

103^D CONGRESS
2^D SESSION

H. R. 4419

To modify the supplemental security income program under title XVI of
the Social Security Act.

IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1994

Mr. SANTORUM (for himself, Mr. ARCHER, Mr. GINGRICH, Mr. THOMAS of California, Mr. SHAW, Mr. CAMP, Mr. HERGER, Mr. MCCRERY, Mrs. JOHNSON of Connecticut, Mr. CASTLE, Mr. GEKAS, Mr. SMITH of Michigan, and Mr. ISTOOK) introduced the following bill; which was referred jointly to the Committees on Ways and Means and Energy and Commerce

A BILL

To modify the supplemental security income program under
title XVI of the Social Security Act.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 (b) NOTIFICATION OF AFFECTED ALIENS.—The So-
2 cial Security Administration shall, directly or through the
3 States, notify each alien receiving supplemental security
4 income benefits under title XVI of the Social Security Act
5 whose eligibility for such benefits is or will be terminated
6 by reason of the amendment made by subsection (a).

7 **SEC. 102. STATE AFDC AGENCIES REQUIRED TO PROVIDE**
8 **INFORMATION ON ILLEGAL ALIENS TO THE**
9 **IMMIGRATION AND NATURALIZATION SERV-**
10 **ICE.**

11 Section 402(a) of the Social Security Act (42 U.S.C.
12 602(a)) is amended—

13 (1) by striking “and” at the end of paragraph
14 (44);

15 (2) by striking the period at the end of para-
16 graph (45) and inserting “; and”; and

17 (3) by inserting after paragraph (45) the fol-
18 lowing:

19 “(46) require the State agency to provide to the
20 Immigration and Naturalization Service the name,
21 address, and other identifying information that the
22 agency has with respect to any individual unlawfully
23 in the United States any of whose children is a citi-
24 zen of the United States.”.

1 **TITLE II—RESTRICTIONS FOR**
2 **DRUG ADDICTS AND ALCO-**
3 **HOLICS**

4 **SEC. 201. TIME-LIMITED BENEFITS.**

5 (a) IN GENERAL.—Section 1614(a) of the Social Se-
6 curity Act (42 U.S.C. 1382c(a)) is amended by adding at
7 the end the following:

8 “(5)(A) The Secretary shall identify all recipients of
9 benefits under this title by reason of disability whose dis-
10 ability is a result of addiction to illegal drugs.

11 “(B) The Secretary shall periodically, on a random
12 basis, test each recipient identified under subparagraph
13 (A) (including any recipient who had become temporarily
14 ineligible for benefits by reason of subparagraph (C)) to
15 determine whether the recipient is using illegal drugs.

16 “(C)(i) Notwithstanding any other provision of this
17 title, any individual who is determined under subpara-
18 graph (B) to be using illegal drugs, or who refuses to sub-
19 mit to testing as provided for under subparagraph (B),
20 shall not be eligible for benefits under this title during the
21 period described in clause (ii).

22 “(ii) The period described in this clause begins with
23 the date of the determination referred to in clause (i) and
24 ends with the passage by the individual of 2 tests adminis-
25 tered by the Secretary (and paid for by the individual)

1 to determine whether the individual is using illegal drugs,
2 which tests occur—

3 “(I) at least 2 months apart; and

4 “(II) after the 1-year period that begins with
5 the date of the determination.

6 “(6)(A) The Secretary shall identify all recipients of
7 benefits under this title by reason of disability whose dis-
8 ability is a result of addiction to alcohol.

9 “(B) The Secretary shall periodically, on a random
10 basis, test each recipient identified under subparagraph
11 (A) (including any recipient who had become temporarily
12 ineligible for benefits by reason of subparagraph (C)) to
13 determine whether the recipient is using alcohol.

14 “(C)(i) Notwithstanding any other provision of this
15 title, any individual who is determined under subpara-
16 graph (B) to be using alcohol, or who refuses to submit
17 to testing as provided for under subparagraph (B), shall
18 not be eligible for benefits under this title during the pe-
19 riod described in clause (ii).

20 “(ii) The period described in this clause begins with
21 the date of the determination referred to in clause (i) and
22 ends with the passage by the individual of 2 tests adminis-
23 tered by the Secretary (and paid for by the individual)
24 to determine whether the individual is using alcohol, which
25 tests occur—

1 “(I) at least 2 months apart; and

2 “(II) after the 6-month period that begins with
3 the date of the determination.”.

4 (b) PRESERVATION OF ELIGIBILITY FOR MEDICAID
5 BENEFITS.—Section 1634 of the Social Security Act (42
6 U.S.C. 1383c) is amended by adding at the end the
7 following:

8 “(e) For purposes of title XIX, an individual is
9 deemed to be receiving benefits under this title if the indi-
10 vidual is ineligible for such benefits solely by reason of
11 paragraph (5) or (6) of section 1614(a).”.

