible spouse.

(II) In the case of an individual eligible for benefits under this subchapter by reason of disability, the payment of such benefits shall be made to a representative payee if the Commissioner of Social Security determines that such payment would serve the interest of the individual because the individual also has an alcoholism or drug addiction condition (as determined by the Commissioner) and the individual is incapable of managing such benefits.

(iii) If the Commissioner of Social Security or a court of competent jurisdiction determines that the representative payee of an individual or eligible spouse has misused any benefits which have been paid to the representative payee pursuant to clause (ii) or section 405(j)(1) or 1007 of this title, the Commissioner of Social Security shall promptly terminate payment of benefits to the representative payee pursuant to this subparagraph, and provide for payment of benefits to an alternative representative payee of the individual or eligible spouse or, if the interest of the individual under this subchapter would be served thereby, to the individual or eligible spouse.

(iv) For purposes of this paragraph, misuse of benefits by a representative payee occurs in any case in which the representative payee receives payment under this subchapter for the use and benefit of another person and converts such payment, or any part thereof, to a use other than for the use and benefit of such other person. The Commissioner of Social Security may prescribe by regulation the meaning of the term “use and benefit” for purposes of this clause.

(B)(i) Any determination made under subparagraph (A) for payment of benefits to the representative payee of an individual or eligible spouse shall be made on the basis of—

(I) an investigation by the Commissioner of Social Security of the person to serve as representative payee, which shall be conducted in advance of such payment, and shall, to the extent practicable, include a face-to-face interview with such person; and

(II) adequate evidence that such payment is in the interest of the individual or eligible spouse (as determined by the Commissioner of Social Security in regulations).

(ii) As part of the investigation referred to in clause (i)(I), the Commissioner of Social Security shall—

(I) require the person being investigated to submit documented proof of the identity of such person, unless information establishing such identity was submitted with an application for benefits under subchapter II, subchapter VIII, or this subchapter;

(II) verify the social security account number (or employer identification number) of such person;