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Supplemental Security Income (SSI) Restoration Act of 2021

Background

Over eight million Americans, all of them at least age 65 or with significant disabilities who are unable to earn enough to meet their basic needs, rely on the Supplemental Security Income (SSI) program for their survival. Unfortunately, at present, it provides income that is below the poverty line. Over time SSI has become an increasingly important program for seniors, and persons with disabilities, including children.

SSI was created to replace the patchwork system of federal grants to states which aided the aged, blind, or disabled. For disability applications, state agencies called Disability Determination Services (DDSs) screen the medical and related evidence to judge whether the applicant meets the criteria set in law — essentially, whether he or she suffers from a severe impairment that will last at least 12 months or result in death and that makes it impossible to engage in substantial work.[i] A basic problem is that the program is still designed for 1972, the year it was signed into law by President Nixon. The financial constraints are so stiff that a growing number of older SSI recipients are homeless.

SSI Restoration Act

This bill restores a program that plays a key role in the security of millions of Americans. Specifically, it modernizes and improves SSI by streamlining and simplifying the claiming process, expanding the resources and income limits, and eliminating punitive reductions in benefits.

KEY RESTORATION ACT PROVISIONS

- **Updates general income disregard to $128 per month**
- **Updates earned income disregard to $416 per month**
- **Updates asset limit to $10,000 / $20,000 for an eligible couple**
- **Increases the benefit rate to 100% of FPL and repeals marriage penalty**
- **Repeals penalties for in-kind support, resource transfers and state taxes**
- **Streamlines lump-sum and back payments**

SEC. 1. SHORT TITLE; TABLE OF CONTENTS

SEC. 2. UPDATE IN ELIGIBILTY FOR THE SUPPLEMENTAL SECURITY INCOME PROGRAM

(a) UPDATE IN GENERAL INCOME EXCLUSION – increases the SSI General Income Disregard from the current $20 to $128 per month.

- This increases the amount of money an SSI recipient can receive from non-employment sources (such as Social Security or a pension) without suffering a reduction in the SSI benefit. This amount has not been changed since 1972. The cost of living is more than five and a half times what it was then, $128 is equal to just under $20 in 1972. [ii]

(b) UPDATE IN EARNED INCOME EXCLUSION – increases the SSI Earned Income Disregard from the current $65 to $416 per month.

- The income disregard was intended to encourage those who could work despite their disability to return to the work force. Currently, the exclusion is so low that its work incentive has been greatly diminished. It too has not been changed since 1972. $416 today is equal to just under $65 in 1972.[2]

(c) UPDATE IN RESOURCE LIMIT FOR INDIVIDUALS AND COUPLES - increases the resource limit from $2,000 ($3,000 for an eligible couple) to $10,000 ($20,000 for an eligible couple).

(d) INFLATION ADJUSTMENT – indexes the general income exclusion, earned income exclusion, and resource limit amounts to inflation annually.

- The resource limit has increased only 33% since 1972 and today it is woefully insufficient to deal with perfectly predictable needs. For the older person living in their own home, $2,000 is not enough to make necessary home repairs or buy a reliable used car or to cope with other emergencies that will inevitably arise.[iii]

SEC. 3. UPDATE IN SUPPLEMENTAL SECURITY INCOME BENEFIT AMOUNTS AND REPEAL OF MARRIAGE PENALTY.

- Sets the benefit rate of at least 100% of Federal Poverty Level.

- Sets the couple rate at twice the individual rate.

- More than half of those on SSI have no other source of income and the current benefit rates are so meager that they leave many people with disabilities living in poverty. People with disabilities are twice as likely to live in poverty than those without disabilities, and despite making up 12% of the working age population in the United States they represent over half the those living in long-term poverty.[iv]

- Currently benefits for a married couple, both of whom receive SSI and have no other income, amount to 25 percent less than the total they would receive if they were living together but not as spouses.

SEC. 4. SUPPORT AND MAINTENANCE FURNISHED IN KIND NOT INCLUDED IN AS INCOME

- Repeals the in-kind support and maintenance provision.

