

**SOCIAL SECURITY
DISABILITY AMENDMENTS
OF
1980**

Volumes 1, 2
H.R. 3236
PUBLIC LAW 96-265 — 96th Congress

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96TH CONGRESS
2D SESSION

H. R. 3236

IN THE SENATE OF THE UNITED STATES

JANUARY 31 (legislative day, JANUARY 3), 1980

Ordered to be printed as passed with Senate amendments

[Strike out all after the enacting clause and insert the part printed in italic]

AN ACT

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 ~~That this Act, with the following table of contents, may be~~
4 ~~cited as the "Disability Insurance Amendments of 1970".~~

1 benefits to which beneficiaries may be entitled under sections
2 202 and 222 for any month on the basis of the wages and
3 self-employment income of an individual entitled to disability
4 insurance benefits (whether or not such total benefits are oth-
5 erwise subject to reduction under this subsection but in lieu of
6 any reduction under this subsection which would otherwise
7 be applicable) shall be reduced (before the application of sec-
8 tion 224) to the smaller of—

9 “(A) 80 percent of such individual’s average in-
10 dexed monthly earnings (or 100 percent of his primary
11 insurance amount, if larger), or

12 “(B) 150 percent of such individual’s primary in-
13 surance amount.”.

14 (b)(1) Section 203(a)(2)(D) of such Act is amended by
15 striking out “paragraph (7)” and inserting in lieu thereof
16 “paragraph (8)”.

17 (2) Section 203(a)(8) of such Act, as redesignated by
18 subsection (a)(2) of this section, is amended by striking out
19 “paragraph (6)” and inserting in lieu thereof “paragraph
20 (7)”.

21 (3) Section 215(i)(2)(A)(ii)(III) of such Act is amended
22 by striking out “section 203(a) (6) and (7)” and inserting in
23 lieu thereof “section 203(a) (7) and (8)”.

24 (4) Section 215(i)(2)(D) of such Act is amended by
25 adding at the end thereof the following new sentence: “Not-

1 withstanding the preceding sentence, such revision of maxi-
 2 mum family benefits shall be subject to paragraph (6) of sec-
 3 tion 203(a) (as added by section 2(a)(3) of the Disability In-
 4 surance Amendments of 1970).”.

5 (e) The amendments made by this section shall apply
 6 only with respect to monthly benefits payable on the basis of
 7 the wages and self-employment income of an individual
 8 whose initial eligibility for benefits (determined under sec-
 9 tions 215(a)(3)(B) and 215(a)(2)(A) of the Social Security
 10 Act, as applied for this purpose) begins after 1978, and
 11 whose initial entitlement to disability insurance benefits (with
 12 respect to the period of disability involved) begins after 1970.

13 REDUCTION IN NUMBER OF DROPOUT YEARS FOR
 14 YOUNGER DISABLED WORKERS

15 SEC. 3. (a) Section 215(b)(2)(A) of the Social Security
 16 Act is amended to read as follows:

17 “(2)(A) The number of an individual’s benefit computa-
 18 tion years equals the number of elapsed years reduced—

19 “(i) in the case of an individual who is entitled to
 20 old-age insurance benefits (except as provided in the
 21 second sentence of this subparagraph), or who has
 22 died, by 5 years; and

23 “(ii) in the case of an individual who is entitled to
 24 disability insurance benefits, by the number of years
 25 equal to one-fifth of such individual’s elapsed years

1 (disregarding any resulting fractional part of a year),
2 but not by more than 5 years.

3 Clause (ii), once applicable with respect to any individual,
4 shall continue to apply for purposes of determining such indi-
5 vidual's primary insurance amount after his attainment of age
6 65 or any subsequent eligibility for disability insurance bene-
7 fits unless prior to the month in which he attains such age or
8 becomes so eligible there occurs a period of at least 12 con-
9 secutive months for which he was not entitled to a disability
10 insurance benefit. If an individual described in clause (ii) is
11 determined in accordance with regulations of the Secretary to
12 have been responsible for providing (and to have provided)
13 the principal care of a child (of such individual or his or her
14 spouse) under the age of 6 throughout more than 6 full
15 months in any calendar year which is included in such indi-
16 vidual's elapsed years, but which is not disregarded pursuant
17 to clause (ii) or to subparagraph (B) (in determining such indi-
18 vidual's benefit computation years) by reason of the reduction
19 in the number of such individual's elapsed years under clause
20 (ii), the number by which such elapsed years are reduced
21 under this subparagraph pursuant to clause (ii) shall be in-
22 creased by one (up to a combined total not exceeding 5) for
23 each such calendar year; except that (F) no calendar year
24 shall be disregarded by reason of this sentence (in determin-
25 ing such individual's benefit computation years) unless the

1 individual provided such care throughout more than 6 full
2 months in such year, (II) the particular calendar years to be
3 disregarded under this sentence (in determining such benefit
4 computation years) shall be those years (not otherwise disre-
5 garded under clause (ii)) for which the total of such individ-
6 ual's wages and self-employment income, after adjustment
7 under paragraph (3), is the smallest, and (III) this sentence
8 shall apply only to the extent that its application would result
9 in a higher primary insurance amount. The number of an
10 individual's benefit computation years as determined under
11 this subparagraph shall in no case be less than 2."

12 (b) Section 223(a)(2) of such Act is amended by insert-
13 ing "and section 215(b)(2)(A)(ii)" after "section 202(q)" in
14 the first sentence.

15 (c) The amendments made by this section shall apply
16 only with respect to monthly benefits payable on the basis of
17 the wages and self-employment income of an individual
18 whose initial entitlement to disability insurance benefits (with
19 respect to the period of disability involved) begins on or after
20 January 1, 1980; except that the third sentence of section
21 215(b)(2)(A) of the Social Security Act (as added by such
22 amendments) shall apply only with respect to monthly bene-
23 fits payable for months after December 1980.

1 WORK INCENTIVE—SGA DEMONSTRATION PROJECT

2 SEC. 4. (a) The Commissioner of Social Security shall
3 develop and carry out experiments and demonstration proj-
4 ects designed to determine the relative advantages and disad-
5 vantages of various alternative methods of treating the work
6 activity of disabled beneficiaries under the old-age, survivors,
7 and disability insurance program, including such methods as
8 a reduction in benefits based on earnings, designed to encour-
9 age the return to work of disabled beneficiaries to the end
10 that savings will accrue to the Trust Funds.

11 (b) The experiments and demonstration projects devel-
12 oped under subsection (a) shall be of sufficient scope and shall
13 be carried out on a wide enough scale to permit a thorough
14 evaluation of the alternative methods under consideration
15 while giving assurance that the results derived from the ex-
16 periments and projects will obtain generally in the operation
17 of the disability insurance program without committing such
18 program to the adoption of any prospective system either lo-
19 cally or nationally.

20 (c) In the case of any experiment or demonstration proj-
21 ect under subsection (a), the Secretary may waive compliance
22 with the benefit requirements of titles II and XVIII of the
23 Social Security Act insofar as is necessary for a thorough
24 evaluation of the alternative methods under consideration. No
25 such experiment or project shall be actually placed in oper-

1 ation unless at least ninety days prior thereto a written
2 report, prepared for purposes of notification and information
3 only and containing a full and complete description thereof,
4 has been transmitted by the Commissioner of Social Security
5 to the Committee on Ways and Means of the House of Rep-
6 resentatives and to the Committee on Finance of the Senate.
7 Periodic reports on the progress of such experiments and
8 demonstration projects shall be submitted by the Commis-
9 sioner to such committees. When appropriate, such reports
10 shall include detailed recommendations for changes in admin-
11 istration or law, or both, to carry out the objectives stated in
12 subsection (a).

13 (d) The Commissioner of Social Security shall submit to
14 the Congress no later than January 1, 1983, a final report on
15 the experiments and demonstration projects carried out under
16 this section together with any related data and materials
17 which he may consider appropriate.

18 (e) Section 201 of the Social Security Act is amended by
19 adding at the end thereof the following new subsection:

20 “(j) Expenditures made for experiments and demonstra-
21 tion projects under section 4 of the Disability Insurance
22 Amendments of 1970 shall be made from the Federal Dis-
23 ability Insurance Trust Fund and the Federal Old-Age and
24 Survivors Insurance Trust Fund, as determined appropriate
25 by the Secretary.”.

1 (2) Section 222(e)(3) of such Act is amended by striking
2 out the period at the end of the first sentence and inserting in
3 lieu thereof “, or, in the case of an individual entitled to
4 widow’s or widower’s insurance benefits under section 202
5 (e) or (f) who became entitled to such benefits prior to attain-
6 ing age 60, with the month in which such individual becomes
7 so entitled.”.

8 (3) The amendments made by this subsection shall apply
9 with respect to individuals whose disability has not been de-
10 termined to have ceased prior to the date of the enactment of
11 this Act.

12 (b)(1)(A) Section 223(a)(1) of such Act is amended by
13 striking out the period at the end of the first sentence and
14 inserting in lieu thereof “or, if later (and subject to subsection
15 (e)), the fifteenth month following the end of such individual’s
16 trial work period determined by application of section
17 222(e)(4)(A).”.

18 (B) Section 202(d)(1)(G) of such Act is amended by—

19 (i) by redesignating clauses (i) and (ii) as clauses
20 (I) and (II), respectively,

21 (ii) by inserting “the later of (i)” immediately
22 before “the third month”, and

23 (iii) by striking out “or (if later)” and inserting in
24 lieu thereof the following: “(or, if later, and subject to
25 section 223(e), the fifteenth month following the end of

1 such individual's trial work period determined by appli-
2 cation of section 222(e)(4)(A)), or (ii)".

3 (C) Section 202(e)(1) of such Act is amended by striking
4 out the period at the end and inserting in lieu thereof the
5 following: "or, if later (and subject to section 223(e)), the
6 fifteenth month following the end of such individual's trial
7 work period determined by application of section
8 222(e)(4)(A).".

9 (D) Section 202(f)(1) of such Act is amended by striking
10 out the period at the end and inserting in lieu thereof the
11 following: "or, if later (and subject to section 223(e)), the
12 fifteenth month following the end of such individual's trial
13 work period determined by application of section
14 222(e)(4)(A).".

15 (2) Section 223 of such Act is amended by adding at the
16 end thereof the following new subsection:

17 "(e) No benefit shall be payable under subsection (d), (e),
18 or (f) of section 202 or under subsection (a)(1) to an individual
19 for any month after the third month in which he engages in
20 substantial gainful activity during the 15-month period fol-
21 lowing the end of his trial work period determined by applica-
22 tion of section 222(e)(4)(A).".

23 (3) Section 226(b) of such Act is amended—

24 (A) by striking out "ending with the month" in
25 the matter following paragraph (2) and inserting in lieu

1 thereof "ending (subject to the last sentence of this
2 subsection) with the month" and

3 (B) by adding at the end thereof the following
4 new sentence: "For purposes of this subsection, an in-
5 dividual who has had a period of trial work which
6 ended as provided in section 222(e)(4)(A), and whose
7 entitlement to benefits or status as a qualified railroad
8 retirement beneficiary as described in paragraph (2) has
9 subsequently terminated, shall be deemed to be entitled
10 to such benefits or to occupy such status (notwith-
11 standing the termination of such entitlement or status)
12 for the period of consecutive months throughout all of
13 which the physical or mental impairment, on which
14 such entitlement or status was based, continues, but
15 not in excess of 24 such months."

16 (4) The amendments made by this subsection shall apply
17 with respect to individuals whose disability or blindness
18 (whichever may be applicable) has not been determined to
19 have ceased prior to the date of the enactment of this Act.

20 **ELIMINATION OF REQUIREMENT THAT MONTHS IN**
21 **MEDICARE WAITING PERIOD BE CONSECUTIVE**

22 **SEC. 7. (a)(1)(A)** Section 226(b)(2) of the Social Security
23 Act is amended by striking out "consecutive" in clauses (A)
24 and (B).

1 (B) Section 226(b) of such Act is further amended by
2 striking out “consecutive” in the matter following paragraph
3 (2).

4 (2) Section 1811 of such Act is amended by striking out
5 “consecutive”.

6 (3) Section 1837(g)(1) of such Act is amended by strik-
7 ing out “consecutive”.

8 (4) Section 7(d)(2)(ii) of the Railroad Retirement Act of
9 1974 is amended by striking out “consecutive” each place it
10 appears.

11 (b) Section 226 of the Social Security Act is amended
12 by redesignating subsection (f) as subsection (g), and by in-
13 serting after subsection (e) the following new subsection:

14 “(f) For purposes of subsection (b) (and for purposes of
15 section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the
16 Railroad Retirement Act of 1974), the 24 months for which
17 an individual has to have been entitled to specified monthly
18 benefits on the basis of disability in order to become entitled
19 to hospital insurance benefits on such basis effective with any
20 particular month (or to be deemed to have enrolled in the
21 supplementary medical insurance program, on the basis of
22 such entitlement, by reason of section 1837(f)), where such
23 individual had been entitled to specified monthly benefits of
24 the same type during a previous period which terminated—

1 “(1) more than 60 months before that particular
2 month in any case where such monthly benefits were
3 of the type specified in clause (A)(i) or (B) of subsection
4 (b)(2), or

5 “(2) more than 84 months before that particular
6 month in any case where such monthly benefits were
7 of the type specified in clause (A)(ii) or (A)(iii) of such
8 subsection,

9 shall not include any month which occurred during such pre-
10 vious period.”.

11 (e) The amendments made by this section shall apply
12 with respect to hospital insurance or supplementary medical
13 insurance benefits for months after the month in which this
14 Act is enacted.

15 DISABILITY DETERMINATIONS; FEDERAL REVIEW OF
16 STATE AGENCY ALLOWANCES

17 SEC. 8. (a) Section 221(a) of the Social Security Act is
18 amended to read as follows:

19 “(a)(1) In the case of any individual, the determination
20 of whether or not he is under a disability (as defined in sec-
21 tion 216(i) or 223(d)) and of the day such disability began,
22 and the determination of the day on which such disability
23 ceases, shall be made by a State agency in any State that
24 notifies the Secretary in writing that it wishes to make such
25 disability determinations commencing with such month as the

1 Secretary and the State agree upon, but only if (A) the Sec-
2 retary has not found, under subsection (b)(1), that the State
3 agency has substantially failed to make disability determina-
4 tions in accordance with the applicable provisions of this sec-
5 tion or rules issued thereunder, and (B) the State has not
6 notified the Secretary, under subsection (b)(2), that it does
7 not wish to make such determinations. If the Secretary once
8 makes the finding described in clause (A) of the preceding
9 sentence, or the State gives the notice referred to in clause
10 (B) of such sentence, the Secretary may thereafter determine
11 whether (and, if so, beginning with which month and under
12 what conditions) the State may make again disability deter-
13 minations under this paragraph.

14 “(2) The disability determinations described in para-
15 graph (1) made by a State agency shall be made in accord-
16 ance with the pertinent provisions of this title and the stand-
17 ards and criteria contained in regulations or other written
18 guidelines of the Secretary pertaining to matters such as dis-
19 ability determinations, the class or classes of individuals with
20 respect to which a State may make disability determinations
21 (if it does not wish to do so with respect to all individuals in
22 the State), and the conditions under which it may choose not
23 to make all such determinations. In addition, the Secretary
24 shall promulgate regulations specifying, in such detail as he
25 deems appropriate, performance standards and administrative

1 requirements and procedures to be followed in performing the
2 disability determination function in order to assure effective
3 and uniform administration of the disability insurance pro-
4 gram throughout the United States. The regulations may, for
5 example, specify matters such as—

6 “(A) the administrative structure and the relation-
7 ship between various units of the State agency respon-
8 sible for disability determinations,

9 “(B) the physical location of and relationship
10 among agency staff units, and other individuals or or-
11 ganizations performing tasks for the State agency, and
12 standards for the availability to applicants and benefi-
13 ciaries of facilities for making disability determinations,

14 “(C) State agency performance criteria, including
15 the rate of accuracy of decisions, the time periods
16 within which determinations must be made, the proce-
17 dures for and the scope of review by the Secretary,
18 and, as he finds appropriate, by the State, of its per-
19 formance in individual cases and in classes of cases,
20 and rules governing access of appropriate Federal offi-
21 cials to State offices and to State records relating to its
22 administration of the disability determination function,

23 “(D) fiscal control procedures that the State
24 agency may be required to adopt,

1 “(E) the submission of reports and other data, in
2 such form and at such time as the Secretary may re-
3 quire, concerning the State agency’s activities relating
4 to the disability determination process, and

5 “(F) any other rules designed to facilitate, or con-
6 trol, or assure the equity and uniformity of the State’s
7 disability determinations.”.

8 (b) Section 221(b) of such Act is amended to read as
9 follows:

10 “(b)(1) If the Secretary finds, after notice and oppor-
11 tunity for a hearing, that a State agency is substantially fail-
12 ing to make disability determinations in a manner consistent
13 with his regulations and other written guidelines, the Secre-
14 tary shall, not earlier than 180 days following his finding,
15 make the disability determinations referred to in subsection
16 (a)(1).

17 “(2) If a State, having notified the Secretary of its
18 intent to make disability determinations under subsection
19 (a)(1), no longer wishes to make such determinations, it shall
20 notify the Secretary in writing of that fact, and, if an agency
21 of the State is making disability determinations at the time
22 such notice is given, it shall continue to do so for not less
23 than 180 days. Thereafter, the Secretary shall make the dis-
24 ability determinations referred to in subsection (a)(1).”.

1 (e) Section 221(e) of such Act is amended to read as
2 follows:

3 “(e)(1) The Secretary (in accordance with paragraph (2))
4 shall review determinations, made by State agencies pursu-
5 ant to this section, that individuals are under disabilities (as
6 defined in section 216(i) or 223(d)). As a result of any such
7 review, the Secretary may determine that an individual is not
8 under a disability (as so defined) or that such individual’s
9 disability began on a day later than that determined by such
10 agency, or that such disability ceased on a day earlier than
11 that determined by such agency. Any review by the Secre-
12 tary of a State agency determination under the preceding
13 provisions of this paragraph shall be made before any action
14 is taken to implement such determination and before any
15 benefits are paid on the basis thereof.

16 “(2) In carrying out the provisions of paragraph (1) with
17 respect to the review of determinations, made by State agen-
18 cies pursuant to this section, that individuals are under dis-
19 abilities (as defined in section 216(i) or 223(d)), the Secretary
20 shall review—

21 “(A) at least 15 percent of all such determinations
22 made by State agencies in the fiscal year 1980,

23 “(B) at least 35 percent of all such determinations
24 made by State agencies in the fiscal year 1981, and

1 “(C) at least 65 percent of all such determinations
2 made by State agencies in any fiscal year after the
3 fiscal year 1981.”.

4 (d) Section 221(d) of such Act is amended by striking
5 out “(a)” and inserting in lieu thereof “(a), (b)”.

6 (e) The first sentence of section 221(e) of such Act is
7 amended—

8 (1) by striking out “which has an agreement with
9 the Secretary” and inserting in lieu thereof “which is
10 making disability determinations under subsection
11 (a)(1)”;

12 (2) by striking out “as may be mutually agreed
13 upon” and inserting in lieu thereof “as determined by
14 the Secretary”, and

15 (3) by striking out “carrying out the agreement
16 under this section” and inserting in lieu thereof
17 “making disability determinations under subsection
18 (a)(1)”.

19 (f) Section 221(g) of such Act is amended—

20 (1) by striking out “has no agreement under sub-
21 section (b)” and inserting in lieu thereof “does not un-
22 dertake to perform disability determinations under sub-
23 section (a)(1), or which has been found by the Secre-
24 tary to have substantially failed to make disability de-

1 terminations in a manner consistent with his regula-
2 tions and guidelines", and

3 (2) by striking out "not included in an agreement
4 under subsection (b)" and inserting in lieu thereof "for
5 whom no State undertakes to make disability determi-
6 nations".

7 (g) The amendments made by this section shall be effec-
8 tive beginning with the twelfth month following the month in
9 which this Act is enacted. Any State that, on the effective
10 date of the amendments made by this section, has in effect an
11 agreement with the Secretary of Health, Education, and
12 Welfare under section 221(a) of the Social Security Act (as in
13 effect prior to such amendments) will be deemed to have
14 given to the Secretary the notice specified in section
15 221(a)(1) of such Act as amended by this section, in lieu of
16 continuing such agreement in effect after the effective date of
17 such amendments. Thereafter, a State may notify the Secre-
18 tary in writing that it no longer wishes to make disability
19 determinations, effective not less than 180 days after it is
20 given.