12 **SEC. 202. RESTRICTIONS ON PAYMENT OF BENEFITS BASED**
13 **ON DISABILITY TO SUBSTANCE ABUSERS.**

14 (a) REQUIRED PAYMENT OF BENEFITS TO REP-
15 RESENTATIVE PAYEES.—

16 (1) IN GENERAL.—Section 1631(a)(2)(A) of the
17 Social Security Act (42 U.S.C. 1383(a)(2)(A)) is
18 amended—

19 (A) in clause (ii), by adding at the end the
20 following: “In the case of an individual entitled
21 to benefits under this title by reason of disabili-
22 ty, if alcoholism or drug addiction is a contrib-
23 uting factor material to the Secretary’s deter-
24 mination that the individual is disabled, the
25 payment of such benefits to a representative

1 payee shall be deemed to serve the interest of
2 such individual under this title.”; and

3 (B) in clause (iii), by striking “to the indi-
4 vidual or eligible spouse or to an alternative
5 representative payee of the individual or eligible
6 spouse” and inserting “to an alternative rep-
7 resentative payee of the individual or eligible
8 spouse or, if the interest of the individual under
9 this title would be served thereby, to the indi-
10 vidual or eligible spouse”.

11 (2) CONFORMING AMENDMENT.—Section
12 1631(a)(2)(B)(viii)(II) of such Act (42 U.S.C.
13 1383(a)(2)(B)(viii)(II)) is amended by striking “15
14 years” and all that follows and inserting “of 15
15 years, or (if alcoholism or drug addition is a contrib-
16 uting factor material to the Secretary’s determina-
17 tion that the individual is disabled) is entitled to
18 benefits under this title by reason of disability.”.

19 (3) EFFECTIVE DATE.—The amendments made
20 by this subsection shall apply with respect to bene-
21 fits for months beginning after 180 days after the
22 date of the enactment of this Act.

23 (b) INCREASED RELIANCE ON PROFESSIONAL REP-
24 RESENTATIVE PAYEES.—

1 (1) PREFERENCE REQUIRED FOR ORGANIZA-
2 TIONAL REPRESENTATIVE PAYEES.—Section
3 1631(a)(2)(B) of such Act (42 U.S.C.
4 1383(a)(2)(B)) is amended—

5 (A) by redesignating clauses (vii) through
6 (xii) as clauses (viii) through (xiii), respectively;

7 (B) by inserting after clause (vi) the
8 following:

9 “(vii) In the case of an individual entitled to benefits
10 under this title by reason of disability, if alcoholism or
11 drug addiction is a contributing factor material to the Sec-
12 retary’s determination that the individual is disabled,
13 when selecting such individual’s representative payee,
14 preference shall be given to a—

15 “(I) community-based nonprofit social service
16 agency licensed or bonded by the State;

17 “(II) State or local government agency whose
18 mission is to carry out income maintenance, social
19 service, or health care-related activities; or

20 “(III) State or local government agency with
21 fiduciary responsibilities,

22 (or a designee of such an agency if the Secretary deems
23 it appropriate), unless the Secretary determines that selec-
24 tion of such an agency would not be appropriate.”;

1 (C) in clause (viii) (as so redesignated), by
2 striking “clause (viii)” and inserting “clause
3 (ix)”;

4 (D) in clause (ix) (as so redesignated), by
5 striking “(vii)” and inserting “(viii)”;

6 (E) in clause (xiii) (as so redesignated)—

7 (i) by striking “(xi)” and inserting
8 “(xii)”;

9 (ii) by striking “(x)” and inserting
10 “(xi)”.

11 (2) AVAILABILITY OF PUBLIC AGENCIES AND
12 OTHER QUALIFIED ORGANIZATIONS TO SERVE AS
13 REPRESENTATIVE PAYEES.—Section 1631(a)(2)(D)
14 of such Act (42 U.S.C. 1383(a)(2)(D)) is amend-
15 ed—

16 (A) in clause (i)—

17 (i) by striking “exceed the lesser
18 of—” and inserting “exceed—”; and

19 (ii) by striking subclauses (I) and (II)
20 and inserting the following:

21 “(I) in any case in which an individual is enti-
22 tled to benefits under this title by reason of disabil-
23 ity and alcoholism or drug addiction is a contribut-
24 ing factor material to the Secretary’s determination

1 that the individual is disabled, 10 percent of the
2 monthly benefit involved, or

3 “(II) in any other case, the lesser of—

4 “(aa) 10 percent of the monthly benefit
5 involved, or

6 “(bb) \$25.00 per month.”;

7 (B) in clause (ii)—

8 (i) by inserting “State or local govern-
9 ment agency whose mission is to carry out
10 income maintenance, social service, or
11 health care-related activities, any State or
12 local government agency with fiduciary re-
13 sponsibilities, or any” after “means any”;

14 (ii) by inserting a comma after “serv-
15 ice agency”;

16 (iii) by adding “and” at the end of
17 subclause (I); and

18 (iv) in subclause (II)—

19 (I) by adding “and” at the end
20 of item (aa);

21 (II) by striking “; and” at the
22 end of item (bb) and inserting a pe-
23 riod; and

24 (III) by striking item (cc); and

1 (C) by striking clause (iv), effective July 1,
2 1994.