- Under current law, there can be a reduction in monthly benefit of an amount equal to one-third the Federal Benefit Rate if an SSI recipient receives in-kind food and/or shelter. This makes it difficult for a family member to provide shelter. In addition to being inconsistent with family values, the in-kind support and maintenance provision also places a significant administrative burden on the Social Security Administration at a time when their administrative resources are cut to the bone.

SEC. 5. EXCLUSION OF RETIREMENT ACCOUNTS FROM RESOURCES

- Excludes retirement accounts from countable resources.

SEC. 6. REPEAL OF PENALTY FOR DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE

- Repeals penalty enacted in 1999 for the transfer of a resource for less than fair market value within 36 months of applying for SSI or while receiving SSI.[v]

- This policy assumes that people will give away valuable property for the opportunity to live on a subsistence income. The transfer penalty causes considerable hardship for recipients without accomplishing any worthwhile objective, it also creates a substantial additional burden on the Social Security Administration to process these cases.

SEC. 7. CLARIFYING THE TREATMENT OF CERTAIN STATE TAX CREDITS

- Excludes state earned income tax credits (EITCs) and child tax credits (CTCs), consistent with the existing exclusion for federal taxes.

- When determining someone's eligibility for, and benefit amounts under, the SSI program, SSA excludes Federal EITC and CTC. However, the law currently requires SSA to count State EITCs and CTCs for SSI purposes.

SEC. 8. ELIMINATION OF DEDICATED ACCOUNTS FOR CERTAIN PAST-DUE BENEFITS

- Eliminates the separate account requirement, allowing dedicated account payments to go to the same account of the smaller lump-sum and ongoing payments.

- Dedicated accounts are separate accounts required for holding some lump-sum past-due payments owed to children receiving SSI. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 required lump-sum payments of child SSI benefits that exceed six times the Federal Benefit Rate to be placed into these dedicated accounts. Despite the small number of accounts, the dedicated accounts constitute a burdensome and unduly complex administrative workload for both payees and SSA frontline staff. The current policy hinders children in low-income families from accessing needed funds to which the agency has already found them entitled.[vi]

SEC. 9. ELIMINATION OF INSTALLMENT PAYMENT REQUIREMENT

- Eliminates installment payment requirement to allow past due benefits to be paid at once.

- Currently, when past-due benefits of SSI exceed three months, the benefits are generally required to be paid in installments.[vii] This means that many SSI recipients due large amounts of past-due benefits receive the majority of these funds a year or more after being awarded benefits. Despite exceptions for medical conditions sometimes a recipient dies before all installments are paid.

SEC. 10. EXTENSION OF PERIOD OF EXCLUSION OF CERTAIN PAYMENTS FROM COUNTABLE RESOURCES.

- Extends the amount of time that retroactive payments are excluded from countable resources, from 9 months to 21 months.

- This allows individuals receiving retroactive payments in lump-sum additional time to spend down to the resource limit or open an ABLE account or special needs trust.

SEC. 11. MODIFICATION OF RULES TO DETERMINE MARITAL RELATIONSHIPS.

- Eliminates the ‘holding out’ provision that requires SSA to determine if two people living together should be treated as married for SSI benefits.

- SSA staff must undertake time-consuming and intrusive investigations into SSI recipients’ personal lives to determine whether two people are ‘holding out’. It is not necessary for SSA to inquire about ‘holding out’ with elimination of the marriage penalty.

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[i] https://www.cbpp.org/research/social-security/supplemental-security-income
[ii] As measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W).
[iii] National Senior Citizens Law Center. 2012. Recommendations to Update the Supplemental Security Income Program
[iv] Highlighting Disability / Poverty Connection, NCD Urges Congress to Alter Federal Policies that Disadvantage People with Disabilities | NCD.gov
[v] https://secure.ssa.gov/poms.nsf/lnx/0501150001
[vi] 20190516_2019 Annual Statement_Web.pdf
[vii] SSA - POMS: SI 02101.020 - Large Past-Due Supplemental Security Income (SSI) Payments by Installments – Individual Alive - 02/07/2014