21 (h) The Secretary of Health, Education, and Welfare
22 shall submit to the Committee on Ways and Means of the
23 House of Representatives and to the Committee on Finance
24 of the Senate by January 1, 1980, a detailed plan on how he
25 expects to assume the functions and operations of a State

1 disability determination unit when this becomes necessary
2 under the amendments made by this section. Such plan
3 should assume the uninterrupted operation of the disability
4 determination function and the utilization of the best qualified
5 personnel to carry out such function. If any amendment of
6 Federal law or regulation is required to carry out such plan,
7 recommendations for such amendment should be included in
8 the plan for action by such committees, or for submittal by
9 such committees with appropriate recommendations to the
10 committees having jurisdiction over the Federal civil service
11 and retirement laws.

12 INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS
13 AS TO CLAIMANT'S RIGHTS

14 SEC. 9. (a) Section 205(b) of the Social Security Act is
15 amended by inserting after the first sentence the following
16 new sentences: "Any such decision by the Secretary shall
17 contain a statement of the case setting forth (1) a citation and
18 discussion of the pertinent law and regulation, (2) a list of the
19 evidence of record and a summary of the evidence, and (3)
20 the Secretary's determination and the reason or reasons upon
21 which it is based.

22 (b) The amendment made by subsection (a) shall apply
23 with respect to decisions made on and after the first day of
24 the second month following the month in which this Act is
25 enacted.

1 **LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION**

2 **SEC. 10. (a) Section 202(j)(2) of the Social Security Act**
3 **is amended to read as follows:**

4 **“(2) An application for any monthly benefits under this**
5 **section filed before the first month in which the applicant**
6 **satisfies the requirements for such benefits shall be deemed a**
7 **valid application (and shall be deemed to have been filed in**
8 **such first month) only if the applicant satisfies the require-**
9 **ments for such benefits before the Secretary makes a final**
10 **decision on the application and no request under section**
11 **205(b) for notice and opportunity for a hearing thereon is**
12 **made or, if such a request is made, before a decision based**
13 **upon the evidence adduced at the hearing is made (regardless**
14 **of whether such decision becomes the final decision of the**
15 **Secretary).”.**

16 **(b) Section 216(i)(2)(G) of such Act is amended—**

17 **(1) by inserting “(and shall be deemed to have**
18 **been filed on such first day)” immediately after “shall**
19 **be deemed a valid application” in the first sentence;**

20 **(2) by striking out the period at the end of the**
21 **first sentence and inserting in lieu thereof “and no re-**
22 **quest under section 205(b) for notice and opportunity**
23 **for a hearing thereon is made or, if such a request is**
24 **made, before a decision based upon the evidence ad-**
25 **duced at the hearing is made (regardless of whether**

1 such decision becomes the final decision of the Secre-
2 tary).", and

3 (3) by striking out the second sentence.

4 (c) Section 223(b) of such Act is amended—

5 (1) by inserting "(and shall be deemed to have
6 been filed in such first month)" immediately after
7 "shall be deemed a valid application" in the first sen-
8 tence,

9 (2) by striking out the period at the end of the
10 first sentence and inserting in lieu thereof "and no re-
11 quest under section 205(b) for notice and opportunity
12 for a hearing thereon is made, or if such a request is
13 made, before a decision based upon the evidence ad-
14 duced at the hearing is made (regardless of whether
15 such decision becomes the final decision of the Secre-
16 tary).", and

17 (3) by striking out the second sentence.

18 (d) The amendments made by this section shall apply to
19 applications filed after the month in which this Act is
20 enacted.

21 **LIMITATION ON COURT REMANDS**

22 **SEC. 11.** The sixth sentence of section 205(g) of the
23 Social Security Act is amended by striking out all that pre-
24 ceedes "and the Secretary shall" and inserting in lieu thereof
25 the following: "The court may, on motion of the Secretary

1 made for good cause shown before he files his answer,
2 remand the case to the Secretary for further action by the
3 Secretary, and it may at any time order additional evidence
4 to be taken before the Secretary, but only upon a showing
5 that there is new evidence which is material and that there is
6 good cause for the failure to incorporate such evidence into
7 the record in a prior proceeding;”

8 TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

9 SEC. 12. The Secretary of Health, Education, and Wel-
10 fare shall submit to the Congress, no later than January 1,
11 1980, a report recommending the establishment of appropri-
12 ate time limitations governing decisions on claims for benefits
13 under title II of the Social Security Act. Such report shall
14 specifically recommend—

15 (1) the maximum period of time (after application
16 for a payment under such title is filed) within which
17 the initial decision of the Secretary as to the rights of
18 the applicant should be made;

19 (2) the maximum period of time (after application
20 for reconsideration of any decision described in para-
21 graph (1) is filed) within which a decision of the Secre-
22 tary on such reconsideration should be made;

23 (3) the maximum period of time (after a request
24 for a hearing with respect to any decision described in
25 paragraph (1) is filed) within which a decision of the

1 Secretary upon such hearing (whether affirming, modi-
2 fying, or reversing such decision) should be made; and

3 (4) the maximum period of time (after a request
4 for review by the Appeals Council with respect to any
5 decision described in paragraph (1) is made) within
6 which the decision of the Secretary upon such review
7 (whether affirming, modifying, or reversing such deci-
8 sion) should be made.

9 In determining the time limitations to be recommended, the
10 Secretary shall take into account both the need for expedi-
11 tious processing of claims for benefits and the need to assure
12 that all such claims will be thoroughly considered and accu-
13 rately determined.

14 **VOCATIONAL REHABILITATION SERVICES FOR DISABLED**
15 **INDIVIDUALS**

16 **SEC. 18.** (a) Section 222(d) of the Social Security Act is
17 amended to read as follows:

18 **“Costs of Rehabilitation Services From Trust Funds**

19 **“(d)(1) For the purpose of making vocational rehabilita-**
20 **tion services more readily available to disabled individuals**
21 **who are—**

22 **“(A) entitled to disability insurance benefits under**
23 **section 223,**

1 “(B) entitled to child’s insurance benefits under
2 section 202(d) after having attained age 18 (and are
3 under a disability);

4 “(C) entitled to widow’s insurance benefits under
5 section 202(e) prior to attaining age 60, or

6 “(D) entitled to widower’s insurance benefits
7 under section 202(f) prior to attaining age 60,

8 to the end that savings will accrue to the Trust Funds as a
9 result of rehabilitating such individuals into substantial gain-
10 ful activity, there are authorized to be transferred from the
11 Federal Old-Age and Survivors Insurance Trust Fund and
12 the Federal Disability Insurance Trust Fund each fiscal year
13 such sums as may be necessary to enable the Secretary to
14 reimburse—

15 “(i) the general fund in the Treasury of the
16 United States for the Federal share, and

17 “(ii) the State for twice the State share,
18 of the reasonable and necessary costs of vocational rehabilita-
19 tion services furnished such individuals (including services
20 during their waiting periods); under a State plan for vocation-
21 al rehabilitation services approved under title I of the Reha-
22 bilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in
23 their performance of substantial gainful activity which lasts
24 for a continuous period of 12 months, or which result in their
25 employment for a continuous period of 12 months in a shel-

1 tered workshop meeting the requirements applicable to a
2 nonprofit rehabilitation facility under paragraphs (8) and
3 (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and
4 (10)(L)). The determination that the vocational rehabilitation
5 services contributed to the successful return of such individ-
6 uals to substantial gainful activity or their employment in
7 sheltered workshops, and the determination of the amount of
8 costs to be reimbursed under this subsection, shall be made
9 by the Commissioner of Social Security in accordance with
10 criteria formulated by him.

11 “(2) Payments under this subsection shall be made in
12 advance or by way of reimbursement, with necessary adjust-
13 ments for overpayments and underpayments.

14 “(3) Money paid from the Trust Funds under this sub-
15 section for the reimbursement of the costs of providing serv-
16 ices to individuals who are entitled to benefits under section
17 223 (including services during their waiting periods), or who
18 are entitled to benefits under section 202(d) on the basis of
19 the wages and self-employment income of such individuals,
20 shall be charged to the Federal Disability Insurance Trust
21 Fund, and all other money paid from the Trust Funds under
22 this subsection shall be charged to the Federal Old Age and
23 Survivors Insurance Trust Fund. The Secretary shall deter-
24 mine according to such methods and procedures as he may
25 deem appropriate—

1 “(A) the total amount to be reimbursed for the
2 cost of services under this subsection; and

3 “(B) subject to the provisions of the preceding
4 sentence, the amount which should be charged to each
5 of the Trust Funds.

6 “(4) For the purposes of this subsection the term ‘voca-
7 tional rehabilitation services’ shall have the meaning assigned
8 it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701
9 et seq.); except that such services may be limited in type,
10 scope, or amount in accordance with regulations of the Sec-
11 retary designed to achieve the purpose of this subsection.

12 “(5) The Secretary is authorized and directed to study
13 alternative methods of providing and financing the costs of
14 vocational rehabilitation services to disabled beneficiaries
15 under this title to the end that maximum savings will result
16 to the Trust Funds. On or before January 1, 1980, the Sec-
17 retary shall transmit to the President and the Congress a
18 report which shall contain his findings and any conclusions
19 and recommendations he may have.”.

20 (b) The amendment made by subsection (a) shall apply
21 with respect to fiscal years beginning after September 30,
22 1981.

1 CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS
2 UNDER VOCATIONAL REHABILITATION PLANS

3 SEC. 14. (a) Section 225 of the Social Security Act is
4 amended by inserting "(a)" after "SEC. 225.", and by adding
5 at the end thereof the following new subsection:

6 "(b) Notwithstanding any other provision of this title,
7 payment to an individual of benefits based on disability (as
8 described in the first sentence of subsection (a)) shall not be
9 terminated or suspended because the physical or mental im-
10 pairment on which the individual's entitlement to such bene-
11 fits is based has or may have ceased if—

12 "(1) such individual is participating in an ap-
13 proved vocational rehabilitation program under a State
14 plan approved under title I of the Rehabilitation Act of
15 1973, and

16 "(2) the Commissioner of Social Security deter-
17 mines that the completion of such program, or its con-
18 tinuation for a specified period of time, will increase
19 the likelihood that such individual may (following his
20 participation in such program) be permanently removed
21 from the disability benefit rolls."

22 (b) Section 225(a) of such Act (as designated under sub-
23 section (a) of this section) is amended by striking out "this
24 section" each place it appears and inserting in lieu thereof
25 "this subsection".

1 PAYMENT FOR EXISTING MEDICAL EVIDENCE

2 SEC. 15. (a) Section 223(d)(5) of the Social Security Act
3 is amended by adding at the end thereof the following new
4 sentence: "Any non-Federal hospital, clinic, laboratory, or
5 other provider of medical services, or physician not in the
6 employ of the Federal Government, which supplies medical
7 evidence required by the Secretary under this paragraph shall
8 be entitled to payment from the Secretary for the reasonable
9 cost of providing such evidence."

10 (b) The amendment made by subsection (a) shall apply
11 with respect to evidence supplied on or after the date of the
12 enactment of this Act.

13 PAYMENT OF CERTAIN TRAVEL EXPENSES

14 SEC. 16. Section 201 of the Social Security Act (as
15 amended by section 4(e) of this Act) is amended by adding at
16 the end thereof the following new subsection:

17 "(k) There are authorized to be made available for ex-
18 penditure, out of the Federal Old-Age and Survivors Insur-
19 ance Trust Fund and the Federal Disability Insurance Trust
20 Fund (as determined appropriate by the Secretary), such
21 amounts as are required to pay travel expenses, either on an
22 actual cost or commuted basis, to individuals for travel inci-
23 dent to medical examinations requested by the Secretary in
24 connection with disability determinations under section 221,
25 and to parties, their representatives, and all reasonably nec-

1 essary witnesses for travel within the United States (as de-
2 fined in section 210(i)) to attend reconsideration interviews
3 and proceedings before administrative law judges with re-
4 spect to such determinations. The amount available under the
5 preceding sentence for payment for air travel by any person
6 shall not exceed the coach fare for air travel between the
7 points involved unless the use of first-class accommodations
8 is required (as determined under regulations of the Secretary)
9 because of such person's health condition or the unavailabil-
10 ity of alternative accommodations; and the amount available
11 for payment for other travel by any person shall not exceed
12 the cost of travel (between the points involved) by the most
13 economical and expeditious means of transportation appropri-
14 ate to such person's health condition, as specified in such
15 regulations."

16 PERIODIC REVIEW OF DISABILITY DETERMINATIONS

17 SEC. 17. Section 221 of the Social Security Act is
18 amended by adding at the end thereof the following new sub-
19 section:

20 "(h) In any case where an individual is or has been de-
21 termined to be under a disability, unless a finding is or has
22 been made that such disability is permanent, the case shall be
23 reviewed by the applicable State agency or the Secretary (as
24 may be appropriate), for purposes of continuing eligibility, at
25 least once every 3 years. Reviews of cases under the preced-

1 ing sentence shall be in addition to, and shall not be consid-
 2 ered as a substitute for, any other reviews which are required
 3 or provided for under or in the administration of this title.”.
 4 That this Act may be cited as the “Social Security Disabil-
 5 ity Amendments of 1979”.

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**TITLE I—PROVISIONS RELATING TO DISABIL-
ITY BENEFITS UNDER OASDI PROGRAM
LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY
CASES**

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out “except as provided by paragraph (3)” in paragraph (1) (in the matter preceding

subparagraph (A)) and inserting in lieu thereof “except as provided by paragraphs (3) and (6)”;

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

“(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced, (before the application of section 224) to the smaller of—

“(A) 85 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

“(B) 160 percent of such individual’s primary insurance amount.”

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (8)”.

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out “paragraph (6)” and inserting in lieu thereof “paragraph (7)”.

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out “section 203(a) (6) and (7)” and inserting in lieu thereof “section 203(a) (7) and (8)”.

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: “Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1979).”.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after 1979.

**REDUCTION IN NUMBER OF DROPOUT YEARS FOR
YOUNGER DISABLED WORKERS**

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

“(2)(A) The number of an individual’s benefit computation years equals the number of elapsed years reduced—

“(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

“(ii) in the case of an individual who is entitled to disability insurance benefits, by 1 year or, if greater, the number of years equal to one-fifth of such individual’s elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual’s primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which he attains such age or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. The number of an individual’s benefit computation years as determined under this subparagraph shall in no case be less than 2.”

(b) Section 223(a)(2) of such Act is amended by inserting “and section 215(b)(2)(A)(ii)” after “section 202(q)” in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits after 1979.

**PROVISIONS RELATING TO MEDICARE WAITING PERIOD
FOR RECIPIENTS OF DISABILITY BENEFITS**

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the

Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

“(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

“(2) more than 84 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period.”

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided after June 1980.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of such Act is amended—

(1) *by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and*

(2) *by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months."*

(b) *The amendment made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.*

**ELIMINATION OF WAITING PERIOD FOR TERMINALLY ILL
INDIVIDUAL**

SEC. 105. (a) *The first sentence of section 223(a)(1) of the Social Security Act is amended, in clause (ii) thereof—*

(1) by inserting "(I)" immediately after "but only if", and

(2) by inserting "or (II) he has a terminal illness (as defined in subsection (e)), " immediately after "the first month in which he is under such disability,".

(b) Section 223 of such Act is further amended by adding at the end thereof the following new subsection:

"Definition of Terminal Illness

"(e) As used in this section, the term 'terminal illness' means, in the case of any individual, a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations of title XX."

(c) The amendments made by this section shall be effective with respect to applications for disability insurance benefits under section 223 of the Social Security Act filed—

(1) in or after the month in which this Act is enacted, or

(2) before the month in which this Act is enacted if—

(A) notice of the final decision of the Secretary of Health, Education, and Welfare has not been given to the applicant before such month, or

(B) the notice referred to in subparagraph (A) has been so given before such month but a civil action with respect to such final decision is commenced under section 205(g) of the Social Security Act (whether before, in, or after such month) and the decision in such civil action has not become final before such month;

except that no monthly benefits under title II of the Social Security Act shall be payable by reason of the amendments made by this section for any month before October 1980.

**TITLE II—PROVISIONS RELATING TO
DISABILITY BENEFITS UNDER SSI**

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Title XVI of the Social Security Act is amended by adding after section 1618 the following new section:

“BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

“SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability, and would otherwise be denied benefits by reason of section 1611(e)(4), or who ceases to be an eligible individual

(or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

“(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

“(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

“(b) Any individual who would qualify for a monthly benefit under subsection (a) except that his income exceeds the limit set forth in subsection (a)(2), and any blind individual who would qualify for a monthly benefit under section

1611 except that his income exceeds the limit set forth in subsection (a)(2), for purposes of titles XIX and XX of this Act, shall be considered a blind or disabled individual receiving supplemental security income benefits under this title for so long as the Secretary determines under regulations that—

“(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

“(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

“(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

“(4) such individual’s earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits which would be available to him in the absence of such earnings under this title and titles XIX and XX.”

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

“(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.”.

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

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

(c) The amendments made by this section shall become effective on July 1, 1980, but shall remain in effect only for a period of three years after such effective date.

(d) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by this section so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out “and” after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

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

(b) The amendments made by this section shall apply only with respect to remuneration received in months after June 1980.

*TERMINATION OF ATTRIBUTION OF PARENTS’ INCOME**AND RESOURCES WHEN CHILD ATTAINS AGE 18*

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out “under age 21” and inserting in lieu thereof “under age 18”.

(b) The amendment made by subsection (a) shall become effective on July 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in June 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting “(a)” after “SEC. 225.”, and by adding at the end thereof the following new subsection:

“(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual’s entitlement to such benefits is based, has or may have ceased, if—

“(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(2) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.”.

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

(b) Section 1631(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's eligibility for such benefit is based, has or may have ceased, if—

"(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(B) the Secretary determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls."

(c) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to that date.

**EXTRAORDINARY WORK EXPENSES DUE TO SEVERE
DISABILITY**

SEC. 302. (a) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe."

(b) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: "In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (whether or not paid by such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe."

(c) The amendments made by this section shall apply with respect to expenses incurred on or after July 1, 1980.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. *(a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".*

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof “, or, in the case of an individual entitled to widow’s or widower’s insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.”.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out “or the third month following the month in which his disability ceases.” at the end of the first sentence and inserting in lieu thereof “or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.”.

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out “the third month following the month in which he ceases to be under such disability” and inserting in lieu thereof “, or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity),”.

(C) Section 202(e)(1) of such Act is amended by striking out “the third month following the month in which her disability ceases (unless she attains age 65 on or before the

last day of such third month).” at the end thereof and inserting in lieu thereof “, subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.”.

(D) Section 202(f)(1) of such Act is amended by striking out “the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).” at the end thereof and inserting in lieu thereof “, subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be

the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the first month after the period of 15 consecutive months following the end of such period of trial work in which such individual engages in or is determined to be able to engage in substantial gainful activity.”.

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

“(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).”.

(c)(1)(A) Section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

“(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.”.

(B) Section 1614(a)(3)(D) of such Act is amended by striking out “paragraph (4)” and inserting in lieu thereof “subparagraph (F) or paragraph (4)”.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

“(4) No benefit shall be payable under this title, except as provided in section 1619, with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month in which he engages in substantial gainful activity during the fifteen-month period fol-

lowing the end of his trial work period determined by application of section 1614(a)(4)(D)(i).”

(d) The amendments made by this section shall become effective on July 1, 1980, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to that date.

**DISABILITY DETERMINATIONS; FEDERAL REVIEW OF
STATE AGENCY DETERMINATIONS**

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows:

“(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the

finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

“(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

“(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

“(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

“(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

“(D) fiscal control procedures that the State agency may be required to adopt, and

“(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency’s activities relating to the disability determination.

Nothing in this section shall be construed to authorize the secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.”

(b) Section 221(b) of such Act is amended to read as follows:

“(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

“(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

“(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any

partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency).

“(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (1) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment

of affected employees to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay, as may be necessary.”

(c) Section 221(c) of such Act is amended to read as follows:

“(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is or is not under a disability (as so defined) or that such individual’s disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination.

“(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are or are not under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

“(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

“(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

“(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.”.

(d) Section 221(d) of such Act is amended by striking out “(a)” and inserting in lieu thereof “(a), (b)”.

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out “which has an agreement with the Secretary” and inserting in lieu thereof “which is making disability determinations under subsection (a)(1)”;

(2) by striking out “as may be mutually agreed upon” and inserting in lieu thereof “as determined by the Secretary”, and

(3) by striking out “carrying out the agreement under this section” and inserting in lieu thereof “making disability determinations under subsection (a)(1)”.