3 (c) NONPAYMENT OR TERMINATION OF BENEFITS.—

4 (1) IN GENERAL.—Section 1611(e)(3) of such
5 Act (42 U.S.C. 1382(e)(3)), is amended by redesignig-
6 nating subparagraph (B) as subparagraph (C) and
7 by inserting after subparagraph (A) the following:

8 “(B)(i) Notwithstanding any other provision of this
9 title, in the case of any individual entitled to benefits
10 under this title solely by reason of disability, if alcoholism
11 or drug addiction is a contributing factor material to the
12 Secretary’s determination that such individual is disabled
13 and such individual is determined by the Secretary not
14 to be in compliance with the requirements of this subpara-
15 graph for a month, such benefits shall be suspended for
16 a period commencing with such month and ending with
17 the month preceding the first month, after the determina-
18 tion of noncompliance, in which such individual dem-
19 onstrates that he or she has reestablished and maintained
20 compliance with such requirements for the applicable pe-
21 riod specified in clause (iii).

22 “(ii)(I) An individual described in clause (i) is in com-
23 pliance with the requirements of this subparagraph for a
24 month if the individual in such month undergoes any med-
25 ical or psychological treatment that may be appropriate,

1 for the individual's condition diagnosed as substance
2 abuse or alcohol abuse and for the stage of the individual's
3 rehabilitation, at an institution or facility approved for
4 purposes of this subparagraph by the Secretary, and com-
5 plies in such month with the terms, conditions, and re-
6 quirements of such treatment and with requirements im-
7 posed by the Secretary under subparagraph (C).

8 “(II) An individual described in clause (i) shall not
9 be determined to be not in compliance with the require-
10 ments of this subparagraph for a month if access by such
11 individual to such treatment is not reasonably available
12 for the month, as determined under regulations of the
13 Secretary.

14 “(iii) The applicable period specified in this clause
15 is—

16 “(I) 2 consecutive months, in the case of a 1st
17 determination that an individual is not in compliance
18 with the requirements of this subparagraph;

19 “(II) 3 consecutive months, in the case of the
20 2nd such determination with respect to the individ-
21 ual; or

22 “(III) 6 consecutive months, in the case of the
23 3rd or subsequent such determination with respect
24 to the individual.

1 “(iv) An individual shall not be an eligible individual
2 for purposes of this title for the 12-month period that be-
3 gins with the end of any period of 12 consecutive months
4 for which the benefits of the individual under this title
5 have been suspended by reason of this subparagraph.

6 “(v) In the case of any individual entitled to benefits
7 under this title by reason of disability, if alcoholism or
8 drug addiction is a contributing factor material to the Sec-
9 retary’s determination that such individual is disabled,
10 such individual may not be entitled to such benefits by
11 reason of disability (or any past-due benefits under such
12 entitlement) for any month after the 36-month period be-
13 ginning with such individual’s first month of such entitle-
14 ment, notwithstanding section 1619(a).

15 “(vi)(I) The Secretary shall not, in a month, pay to
16 an individual described in clause (i) benefits under this
17 title the payment of which is past due, in an amount that
18 exceeds the amount of benefits under this title which are
19 payable to the individual for the month and the payment
20 of which is not past due.

21 “(II) As used in subclause (I) of this clause, the term
22 ‘benefits under this title’ includes supplementary pay-
23 ments of the type described in section 1616(a) and pay-
24 ments pursuant to an agreement entered into under sec-
25 tion 212(a) of Public Law 93–66.’”.

1 (2) REFERRAL, MONITORING, AND TREAT-
2 MENT.—Section 1611(e)(3)(C) of such Act (42
3 U.S.C. 1382(e)(3)(C)), as so designated by the
4 amendment made by paragraph (1) of this sub-
5 section, is amended—

6 (A) by adding at the end the following:
7 “Each such annual report shall include the
8 number and percentage of such individuals who
9 did not receive regular drug testing during the
10 year covered by the report.”;

11 (B) by inserting “(i)” after “(C)”; and

12 (C) by adding after and below the end
13 following:

14 “(ii) The Secretary, in consultation with drug and al-
15 cohol treatment professionals, shall issue regulations—

16 “(I) defining appropriate treatment for alcohol-
17 ics and drug addicts who are subject to required
18 medical or psychological treatment under this sub-
19 paragraph; and

20 “(II) establishing guidelines to be used to re-
21 view and evaluate their compliance, including meas-
22 ures of the progress of participants in such pro-
23 grams.

24 “(iii)(I) For purposes of carrying out the require-
25 ments of clauses (i) and (ii), the Secretary shall establish

1 in each State a referral and monitoring agency for the
2 State.