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) *The Secretary of Health, Education, and Welfare shall implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act; he shall report to the Congress by January 1, 1982, on his progress; in his report, he shall indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges.*

(h) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

(i) The Secretary of Health, Education, and Welfare shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regula-

tion is required to carry out such plan, recommendations for such amendment should be included in the report.

*INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS
AS TO CLAIMANT'S RIGHTS*

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

(c) The amendments made by this section 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.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

“(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).”.

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting “(and shall be deemed to have been filed on such first day)” immediately after “shall be deemed a valid application” in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof “and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether

such decision becomes the final decision of the Secretary).”, and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting “(and shall be deemed to have been filed in such first month)” immediately after “shall be deemed a valid application” in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof “and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).”, and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes “and the Secretary shall” and inserting in lieu thereof the following: “The court may, on motion of the Secretary

made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, 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;”.

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the

Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence."

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after July 1, 1980.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title.”.

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

“Payment of Certain Travel Expenses

“(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably nec-

essary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The

amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for,

any other reviews which are required or provided for under or in the administration of this title.”

(b) The amendment made by this section shall become effective on the first day of the thirteenth month that begins after the date of the enactment of this Act.

SCOPE OF FEDERAL COURT REVIEW

SEC. 312. Section 205(g) of the Social Security Act is amended by striking out “if supported by substantial evidence” and inserting in lieu thereof “unless found to be arbitrary and capricious”.

REPORT BY SECRETARY

SEC. 313. The Secretary of Health, Education, and Welfare shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking so much of subparagraph (A) as follows “(A)” and precedes clause (i), and inserting in lieu thereof the following: “that every individual, as a condition of eligibility for aid under this part, shall

register for manpower services, training, employment, and other employment-related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—”;

(2) *in clause (vi) of subparagraph (A), by striking out “under section 433(g)”*;

(3) *by striking out the word “or” after clause (v)*;

(4) *by adding the word “or” after clause (vi); and*

(5) *by adding after clause (vi) the following new clause:*

“(vii) a person who is working not less than 30 hours per week;”.

(b) *Section 402(a)(19)(B) of such Act is amended by inserting “to families with dependent children” immediately after “that aid”*.

(c) *Section 402(a)(19)(D) of such Act is amended by striking out “, and income derived from a special work project under the program established by section 432(b)(3)”*.

(d) *Section 402(a)(19)(F) of such Act is amended—*

(1) *by striking out, in the matter preceding clause (i), “and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))” and inserting in lieu thereof “(and for such period as is prescribed under joint regulations*

of the Secretary and the Secretary of Labor) any child, relative or individual”, and

(2) by inserting “and” at the end of clause (iv), and by striking so much of such subparagraph (F) as follows clause (iv).

(e) Section 402(a)(19)(G) of such Act is amended—

(1) in clause (i), by inserting “(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))” immediately after “administrative unit”,

(2) by striking out, in clause (ii), “subparagraph (A),” and inserting in lieu thereof “subparagraph (A) of this paragraph, (I)”,

(3) by striking out “part C” where it first appears in clause (ii) and inserting in lieu thereof “section 432(b) (1), (2), or (3)”, and

(4) by striking out, in clause (ii), “employment or training under part C,” and inserting in lieu thereof “employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, and (III) for a period

deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment.”

(f) Section 403(c) of such Act is amended by striking out “part C” and inserting in lieu thereof “section 432(b) (1), (2), or (3)”.

(g) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: “In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.”

(h) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on January 1, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

SEVENTY-FIVE PER CENTUM FEDERAL MATCHING FOR
CERTAIN EXPENDITURES FOR INVESTIGATING AND
PROSECUTING CASES OF FRAUD UNDER STATE AFDC
PLANS

SEC. 402. (a) Section 403(a)(3) of the Social Security Act is amended—

(1) by striking out “and” at the end of subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (C); and

(3) by adding after subparagraph (A) the following new subparagraph:

“(B) 75 per centum of so much of such expenditures as are directly attributable to costs incurred (as found necessary by the Secretary) (i) in the establishment and operation of one or more identifiable fraud control units the purpose of which is to investigate and prosecute cases of fraud in the provision and administration of aid provided under the State plan, (ii) in the investigation and prosecution of such cases of fraud by attorneys employed by the State agency or by local agencies administering the State plan in a locality within the State, and (iii) in the investigation and prosecution of such cases of fraud by

attorneys retained under contract for that purpose by the State agency or such a local agency, and”.

(b) Section 403(a)(3) of the Social Security Act (as amended by subsection (a) of this section) is further amended by inserting immediately before the semicolon at the end thereof the following: “, and no payment shall be made under subparagraph (B) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 per centum of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision”.

(c) The amendments made by this section shall be applicable only with respect to expenditures, referred to in section 403(a)(3)(B) of the Social Security Act (as amended by this section), made on or after April 1, 1980.

USE OF INTERNAL REVENUE SERVICE TO COLLECT

CHILD SUPPORT FOR NON-AFDC FAMILIES

SEC. 403. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting “(or undertaken to be collected by such State pursuant to section 454(6))” immediately after “assigned to such State”.

(b) The amendment made by this section shall take effect January 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION UNDER AFDC AND SOCIAL SERVICE PROGRAMS

SEC. 404. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out “and” at the end of clause (B) thereof,

(2) by inserting immediately after “need” at the end of clause (C) thereof the following: “, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity”, and

(3) by inserting “(other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any governmental entity referred to in clause (D) with respect to an activity referred to in such clause)” immediately after “committee or a legislative body”.

(b) Section 2003(d)(1)(B) of the Social Security Act is amended—

(1) by striking out “XVI, or” and inserting in lieu thereof “XVI,” and

(2) by inserting immediately after "XIX" the following: ", or any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity (including any legislative body or component or instrumentality thereof) which is authorized by law to conduct such audit or activity".

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES

PERFORMED BY COURT PERSONNEL

SEC. 405. Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter (beginning with the quarter which commences January 1, 1980) for the operation of the plan approved under section 454, so much of the expenditures of courts (including, but not limited to, expenditures for or in connection with judges, or other individuals making judicial determinations, and other support and administrative personnel) of such State (or political subdivisions thereof) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in

any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

“(3) So much of the payment to a State under subsection (a) for any quarter as is payable by reason of the provisions of this subsection may, if the law (or procedures established thereunder) of the State so provides, be made directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.”.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 455(a) of the Social Security Act is amended by—

- (1) striking out “and” at the end of clause (1),*
- (2) inserting “and” at the end of clause (2), and*
- (3) adding after and below clause (2) the following new clause:*

“(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);”.

(b) Section 454 of such Act is amended—

(1) by striking out “and” at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof “; and”, and

(3) by adding after paragraph (15) the following new paragraph:

“(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient com-

patibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the

State plan from initial referral or application through collection and enforcement.”

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

“(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

“(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

“(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

“(C) sets forth the security and interface requirements to be employed in such management system,

“(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

“(E) contains an implementation plan and backup procedures to handle possible failures,

“(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

“(G) provides such other information as the Secretary determines under regulation is necessary.

“(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under section 452(d)(1) and the conditions specified under section 454(16).

“(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.”.

(d) Section 452 of the Social Security Act is further amended by inserting after subsection (d) (as added by subsection (c) of this section) the following new subsection:

“(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3) of this Act.”

(e) The amendments made by this section shall take effect on January 1, 1980, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 407. (a) Section 403(a)(3) of the Social Security Act is amended by—

(1) striking out “and” at the end of subparagraph (B) (as added by section 402(a) of this Act);

(2) redesignating subparagraph (C) thereof (as redesignated by section 402(a) of this Act) as subparagraph (E); and

(3) by adding after subparagraph (B) (as redesignated by such section) the following new subparagraphs:

“(C) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX,

“(D) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins April 1, 1980) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (C) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and”.

(b)(1) Section 402(a) of the Social Security Act is amended—

(A) by striking out “and” at the end of subparagraph (28),

(B) by striking out the period at the end of subparagraph (29) and inserting in lieu of such period the following: “; and”, and

(C) by adding after and below subparagraph (29) thereof the following new subparagraph:

“(30) at the option of the State, provide, effective April 1, 1980 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including

postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (i) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.”

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

“(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he

finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

“(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

“(B) contains a description of the proposed statewide management system referred to in section 403(a)(3)(D), including a description of information flows, input data, and output reports and uses,

“(C) sets forth the security and interface requirements to be employed in such statewide management system,

“(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

“(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

“(F) contains an implementation plan with charts of development events, testing descriptions, proposed ac-

ceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

“(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

“(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(C), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

“(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(C) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.”.

(c) Title IV of the Social Security Act is further amended by inserting after section 411 the following new section:

*“TECHNICAL ASSISTANCE FOR DEVELOPING
MANAGEMENT INFORMATION SYSTEMS*

“SEC. 412. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(C) of this Act.”

(d) The amendments made by this section shall take effect on April 1, 1980.

*EXPENDITURES FOR THE OPERATION OF STATE PLANS
FOR CHILD SUPPORT*

SEC. 408. (a) Section 455(b)(2) of such Act is amended by striking out “The Secretary” and inserting in lieu thereof “Subject to subsection (d), the Secretary”.

(b) Section 455 is further amended by adding after subsection (c) thereof (as added by section 405 of this Act) the following new subsection:

“(d) Notwithstanding any other provisions of law, no amount shall be paid to any State under this section for the quarter commencing July 1, 1980, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the

last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).”

(c)(1) Section 403(b)(2) of the Social Security Act is amended—

(A) by striking out “and” at the end of clause (A), and

(B) by adding immediately before the semicolon at the end of clause (B) the following: “, and (C) reduced by such amount as is necessary to provide the ‘appropriate reimbursement of the Federal Government’ that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section”.

(2) The amendments made by paragraph (1) shall be effective in the case of calendar quarters commencing after the date of enactment of this Act.

**ACCESS TO WAGE INFORMATION FOR PURPOSES OF
CARRYING OUT STATE PLANS FOR CHILD SUPPORT**

SEC. 409. (a) Part D of title IV of the Social Security Act is amended by adding at the end thereof the following new section:

"ACCESS TO WAGE INFORMATION

"SEC. 463. (a) Notwithstanding any other provision of law, the Secretary shall make available to any State (or political subdivision thereof) wage information (other than returns or return information as defined in section 6103(b) of the Internal Revenue Code of 1954), including amounts earned, period for which it is reported, and name and address of employer, with respect to an individual, contained in the records of the Social Security Administration, which is necessary for purposes of establishing, determining the amount of, or enforcing, such individual's child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 which has been approved by the Secretary under this part, and which information is specifically requested by such State or political subdivision for such purposes.

"(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.

"(c) For disclosure of return information (as defined in section 6103(b) of the Internal Revenue Code of 1954) contained in the records of the Social Security Administration

for purposes described in paragraph (a), see section 6103(l)(7) of such Code.”

(b) Section 3304(a) of the Federal Unemployment Tax Act is amended by redesignating paragraph (17) as paragraph (18) and by inserting after paragraph (16) the following new paragraph:

“(17)(A) wage and other relevant information (including amounts earned, period for which reported, and name and address of employer), with respect to an individual, contained in the records of the agency administering the State law which is necessary (as jointly determined by the Secretary of Labor and the Secretary of Health, Education, and Welfare in regulations) for purposes of establishing, determining the amount of, or enforcing, such individual’s child support obligations which the State has undertaken to enforce pursuant to a State plan described in section 454 of the Social Security Act which has been approved by such Secretary under part D of title IV of such Act, and which information is specifically requested by such State or political subdivision for such purposes, and

“(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such

information is used only for the purposes authorized under subparagraph (A);”.

(c)(1) Section 6103(l) of the Internal Revenue Code of 1954 is amended by inserting after paragraph (6) the following new paragraph:

“(7) DISCLOSURE OF CERTAIN RETURN INFORMATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND TO STATE AND LOCAL WELFARE AGENCIES.—

“(A) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE.—Officers and employees of the Social Security Administration shall, upon request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a)) and wages (as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, to other officers and employees of the Department of Health, Education, and Welfare for a necessary purpose described in section 463(a) of the Social Security Act.

“(B) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION DIRECTLY TO STATE AND LOCAL AGENCIES.—Officers and employees of

the Social Security Administration shall, upon written request, disclose return information with respect to net earnings from self-employment (as defined in section 1402(a) and wages as defined in section 3121(a), or 3401(a)), which has been disclosed to them as provided by paragraph (1)(A) of this subsection, directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 463(a) of the Social Security Act.

“(C) DISCLOSURE BY AGENCY ADMINISTERING STATE UNEMPLOYMENT COMPENSATION LAWS.—*Officers and employees of a State agency, body, or commission which is charged under the laws of such State with the responsibility for the administration of State unemployment compensation laws approved by the Secretary of Labor as provided by section 3304 shall, upon written request, disclose return information with respect to wages (as defined in section 3306(b)) which has been disclosed to them as provided by this title directly to officers and employees of an appropriate State or local agency, body, or commission for a necessary purpose described in section 3304(a) (16) or (17).”*

(2) *Section 6103(n) of the Internal Revenue Code of 1954 is amended to read as follows:*

“(n) CERTAIN OTHER PERSONS.—Pursuant to regulations prescribed by the Secretary—

“(1) returns and return information may be disclosed to any person, including any person described in section 7513(a), to the extent necessary in connection with the processing, storage, transmission, and reproduction of such returns and return information, and the programing, maintenance, repair, testing, and procurement of equipment, for purposes of tax administration, and

“(2) return information disclosed to officers or employees of a State or local agency, body, or commission as provided in subsection (l)(7) may be disclosed by such officers or employees to any person to the extent necessary in connection with the processing and utilization of such return information for a necessary purpose described in section 463(a) of the Social Security Act.”.

(3) Paragraph (3)(A) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out “(l)(1) or (4)(B) or (5)” and inserting in lieu thereof “(l)(1), (4)(B), (5), or (7)”.

(4) Paragraph (4) of section 6103(p) of the Internal Revenue Code of 1954 is amended by striking out "agency, body, or commission described in subsection (d) or (l) (3) or (6)" and inserting in lieu thereof "agency, body, or commission described in subsection (d) or (l) (3), (6), or (7)".

(5) Subparagraph (F)(i) of paragraph (4) of section 6103(p)(4) of the Internal Revenue Code of 1954 is amended by striking out "an agency, body, or commission described in subsection (d) or (l)(6)" and inserting in lieu thereof "an agency, body, or commission described in subsection (d) or (l) (6) or (7)".

(6) The first sentence of paragraph (2) of section 7213(a) of the Internal Revenue Code is amended by striking out "subsection (d), (l)(6), or (m)(4)(B)" and inserting in lieu thereof "subsection (d), (l) (6) or (7), or (m)(4)(B)".

(d) The amendments made by this section shall take effect on January 1, 1980.

**TITLE V—OTHER PROVISIONS RELATING TO
THE SOCIAL SECURITY ACT**

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI

BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by adding at the end thereof the following new section:

*"ADJUSTMENT OF RETROACTIVE BENEFIT UNDER TITLE
II ON ACCOUNT OF SUPPLEMENTAL SECURITY
INCOME BENEFITS*

*"SEC. 1132. Notwithstanding any other provision of
this Act, in any case where an individual—*

*"(1) makes application for benefits under title II
and is subsequently determined to be entitled to those
benefits, and*

*"(2) was an individual with respect to whom sup-
plemental security income benefits were paid under
title XVI (including State supplementary payments
which were made under an agreement pursuant to sec-
tion 1616(a) or an administration agreement under
section 212 of Public Law 93-66) for one or more
months during the period beginning with the first
month for which a benefit described in paragraph (1)
is payable and ending with the month before the first
month in which such benefit is paid pursuant to the
application referred to in paragraph (1),*

*the benefits (described in paragraph (1)) which are otherwise
retroactively payable to such individual for months in the
period described in paragraph (2) shall be reduced by an
amount equal to so much of such supplemental security
income benefits (including State supplementary payments)
described in paragraph (2) for such month or months as*

would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury."

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1132."

(c) Section 1631(b) of such Act is amended by—

- (1) inserting "(1)" immediately after "(b)", and
- (2) adding at the end thereof the following new paragraph:

“(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1132.”

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined after March 31, 1980.

**EXTENSION OF NATIONAL COMMISSION ON SOCIAL
SECURITY**

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out “a term of two years” and inserting in lieu thereof “a term which shall end on April 1, 1981”.

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof “and the Commission shall cease to exist on April 1, 1981.”.

**TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS
WITH RESPECT TO COVERED STATE AND LOCAL EM-
PLOYEES**

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

“(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts

equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and”.

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94-202 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.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(a)(1)(B) of the Social Security Act is amended to read as follows:

“(B) is a resident of the United States, and is either (i) a citizen, or (ii) an alien lawfully admitted for permanent residence, or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or who has been paroled into the

United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act) and who has resided in the United States throughout the 3-year period immediately preceding the month in which he applies for benefits under this title. For purposes of clause (ii), an alien shall not be required to meet the 3-year residency requirement if (I) such alien has been lawfully admitted to the United States as a refugee as a result of the application of the provisions of section 203(a)(7) or has been paroled into the United States as a refugee under section 212(d)(5) of the Immigration and Nationality Act, or has been granted political asylum by the Attorney General, (II) the support agreement with respect to such alien under section 216 of the Immigration and Nationality Act is excused and unenforceable pursuant to subsection (c) of such section, (III) the sponsor of such alien (as defined in section 216 of the Immigration and Nationality Act) fails to provide support for such alien under the terms of the support agreement as required under such section 216, and such alien affirmatively demonstrates to the satisfaction of the Attorney General that he did not participate in any fraud, collusion, or misrepresentation on the part of the sponsor, that he believed in good faith that the sponsor had adequate financial resources to

support him, and that he could not have reasonably foreseen the refusal or inability of the sponsor to comply with the support agreement (provided that the 3-year residency requirement shall not apply only for the period during which such sponsor fails to provide support under such agreement), or (IV) such alien is blind (as determined under paragraph (2)) or disabled (as determined under paragraph (3)) and the medical condition which caused his blindness or disability arose after the date of his admission to the United States for permanent residence. For purposes of the preceding sentence, the medical condition which caused his blindness or disability shall be presumed to have arisen prior to the date of his admission to the United States for permanent residence if it was reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition existed and would result in blindness or disability within 3 years after such date of admission, and the medical condition which caused his blindness or disability shall be presumed to have arisen after such date of admission to the United States for permanent residence if the existence of such medical condition was not known on or before such date of admission, or, if the existence of such medical condition was known, it was not rea-

reasonable to believe, based upon evidence available on or before such date of admission, that such medical condition would result in blindness or disability within 3 years after such date of admission."

(b) The amendment made by subsection (a) shall apply only with respect to aliens applying for supplemental security income benefits under title XVI of the Social Security Act on or after January 1, 1980.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health, Education, and Welfare shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions application to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that

savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary of Health, Education, and Welfare to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of

such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary of Health, Education, and Welfare shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this section together with any related data and materials which he may consider appropriate.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.”

(b) The Secretary of Health, Education, and Welfare is authorized to waive any of the requirements, conditions, or limitations of title XVI of the Social Security Act (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or

more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of such Act or any other Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefits) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616 of such Act), or to provide medical assistance under its plan approved under title XIX of such Act, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such

State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI of such Act.

(c) Any requirements of title II of Public Law 93-348 otherwise held applicable are hereby waived with respect to conditions of payment of benefits under title II or XVI of the Social Security Act or to coverage, or copayments, deductibles, or other limitations on payment for services (whether of general application or in effect only on a trial or demonstration basis) under programs established under titles XVIII and XIX of such Act. Notwithstanding the first sentence of this subsection, the Secretary of Health, Education, and Welfare in carrying out, approving, or reviewing any application for, any experimental, pilot, or demonstration project pursuant to the Social Security Act or this Act shall apply any appropriate requirements of title II of Public Law 93-348 and any regulations promulgated thereunder in making his decision on whether to approve such application.

(d) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this subsection no later than five years after the date of the enactment of this Act.

*INCLUSION IN WAGES OF FICA TAXES PAID BY**EMPLOYER*

SEC. 506. (a) Section 209(f) of the Social Security Act is amended to read as follows:

“(f) The payment by an employer (without deduction from the remuneration of the employee) (1) of the tax imposed upon an employee under section 3101 of the Internal Revenue Code of 1954 (A) for wages paid for domestic service in a private home of the employer, or (B) if such employer is a ‘small business concern’ as that term is employed in the administration of section 7(a) of the Small Business Act (relating to business loans), or (C) if such employer is a State or political subdivision thereof, or (D) if such employer is a private nonprofit organization, which is exempt from income tax under section 501(a) of the Internal Revenue Code of 1954, or (2) of any payment required from an employee under a State unemployment compensation law;”

(b) Section 3121(a)(6) of the Internal Revenue Code of 1954 is amended to read as follows:

“(6) the payment by an employer (without deduction from the remuneration of the employee)—

“(A) of the tax imposed upon an employee under section 3101 of this Code (i) for wages paid for domestic service in a private home of the employer, or (ii) if such employer is a ‘small

business concern' as that term is employed in the administration of section 7(a) of the Small Business Act (relating to business loans), or (iii) if such employer is a State or political subdivision thereof, or (iv) if such employer is a private non-profit organization, which is exempt from income tax under section 501(a), or

“(B) of any payment required from an employee under a State unemployment compensation law;”.

(c) The amendments made by this section shall be effective with respect to remuneration paid after December 31, 1980.

VOLUNTARY CERTIFICATION OF MEDICARE

SUPPLEMENTAL HEALTH INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

“VOLUNTARY CERTIFICATION OF MEDICARE

SUPPLEMENTAL HEALTH INSURANCE POLICIES

“SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)) may be certified by the Secretary as meeting minimum standards set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit

any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards set forth in subsection (c). Such certification shall remain in effect, if the insurer files a statement with the Secretary no later than December 31 of each year stating that the policy continues to meet the standards set forth in subsection (c), and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) the required standards, he shall authorize the insurer to have printed on such policy an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State insurance commissioner with a list of all the policies which have received his certification.

“(b) Any medicare supplemental policy issued in any State which has established under State law a regulatory program providing for the application of minimum standards with respect to such policies equal to or more stringent than the standards provided for under subsection (c) shall be deemed (for so long as the Secretary finds such State program continues to require compliance with such standards) to meet the standards set forth in subsection (c).

“(c) The Secretary shall not certify under this section any medicare supplemental policy for any period, nor continue a certification for any period, unless he finds that for such period such policy—

“(1) meets standards set forth by the Secretary with respect to adequacy of coverage (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another), but such standards shall not require coverage in excess of coverage of the part A medicare deductible and the following coverage required under section 7(I)(2) of the ‘NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act’, adopted by the National Association of Insurance Commissioners on June 6, 1979:

“(A) coverage of part A medicare eligible expenses for hospitalization to the extent not covered under part A from the 61st day through the 90th day in any medicare benefit period;

“(B) coverage of part A medicare eligible expenses incurred as daily hospital charges during use of medicare’s lifetime hospital inpatient reserve days;

“(C) upon exhaustion of all medicare hospital inpatient coverage, including the lifetime reserve days, coverage of 90 percent of all medicare part A eligible expenses for hospitalization not covered by medicare, subject to a lifetime maximum benefit of an additional 365 days; and

“(D) coverage of 20 percent of the amount of medicare eligible expenses under part B regardless of hospital confinement, subject to a maximum calendar year out-of-pocket deductible of \$200 of such expenses and to a maximum benefit of at least \$5,000 per calendar year;

“(2) is written in simplified language, and in a form, which can be easily understood by purchasers;

“(3) does not limit or preclude liability under the policy for a period longer than 6 months because of a health condition existing before the policy is effective;

“(4) contains a prominently displayed ‘no loss cancellaton clause’ enabling the insured to return the policy within 30 days of the date of receipt of the policy (or the certificate issued thereunder) with return in full of any premium paid;

“(5) can be expected (as estimated for such period, not to exceed one year, to the maximum extent appropriate, on the basis of actual claims experience

and premiums for such policy and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies, and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies; and

“(6) contains a written statement, in such form as the Secretary may prescribe, for prospective purchasers of such information as the Secretary shall prescribe relating to (A) the policy’s premium, coverage in relation to the coverage and exclusions under medicare, and renewability provisions, and (B) the identification of the insurer and its agents.

“(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

“(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

“(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned not more than 5 years, or both.

“(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

“(C) This paragraph shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by

one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations.

“(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

“(B) A prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy (or a certificate issued thereunder), or the delivery of such a policy (or a certificate issued thereunder), into any State in which such policy or certificate has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph any medicare supplemental policy (or a certificate issued thereunder) shall be deemed to be approved by the State commissioner or superintendent of insurance of such State if (i) it has been approved by the commissioners or superintendents of insurance in the States in which more than 30 percent of such policies or certificates are sold, or (ii) such State has in effect a law which the commissioner or superintendent of insurance has determined gives him the authority to review, and to approve, or effec-

tively bar from sale in the State, such policy or certificate; except that such a policy or certificate shall not be deemed to be approved by a State commissioner or superintendent of insurance if such State requests to the Secretary that such policy or certificate be subject to such State's approval.

“(C) This paragraph shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy (or certificate issued thereunder) into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy or certificate is mailed is located in such State on a temporary basis.

“(D) This paragraph shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy (or of a certificate issued thereunder) previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy or certificate expires not more than 12 months after the date on which the duplicate copy is mailed.

“(e) The Secretary shall provide to all individuals entitled to benefits under this title (and to the extent feasible, individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

“(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective State programs as described in subsection (b).

“(B) Such study shall also address the need for standards or certification of health insurance policies sold to individuals eligible for benefits under this title, other than medicare supplemental policies.

“(C) The Secretary shall, no later than July 1, 1981, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B),

including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

“(2) The Secretary shall submit to the Congress on January 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of—

“(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

“(B) the need for any changes in the certification procedure to improve its administration or effectiveness; and

“(C) whether the certification program and criminal penalties should be continued.

“(g) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides

reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or members or former members (or combination thereof) of the labor organizations.

“(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section.”.

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on January 1, 1982.

(c)(1) The Secretary of Health, Education, and Welfare shall issue final regulations to implement the certification procedure established under section 1882(a) of the Social Security Act not later than October 1, 1980. No policy shall be certified and no policy may be issued bearing

the emblem authorized by the Secretary under such section, until January 1, 1982. On and after January 1, 1982, policies certified by the Secretary may bear such emblem, including policies which were issued prior to January 1, 1982, and were subsequently certified, and insurers may notify holders of such certified policies issued prior to January 1, 1982, using such emblem in the notification.

(2)(A) The Secretary of Health, Education, and Welfare shall not implement the certification program established under section 1882(a) of the Social Security Act with respect to any State unless he makes a finding, based on the study carried out under section 1882(f)(1)(A)(vi) of such Act and information submitted by such State, that such State cannot be expected to have established, by January 1, 1982, a program meeting the requirements of section 1882(c) of the Social Security Act. If the Secretary makes such a finding, and such finding is not disapproved under subparagraph (B), he shall implement such program under section 1882(a) with respect to medicare supplemental policies sold in such State, until such time as such State meets the requirements of section 1882(b) of such Act.

(B)(i) Any finding by the Secretary under subparagraph (A) shall be transmitted in writing to the Senate Committee on Finance and the House of Representatives Com-

mittees on Interstate and Foreign Commerce and Ways and Means.

(ii) The findings of the Secretary shall not become effective until 60 days after transmittal of the report to the Congress. In counting such days the continuity of a session of Congress is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the period indicated.

**TITLE VI—A PROVISION RELATING TO THE
IMMIGRATION AND NATIONALITY ACT**

SUPPORT OF ALIENS

SEC. 601. (a) Chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

“SEC. 216. (a) No alien shall be admitted to the United States for permanent residence unless (1) at the time of application for admission an agreement described in subsection (b) with respect to such alien has been submitted to, and approved by, the Attorney General (in the case of an alien applying while in the United States) or the Secretary of State (in the case of an alien applying while outside the United States), or (2) such alien presents evidence to the satisfaction of the Attorney General or Secretary of State (as

may be appropriate) that he has other means to provide the rate of support described in subsection (b). The provisions of this section shall not apply to any alien who is admitted as a refugee under section 203(a)(7), paroled as a refugee under section 212(d)(5), or granted political asylum by the Attorney General.

“(b) The agreement referred to in subsection (a) shall be signed by a person (hereinafter in this section referred to as the ‘immigration sponsor’) who presents evidence to the satisfaction of the Attorney General or Secretary of State (as may be appropriate) that he will provide to the alien the financial support required by this subsection, and such agreement shall constitute a contract between the United States and the immigration sponsor. Such agreement shall be in such form and contain such information as the Attorney General or Secretary of State (as may be appropriate) may require. In such agreement the immigration sponsor shall agree to provide as a condition for the admission of the alien, for the full three-year period beginning on the date of the alien’s admission, such financial support (or equivalent in kind support) as is necessary to maintain the alien’s income at a dollar amount equal to the amount such alien would receive in benefits under title XVI of the Social Security Act, including State supplementary benefits payable in the State in which such alien resides under section 1616 of such

Act and section 212 of the Act of July 9, 1973 (Public Law 93-66), if such alien were an 'aged, blind, or disabled individual' as defined in section 1614(a) of the Social Security Act. A copy of such agreement shall be filed with the Attorney General and shall be available upon request by any party authorized to enforce such agreement under subsection (c).

“(c)(1) Subject to paragraphs (3) and (4), the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by the Attorney General or by the alien. Such action shall be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

“(2) Subject to paragraph (4), for the purpose of assuring the efficient use of funds available for public welfare, the agreement described in subsection (b) may be enforced with respect to an alien against his immigration sponsor in a civil action brought by any State (or the Northern Mariana Islands), or political subdivision thereof, which is making payments to, or on behalf of, such alien under any program based on need. Such action may be brought in the United States district court for the district in which the immigration sponsor resides or in which such alien resides, if the amount

in controversy is \$10,000 or more (or without regard to the amount in controversy if the action cannot be brought in any State court), or in the State courts for the State in which the immigration sponsor resides or in which such alien resides, without regard to the amount in controversy.

“(3) The right granted to an alien under paragraph (1) to bring a civil action to enforce an agreement described in subsection (b) shall terminate upon the commencement of a civil action to enforce such agreement brought by the Attorney General under paragraph (1) or by a State (or political subdivision thereof) under paragraph (2).

“(4) The agreement described in subsection (b) shall be excused and unenforceable against the immigration sponsor or his estate if—

“(A) the immigration sponsor dies or is adjudicated as bankrupt under the Bankruptcy Act,

“(B) the alien is blind or disabled from causes arising after the date of admission for permanent residence (as determined under section 1614(a) of the Social Security Act),

“(C) the sponsor affirmatively demonstrates to the satisfaction of the Attorney General that his financial resources subsequent to the date of entering into the support agreement have diminished for reasons beyond

his control and that he is financially incapable of supporting the alien, or

“(D) judgment cannot be obtained in court because of circumstances unforeseeable to the alien at the time of the agreement.

“(d)(1) If an agreement under subsection (b) becomes excused and unenforceable under the provisions of subsection (c)(4)(C) on account of the sponsor’s inability to financially support the alien, such agreement shall remain excused and unenforceable only for so long as such sponsor remains unable to support the alien (as determined by the Attorney General), but in no case shall the agreement be enforceable after the expiration of the three-year period designated in the agreement. The sponsor shall not be responsible for support of the alien for the time during which the agreement was excused and unenforceable, except as provided in paragraph (2).

“(2)(A) If the Attorney General determines that a sponsor intentionally reduced his income or assets for the purpose of excusing a support agreement, and such agreement was excused as a result of such reduction, the sponsor shall be responsible for the support of the alien in the same manner as if such agreement had not been excused, and shall be responsible for repayment of any public assistance provided to such alien during the time such agreement was so excused.

“(B) For purposes of this paragraph the term ‘public assistance’ means cash benefits based on need, or food stamps.”.

(b) The table of contents for chapter 2 of title II of the Immigration and Nationality Act is amended by adding at the end thereof the following new section:

“Sec. 216. Support of aliens.”.

(c) Section 212(a)(15) of the Immigration and Nationality Act is amended by inserting before the semicolon the following: “, or who fail to meet the requirements of section 216”.

(d) The amendments made by this section shall apply with respect to aliens applying for immigrant visas or adjustment of status to permanent resident on or after the first day of the fourth month following the date of the enactment of this Act.

Amend the title so as to read: "An Act to amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes."

Passed the House of Representatives September 6, 1979.

Attest: EDMUND L. HENSHAW, JR.,
Clerk.

Passed the Senate January 31 (legislative day, January 3), 1980.

Attest: J. S. KIMMITT,
Secretary.

LEGISLATIVE REPORT

SOCIAL SECURITY
ADMINISTRATION

Number 6

February 7, 1980

SENATE PASSES DISABILITY LEGISLATION

On January 31 the Senate concluded debate and passed H.R. 3236, the "Social Security Disability Insurance Amendments of 1979," by a vote of 87-1. On December 5, the Senate began debate on the bill, agreeing to adopt two additional Finance Committee amendments. Final debate occurred on January 30 and 31. With the exception of the modifications described below, the Senate passed the Finance Committee-reported version of H.R. 3236 (See Legislative Report No. 4). The House and Senate must now reach agreement on the differences between their respective bills.

Senate Floor Amendments

- o Modification of Senate Finance Committee Amendment to Count Employer Payment of an Employee's Portion of the Social Security Tax as Wages for Social Security Tax Purposes -- Thurmond (R, SC)

Under present law, any employer payment of the employee portion of the FICA tax is not counted as wages to the employee for social security purposes. The Senate Finance Committee provision would have counted employer payment of the employee share of FICA tax as wages to the employee except for domestic employees. The Senate-passed amendment extends the exclusion to State and local governments, small business employers (as defined by the Small Business Administration), including farmers, and tax-exempt institutions from the change in law. The provision would be effective with respect to remuneration paid after December 31, 1980.

- o Elimination of the Waiting Period in Terminal Illness Cases -- Bayh (D, IN)

In cases where a person has an impairment that has been confirmed by two physicians that is expected to result in death within 12 months (the bill does not spell out the reference point of the 12-month period), the 5-month disability waiting-period requirement would be eliminated. Thus, social security disability benefit payments could be made for the first full month of disability. Benefits would not be payable for months before October 1980.

- o Make Sponsors' Agreements of Support of Aliens Legally Binding -- Percy (R, IL)

Would amend the Immigration and Nationality Act to make sponsors' agreements of support for aliens legally binding for a 3-year period; exceptions are provided for refugees, aliens granted political asylum, aliens who become blind or disabled because of a medical condition arising after entry, and for sponsors who die or suffer an unforeseeable change in financial circumstances. The amendment also modifies the 3-year residency

requirement for SSI eligibility on the part of aliens (added to the bill by the Senate Finance Committee): if a sponsor, without good cause, fails to comply with his support agreement, SSI benefits would be payable to the alien without regard to the 3-year residency requirement while the Federal Government pursues enforcement of the agreement.

o Protect State Employees Where a State Disability Determination Process is Federalized
-- Nelson (D, WI)

The Secretary of HEW would be required to develop a plan to provide State employees who are capable of performing duties in the disability determination process a hiring preference, notwithstanding any other preference in law, when the Secretary partially or fully assumes the disability determination function of a State agency. The Secretary could not assume such function until the Secretary of Labor determines that the State has made arrangements to protect employees who will not be hired under every applicable Federal, State, and local statute.

o Limit Federal Right to Regulate State Agencies Making Disability Determinations --
Talmadge (D, GA)

The Secretary, in promulgating regulations describing performance standards and other criteria for State agencies making disability determinations (which would take the place of the current State agreements), would be prohibited from taking any action except those authorized by law or regulations pursuant to law.

o Provide for a Study of Appeals Council Review of Administrative Law Judges' Decisions
-- Bellmon (R, OK)

The Secretary will undertake a program of review of disability decisions by administrative law judges (ALJ's) and will report to the Congress by January 1, 1982, on the percentage of decisions being reviewed. The report will also describe the criteria for selecting those to be reviewed and the extent to which individual ALJ reversal rates and other factors are taken into account.

o Provide for Voluntary Certification of Medicare Supplemental Health Insurance Policies
(MediGap) -- Baucus (D, MT)

The Secretary would establish a voluntary program which would certify Medicare supplemental health insurance (known as MediGap) policies which meet certain minimum standards. Final regulations to announce the certification procedures would be issued by October 1, 1980, with actual issuance of seals of certification to begin January 1, 1982. The proposal would require a finding based on a study by the Secretary to be submitted to the Congress that State programs are inadequate before implementation of the voluntary certification program.

The proposal would also require the Secretary to make information available to persons entitled to Medicare to help them evaluate such private health insurance policies and provide increased penalties for insurers and their agents for misrepresentation.



William J. Driver
Commissioner

* * * * *

Mr. LONG. I thank the Senator.

Mr. President, I look forward to the day when we will have the bill before us and will be discussing it.

Between now and then, however, if our plans can be assured, we are going to be here with a major health bill. I hope it will point us to what will be in the best interests of the Nation.

We will have something that is broader, I hope, than just a catastrophic illness insurance bill. But I hope it will at least cover catastrophic illness.

We will certainly try to provide the best answers in both areas.

Mr. President, I move that the Senate insist on its amendments to the bill H.R. 3236, I ask for a conference with the House thereon, and that the Chair appoint conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer (Mr. EXON) appointed Messrs. LONG, TALMADGE, RIBICOFF, NELSON, BAUCUS, DOLE, DANFORTH, and DUR-ENBERGER conferees on the part of the Senate.

Mr. LONG. Mr. President, I ask unanimous consent that the bill H.R. 3236 be printed as amended by the Senate.

Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read:

An Act to amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

* * * * *

**APPOINTMENT OF CONFEREES ON
H.R. 3236, DISABILITY INSURANCE
AMENDMENTS OF 1979**

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER pro tempore (Mr. MINISH). Is there objection to the request of the gentleman from Oregon?

Mr. CONABLE. Mr. Speaker, reserving the right to object, is it the expectation of the chairman this bill will move to conference promptly, or what is his expectation?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Oregon.

Mr. ULLMAN. That certainly is the intention of the chairman, just as rapidly as we can go to conference, hopefully tomorrow.

Mr. CONABLE. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN)?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman briefly describe what this bill is?

Mr. ULLMAN. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Oregon.

Mr. ULLMAN. As the gentleman knows, this is a bill out of the Subcommittee on Social Security that tightens up on the disability provision.

The gentleman from the subcommittee will be happy to respond.

Mr. ROUSSELOT. Mr. Speaker, further reserving the right to object, this is the Pickle bill; is it not?

Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Texas.

Mr. PICKLE. This is the disability bill that offers a great deal of work incentive for people who are disabled so they would be urged to go back to work and can have protection by having extended work-type periods in that type of protection.

It makes other changes, but it is the bill that we passed last week, and we are just now getting to the conference on it.

Mr. ROUSSELOT. I appreciate the gentleman's explanation.

I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. ULLMAN)? The Chair hears none and, without objection, appoints the following conferees: MESSRS. ULLMAN, CORMAN, PICKLE, JACOBS, COTTER, RANGEL, CONABLE, ARCHER, and DUNCAN of Tennessee.

There was no objection.

[JOINT COMMITTEE PRINT]

**SOCIAL SECURITY DISABILITY AMENDMENTS
OF 1979**

H.R. 3236

**Comparison of House and Senate Bills
With Existing Law**



MARCH 27, 1980

Prepared for the use of the Conferees

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**SOCIAL SECURITY DISABILITY AMENDMENTS
OF 1979**

H.R. 3236

**Comparison of House and Senate Bills
With Existing Law**

I. PROVISIONS RELATING TO DISABILITY

ITEM	PRESENT LAW
1. Limit on family disability insurance benefits.	<p>The social security disability insurance program (DI) determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average indexed earnings the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.</p>
2. Reduction in dropout years.	<p>The basic benefit amount may be increased if the worker has a dependent spouse or children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.</p>
	<p>Disabled workers are allowed to exclude up to 5 years of low earnings in averaging their earnings. However, at least 2 years of earnings are used in the benefit computation.</p>

BENEFITS UNDER OASDI PROGRAM

HOUSE BILL

The House bill would limit total DI family benefits to the smaller of 80 percent of the worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). Under the provision, no family benefit would be reduced below 100 percent of the worker's primary benefit.

The limitation would be effective with respect to individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978. (Sec. 2, pp. 2-4.)

The House provision would exclude years of low earnings in the computation of disability benefits according to the following schedule:

Worker's age:	Number of dropout years
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

The provision would also allow workers to drop out additional low years if in those years the worker provided principal care of a child under age 6. In no case would the number of dropout years exceed 5.

The provision of fewer dropout years applies to disabled workers who first become entitled to benefits after 1979. The amendment allowing additional dropout years for childcare would be effective for monthly benefits payable for months after 1980. (Sec. 3, pp. 4-6.)

SENATE BILL

The Senate bill would limit total DI family benefits to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. As under the House bill, no family benefit would be reduced below 100 percent of the worker's primary benefit.