3 “(II) Each referral and monitoring agency for a State
4 shall—

5 “(aa) identify appropriate placements, for indi-
6 viduals residing in the State who are entitled to ben-
7 efits under this title by reason of disability and with
8 respect to whom alcoholism or drug addiction is a
9 contributing factor material to the Secretary’s deter-
10 mination that they are disabled, where they may ob-
11 tain treatment described in subparagraph (B)(ii)(I);

12 “(bb) refer such individuals to such placements
13 for such treatment; and

14 “(cc) monitor compliance with the requirements
15 of subparagraph (B) by individuals who are referred
16 by the agency to such placements, and promptly re-
17 port to the Secretary any failure to comply with
18 such requirements.”.

19 (3) PRESERVATION OF MEDICAID BENEFITS.—
20 Section 1634 of such Act (42 U.S.C. 13283c) is
21 amended by adding at the end the following:

22 “(e) Each person to whom benefits under this title
23 by reason of disability are not payable for any month sole-
24 ly by reason of section 1611(e)(3)(B) shall be treated, for

1 purposes of title XIX, as receiving benefits under this title
2 for such month.”.

3 (4) CONFORMING AMENDMENTS.—Section
4 1611(e)(3) of such Act (42 U.S.C. 1382(e)(3)), as
5 amended by paragraphs (1) and (2) of this sub-
6 section, is amended—

7 (A) in subparagraph (A), by striking “(B)”
8 and inserting “(C)”; and

9 (B) in subparagraph (C), by inserting “or
10 (B)” after “(A)”.

11 (5) EFFECTIVE DATE.—

12 (A) IN GENERAL.—Except as provided in
13 subparagraphs (B) and (C), the amendments
14 made by this subsection shall apply with respect
15 to benefits for months beginning after 180 days
16 after the date of the enactment of this Act.

17 (B) TIME LIMITATION ON BENEFITS.—
18 Section 1611(e)(3)(B)(v) of the Social Security
19 Act (as added by the amendment made by para-
20 graph (1) of this subsection) shall apply with
21 respect to benefits for months ending after 180
22 days after the date of the enactment of this
23 Act, and, for purposes of such section, in the
24 case of any individual entitled to benefits by
25 reason of disability for the first month ending

1 after 180 days after the date of the enactment
2 of this Act, such month shall be treated as such
3 individual's first month of entitlement to such
4 benefits.

5 (C) ESTABLISHMENT OF REFERRAL
6 AND MONITORING AGENCIES.—Section
7 1611(e)(3)(C)(iii) of the Social Security Act (as
8 added by the amendment made by paragraph
9 (2)(C) of this subsection) shall take effect 180
10 days after the date of the enactment of this
11 Act.

12 (d) IRRELEVANCE OF LEGALITY OF SUBSTANTIAL
13 GAINFUL ACTIVITY.—

14 (1) IN GENERAL.—Section 1614(a)(3)(D) of
15 such Act (42 U.S.C. 1382c(a)(3)(D)) is amended by
16 adding at the end the following: “The Secretary
17 shall make determinations under this title with re-
18 spect to substantial gainful activity, without regard
19 to the legality of the activity.”.

20 (2) EFFECTIVE DATE.—The amendment made
21 by paragraph (1) shall take effect on the date of the
22 enactment of this Act.

23 (e) EFFECTIVE DATE.—Except as otherwise provided
24 in this section, the amendments made by this section shall

1 apply to benefits payable for months beginning 180 or
2 more days after the date of the enactment of this Act.

3 **TITLE III—BENEFITS FOR**
4 **CHILDREN**

5 **SEC. 301. REPLACEMENT OF CASH BENEFIT WITH MEDICAL**
6 **VOUCHER.**

7 (a) IN GENERAL.—Section 1611(b) of the Social Se-
8 curity Act (42 U.S.C. 1382(b)) is amended by adding at
9 the end the following:

10 “(3) Notwithstanding paragraphs (1) and (2), the
11 benefit under this title for a child who has not attained
12 18 years of age shall be vouchers issued pursuant to sub-
13 section (j).”.

14 (b) ISSUANCE OF VOUCHERS FOR TREATMENT OF
15 DISABLING CONDITIONS OF CHILDREN ELIGIBLE FOR
16 SSI BENEFITS.—Section 1611 of such Act (42 U.S.C.
17 1382(b)) is amended by adding at the end the following:

18 “(j)(1) The Secretary of Health and Human Services
19 shall issue to each child eligible for benefits under this
20 title who has not attained 18 years of age a voucher which
21 may be used to cover the cost of any item—

22 “(A) that is associated with treating the blind-
23 ness or disability of the child;

24 “(B) for which a medical expense deduction
25 may be claimed under section 213 of the Internal

1 Revenue Code of 1986 by the child or any taxpayer
2 who may claim the child as a dependent; and

3 “(C) the cost of which is not covered by the
4 program of medical assistance approved under title
5 XIX of the State in which the child resides.