Same effective date as House bill except the limitation would not apply to individuals who join the benefit rolls on or after January 1, 1980, who were on the rolls (or had a period of disability) at any time prior to calendar year 1980. (Sec. 101, pp. 33-35.)

The Senate bill would exclude years of low earnings in the computation of benefits according to the following schedule:

Worker's age:	Number of dropout years
Under 32.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

No similar provision.

The provision of fewer dropout years applies to disabled workers who first become entitled to benefits after 1979. The provision would not apply to individuals who join the benefit rolls on or after January 1, 1980, who were on the rolls (or had a period of disability) at any time prior to calendar year 1980. (Sec. 102, pp. 35-37.)

ITEM	PRESENT LAW
3. Elimination of second medicare waiting period.	Beneficiaries of disability insurance must wait 24 consecutive months after becoming entitled to benefits to become eligible for medicare. If a beneficiary loses his eligibility and then becomes disabled again, another 24-consecutive-month waiting period is required before medicare-coverage is resumed.
4. Extension of medicare for an additional 36 months.	Medicare coverage ends when disability insurance benefits cease.
5. Funding for vocational rehabilitation services for disabled individuals.	Provides for reimbursement from social security trust funds to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. Purpose of the payment is to accrue savings to the trust funds as a result of rehabilitating the maximum number of beneficiaries into productive activity. Total amount of the funds that may be made available for such reimbursement may not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

HOUSE BILL

SENATE BILL

The House provision would eliminate the requirement that a person who becomes disabled a second time must undergo another 24 consecutive month waiting period before medicare coverage is available to him. The amendment would apply to workers becoming disabled again within 60 months, and to disabled widows, or widowers and adults disabled since childhood becoming disabled again within 84 months.

The provision would be effective in the month after enactment. (Sec. 7, pp. 12-14.)

The House provision would extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period would be part of the new 24-month trial work period described on pp. 12-13.)

The provision applies to disability beneficiaries whose disability has not been determined to have ceased prior to the date of enactment. (Sec. 6(b), pp. 10-12.)

Effective for fiscal 1982, eliminates trust fund financing for rehabilitation services but provides trust fund reimbursement for the Federal share (80%) to the General fund of the U.S. Treasury and to the States for twice the State share ($20\% \times 2$) of rehabilitation services which result in the performance by a rehabilitated individual of substantial gainful activity (SGA) for a continuous period or 12 months or which result in employment for 12 consecutive months in a sheltered workshop. Directs the Secretary of HEW to study alternative methods of providing and financing the costs of rehabilitation services to disabled beneficiaries in order to realize maximum savings to the trust funds and submit a report with recommendations to the President and the Congress by January 1, 1980. (Sec. 13, pp. 25-28.)

Same as House bill.

The provision would be effective after June 1980. (Sec. 103, pp. 37-39.)

Same as House bill.

The provision applies to disability beneficiaries whose disability has not been determined to have ceased prior to July 1980. (Sec. 104, pp. 38-39.)

No change from present law. For vocational rehabilitation demonstration and experiment authority see p. 36 of this print.

ITEM

PRESENT LAW

6. Elimination of the 5-month waiting period for terminally ill persons.

The waiting period is the earliest period of 5 consecutive months in which an individual is under a disability. An individual is determined disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for not less than 12 months. If an individual becomes disabled and applies for benefits in the same month, the waiting period will be satisfied 5 months after the month of application. With all other conditions of eligibility having been met, benefits will be due for the sixth month after the month in which the disabling condition begins, and will be paid on the third day of the seventh month.

The waiting period cannot begin until the individual is insured for benefits (i.e., the individual has satisfied the quarters of coverage requirements). If the disabling condition begins before an individual is insured for benefits, the waiting period can begin only with the first month in which the individual has insured status.

If a worker is applying for benefits after having been entitled to DI benefits previously (or had a previous period of disability) within 5 years prior to the current application, the waiting period requirement does not have to be met again.

HOUSE BILL**SENATE BILL**

No change from present law.

The Senate bill would eliminate the waiting period for persons with a terminal illness, i.e., "a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations of title XX."

The provision would be effective for applications filed in or after the month of enactment, or for disability decisions not yet rendered by the Social Security Administration or the courts prior to the month of enactment.

Benefits would be payable beginning October 1980. (Bayh floor amendment adopted by a vote of 70 to 23), (Sec. 105, pp. 39-41).

II. PROVISIONS RELATING TO DISABILITY

ITEM	PRESENT LAW
1. Benefits for individuals who engage in employment activity.	Under present law, an individual may qualify for SSI disability payments only if and for so long as he "is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). As of July 1, 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in SGA was \$280 a month. An individual who in fact has earnings above this level (1) cannot become eligible for SSI disability and (2) if already eligible will (after a 9-month trial work period) cease to be eligible.

BENEFITS UNDER SSI PROGRAM

HOUSE BILL

SENATE BILL

No provision. However, H.R. 3464 provides for the "substantial gainful activity" (SGA) earnings limit, currently \$280 a month, to be raised to the level at which an *applicant's* or *recipient's* monthly countable earnings equal the basic Federal SSI benefit for that month. Based on the July 1, 1979, monthly Federal SSI benefit of \$208, under the bill the SGA earnings limit would be \$481 a month for a disabled individual with no excludable "impairment related work expenses" and \$690 a month if the individual had an eligible spouse.

In determining countable earnings for purposes of the SGA earnings limit, a person's gross monthly earnings would be reduced by the first \$65 of such earnings and 50 percent of remaining earnings. In addition, individuals whose disabilities are sufficiently severe to result in a functional limitation necessitating special assistance in order for them to work would be allowed an "impairment related work expense disregard." Such individuals would be allowed to reduce their countable earnings for purposes of SGA by an amount equal to the cost of specified services, devices, or other items which, because of their disability, they must have in order to be able to work, regardless of who pays for the necessary services. This "impairment related work expense disregard" would be applied to an individual's earnings before the "50 percent of remaining earnings disregard" is applied.

Provisions of H.R. 3464 would be permanent.

Effective date.—July 1, 1980.

Sec. 2, pp. 2-3.

Provides that a disabled *recipient* who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the cash benefit to be reduced to zero (as of July 1979, \$481 for individual and \$690 if the individual has an eligible spouse), the special benefit status would be terminated and the individual would not thereafter be eligible for any cash benefits under the Federal program unless he could again establish his eligibility for SSI under the rules of existing law, including the SGA limitation—now \$280 per month.

When earnings rise to the point that the special benefit status is terminated, the individual would nevertheless retain eligibility for medicaid and social services, if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision allowing continuation of eligibility for medicaid and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind.

The Senate provisions would be effective for 3 years during which the Department would be required to provide for a separate accounting of funds expended under this provision.

Effective date.—July 1, 1980.

Sec. 201, pp. 41-44.

ITEM

PRESENT LAW

2. Employment in sheltered workshops.

Earnings from employment in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining SSI payments, and therefore do not qualify for the earned income disregards (\$65 a month plus $\frac{1}{2}$ of additional earnings).

3. Deeming of parents' income to disabled or blind children.

Requires that the parents' income and resources be deemed to a blind or disabled child who is under age 18 in determining the child's eligibility for SSI, or under 21 in the case of an individual who is in school or a training program.

HOUSE BILL

SENATE BILL

No provision.

Provides that earnings received in sheltered workshops and work activities centers would be considered earned income and therefore qualify for the earned income disregards. (Sec. 202, p. 45.)

Effective date.—Applies to remuneration received in months after June 1980.

No provision. However, H.R. 3464 includes a provision identical to the Senate provision. (Sec. 6, p. 9.)

Provides that the deeming of parents' income and resources would be limited to disabled or blind children under age 18, whether or not the person is in school or training. Children receiving SSI who, on the effective date of the provision, are age 18 to 21 would be protected against loss of benefits due to this change. (Sec. 203, p. 45.)

Effective date.—July 1, 1980.

Effective date.—July 1, 1980.

III. PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER

ITEM	PRESENT LAW
1. Termination of benefits for persons in vocational rehabilitation programs.	Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled.
2. Treatment of work expenses. a. Deduction of impairment-related work expenses in determining substantial gainful activity (SGA).	Regulations issued under present law provide that in determining whether an individual is performing SGA, extraordinary expenses incurred by the individual in connection with his employment and because of his impairment are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.
b. Deduction of impairment-related work expenses in determining SSI benefit.	In determining eligibility for and the amount of SSI benefits for the aged, blind and disabled, the first \$65 of monthly earnings plus one-half of remaining earnings are disregarded. In addition, for blind and disabled applicants and recipients, the cost of an approved plan for self-support is disregarded. And, for the blind only, expenses reasonably attributable to the earnings of income (i.e., "work related expenses") are disregarded.

OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

HOUSE BILL

SENATE BILL

Provides that DI benefits will continue after medical recovery for persons in approved vocational rehabilitation plans or programs, if the Commissioner of SSA determines that continuing in those plans or programs will increase the probability of beneficiaries going off the rolls permanently. (Sec. 14, pp. 28-29.)

Effective date.—Upon enactment.

H.R. 3464 contains identical provision for SSI beneficiaries. (Sec. 8.)

Effective date.—July 1, 1980.

For purposes of title II (DI), provides for a deduction from earnings of costs to the individual of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions. (Sec. 5, pp. 8-9.)

For purposes of title XVI (SSI), H.R. 3464 includes the same provision as H.R. 3236, but also provides that the deduction would apply even where the individual does not pay the cost of the impairment-related work expenses (i.e., where the cost is paid by a third party). (Sec. 2.)

There is no provision in the House bills giving the Secretary authority to specify in regulations the type of care, services and items that may be deducted. H.R. 3464 provides that the Secretary may prescribe amounts which may be deducted in the case of items furnished without cost to the individual (by a third party). (Sec. 2.)

Effective date.—Upon enactment. (H.R. 3464—effective July 1, 1980.)

H.R. 3464 provides, in determining a person's monthly SSI payment, for a deduction from earnings of the costs of extraordinary impairment-related work expenses that are paid for by the individual.

Same provision for SSI and DI beneficiaries except that the Secretary, rather than the Commissioner would make the determination as to whether benefits should be continued. (Sec. 301, pp. 46-48.)

Effective date.—July 1, 1980.

Same provision, but also provides that the deduction would apply even where the individual does not pay the cost of the impairment-related work expenses (i.e., where the cost is paid by a third party). (Sec. 302, pp. 48-49.)

Includes the same provision with respect to SSI as H.R. 3464. (Sec. 302, pp. 48-49.)

Adds language to both titles II and XVI giving the Secretary the authority to specify in regulations the type of care, services, and items that may be deducted, and provides that the amounts to be deducted shall be subject to such reasonable limits as the Secretary may prescribe. (Sec. 302, pp. 48-49.)

Effective date.—Applies to expenses incurred on or after July 1, 1980.

No provision.

ITEM	PRESENT LAW
<p>2. Treatment of work expenses—Continued c. Deduction of normal work expenses in determining SSI benefit.</p>	See above.
<p>3. Extension of the trial work period.</p>	<p>Under the DI and SSI programs, when an individual completes a 9-month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following. Under the DI program, widows and widowers are not entitled to a trial work period.</p>
<p>4. Disability determinations; Federal review of State agency decisions. a. Administration by State agencies.</p>	<p>Under the SSI program, an individual who has lost eligibility for disability benefits because of earnings in excess of the SGA limit must re-apply as a new applicant in order to reestablish eligibility for SSI disability payments.</p>
	<p>Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. Unlike the grant-in-aid programs, the relationship is contractual and State laws and practices are controlling with regard to many administrative aspects. State agencies make the determinations based on guidelines provided by the Department and the costs of making the determinations are paid from the disability trust fund in the case of DI claimants, or from general revenues in the case of SSI</p>

HOUSE BILL

SENATE BILL

H.R. 3464 provides for a "standard work related expense disregard" equal to 20 percent of gross earnings in the determination of a disabled applicant's or recipient's monthly SSI payment. Effective date.—July 1, 1980.

Extends trial work period to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits while engaging in substantial work activity, but could automatically be reinstated to active benefit status if a work attempt fails.

The provision also provides that the same trial work period would be applicable to disabled widows, and widowers (who are not permitted a trial work period at all under existing law). (Sec. 6, p. 9.)

Effective date.—Upon enactment for individuals whose disability has not been determined to have ceased before enactment.

H.R. 3464 provides the same extension of trial work period for SSI recipients as for DI beneficiaries.

In addition, H.R. 3464 provides that a person who loses DI or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he or she reapplies for SSI benefits within 4 years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he or she meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met. (Sec. 4.)

Effective July 1, 1980.

Requires that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. Requires the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States." Certain operational areas are cited (p. 57) as "examples" of what the regulations may specify.

No provision.

Same provision with differing language to correct technical error. (Sec. 303, pp. 47-53.)

Same as the House bill.

Effective date of extension to widow(ers).—Same as House bill. Effective date of 12 month trial work extension.—July 1, 1980.

Provides same extension of trial work period for SSI recipients as for DI beneficiaries. (Sec. 303, pp. 49-55.)

No provision.

Same as House bill, except includes two floor amendments which:

- (1) Delete as an example of the kinds of matters which the Secretary's regulations may cover: "any other rules designed to facilitate or control or assure the equity and uniformity of the State's disability decision."
 - (2) Add language specifying that "Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law." (Sec. 304, pp. 55-58.)
- (Long (for Talmadge) floor amendment adopted by voice vote.)

ITEM

PRESENT LAW

4. Disability determinations—Continued
a. Administration by State agencies—
Continued

claimants by way of advancements of funds or reimbursements to the contracting State agency. Present agreements allow both the State and the Secretary to terminate the agreement. The States generally may terminate with 12 months' notice and the Secretary may terminate if he finds the State has not complied substantially with any provision of the agreement.

The bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the provision allows for termination by the State. The State is required to continue to make disability determinations for not less than 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Same as House bill.

Requires the Secretary to submit to the Committee on Ways and Means and the Committee on Finance by Jan. 1, 1980, a detailed plan on how he expects to assume the functions of a State disability determination unit when this becomes necessary. Provides that the plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out that function. If any amendment of Federal law or regulation is required to carry out such plan, a recommendation for such amendment should be included in the plan for action, or for submittal by such committees, with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws. (Sec. 8, pp. 14-21.)

Same as House bill except delays report by Secretary to July 1, 1980, and requires report to Congress rather than to the Committees on Ways and Means and Finance. Also includes floor amendments which:

Adds the requirement that if the Secretary assumes the disability determination function he must assure preference to State agency employees in filling new Federal positions. In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor determined that, with respect to any displaced State employees who were not hired by the Secretary, the State had made "fair and equitable arrangements to protect the interests of employees so displaced." The protective arrangements would have to include only those provisions provided under all applicable Federal, State, and local statutes, including the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements, the continuation of collective-bargaining rights, the assignment of affected employees to other jobs or to retraining programs, the protection

ITEM

PRESENT LAW

4. Disability determinations—Continued
a. Administration by State agencies—
Continued

b. Federal review of State agency decisions.

Under current administrative procedures of the Social Security Administration, approximately 5 percent of disability claims adjudicated by the State disability determination units are reviewed by Federal examiners. The Secretary has authority to revise favorable decisions with respect to DI beneficiaries. He may revise both favorable and unfavorable decisions in SSI. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. This is on sample basis and varies from 2 percent in the larger States to 25 percent in the smaller States.

HOUSE BILL

SENATE BILL

Effective date.—Effective beginning with the 12th month following the month in which the bill is enacted. Any State that has an agreement on the effective date of the amendment will be deemed to have given affirmative notice of wishing to make disability determinations under the regulations. Thereafter, it may give notice of termination which shall be effective no earlier than 180 days after the notice is given.

Requires Federal pre-adjudicative review of DI allowances according to the following schedule (at least):

Fiscal year:	Percent
1980 -----	15
1981 -----	35
1982 and thereafter-----	65

(Section 8(c), pp. 17-18.)

No provision for preadjudicative review of SSI determinations is contained in H.R. 3464.

of individuals against a worsening of their positions with respect to employment, the protection of health benefits and other fringe benefits, and the provision of severance pay. (Sec. 304, pp. 58-64.)

(Nelson amendment adopted by a voice vote.)

Effective date.—Same as House bill.

The Federal review of State agency decisions would include both allowances and denials, according to the following schedule (at least):

Fiscal year:	Percent
1981 -----	15
1982 -----	35
Thereafter -----	65

(Sec. 304, pp. 60-61.)

(The Senate committee report specifies that SSA will determine if these percent requirements should be higher or lower on an individual State basis and, that these review procedures will also be applied to the SSI program. Percent requirements would apply only for the DI program.)

The Secretary would be given the authority to revise decisions that are unfavorable to DI claimants. (Sec. 304, p. 55.)

Under a floor amendment, the Secretary of Health, Education, and Welfare would be required to implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221 (d) of the Social Security Act. He would be required to report to Congress by January 1, 1982, on the progress of this program. In his report, he must indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges. (Long (for Bellmon) floor amendment adopted by a voice vote.) (Sec. 304, p. 62.)

ITEM	PRESENT LAW
5. Information to accompany Secretary's decisions as to claimant's rights.	There is no statutory provision setting a specific level of information to explain the decision made on a claim for benefits.
6. Limitation on prospective effect of application.	Provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met and the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a final decision. This is frequently referred to as the "floating application" process.
7. Limitation on court remands.	Prior to filing an answer in a claimant appeal of a court case, the Secretary may, on his own motion, remand a case back to an ALJ. Similarly, under existing law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ.
8. Time limits for decisions on benefit claims.	There is no limit on the time that may be taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

HOUSE BILL

SENATE BILL

Requires that any decision by the Secretary with respect to all title II claimants shall provide notice to the claimant which includes:

- a citation and discussion of the pertinent law and regulations,
- a list and summary of the evidence of record,
- the Secretary's determination and the reason(s) upon which it is based.

(Sec. 9, p. 21.)

Effective date.—For decisions made on and after the first day of the second month following the month of enactment.

H.R. 3464 (Sec. 7) contains identical provision for SSI applicants.

Effective date.—July 1, 1980.

Provides that an application will be valid only if the applicant is found to meet the eligibility requirements no later than the month in which the decision is made by the ALJ on the basis of a hearing. This has the effect of foreclosing the introduction of new evidence with respect to a previously filed application after the decision is made at the Administrative Law Judge (ALJ) hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect. (Sec. 10, pp. 21-23.)

Effective date.—Applies to applications filed after the month in which the Act is enacted.

Limits the absolute authority of the Secretary of HEW to remand court cases. Requires that such remands would be discretionary with the court upon a showing by the Secretary of good cause. A second provision relates to remands by the court. The bill would provide that a remand would be authorized only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding. (Sec. 11, pp. 23-24.)

Effective date.—Upon enactment.

Requires the Secretary of HEW to submit a report to Congress recommending appropriate time limits for the various levels of adjudication of Title II cases. In recommending the limits, the Secretary shall give adequate consideration to both speed and quality of adjudication. (Sec. 12, pp. 24-25.)

Effective date.—Report due by January 1, 1980.

Requires that notices of disability denial to DI and SSI claimants shall use understandable language and include:

- a discussion of the evidence.
- the Secretary's determination and the reason(s) upon which it is based.

(Sec. 305, p. 64.)

Effective date.—For decisions made on or after the first day of the 13th month following the month of enactment.

Same provision. (Sec. 303, pp. 65-66.)

The committee report states that although the bill makes this change on a statutory basis only in DI inasmuch as SSI, unlike DI, does not specify the period of validity for an application but leaves that matter to be determined through regulations, the committee would expect the same rule to be followed in both SSI and DI, as is the case under current law.

Effective date.—Same.

Same provision. (Sec. 307, pp. 66-67.)

Effective date.—Same.

Same provision. (Sec. 308, pp. 67-68.)

Effective date.—Report due by July 1, 1980.

ITEM

PRESENT LAW

9. Payment for existing medical evidence.

Authority does not exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

10. Payment for certain travel expenses.

Explicit authority does not exist under the Social Security Act to make payments from the trust funds to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

11. Periodic review of disability determinations.

Administrative procedures provide that a disability beneficiary's continued eligibility for benefits be reexamined only under a limited number of circumstances (i.e., where there is a reasonable expectation that the beneficiary will show medical improvement.)

12. Scope of Federal court review—findings of fact.

The U.S. District Court shall have power to enter upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a hearing. The findings of the Secretary as to any fact if supported by substantial evidence, shall be conclusive.

13. Report by Secretary.

Not applicable.

HOUSE BILL

SENATE BILL

Provides that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence. (Sec. 15, pp. 29-30.)

Effective date.—For evidence supplied on or after the date of enactment.

Provides permanent authority for payment of the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the adjudication process. (Sec. 16, pp. 30-31.)

Effective date.—Upon enactment.

(No provision in H.R. 3464.)

Provides that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. This review shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required. (Sec. 17, p. 31.)

Effective date.—Upon enactment. The committee report states "the provision should apply to all new determinations of disability after the date of enactment and that reviews and scheduling of necessary medical examinations for all current disability cases be completed no later than 3 years after the date of enactment."

No provision.

No provision.

Same provision except stipulates that payment for evidence will be made to the provider only when such evidence is "requested" and required by the Secretary. (Sec. 309, p. 68.)

Effective date.—For evidence requested on or after July 1, 1980.

Same provision which is extended to include SSI and medicare. However, the limitation on air travel costs was omitted in the title II authority. (Sec. 310, pp. 69-71.)

Effective date.—Upon enactment.

Same provision except that even cases where the initial prognosis shows the probability that the condition will be permanent will be subject to review made at such times as the Secretary determines to be appropriate. (Sec. 311, pp. 71-72.)

Effective date.—The thirteenth month after enactment.

Modifies the scope of Federal court review so that the Secretary's determinations with respect to facts in Title II and Title XVI would be final, unless found to be arbitrary and capricious. The substantial evidence requirement would be deleted. (Sec. 312, p. 72.)

Effective date.—Upon enactment.

Requires that the Secretary of HEW shall provide to Congress by January 1985, a full and complete report as to the effects produced by the first three titles of the bill, which relate to the DI and SSI disability programs. (Sec. 313, p. 72.)

IV. AFDC AND CHILD

ITEM

PRESENT LAW

- | | |
|---|---|
| 1. AFDC work requirement. | |
| a. Employment search requirement. | AFDC recipients who are not specifically exempt are required to register for manpower services, training, and employment as a condition of AFDC eligibility. |
| b. Termination of assistance. | There is a 60-day counseling period during which assistance may not be terminated despite an individual's refusal to participate in WIN so long as the individual accepts counseling and other services aimed at persuading the individual to participate in a WIN program.

Assistance may be terminated "for so long as" an individual (who has been certified by the welfare agency as ready for employment or training) refuses without good cause to participate in WIN. Under court interpretation WIN sanctions may be applied only "for so long as" there is refusal, thus allowing a recipient to move on and off AFDC without being subject to any specific period during which his benefits may be terminated. |
| c. Support units. | States must have special units to provide supportive services to WIN registrants. |
| d. State matching funds. | States must provide 10 percent of the cost of the WIN program; matching for manpower activities may be in cash or in kind; matching for supportive services must be in cash. |
| e. Treatment of public service employment earnings. | An error in drafting the 1971 WIN amendments leaves unclear whether income from WIN public service employment (PSE) is excluded in determining AFDC benefits. Under one district court decision all such income must be excluded, with the result that a recipient receives both his full PSE salary plus his full AFDC benefit. The effect has been to end WIN PSE programs in that district. |
| f. Individuals exempt from WIN. | Certain categories of AFDC recipients are exempt from the WIN registration requirement, including children under 16; persons caring for a child under 6; persons who are ill or needed as caretaker of someone in the home who is ill; or persons who are remote from a WIN project. |

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No provision.

Adds "other employment related activities" to the types of activities for which recipients must register. These are described in the Senate Committee Report as including employment search. Requires that necessary social and supportive services be provided during employment search. Allows provision of such services to WIN registrants prior to certification.

No provision.

Eliminates provision for 60-day counseling period.

No provision.

Authorizes the Secretaries of Labor and HEW to establish, by regulation, the period of time during which an individual will not be eligible for assistance in the case of refusal without good cause to participate in a WIN program.

No provision.

Requires that these special units be co-located with the manpower units to the maximum extent feasible.

No provision.

Allows State matching for supportive services to be in cash or in kind.

No provision.

Clarifies that income from WIN public service employment is not fully excluded in determining benefits. WIN PSE income would be counted, subject to a disregard of work expenses. (As under current regulations, there would be no disregard of the first \$30 a month and $\frac{1}{3}$ of additional earnings.)

No provision.

Adds to the individuals who are exempt from registration for WIN, individuals who are working at least 30 hours a week. (Sec. 401, pp. 72-75.)

Effective date.—January 1, 1980 (items (b) and (e) are effective on enactment).

ITEM

PRESENT LAW

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|---|---|
| 2. Matching for AFDC antifraud activities. | Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. |
| 3. Use of IRS to collect child support for non-AFDC families. | Authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the State had made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of HEW. The State must agree to reimburse the U.S. for any costs involved in making the collection. |
| 4. Safeguards restricting disclosure of certain information under AFDC and Social Services. | Title IV (AFDC) restricts the disclosure of information on AFDC recipients to purposes directly connected with (1) the AFDC program, SSI, Medicaid, or Title XX social services programs; (2) any investigation, prosecution, or criminal or civil proceeding related to the administration of the program; or (3) the administration of any other federally assisted program providing assistance or services based on need. The disclosure to any committee or legislative body of information which identifies by name or address any such applicant or recipient is prohibited. Title XX (social services) restricts the disclosure of information on Title XX recipients to purposes directly connected with the administration of the Title XX program, AFDC, title IV-B Child Welfare Services, SSI or Medicaid.

HEW guidelines exempt audit committees from the "legislative body" exclusion. Several States, however, do not honor the HEW exemption. |
| 5. Federal matching for child support activities performed by court personnel. | Requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not |

HOUSE BILL

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No provision.

Increases the matching rate to 75 percent for State and local antifraud activities for costs incurred (1) by welfare agencies in the establishment and operation of one or more identifiable fraud control units; (2) by attorneys employed by State or local agencies (but only for the costs identifiable as AFDC antifraud activities); (3) by attorneys retained under contract (such as the office of the State attorney.) (Sec. 402, pp. 76-77.)

Effective date.—Effective with respect to expenditures after March 31, 1980.

No provision.

Authorizes use of IRS collection mechanisms in the case of families not receiving AFDC, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC. (Sec. 403, p. 77.)

Effective date.—January 1, 1980.

No provision.

Modifies Titles IV and XX to allow the disclosure of information on recipients (1) for purposes of any authorized audit conducted in connection with the administration of the program including an audit performed by a legislative body or component or instrumentality thereof; and (2) to the Committee on Finance and the Committee on Ways and Means. (Sec. 404, pp. 78-79.)

Effective upon enactment.

No provision.

Authorizes Federal matching funds for expenditures of courts (including, but not limited to compensation for judges or other persons making judicial determinations and other support and administrative personnel of courts who perform Title IV-D functions), but only for those functions specifically identifiable as IV-D functions. Matching would be provided only for expenditures in excess of levels of spending in the

ITEM	PRESENT LAW
5. Federal matching for child support activities performed by court personnel—Continued	receive Federal matching for expenditures (including compensation) for, or in connection with, judges or other court officials making judicial decisions, and other supportive and administrative personnel.
6. AFDC management information system.	States receive 50 percent Federal matching for costs of administering their AFDC programs; there is no special funding for computer systems.
7. Child support management information system.	Federal matching for child support administrative costs, including the cost of establishing and using management information systems, is provided at a rate of 75 percent.
8. Child support reporting and matching procedures.	Requires that Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. Also provides that the States

State for these activities in calendar 1978. (Sec. 405, pp. 79-80.)
 Effective date.—Effective for expenditures after December 31, 1979.

No provision.

Provides 90 percent Federal matching to States for the cost of developing and implementing computerized AFDC management information systems and 75 percent for the cost of their operation. HEW would be required to approve State systems as a condition of Federal matching (both initially and on a continuing basis). In order to qualify for this increased match, a State system would have to include certain specified characteristics, including (1) ability to provide data on AFDC eligibility factors, (2) capacity for verification of factors with other agencies, (3) capability for notifying child support, food stamp, social services, and medicaid programs of changes in AFDC eligibility and benefit amount, (4) compatibility with systems in other jurisdictions, and (5) security against unauthorized access to or use of data in the system. HEW would be required to provide technical assistance to the States on a continuing basis. (Sec. 407, pp. 85-90.)
 Effective date.—April 1, 1980.

No provision.

Increases Federal matching to 90 percent for the costs of developing and implementing child support management information systems. Retains the 75 percent matching rate for the costs of operating such systems. Requires the Secretary to provide technical assistance to the States. A State system must meet certain specified requirements in order to receive Federal matching. Requires continuing review by the Secretary of HEW of State systems.

States which choose to establish and operate systems must include as part of such systems (1) the ability to control and monitor all the factors of the support collection and paternity determination process, (2) interface with the AFDC program, (3) provide security against access to data, and (4) the ability to provide management information on all cases from application through collection and referral. (Sec. 406, pp. 80-85.)

Effective date.—January 1, 1980.

No provision.

Beginning July 1, 1980, prohibits advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. Also requires the Department of Health, Education, and Welfare to reduce the amount

ITEM

PRESENT LAW

8. Child support reporting and matching procedures—Continued

will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate State reporting system is required.

9. Access to wage information for child support program.

a. Wage information from the Social Security Administration.

Requires the Secretary of HEW to make available to States and political subdivisions wage information contained in the records of the Social Security Administration which is necessary to determine eligibility for AFDC. Requires the Secretary to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

b. Wage information from State unemployment compensation agencies.

Requires agencies that administer State unemployment compensation to make available to States and political subdivisions wage information contained in their records which is necessary to determine eligibility for AFDC. Requires the Secretary of HEW to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

c. Disclosure of tax return information.

Under the Internal Revenue Code, tax return information may be disclosed by IRS (1) to the Social Security Administration for purposes of administering the Social Security Act, and (2) to Federal, State and local child support agencies for establishing and enforcing child support obligations under the child support program. SSA may not transfer information it receives from IRS to State and local agencies. Information must be obtained by the agencies directly from IRS.

Any agency receiving information must comply with specified conditions for safeguarding information.

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SENATE BILL

of the payments to the State by the Federal share of child support collections made but not reported by the State. (Sec. 408, pp. 91-92.)

Effective date.—The provision providing reduction in payment is effective for calendar quarters beginning after the date of enactment.

No provision.

Provides the same requirement for disclosure of wage information (other than tax return information) for purposes of the child support program as exists in present law for purposes of AFDC.

No provision.

Provides the same requirement for purposes of the child support program as exists in present law for purposes of AFDC.

No provision.

Requires SSA to disclose tax return information obtained from IRS with respect to earnings from self-employment and wages (1) to officers and employees of HEW, and (2) to officers and employees of an appropriate State or local agency, body, or commission. Information may be disclosed for purposes of establishing, determining, and enforcing child support obligations under the child support program.

Requires State unemployment compensation agencies to disclose tax return information acquired under the above provision to State and local agencies or commissions for purposes of determining eligibility for AFDC and for purposes of establishing, determining, and enforcing child support obligations under the child support program.

Allows agencies or commissions which are authorized to receive tax return information to disclose such information to any person to the extent necessary in connection with the processing and use of information necessary for the purpose of establishing, determining, or enforcing child support obligations.

No provision.

Maintains current law. (Sec. 409, pp. 88-94.)
Effective date.—January 1, 1980.

V. OTHER PROVISIONS RELATING

ITEM	PRESENT LAW
1. Relationship between social security and SSI benefits.	An individual eligible under both the DI and SSI programs, whose determination of eligibility for DI is delayed, can in some cases receive full payment under both programs for the same months. Because SSI benefits are determined on a quarterly basis, retroactive title II benefits offset SSI benefits only for the quarter in which retroactive benefits are received.
2. Extension of the term of the National Commission on Social Security.	The terms of its members are to last 2 years, and the Commission itself will expire on January 1, 1981.
3. Depositing of social security contributions with respect to State and local covered employment.	<p>Since 1951 coverage of State and local government employment has been provided through voluntary agreements between the Secretary of HEW and the individual States. The act provides that the regulations of the Secretary shall be designed to make the deposit requirements imposed on the States the same, as far as practicable, as those imposed on private employers. Present regulations, in effect since 1959, require each State to deposit contributions with the Federal Reserve Bank and file wage reports of covered employees with HEW within 1 month and 15 days after the close of each calendar quarter. Public Law 94-202 was enacted in 1976 to assure adequate consideration of any change in the deposit requirements. Public Law 94-202 requires that at least 18 months must elapse between the publication of regulations changing the deposit schedule and the effective date of the change.</p> <p>On November 20, 1978, HEW published final regulations to become effective July 1, 1980, which will require more frequent deposits by the States. The new regulations will require the States to make deposits within 15 days after the end of each of the first 2 months of the calendar quarter and within 1 month and 15 days after the end of the final month of the quarter.</p>

TO THE SOCIAL SECURITY ACT

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No provision.

Requires the Secretary to offset, against retroactive benefits under title II, amounts of SSI benefits paid for the same period. The amount of the offset would equal the amount of SSI that would not have been paid had title II benefits been paid on time. From the amount of social security benefits offset under the provision, States would be reimbursed for any amounts of State supplementary payments that would not have been paid; the remainder would be credited to general revenues. (Sec. 501, pp. 98-101.)

Effective date.—Effective with respect to determinations made after March 31, 1980.

No provision.

Extends for 3 months the expiration date of the National Commission on Social Security and the terms of its members. Under the Senate provision, the Commission's work and the terms of its members would end on April 1, 1981. (Sec. 502, p. 101.)

No provision.

Requires that in lieu of the schedule of deposits called for in the HEW regulation effective July 1, 1980, the States would make deposits within 30 days after the end of each month. The provisions of P.L. 94-202 would not be applicable to changes in regulations that are designed to carry out this statutory change. (Sec. 503, pp. 101-102.)

ITEM**PRESENT LAW**

4. Aliens receiving public assistance.

In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported by a "sponsor" in the United States. Legal aliens are eligible for payments within 30 days after their arrival in the United States.

No provision.

(1) Requires an alien to reside in the United States for 3 years before he would be eligible for SSI. The provision would not apply to refugees, or to aliens who are suffering from blindness or disability on the basis of conditions which arose after the time they were admitted to the United States. (Sec. 504, pp. 102-105.)

(2) The provision would also not apply in cases in which the support order is unenforceable under the Immigration and Nationality Act, or in cases in which the sponsor fails to provide support and the alien demonstrates to the satisfaction of the Attorney General that he did not participate in fraud or misrepresentation on the part of the sponsor, that he believed that the sponsor had adequate resources to support him, and that he could not have reasonably foreseen the refusal or inability of the sponsor to comply with the support agreement.

Effective date.—Applies to aliens applying for SSI benefits under title XVI on or after January 1, 1980.

(3) Amends the Immigration and Nationality Act to make the sponsor's affidavit of support a legally enforceable contract. The sponsor must agree that for 3 years after admission of the alien he will provide such financial support (or equivalent in-kind support) as is necessary to maintain the alien's income at an amount equal to the amount the alien would receive if he were eligible for SSI (including any State supplementary payment). The agreement could be enforced with respect to an alien against his sponsor in a civil action brought by the Attorney General or by the alien in a U.S. District Court. It could also be enforced by any State or political subdivision which is making payments to the alien under any program based on need. In the latter case, the action could be brought in a U.S. District Court if the amount in controversy were \$10,000 or more, or in the State courts without regard to the amount in controversy. The agreement could be excused and unenforceable under certain specified circumstances, including death or bankruptcy of the sponsor. Also, provides that the sponsor, who intentionally reduces his income or assets in order to be excused from his agreement, will be responsible for the repayment of any public assistance provided the alien during the time the agreement was excused. (Sec. 601, pp. 123-128.)

(Items 2 and 3 are Percy floor amendment adopted by a vote of 92-0)

Effective date.—Applies with respect to aliens applying for visas beginning with the first day of the fourth month following enactment.

ITEM	PRESENT LAW
<p>5. Work incentive and other demonstration projects under the disability insurance and supplemental security income programs.</p> <p>a. Waiver of benefit requirements for projects to test ways to stimulate return to work by disability beneficiaries.</p>	<p>The Secretary of Health, Education, and Welfare has no authority to waive requirements under titles II, XVI, and XVIII of the Social Security Act to conduct experimental or demonstration projects.</p>
<p>b. Other disability insurance demonstration projects.</p>	
<p>c. Demonstration projects to promote objectives of the SSI program.</p>	

HOUSE BILL

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The House bill authorizes waiver of benefit requirements of the DI and medicare programs to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, and requires periodic reports and a final report on the findings by January 1, 1983. (Sec. 4, pp. 6-8.)

Effective date.—Upon enactment.

No provision.

No provision. However, H.R. 3464 includes the same demonstration authority as provided in the Senate bill, but with specified restrictions. The Secretary would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. The Secretary could not require an individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at any time his voluntary agreement to participate. The Secretary, to the extent feasible, would be required to include recipients under age 18. The Secretary would also be required to include projects necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability. (Sec. 5.)

Effective date.—Upon enactment.

Similar provision but requires interim report by January 1, 1983 and final by 5 years after date of enactment. (Sec. 505, p. 105.)

Effective date.—Upon enactment.

The Senate provision also authorizes waivers in the case of other disability insurance demonstration projects which SSA may wish to undertake, such as study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation. (Sec. 505, pp. 105-109.)

Effective date.—Upon enactment.

Authorizes experiments and demonstration projects which are likely to promote the objectives or improve the administration of the SSI program. The provision provides for allocation of costs of all such demonstration projects to the programs to which the project is most closely related. In the case of the SSI program, the Secretary is authorized to reimburse the States for the non-Federal share of payments or costs for which the State would not otherwise be liable. (Sec. 505, pp. 109-110.)

Effective date.—Upon enactment.

ITEM

PRESENT LAW

5. Work incentive and other demonstration projects under the disability insurance and supplemental security income programs—Con.
- d. Waiver of certain provisions of human experimentation statute.
- e. Reporting requirement.
6. Inclusion in wages of FICA taxes paid by the employer.
- Sec. 209(f) of the Social Security Act and Sec. 3121(a)(6) of the Internal Revenue Code provide that payment by the employer of the employee F.I.C.A. tax liability is excluded from the definition of wages for social security payroll tax and benefit purposes. Although such a payment by the employer constitutes additional compensation includable for income tax purposes, existing law specifically exempts such an amount of additional compensation from social security taxes. The net effect is that, for a given level of total compensation (wages + employer payment of the employee share of social security tax), somewhat lower social security taxes would be payable by the employer if he pays the employee F.I.C.A. tax instead of withholding it from the employee's wages.
7. Medi-Gap provisions.
- a. Voluntary Medi-Gap policy certification.
- No provision.

No provision.

Authorizes waiver of certain nonmedical requirements of the human experimentation statute (such as conditions of payment of benefits or copayments, deductibles or other limitations), but requires that the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act would take into consideration the human experimentation law and regulations in making his decision on whether to approve the application. (Sec. 505, pp. 105-109.)

Effective date.—Upon enactment.

No provision.

A final report on the projects authorized by this section would be due 5 years from enactment. (Sec. 505, p. 109.)

No provision.

Requires that with respect to remuneration paid after 1980 any amounts of employee F.I.C.A. taxes paid by an employer will be considered to constitute wages for both social security tax and benefit purposes. Provides further that (a) this change will not apply in the case of payments made on behalf of employees of small businesses (as defined in section 7(a) of the Small Business Act), State and local governments, nonprofit organizations, and (b) persons employed as domestics. (Section 506, pp. 110-111.)

(Exclusions under item (a) are Thurmond floor amendment adopted by a vote of 60 to 27.)

Effective date.—For remuneration paid after December 31, 1980.

No provision. However, the Committees on Ways and Means and Interstate and Foreign Commerce have reported similar provisions. The Interstate and Foreign Commerce Committee provision authorizes the Secretary to specify "loss ratios" for policies.

Requires the Secretary to establish, effective January 1, 1982, a voluntary certification program for nongroup medicare supplemental policies in States that fail to establish equivalent or more stringent programs. To be certified, a policy would have to: meet minimum standards with respect to benefits; be written in simplified language and contain certain explanatory information; provide a waiting period of no more than 6 months for preexisting conditions; contain a 30-day "no loss cancellation clause"; and be expected to pay benefits to subscribers equal to 75 percent of premiums in the case of groups and 60 percent in the case of individual coverage.

ITEM	PRESENT LAW
7. Medi-Gap provisions—Continued	
a. Voluntary Medi-Gap policy certification—Continued	
b. Federal sanctions.	No provision.
c. Studies and reports.	No provision.