6 “(2) The face dollar amount of the voucher issued
7 with respect to a child shall not exceed the amount of the
8 cash benefit to which the child would (but for section
9 1611(b)(3)) have been entitled under this title.

10 “(3) The Secretary shall pay to each provider of
11 health care goods or services that is licensed by a State,
12 or by a professional health care organization approved by
13 the Secretary, that submits to the Secretary a voucher is-
14 sued under this subsection an amount equal to the face
15 dollar amount of the voucher.”.

16 **SEC. 302. DISABILITY REVIEW REQUIRED FOR SSI RECIPI-**
17 **ENTS WHO ARE 18 YEARS OF AGE.**

18 (a) IN GENERAL.—Section 1614(a)(3)(G) of the So-
19 cial Security Act (42 U.S.C. 1382c(a)(3)(G)) is amend-
20 ed—

21 (1) by inserting “(i)” after “(G)”; and

22 (2) by adding after and below the end the
23 following:

24 “(ii)(I) During the 1-year period that begins on the
25 date a recipient of benefits under this title by reason of

1 disability attains 18 years of age, the applicable State
2 agency or the Secretary (as may be appropriate) shall re-
3 determine the eligibility of the recipient for such benefits
4 by reason of disability, by applying the criteria used in
5 determining eligibility for such benefits of applicants who
6 have attained 18 years of age.

7 “(II) A review under subclause (I) of this clause shall
8 be considered a substitute for a review required under
9 clause (i).”.

10 (b) EFFECTIVE DATE.—The amendments made by
11 subsection (a) shall apply to individuals who attain 18
12 years of age in or after the 9th month after the month
13 in which this Act is enacted.

14 **TITLE IV—FRAUD**

15 **SEC. 401. EXPANSION OF THE AUTHORITY OF THE SOCIAL**
16 **SECURITY ADMINISTRATION TO PREVENT,**
17 **DETECT, AND TERMINATE FRAUDULENT**
18 **CLAIMS FOR SSI BENEFITS.**

19 (a) PREVENTION OF FRAUD IN THE SSI PROGRAM
20 BY TRANSLATORS OF FOREIGN LANGUAGES.—

21 (1) IN GENERAL.—Section 1631(e) of the So-
22 cial Security Act (42 U.S.C. 1383(e)) is amended by
23 inserting after paragraph (3) the following:

24 “(4) A translation into English by a third party of
25 a statement made in a foreign language by an applicant

1 for or recipient of benefits under this title shall not be
2 regarded as reliable unless the third party, under penalty
3 of perjury—

4 “(A) certifies that the translation is accurate;
5 and

6 “(B) discloses the nature and scope of the rela-
7 tionship between the third party and the applicant
8 or recipient, as the case may be.”.

9 (2) EFFECTIVE DATE.—The amendment made
10 by paragraph (1) shall take effect on October 1,
11 1994.

12 (b) CIVIL MONETARY PENALTIES, ASSESSMENTS,
13 AND EXCLUSIONS FOR TITLE XVI.—

14 (1) IN GENERAL.—Title XI of such Act (42
15 U.S.C. 1301–1320b–14) is amended by inserting
16 after section 1128B the following:

17 **“SEC. 1129. CIVIL MONETARY PENALTIES AND ASSESS-**
18 **MENTS FOR TITLE XVI.**

19 “(a) Any person (including an organization, agency,
20 or other entity) who makes, or causes to be made, a state-
21 ment or representation of a material fact for use in deter-
22 mining any initial or continuing right to benefits or pay-
23 ments under title XVI that the person knows or should
24 know is false or misleading or knows or should know omits
25 a material fact shall be subject to, in addition to any other

1 penalties that may be prescribed by law, a civil money pen-
2 alty of not more than \$5,000 for each such statement or
3 representation. Such person also shall be subject to an as-
4 sessment, in lieu of damages sustained by the United
5 States because of such statement or representation, of not
6 more than twice the amount of benefits or payments paid
7 as a result of such a statement or representation. In addi-
8 tion, the Secretary may make a determination in the same
9 proceeding to exclude the person from participation in the
10 programs under title XVIII and to direct the appropriate
11 State agency to exclude the person from participation in
12 any State health care program.

13 “(b)(1) The Secretary may initiate a proceeding to
14 determine whether to impose a civil money penalty, assess-
15 ment, or exclusion under subsection (a) only as authorized
16 by the Attorney General pursuant to procedures agreed
17 upon by the Secretary and the Attorney General. The Sec-
18 retary may not initiate an action under this section with
19 respect to any violation described in subsection (a) later
20 than 6 years after the date the violation was committed.
21 The Secretary may initiate an action under this section
22 by serving notice of the action in any manner authorized
23 by Rule 4 of the Federal Rules of Civil Procedure.