No provision. However, the Committees on Ways and Means and Interstate and Foreign Commerce have reported similar Federal penalty provisions. The Ways and Means provision includes penalties for: furnishing false information to obtain certification; and posing as a Federal agent to sell Medi-Gap policies. The Interstate and Foreign Commerce provision includes these penalties and penalties for: selling duplicative policies; and selling Medi-Gap policies by mail in States which have not approved, or are deemed not to have approved, their sale.

No provision. However, the Ways and Means Committee and the Interstate and Foreign Commerce Committee reported a similar provision.

The Secretary would submit a report on or before July 1, 1981, to the Committees on Finance, Ways and Means, and Interstate and Foreign Commerce which identifies States which he finds cannot be expected to have established an acceptable certification program by January 1, 1982. The Federal program would be put into effect on January 1, 1982, in States that are so identified unless legislation to the contrary is enacted.

Upon conviction, a fine of up to \$25,000 and imprisonment for up to 5 years could be assessed for:

- a. Furnishing false information to obtain certification;
- b. Posing as a Federal agent to sell Medi-Gap policies;
- c. Knowingly selling duplicative policies; and
- d. Selling Medi-Gap policies by mail in States which have not approved, or are deemed not to have approved, their sale.

The Secretary, in consultation with regulatory agencies, insurers and consumers, would study, and submit a report to Congress by July 1, 1981, concerning: the effectiveness of various State approaches to regulation of Medi-Gap; and the need for standards for health insurance policies sold to the elderly which are not subject to voluntary certification.

On January 1, 1982, and at least every 2 years thereafter, the Secretary would report on the effectiveness of the voluntary certification program and criminal penalties established by the bill.

(Baucus substitute floor amendment adopted by a voice vote.)

COST ESTIMATES FOR H.R. 3236 AS
TABLE 1.—ESTIMATED EFFECTS OF OASDI PROVISIONS ON OASDI

[Pluses indicate increases in expenditures, minuses indicate

Provision ¹	House bill						Estimated effect on long-range OASDI costs ²
	Estimated effect on OASDI expenditures in fiscal years 1980-85 ²						
	1980	1981	1982	1983	1984	1985	
8. More detailed notices specifying reasons for denial of disability claims—							
Benefit payments.....	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	-----
Administrative costs.....	+\$10	+\$20	+\$21	+\$22	+\$23	+\$24	-----
Total.....	+10	+20	+21	+22	+23	+24	(⁰)
9. Payment for existing medical evidence—							
Benefit payments.....	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	-----
Administrative costs.....	+12	+21	+22	+23	+24	+25	-----
Total.....	+12	+21	+22	+23	+24	+25	(⁰)
10. Periodic review of disability determinations—							
Benefit payments.....	-1	-18	-53	-92	-146	-200	-----
Administrative costs:							
—Cost of reexams.....	+29	+40	+42	+43	+45	+47	-----
—Cost of appeals.....	+4	+10	+10	+10	+10	+10	-----
Total.....	+32	+32	-1	-39	-91	-143	-. 03
11. Authority for demonstration projects for titles II and XVI—Administrative costs..	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	(⁰)	-----
12. Limit trust fund payments for costs of VR services to only such services that result in a cessation of disability, as demonstrated by a return to work—							
Benefit payments.....			-39	-80	-85	-88	-----
Administrative costs.....		(^{0})	(^{0})	(^{0})	(^{0})	(⁰)	-----
Total.....			-39	-80	-85	-88	-. 01
Totals:							
Benefit payments.....	-47	-201	-433	-690	-981	-1,304	-----
Payments for costs of VR services.....			-39	-80	-85	-88	-----
Administrative costs.....	+63	+100	+109	+113	+117	+122	-----
Total net effect on OASDI trust fund expenditures.....	+16	-101	-363	-657	-949	-1,270	-. 20

*The House bill includes a "child care" dropout provision, effective January 1, 1981. Costs are:

Fiscal year:	Millions
1981	+\$7
1982	+14
1983	+23
1984	+32
1985	+43

¹ The estimates shown for each provision take account of the provisions that precede it in the table.

² Estimates are based on the assumptions in the President's 1981 budget. The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 years. The total reduction does not equal the sum of the components because of rounding.

PASSED BY THE HOUSE AND THE SENATE—Continued

EXPENDITURES, BY PROVISION—ADMINISTRATION ESTIMATES—Continued

reductions in expenditures. Dollar amounts in million]

Provision ¹	Senate bill						Estimated effect on long-range OASDI costs ²
	Estimated effect on OASDI expenditures in fiscal years 1980-85 ²						
	1980	1981	1982	1983	1984	1985	
8. More detailed notices specifying reasons for denial of disability claims—							
Benefit payments.....		(³)	(^{3})	(^{3})	(^{3})	(^{3})	-----
Administrative costs.....		+\$9	+\$18	+\$19	+\$20	+\$21	-----
Total.....		+9	+18	+19	+20	+21	(³)
9. Payment for existing medical evidence—							
Benefit payments.....	(³)	(³)	(³)	(³)	(³)	(³)	-----
Administrative costs.....	+\$5	+21	+22	+23	+24	+25	-----
Total.....	+5	+21	+22	+23	+24	+25	(³)
10. Periodic review of disability determinations—							
Benefit payments.....		-1	-16	-56	-98	-155	-----
Administrative costs:							
—Cost of reexams.....		+27	+42	+43	+45	+47	-----
—Cost of appeals.....		+3	+10	+10	+10	+10	-----
Total.....		+29	+36	-3	-43	-98	-. 03
11. Authority for demonstration projects for titles II and XVI—Administrative costs..	(⁷)	(⁷)	(⁷)	(⁷)	(⁷)	(⁷)	-----
12. Limit trust fund payments for cost of VR services to only such services that result in a cessation of disability, as demonstrated by a return to work—							
Benefit payments.....					No provision	No provision	
Administrative costs.....					No provision	No provision	
Total.....					No provision	No provision	
Totals:							
Benefit payments.....	-33	+26	-70	-236	-418	-632	-----
Payments for costs of VR services.....							
Administrative costs.....	+6	+84	+127	+149	+156	+163	-----
Total net effect on OASDI trust fund expenditures.....	-27	+110	+57	-87	-262	-469	- 11

¹ Additional administrative expenses are less than \$1,000,000.

² An increase of less than \$500,000.

³ None.

⁴ An increase of less than 0.005 percent.

⁷ Cost/savings depend on the nature of the experiment, administrative costs for current plans could be as much as \$15,000,000 over several years.

⁵ Costs will depend on how many States no longer make determinations. If all States drop out, the cost could be \$13,000,000 (\$9,000,000 for title II, \$4,000,000 for title XVI) per year, excluding any pension costs.

Source: Social Security Administration, Office of the Actuary, Mar. 19, 1980.

COST ESTIMATES FOR H.R. 3236 AS
TABLE 2.—EFFECT OF OASDI PROVISIONS ON SSI, AFDC, MEDICARE, AND

[Pluses indicate cost, minuses

Provision	House bill					
	Estimated effect of OASDI provisions on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980-85					
	1980	1981	1982	1983	1984	1985
1. Limitation on total family benefits for disabled-worker families—						
SSI program payments.....	(1)	+\$3	+\$8	+\$11	+\$15	+\$19
AFDC program payments.....	(1)	+3	+4	+6	+7	+9
General fund—total.....	(1)	+6	+12	+17	+32	+28
2. Reduction in number of dropout years for younger disabled workers—General fund—						
SSI program payments.....	(1)	(1)	+2	+3	+4	+5
3. Eliminate requirement that months in medicare waiting period be consecutive—Medicare trust funds ¹	+23	+45	+54	+60	+60	+75
4. Extension of medicare coverage for 36 months for workers whose benefits are terminated because of SGA—Medicare benefits ²	+3	+22	+51	+68	+70	+85
5. Federal review of State agency determinations—						
Medicaid costs.....	(1)	-1	-4	-6	-10	-14
SSI program payments.....	(1)	-4	-13	-25	-36	-48
SSI administrative costs.....	+3	+3	+5	+5	+6	+6
General fund—total.....	+3	-2	-12	-26	-40	-56
Medicare benefits ³	(1)	(1)	-2	-6	-13	-21
6. Periodic review of disability determinations—						
Medicaid costs.....	(1)	-1	-3	-4	-6	-9
SSI program payments.....	(1)	-4	-11	-18	-25	-33
SSI administrative costs:						
Cost for reexams.....	+15	+21	+23	+24	+25	+26
Cost for appeals.....	+2	+4	+5	+6	+6	+7
General fund—total.....	+17	+20	+14	+8	(1)	-9
Medicare benefits ⁴	(1)	-6	-15	-32	-58	-92
7. Continuing DI benefits for person in VR plan—						
Medicare benefits.....	0	+2	+3	+4	+4	+4
8. Benefit payments for the terminally ill—General fund—SSI program payments ⁵						
						No provision
Totals:						
Total additional benefit payments from medicare trust fund.....	+26	+63	+91	+94	+75	+51
Total effect on expenditures from the general fund—						
SSI program payments and administrative costs.....	+20	+23	+19	+6	-5	-18
AFDC.....	(1)	+3	+4	+6	+7	+9
Medicaid.....	(1)	-2	-7	-10	-16	-23
Total.....	+20	+24	+16	+2	-14	-32
Total effect of OASDI provisions on other programs.....	+46	+87	+107	+96	+61	+19

¹ Less than \$1,000,000 increase or decrease in cost.

² Long-range average cost to the hospital insurance (HI) program over the next 25 years is less than 0.005 percent of taxable payroll.

³ Long-range HI savings is 0.01 percent of taxable payroll.

PASSED BY THE HOUSE AND THE SENATE

MEDICAID EXPENDITURES, BY PROVISION—ADMINISTRATION ESTIMATES

Indicate savings. In millions]

Provision	Senate bill					
	Estimated effect of OASDI provisions on SSI, AFDC, medicare, and medicaid expenditures in fiscal years 1980-85					
	1980	1981	1982	1983	1984	1985
1. Limitation on total family benefits for disabled-worker families—						
SSI program payments.....	(1)	+\$3	+\$7	+\$10	+\$14	+\$18
AFDC program payments.....	(1)	+3	+4	+6	+7	+9
General fund—total.....	(1)	+6	+11	+16	+21	+27
2. Reduction in number of dropout years for younger disabled workers—General fund—						
SSI program payments.....	(1)	(1)	+2	+3	+4	+5
3. Eliminate requirement that months in medicare waiting period be consecutive—Medicare trust funds ²	+\$10	+45	+54	+60	+66	+75
4. Extension of medicare coverage for 36 months for workers whose benefits are terminated because of SGA—Medicare benefits ²	+1	+14	+42	+68	+76	+85
5. Federal review of State agency determinations—						
Medicaid costs.....		(1)	(1)	-2	-3	-5
SSI program payments.....	(1)	-2	-6	-12	-18	-23
SSI administrative costs.....		+2	+4	+14	+15	+16
General fund—total.....	(1)	(1)	-2	(1)	-6	-12
Medicare benefits ³		(1)	(1)	-1	-5	-13
6. Periodic review of disability determinations—						
Medicaid costs.....		(1)	-1	-3	-5	-8
SSI program payments.....		(1)	-7	-14	-21	-29
SSI administrative costs:						
Cost for reexams.....	(1)	+13	+23	+24	+25	+26
Cost for appeals.....	(1)	+1	+5	+6	+6	+7
General fund—total.....	(1)	+14	+20	+13	+5	-4
Medicare benefits ⁴		(1)	-7	-17	-36	-54
7. Continuing DI benefits for person in VR plan—						
Medicare benefits.....	0	+2	+3	+4	+4	+4
8. Benefit payments for the terminally ill—General fund—SSI programs payments ⁵		-3	-3	-3	-3	-4
Totals:						
Total additional benefit payments from Medicare trust fund.....	+11	+61	+92	+114	+105	+97
Total effect on expenditures from the general fund—						
SSI program payments and administrative costs.....	(1)	+14	+25	+28	+22	+16
AFDC.....	(1)	+3	+4	+6	+7	+9
Medicaid.....		(1)	-1	-5	-8	-13
Total.....	(1)	+17	+28	+29	+21	+12
Total effect of OASDI provisions on other programs.....	+11	+78	+120	+143	+126	+109

⁴ Long-range HI savings is less than 0.005 percent of taxable payroll.⁵ There will be relatively small changes in medicaid payments.

Source: Social Security Administration, Mar. 19, 1980.

COST ESTIMATES FOR HOUSE-PASSED BILL H.R.
TABLE 3.—EFFECTS OF SSI PROVISIONS ON SSI, MEDICAID, OASDI,
 [In millions]

Provision	House bill, H.R. 3464					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
1. Treatment of SGA:¹						
SSI program payments.....	+\$1	+\$16	+\$26	+\$36	+\$47	+\$63
SSI administrative costs.....	(2)	+4	+5	+5	+6	+6
Medicaid costs.....	(2)	+6	+11	+16	+22	+31
Impact on OASDI costs.....	+1	+3	+39	+72	+101	+126
Impact on medicare costs.....	(2)	(2)	+15	+30	+45	+60
Total.....	+2	+29	+96	+159	+221	+286
			(Effective July 1, 1980)			
2. Special benefits after SGA:³						
SSI program payments.....	No provision					
SSI administrative costs.....	No provision					
Medicaid costs.....	No provision					
Total.....	No provision					
3. Income disregards for benefit computation:⁴						
SSI program payments.....	+2	+16	+22	+29	+35	+44
SSI administrative costs.....	(2)	+2	+2	+2	+3	+3
Total.....	+2	+18	+24	+31	+38	+47
			(Effective July 1, 1980)			
4. SSI experimentation authority⁵						
	Costs depend on project specifications (effective on enactment)					
5. Parental deeming:⁶						
SSI program payments.....	(2)	+2	+4	+5	+6	+8
SSI administrative costs.....	(2)	(2)	(2)	(2)	(2)	(2)
Medicaid costs.....	(2)	(2)	+1	+1	+2	+2
Total.....	(2)	+2	+5	+6	+8	+10
			(Effective, July 1, 1980)			
6. Information to accompany decisions:⁷						
SSI program payments.....	No program costs					
SSI administrative costs.....	+1	+6	+7	+7	+7	+7
Total.....	+1	+6	+7	+7	+7	+7
			(Effective July 1, 1980)			
7. Sheltered workshops:⁸						
SSI program payments.....	No provision					
SSI administrative costs.....	No provision					
Total.....	No provision					
8. Aliens under SSI:⁹						
SSI program payments.....	No provision					
SSI administrative costs.....	No provision					
Medicaid costs.....	No provision					
Total.....	No provision					

3464, SENATE-PASSED BILL H.R. 3236

AND MEDICARE EXPENDITURES, BY PROVISION—ADMINISTRATION ESTIMATES

[In millions]

Provision	Senate bill, H.R. 3236					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
1. Treatment of SGA: ¹						
SSI program payments.....	(2)	+\$1	+\$2	+\$3	+\$3	+\$4
SSI administrative costs.....	(2)	(2)	(2)	(2)	(2)	(2)
Medicaid costs.....	(2)	(2)	+1	+1	+1	+2
Impact on OASDI costs.....						
Impact on medicare costs.....						
Total.....	(2)	+1	+3	+4	+4	+6
			(Effective July 1, 1980)			
2. Special benefits after SGA: ³						
SSI program payments.....	(2)	+1	+3	+4	(Not in effect after June 30, 1983)	
SSI administrative costs.....	(2)	(2)	(2)	(2)		
Medicaid costs.....	(2)	(2)	+1	+2		
Total.....	(2)	+1	+4	+6		
			(Effective July 1, 1980)			
3. Income disregards for benefit computation: ⁴						
SSI program payments.....						
SSI administrative costs.....						
Total.....			No provision			
4. SSI experimentation authority ⁵						
			Costs depend on project specifications (effective on enactment)			
5. Parental deeming: ⁶						
SSI program payments.....	(2)	+2	+4	+5	+6	+8
SSI administrative costs.....	(2)	(2)	(2)	(2)	(2)	(2)
Medicaid costs.....	(2)	(2)	+1	+1	+2	+2
Total.....	(2)	+2	+5	+6	+8	+10
			(Effective first day of 2d quarter after enactment)			
6. Information to accompany decisions: ⁷						
SSI program payments.....			No program costs			
SSI administrative costs.....		+2	+4	+4	+4	+4
Total.....		+2	+4	+4	+4	+4
			(Effective 13 months after enactment)			
7. Sheltered workshops: ⁸						
SSI program payments.....	(2)	+2	+2	+2	+2	+2
SSI administrative costs.....	(2)	(2)	(2)	(2)	(2)	(2)
Total.....	(2)	+2	+2	+2	+2	+2
			(Effective months after June 1980)			
8. Aliens under SSI: ⁹						
SSI program payments.....	-\$4	-17	-30	-44	-56	-69
SSI administrative costs.....	(2)	(2)	(2)	(2)	(2)	(2)
Medicaid costs.....	(2)	-2	-4	-6	-8	-10
Total.....	-4	-19	-34	-50	-64	-79
			(Effective Jan. 1, 1980)			

COST ESTIMATES FOR HOUSE-PASSED BILL H.R.
TABLE 3.—EFFECTS OF SSI PROVISIONS ON SSI, MEDICAID, OASDI, AND MEDICARE
[In millions]

Provision	House bill, H.R. 3464					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
9. Windfall benefits: ¹⁰						
SSI program payments.....						
SSI administrative costs.....						No provision
Total.....						
Grand total of SSI costs and costs impact on other programs:						
SSI program payments.....	+\$3	+\$34	+\$52	+\$70	+\$88	+\$115
SSI administrative costs.....	+1	+12	+14	+14	+16	+16
Medicaid costs.....	(2)	+6	+12	+17	+24	+33
Impact on OASDI costs.....	+1	+3	+39	+72	+101	+126
Impact on medicare costs.....	(2)	(3)	+15	+30	+45	+60
Total.....	+5	+55	+132	+203	+274	+350

¹ *House bill*: Sets SGA level at point where countable earnings equal the applicable SSI payment standard and excludes from earnings for SGA purposes: \$65; an amount equal to the cost of any impairment-related work expenses; and one-half the remaining earnings. *Senate bill*: retains present SGA level and excludes from earnings for SGA purposes certain impairment-related work expenses, whether paid for by recipient or some one else (subject to limitations on kinds of care and service and on amounts of earnings excludable).

² Less than \$1,000,000 increase in cost.

³ *House bill*: No provision. *Senate bill*: Disabled beneficiaries whose earnings equal or exceed the SGA level would be entitled to special benefits until their income reached the Federal "breakeven" point. People who are eligible for Medicaid and social services because of their SSI eligibility would continue to be eligible for Medicaid and social services. States would have the option to supplement those entitled under the provision.

A blind or disabled person would continue to be eligible for Medicaid and social services even if his income was at or above the "breakeven" point (and he was no longer getting benefit) if it is determined, under regulations, that the person;

Would be seriously inhibited in continuing his employment through loss of Medicaid and social services eligibility; and

Does not have earnings high enough to allow him to provide for himself a reasonable equivalent of the SSI benefits, Medicaid and social services he would have in the absence of earnings.

Provision would expire at the end of 3 years.

⁴ *House bill*: Would exclude, in addition to current exclusions (first \$65 and one-half the remaining monthly earnings), 20 percent of gross earnings, and the cost of impairment-related work expenses paid by the individual, both of which would be applied before deduction of the one-half exclusion. *Senate bill*: No provision.

3464, SENATE-PASSED BILL H.R. 3236

EXPENDITURES, BY PROVISION—ADMINISTRATION ESTIMATES—Continued

[In millions]

Provision	Senate bill, H.R. 3236					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
9. Windfall benefits: ¹⁰						
SSI program payments.....	-\$8	-\$24	-\$27	-\$30	-\$33	-\$35
SSI administrative costs.....	+1	+5	+5	+2	(?)	(?)
Total.....	-7	-19	-22	-28	-33	-35
			(Effective April 1, 1980)			
Grand total of SSI costs and costs impact on other programs:						
SSI program payments.....	-12	-35	-46	-60	-78	-90
SSI administrative costs.....	+1	+7	+9	+6	+4	+4
Medicaid costs.....	(?)	-2	-1	-2	-5	-6
Impact on OASDI costs.....						
Impact on medicare costs.....						
Total.....	-11	-30	-38	-56	-79	-92

⁸ *House bill*: Provides SSA general experimentation authority with the following qualifications:

Participation must be voluntary;

Total income and resources of a person must not be reduced as a result of an experiment; and

There must be a project to ascertain the feasibility of treating drug addicts and alcoholics to prevent permanent disability.

Senate bill: Delete House qualifications and consolidate SSI experimentation authority with OASDI and medicare authority as described under H.R. 3236 provisions.