24 “(2) The Secretary shall not make a determination
25 adverse to any person under this section until the person

1 has been given written notice and an opportunity for the
2 determination to be made on the record after a hearing
3 at which the person is entitled to be represented by coun-
4 sel, to present witnesses, and to cross-examine witnesses
5 against the person.

6 “(3) In a proceeding under this section which—

7 “(A) is against a person who has been convicted
8 (whether upon a verdict after trial or upon a plea of
9 guilty or nolo contendere) of a Federal crime charg-
10 ing fraud or false statements; and

11 “(B) involves the same transaction as in the
12 criminal action,

13 the person is estopped from denying the essential elements
14 of the criminal offense.

15 “(4) The official conducting a hearing under this sec-
16 tion may sanction a person, including any party or attor-
17 ney, for failing to comply with an order or procedure, fail-
18 ing to defend an action, or other misconduct as would
19 interfere with the speedy, orderly, or fair conduct of the
20 hearing. Such sanction shall reasonably relate to the sever-
21 ity and nature of the failure or misconduct. Such sanction
22 may include—

23 “(A) in the case of refusal to provide or permit
24 discovery, drawing negative factual inference or

1 treating such refusal as an admission by deeming
2 the matter, or certain facts, to be established;

3 “(B) prohibiting a party from introducing cer-
4 tain evidence or otherwise supporting a particular
5 claim or defense;

6 “(C) striking pleadings, in whole or in part;

7 “(D) staying the proceedings;

8 “(E) dismissal of the action;

9 “(F) entering a default judgment;

10 “(G) ordering the party or attorney to pay at-
11 torneys’ fees and other costs caused by the failure
12 or misconduct; and

13 “(H) refusing to consider any motion or other
14 action which is not filed in a timely manner.

15 “(c) In determining the amount or scope of any pen-
16 alty, assessment, or exclusion imposed pursuant to this
17 section, the Secretary shall take into account—

18 “(1) the nature of the statements and represen-
19 tations referred to in subsection (a) and the cir-
20 cumstances under which they occurred;

21 “(2) the degree of culpability, history of prior
22 offenses, and financial condition of the person com-
23 mitting the offense; and

24 “(3) such other matters as justice may require.

1 “(d)(1) Any person adversely affected by a deter-
2 mination of the Secretary under this section may obtain
3 a review of such determination in the United States Court
4 of Appeals for the circuit in which the person resides, or
5 in which the statement or representation referred to in
6 subsection (a) was made, by filing in such court (within
7 60 days following the date the person is notified of the
8 Secretary’s determination) a written petition requesting
9 that the determination be modified or set aside. A copy
10 of the petition shall be forthwith transmitted by the clerk
11 of the court to the Secretary, and thereupon the Secretary
12 shall file in the court the record in the proceeding as pro-
13 vided in section 2112 of title 28, United States Code.
14 Upon such filing, the court shall have jurisdiction of the
15 proceeding and of the question determined therein, and
16 shall have the power to make and enter upon the plead-
17 ings, testimony, and proceedings set forth in such record
18 a decree affirming, modifying, remanding for further con-
19 sideration, or setting aside, in whole or in part, the deter-
20 mination of the Secretary and enforcing the same to the
21 extent that such order is affirmed or modified. No objec-
22 tion that has not been urged before the Secretary shall
23 be considered by the court, unless the failure or neglect
24 to urge such objection shall be excused because of extraor-
25 dinary circumstances.

1 “(2) The findings of the Secretary with respect to
2 questions of fact, if supported by substantial evidence on
3 the record considered as a whole, shall be conclusive in
4 the review described in paragraph (1). If any party shall
5 apply to the court for leave to adduce additional evidence
6 and shall show to the satisfaction of the court that such
7 additional evidence is material and that there were reason-
8 able grounds for the failure to adduce such evidence in
9 the hearing before the Secretary, the court may order such
10 additional evidence to be taken before the Secretary and
11 to be made a part of the record. The Secretary may modify
12 its findings as to the facts, or make new findings, by rea-
13 son of additional evidence so taken and filed, and the Sec-
14 retary shall file with the court such modified or new find-
15 ings, which findings with respect to questions of fact, if
16 supported by substantial evidence on the record considered
17 as a whole shall be conclusive, and his recommendations,
18 if any, for the modification or setting aside of his original
19 order.

20 “(3) Upon the filing of the record with the Sec-
21 retary’s original or modified order, the jurisdiction of the
22 court shall be exclusive and its judgment and decree shall
23 be final, except that the same shall be subject to review
24 by the Supreme Court of the United States, as provided
25 in section 1254 of title 28, United States Code.

1 “(e)(1) Civil money penalties and assessments im-
2 posed under this section may be compromised by the Sec-
3 retary and may be recovered—

4 “(A) in a civil action in the name of the United
5 States brought in United States district court for
6 the district where the statement or representation
7 referred to in subsection (a) was made, or where the
8 person resides, as determined by the Secretary;

9 “(B) by means of reduction in tax refunds to
10 which the person is entitled, based on notice to the
11 Secretary of the Treasury as permitted under sec-
12 tion 3720A of title 31, United States Code;

13 “(C) by decrease of any payment under title
14 XVI to which the person is entitled, notwithstanding
15 section 207 of this Act, as made applicable to this
16 title by reason of section 1631(d)(1);

17 “(D) by authorities provided under the Debt
18 Collection Act of 1982, as amended, to the extent
19 applicable to debts arising under the Social Security
20 Act;

21 “(E) by deduction of the amount of such pen-
22 alty or assessment, when finally determined, or the
23 amount agreed upon in compromise, from any sum
24 then or later owing by the United States to the per-

1 son against whom the penalty or assessment has
2 been assessed; or

3 “(F) by any combination of the foregoing.

4 “(f) A determination by the Secretary to impose a
5 penalty, assessment, or exclusion under this section shall
6 be final upon the expiration of the 60-day period referred
7 to in subsection (d). Matters that were raised or that could
8 have been raised in a hearing before the Secretary or in
9 an appeal pursuant to subsection (d) may not be raised
10 as a defense to a civil action by the United States to collect
11 a penalty and assessment imposed under this section.

12 “(g) Whenever the Secretary’s determination to im-
13 pose a penalty, assessment, or exclusion under this section
14 with respect to a medical provider or physician becomes
15 final, the provisions of section 1128A(h) shall apply.

16 “(h) Whenever the Secretary has reason to believe
17 that any person has engaged, is engaging, or is about to
18 engage in any activity which makes the person subject to
19 a civil monetary penalty under this section, the Secretary
20 may bring an action in an appropriate district court of
21 the United States (or, if applicable, a United States court
22 of any territory) to enjoin such activity, or to enjoin the
23 person from concealing, removing, encumbering, or dispos-
24 ing of assets which may be required in order to pay a civil

1 monetary penalty and assessment if any such penalty were
2 to be imposed or to seek other appropriate relief.

3 “(i)(1) The provisions of subsections (d) and (e) of
4 section 205 shall apply with respect to this section to the
5 same extent as they are applicable with respect to title
6 II. The Secretary may delegate the authority granted by
7 section 205(d) (as made applicable to this section) to the
8 Inspector General of the Department of Health and
9 Human Services for purposes of any investigation under
10 this section.

11 “(2) The Secretary may delegate authority granted
12 under this section to the Inspector General of the Social
13 Security Administration.

14 “(j) For purposes of this section, the term ‘State
15 agency’ shall have the same meaning as in section
16 1128A(i)(1).

17 “(k) A principal is liable for penalties, assessments,
18 and exclusions under this section for the actions of the
19 principal’s agent acting within the scope of the agency.”.

20 (2) CONFORMING AMENDMENTS.—Section 1128
21 of such Act (42 U.S.C. 1320a-7) is amended—

22 (A) in subsection (b)(7), by striking “or
23 section 1128B” and inserting “, section 1128B,
24 or section 1129”;

1 (B) in subsection (b)(8)(B)(ii), by insert-
2 ing “and section 1129” after “section 1128A”;

3 (C) in subsection (c)(1), by striking “or
4 under section 1128A” and inserting “, section
5 1128A, or section 1129”;

6 (D) in subsection (c)(3)(A), by inserting
7 “or section 1129” after “section 1128A”;

8 (E) in subsection (d)(1), by striking “and
9 section 1128A” and inserting “, section 1128A,
10 and section 1129”;

11 (F) in subsection (d)(2)(A), by striking “or
12 section 1128A” and inserting “, section 1128A,
13 or section 1129”;

14 (G) in subsection (e)(1), by striking “or
15 section 1128A” and inserting “, section 1128A,
16 or section 1129”;

17 (H) in subsection (f)(3), by inserting “,
18 1129,” after “sections 1128A”;

19 (I) in subsection (g)(1), by striking “or
20 section 1128A” each place such term appears
21 and inserting “, section 1128A, or section
22 1129”;

23 (J) in subsection (g)(2)(A), by inserting
24 “and section 1129(a)” after “section
25 1128A(a)”;

1 (K) in subsection (h), by striking “1128A
2 and 1128B” and inserting “1128A, 1128B, and
3 1129”.

4 (c) SSI FRAUD CONSIDERED A FELONY.—

5 (1) IN GENERAL.—Section 1632(a) of such Act
6 (42 U.S.C. 1383a(a)) is amended by striking “shall”
7 the 1st place such term appears and all that follows
8 and inserting “shall be fined under title 18, United
9 States Code, imprisoned not more than 5 years, or
10 both.”.

11 (2) CONFORMING AMENDMENT.—Section
12 1632(b) of such Act (42 U.S.C. 1383a(b)) is amend-
13 ed to read as follows:

14 “(b)(1) If a person or entity violates subsection (a)
15 in the person’s or entity’s role as, or in applying to be-
16 come, a payee under section 1631(a)(2) on behalf of an-
17 other individual (other than the person’s eligible spouse),
18 and the violation includes a willful misuse of funds by the
19 person or entity, the court may also require that full or
20 partial restitution of funds be made to such other
21 individual.

22 “(2) Any person or entity convicted of a violation of
23 subsection (a) of this section or of section 208 may not
24 be certified as a payee under section 1631(a)(2).”.

1 (d) AUTHORITY TO REDETERMINE ELIGIBILITY IN
2 DISABILITY CASES IF FRAUD IS INVOLVED, AND TO TER-
3 MINATE BENEFITS IF THERE IS INSUFFICIENT RELIABLE
4 EVIDENCE OF DISABILITY.—

5 (1) IN GENERAL.—Section 1631(e) of such Act
6 (42 U.S.C. 1383(e)) is amended by adding at the
7 end the following:

8 “(6)(A) The Secretary shall immediately redetermine
9 the eligibility of an individual for benefits under this title
10 by reason of disability, disregarding any unreliable evi-
11 dence of disability, if there is reason to believe that fraud
12 was involved in the application of the individual for such
13 benefits, unless a United States attorney, or equivalent
14 State prosecutor, with jurisdiction over potential or actual
15 related criminal cases, certifies, in writing, that there is
16 a substantial risk that redetermining such eligibility would
17 jeopardize the criminal prosecution of any person who is
18 a subject of the investigation from which the information
19 is derived.

20 “(B) If, after redetermining the eligibility of an indi-
21 vidual for benefits under this title by reason of disability,
22 the Secretary determines that there is insufficient reliable
23 evidence of disability, the Secretary may terminate such
24 eligibility.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect on October 1,
3 1994, and shall apply to eligibility determinations
4 made before, on, or after such date.

5 (e) AVAILABILITY OF RECIPIENT IDENTIFYING IN-
6 FORMATION FROM THE INSPECTOR GENERAL, DEPART-
7 MENT OF HEALTH AND HUMAN SERVICES.—

8 (1) IN GENERAL.—Section 1631(e) of such Act
9 (42 U.S.C. 1383(e)), as amended by subsection (d)
10 of this section, is amended by adding at the end the
11 following:

12 “(7) As soon as the Inspector General, Social Secu-
13 rity Administration, has reason to believe that fraud was
14 involved in the application of a recipient for benefits under
15 this title, the Inspector General shall make available to
16 the Secretary information identifying the recipient, unless
17 a United States attorney, or equivalent State prosecutor,
18 with jurisdiction over potential or actual related criminal
19 cases, certifies, in writing, that there is a substantial risk
20 that making the information so available or redetermining
21 the eligibility of the recipient for such benefits would jeop-
22 ardize the criminal prosecution of any person who is a sub-
23 ject of the investigation from which the information is
24 derived.”.

1 (2) EFFECTIVE DATE.—The amendment made
2 by paragraph (1) shall take effect on October 1,
3 1994.

4 (f) AUTHORITY TO USE AVAILABLE PREADMISSION
5 IMMIGRANT AND REFUGEE MEDICAL INFORMATION.—

6 (1) IN GENERAL.—Section 1631(e) of such Act
7 (42 U.S.C. 1383(e)), as amended by the preceding
8 provisions of this Act, is amended by adding at the
9 end the following:

10 “(8) The Secretary shall request the Immigration and
11 Naturalization Service and the Centers for Disease Control
12 to provide the Secretary with whatever medical informa-
13 tion either such entity has with respect to any alien who
14 has applied for benefits under this title to the extent that
15 the information is relevant to any determination relating
16 to such eligibility.”.

17 (2) EFFECTIVE DATE.—The amendment made
18 by paragraph (1) shall take effect on October 1,
19 1994.

20 (g) ANNUAL REPORTS ON REVIEWS OF SSI CASES.—
21 The Secretary shall annually submit to the Committee on
22 Ways and Means of the House of Representatives and the
23 Committee on Finance of the Senate a report on the ex-
24 tent to which the Secretary has exercised its authority to
25 review supplemental security income cases under title XVI

1 of the Social Security Act, and the extent to which the
2 cases reviewed were those that involved a high likelihood
3 or probability of fraud.

4 (h) DEVELOPMENT OF PROFILES; PERIODIC TAR-
5 GETED REDETERMINATIONS.—Part B of title XVI of such
6 Act (42 U.S.C. 1383–1383d) is amended by adding at the
7 end the following:

8 **“SEC. 1636. DEVELOPMENT OF PROFILES; PERIODIC TAR-**
9 **GETED REDETERMINATIONS.**

10 “The Social Security Administration shall develop
11 profiles of the kinds of cases that have a high probability
12 of fraud, and shall conduct periodic targeted
13 redeterminations based on such profiles.”.

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HR 4419 IH—2

HR 4419 IH—3