⁹ *House and Senate bills*: Terminate parental deeming at age 18, with qualification that the benefits to recipients 18-20 years old in June 1980 to whom deeming applies will not be reduced as a result.

⁷ *House bill*: Requires that any decision notice from the Secretary contain a statement of the case citing pertinent law and regulations, a summary of the evidence, and reasons for the decision. *Senate bill*: Require that dis-

ability denial notices be expressed in language understandable to the claimant and include a discussion of the evidence and reasons why the disability claim was denied.

⁸ *House bill*: No provision. *Senate bill*: Treats all pay received in sheltered workshops as earned income.

⁹ *House bill*: No provision. *Senate bill*: Provide 3-year residency requirement for entitlement to SSI benefits. (Exceptions provided for refugees and for aliens whose medical condition which caused their blindness or disability arose after they entered the United States.)

¹⁰ *House bill*: No provision. *Senate bill*: Provide that entitlement under both programs would be considered as a totality, so that if payment under title II is delayed and this results in a higher title XVI payment, the adjustment made would be the net difference in the total payment. Also, provide for accounting adjustments for such adjustments between social security trust funds and general revenues, and, where necessary, States.

No House provisions

COST ESTIMATES FOR H.R. 3236 AS PASSED BY THE SENATE

TABLE 4.—ESTIMATED EFFECTS OF AFDC AND CHILD SUPPORT PROVISIONS ON AFDC EXPENDITURES, BY PROVISION—ADMINISTRATION ESTIMATES

[Pluses indicate increases in expenditures, minuses indicate reductions in expenditures. In millions]

Provision ¹	Senate provisions					
	Estimated effect on AFDC expenditures in fiscal years 1980-85					
	1980	1981	1982	1983	1984	1984
Work requirement under AFDC program.....	(²)	(²)	(²)	(²)	(²)	(²)
Federal matching for prosecuting fraud under AFDC.....	(²)	(²)	(²)	(²)	(²)	(²)
Use of IRS in collecting child support of non-AFDC families.....	-\$3.9	-\$6.2	-\$7.3	-\$8.3	-\$9.6	-\$11.0
Safeguards restricting disclosure of certain information.....	Cannot be estimated ⁴					
Federal matching for child support duties by court personnel.....	+ .4	+ .9	+1.0	+1.0	+1.0	+1.0
Child support management information system.....	+4.5	+6.4	+8.5	+8.9	+9.4	+9.9
AFDC management information system.....	+4.8	+17.7	+17.1	-10.2	-18.9	-30.0
Expenditures for operation of State plans for child support.....	No cost					
Access to wage information for child support.....	-8.5	-9.5	-10.6	-11.9	-13.0	-13.8
Total.....	-2.7	+9.3	+8.7	-20.5	-31.1	-43.9

¹ No similar provisions in House bills (H.R. 3236 or H.R. 3464).

² Less than \$500,000.

³ SSA maintains this provision cannot be accurately estimated; however, CBO estimates a cost ranging from \$10,000,000 for fiscal year 1980 to \$31,000,000 for fiscal year 1984.

⁴ Estimators cannot make estimates at this time. When more data are available, a cost estimate will be made.

Note: The above estimates are based on assumed enactment of H.R. 3236 in March 1980.

Source: Social Security Administration, Mar. 13, 1980.

TABLE 5.—SUMMARY
COST ESTIMATES FOR HOUSE-PASSED BILLS H.R. 3464 and H.R. 3236
[Pluses indicate costs, minuses

Provision	House bills					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
OASDI provisions:						
Estimated effect on OASDI expenditures ¹	+\$16	-\$101	-\$363	-\$657	-\$949	-\$1,270
Estimated effect on SSI, AFDC, medicare, and medicaid.....	+46	+87	+107	+96	+61	+19
SSI provisions:						
Estimated effect on SSI.....	+4	+46	+66	+84	+104	+131
Estimated effect on OASDI.....	+1	+3	+39	+72	+101	+126
Estimated effect on medicare and medicaid.....	(²)	+6	+27	+47	+69	+93
AFDC provisions: Estimated effect on AFDC.....			No provisions			
Total net effect on Federal Government expenditures.....	+67	+41	-124	-358	-614	-901
Other provisions:						
Making social security contributions for covered State and local employees—esti- mated effect on interest income.....			No provision			
Inclusion in wages of FICA taxes paid by em- ployer—estimated effect on revenue.....			No provision			
Total net effect on OASDI and HI trust fund income.....						

¹ The long-range OASDI savings of the House bills is 0.20 percent of taxable payroll. The long-range savings of the Senate bill is 0.11 percent of taxable payroll.

² Costs of less than \$1,000,000.

³ Savings of less than \$1,000,000.

TABLE
 SENATE-PASSED BILL H.R. 3236—ADMINISTRATION ESTIMATES
 [indicate savings. In millions]

Provision	Senate bill					
	Fiscal year—					
	1980	1981	1982	1983	1984	1985
OASDI provisions:						
Estimated effect on OASDI expenditures ¹	-\$27	+\$110	+\$57	-\$87	-\$262	-\$469
Estimated effect on SSI, AFDC, medicare, and medicaid.....	+11	+78	+120	+143	+126	+109
SSI provisions:						
Estimated effect on SSI.....	-11	-28	-37	-54	-74	-86
Estimated effect on OASDI.....						
Estimated effect on medicare and medicaid.....	(³)	-2	-1	-2	-5	-6
AFDC provisions: Estimated effect on AFDC.....	-2.7	+9.3	+8.7	-20.5	-31.1	-43.9
Total net effect on Federal Government ex- penditures.....	-29.7	+167.3	+147.7	-20.5	-246.1	-495.9
Other provisions:						
Making social security contributions for covered State and local employees—esti- mated effect on interest income.....		-27	-25	-27	-29	-32
Inclusion in wages of FICA taxes paid by em- ployer—estimated effect on revenue.....		+5	+10	+15	+20	+25
Total net effect on OASDI and HI trust fund income.....		-22	-15	-12	-9	-7

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

MAY 13, 1980.—Ordered to be printed

Mr. ULLMAN, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 3236]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Social Security Disability Amendments of 1980".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

Sec. 101. Limitation on total family benefits in disability cases.

Sec. 102. Reduction in dropout years for younger disabled workers.

Sec. 103. Provisions relating to medicare waiting period for recipients of disability benefits.

Sec. 104. Continuation of medicare eligibility.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

- Sec. 201. Benefits for individuals who perform substantial gainful activity despite severe medical impairment.*
Sec. 202. Earned income in sheltered workshops.
Sec. 203. Termination of attribution of parents' income and resources when child attains age 18.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

- Sec. 301. Continued payment of benefits to individuals under vocational rehabilitation plans.*
Sec. 302. Extraordinary work expenses due to severe disability.
Sec. 303. Reentitlement to disability benefits.
Sec. 304. Disability determinations; Federal review of State agency determinations.
Sec. 305. Information to accompany Secretary's decisions.
Sec. 306. Limitation on prospective effect of application.
Sec. 307. Limitation on court remands.
Sec. 308. Time limitations for decisions on benefit claims.
Sec. 309. Payment for existing medical evidence.
Sec. 310. Payment of certain travel expenses.
Sec. 311. Periodic review of disability determinations.
Sec. 312. Report by Secretary.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

- Sec. 401. Work requirement under the AFDC program.*
Sec. 402. Use of Internal Revenue Service to collect child support for non-AFDC families.
Sec. 403. Safeguards restricting disclosure of certain information under AFDC and social service programs.
Sec. 404. Federal matching for child support duties performed by certain court personnel.
Sec. 405. Child support management information system.
Sec. 406. AFDC management information system.
Sec. 407. Child support reporting and matching procedures.
Sec. 408. Access to wage information for purposes of carrying out State plans for child support.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

- Sec. 501. Relationship between social security and SSI benefits.*
Sec. 502. Extension of National Commission on Social Security.
Sec. 503. Time for making of social security contributions with respect to covered State and local employees.
Sec. 504. Eligibility of aliens for SSI benefits.
Sec. 505. Authority for demonstration projects.
Sec. 506. Additional funds for demonstration project relating to the terminally ill.
Sec. 507. Voluntary certification of medicare supplemental health insurance policies.

TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 101. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

“(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—

“(A) 85 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

“(B) 150 percent of such individual’s primary insurance amount.”

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (8)”.

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out “paragraph (6)” and inserting in lieu thereof “paragraph (7)”.

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out “section 203(a) (6) and (7)” and inserting in lieu thereof “section 203(a) (7) and (8)”.

(4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: “Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).”

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

“(2)(A) The number of an individual’s benefit computation years equals the number of elapsed years reduced—

“(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

“(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual’s elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2."

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

**PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS
OF DISABILITY BENEFITS**

SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out "consecutive".

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period."

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

SEC. 104. (a) Section 226(b) of the Social Security Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months."

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any indi-

vidual whose disability has not been determined to have ceased prior to such first day.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

“BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

“SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

“(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

“(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

“(b) For purposes of titles XIX and XX, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

“(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

“(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis,

“(iii) a payment of monthly benefits under subsection (a), or

“(iv) a supplementary payment under section 1616(c)(3),

shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—

“(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for

his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

"(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

"(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

"(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title and titles XIX and XX which would be available to him in the absence of such earnings."

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income."

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

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

(c) Part A of title XVI of the Social Security Act is amended by adding at the end thereof (after the new section added by subsection (a) of this section) the following new section:

"MEDICAL AND SOCIAL SERVICES FOR CERTAIN HANDICAPPED PERSONS

"SEC. 1620. (a) There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

"(b)(1) The total sum of \$18,000,000 shall be allotted to the States for such program by the Secretary, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

"(A) The total sum of \$6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

"(B) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

"(C) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

"(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to

such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Secretary on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term 'supplemental security income benefits' includes payments made pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66.

"(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to use the full amount of any such allotment, shall certify to the Secretary the amount of such allotment which it does not intend to use, and the State's allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

"(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Secretary may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State's allotment for that year by an equivalent amount.

"(c) In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d), a State (during such period) must have a plan, approved by the Secretary as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1611 or 1619 or assistance under a State plan approved under section 1902, and which—

"(1) declares the intent of the State to participate in the pilot program;

"(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

"(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual's ability to continue his employment would be significantly inhibited without such assistance and (B) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him under this title and titles XIX and XX in the absence of those earnings;

"(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State

agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

"(5) describes the medical and social services to be provided under the plan;

"(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under titles XIX and XX (with the Federal payments being made under subsection (d) of this section rather than under those titles), specifies the particular mechanisms and procedures to be used in providing such services; and

"(7) contains such other provisions as the Secretary may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

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 2003(d)(1).

"(d)(1) From its allotment under subsection (b) for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Secretary shall from time to time pay to each State which has a plan approved under subsection (c) an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

"(2) The method of computing and making payments under this section shall be as follows:

"(A) The Secretary 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 Secretary 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 he finds that his 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) Within nine months after the date of the enactment of this section, the Secretary shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

"(f) Each State participating in the pilot program under this section shall from time to time report to the Secretary 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 Secretary shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with his findings and recommendations."

(d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981, but shall remain in effect only for a period of three years after such effective date.

(e) *The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act.*

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended—

(1) by striking out “and” after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

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

(b) The amendments made by subsection (a) shall apply only with respect to remuneration received in months after September 1980.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out “under age 21” and inserting in lieu thereof “under age 18”.

(b) The amendment made by subsection (a) shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting “(a)” after “SEC. 225.”, and by adding at the end thereof the following new subsection:

“(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

“(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

may (following his participation in such program) be permanently removed from the disability benefit rolls.”

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out “this section” each place it appears and inserting in lieu thereof “this subsection”.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

“(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual’s eligibility for such benefit is based, has or may have ceased, if—

“(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.”

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

SEC. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of

the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”

(b) Section 1612(b)(4)(B) of such Act is amended by striking out “plus one-half of the remainder thereof, and (ii)” and inserting in lieu thereof the following: “(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual’s disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)”

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out “section 223 or 202(d)” and inserting in lieu thereof “section 223, 202(d), 202(e), or 202(f)”.

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof “, or, in the case of an individual entitled to widow’s or widower’s insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.”

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out “or the third month following the month in which his disability ceases,” at the end of the first sentence and inserting in lieu thereof “or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first

month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.”

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

(ii) by striking out “the third month following the month in which he ceases to be under such disability” and inserting in lieu thereof “, or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,”

(C) Section 202(e)(1) of such Act is amended by striking out “the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month).” at the end thereof and inserting in lieu thereof “, subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.”

(D) Section 202(f)(1) of such Act is amended by striking out “the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month).” at the end thereof and inserting in lieu thereof “, subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the

third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.”

(2)(A) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

“(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).”

(B) Section 216(i)(2)(D) of such Act is amended by striking out “(ii)” and all that follows and inserting in lieu thereof “(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section.”

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph:

“(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.”

(B) Section 1614(a)(3)(D) of such Act is amended by striking out “paragraph (4)” and inserting in lieu thereof “subparagraph (F) or paragraph (4)”.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

“(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).”

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any indi-

vidual whose disability has not been determined to have ceased prior to such first day.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) *Section 221(a) of the Social Security Act is amended to read as follows:*

"(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of

its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt, and

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law."

(b) Section 221(b) of such Act is amended to read as follows:

"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continu-

ation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.”

(c) Section 221(c) of such Act is amended to read as follows:

“(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency’s determination and determine that such individual either is or is not under a disability (as so defined) or that such individual’s disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination under this paragraph may be made before or after any action is taken to implement such determination.

“(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

“(3) In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

“(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

“(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

“(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982.”

(d) Section 221(d) of such Act is amended by striking out “(a)” and inserting in lieu thereof “(a), (b)”.

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out “which has an agreement with the Secretary” and inserting in lieu thereof “which is making disability determinations under subsection (a)(1)”,

(2) by striking out “as may be mutually agreed upon” and inserting in lieu thereof “as determined by the Secretary”, and

(3) by striking out “carrying out the agreement under this section” and inserting in lieu thereof “making disability determinations under subsection (a)(1)”.

(f) Section 221(g) of such Act is amended—

(1) by striking out “has no agreement under subsection (b)” and inserting in lieu thereof “does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines”, and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

(c) The amendments made by this section 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.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary)."

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, 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."

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence."

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary

witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection:

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title."

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out all that follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—";

(2) by striking out "or" at the end of clause (v);

(3) by striking out "under section 433(g)" in clause (vi);

(4) by adding "or" after the semicolon at the end of clause (vi); and

(5) by inserting after clause (vi) the following new clause:

"(vii) a person who is working not less than 30 hours per week;"

(b) Section 402(a)(19)(B) of such Act is amended by inserting "to families with dependent children" immediately after "that aid".

(c) Section 402(a)(19)(D) of such Act is amended by striking out "and income derived from a special work project under the program established by section 432(b)(3)".

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, "and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))" in the matter preceding clause (i), and inserting

in lieu thereof "(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual"; and

(2) by inserting "and" after the semicolon at the end of clause (iv), and striking out all that follows.

(e) Section 402(a)(19)(G) of such Act is amended—

(1) by inserting "(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))" immediately after "administrative unit" in clause (i);

(2) by striking out "subparagraph (A)," in clause (ii), and inserting in lieu thereof "subparagraph (A) of this paragraph (I)";

(3) by striking out "part C" where it first appears in clause (ii) and inserting in lieu thereof "section 432(b) (1), (2), or (3)"; and

(4) by striking out "employment or training under part C," in clause (ii) and inserting in lieu thereof "employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment,".

(f) Section 402(a)(19) of such Act is further amended—

(1) by striking out "and" at the end of subparagraph (F);

(2) by adding "and" after the semicolon at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work and training to which an individual may otherwise be assigned under section 432(b) (1), (2), or (3);".

(g) Section 403(c) of such Act is amended by striking out "part C" and inserting in lieu thereof "section 432(b) (1), (2), or (3)".

(h) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof."

(i) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on September 30, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date and take effect on such date.

USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR
NON-AFDC FAMILIES

SEC. 402. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting "(or undertaken to be collected by such State pursuant to section 454(6))" immediately after "assigned to such State".

(b) The amendment made by subsection (a) shall take effect July 1, 1980.

SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION
UNDER AFDC AND SOCIAL SERVICE PROGRAMS

SEC. 403. (a) Section 402(a)(9) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (B); and

(2) by striking out "; and the safeguards" and all that follows and inserting in lieu thereof the following: ", and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;"

(b) Section 2003(d)(1)(B) of such Act is amended—

(1) by striking out "provides that" and inserting in lieu thereof "provides safeguards which restrict";

(2) by striking out "will be restricted";

(3) by inserting "(A)" after "connected with"; and

(4) by inserting before the semicolon at the end thereof the following: ", and (B) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (B) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;"

(c) The amendments made by this section shall take effect on September 1, 1980.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY
CERTAIN COURT PERSONNEL

SEC. 404. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter for the operation of the plan approved under section 454, so much of the expenditures of courts of such State and its political subdivisions (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and sup-

port personnel) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

"(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

"(3) The State agency may, if the law (or procedures established thereunder) of the State so provides, pay so much of the amount it receives under subsection (a) for any quarter as is payable by reason of the provisions of this subsection directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable."

(b) The amendment made by subsection (a) shall apply with respect to expenditures made by States on an after July 1, 1980.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 405. (a) Section 455(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding after and below paragraph (2) the following new paragraph:

"(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);"

(b) Section 454 of such Act is amended—

(1) by striking out "and" at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof "; and"; and

(3) by adding after paragraph (15) the following new paragraph:

"(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (1) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such in-

dividual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement."

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

"(G) provides such other information as the Secretary determines under regulation is necessary.

"(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16).

“(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.”

(d) Section 452 of the Social Security Act is further amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

“(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3).”

(e) The amendments made by this section shall take effect on July 1, 1981, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 403(a)(3) of the Social Security Act is amended—

- (1) by striking out “and” at the end of subparagraph (A);
 - (2) by redesignating subparagraph (B) as subparagraph (C);
- and
- (3) by inserting after subparagraph (A) the following new subparagraph:

“(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX, and”.

(b)(1) Section 402(a) of such Act is amended—

- (A) by striking out “and” at the end of paragraph (28);
- (B) by striking out the period at the end of paragraph (29) and inserting in lieu thereof “; and”; and
- (C) by adding after paragraph (29) the following new paragraph:

“(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this

part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system."

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

"(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such statewide management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

"(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

"(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

"(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

"(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed."

(c) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

**"TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT
INFORMATION SYSTEMS**

"SEC. 413. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act."

(d) The amendments made by this section shall be effective with respect to expenditures made during calendar quarters beginning on or after July 1, 1981.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out "The Secretary" and inserting in lieu thereof "Subject to subsection (d), the Secretary".

(b) Section 455 of such Act is further amended by adding after subsection (c) (as added by section 404 of this Act) the following new subsection:

"(d) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a)."

(c) Section 403(b)(2) of such Act is amended—

(1) by striking out "and" at the end of clause (A); and

(2) by adding immediately before the semicolon at the end of clause (B) the following: ", and (C) reduced by such amount as is necessary to provide the 'appropriate reimbursement of the Federal Government' that the State is required to make under

section 457 out of that portion of child support collections retained by it pursuant to such section".

(d) The amendments made by this section shall be effective in the case of calendar quarters commencing on or after January 1, 1981.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT
STATE PLANS FOR CHILD SUPPORT

SEC. 408. (a)(1) Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

“(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

“(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

“(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term ‘child support obligations’ only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

“(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term ‘State or local child support enforcement agency’ means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).”

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out “(1)(1) or (4)(B) or (5)” and inserting in lieu thereof “(1)(1), (4)(B), (5), or (7)”.

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out “(1)(3) or (6)” in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof “(1)(3), (6), or (7)”.

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out “(1)(6)” and inserting in lieu thereof “(1)(6) or (7)”.

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out “subsection (d), (1)(6), or (m)(4)(B)” and inserting in lieu thereof “subsection (d), (1)(6) or (7), or (m)(4)(B)”.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(d)(1) The State agency charged with the administration of the State law—

“(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and

“(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations.

For purposes of the preceding sentence, the term ‘child support obligations’ only includes obligations which are being enforced pursuant to a plan described in section 454 of this Act which has been approved by the Secretary of Health and Human Services under part D of title IV of this Act.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

“(3) For purposes of this subsection, the term ‘State or local child support enforcement agency’ means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1).”

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out “subsection (b) or (c)” and inserting in lieu thereof “subsection (b), (c), or (d)”.

(3) The amendments made by this subsection shall take effect on July 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1126 the following new section:

“ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

“SEC. 1127. Notwithstanding any other provision of this Act, in any case where an individual—

“(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

"(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury."

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1127."

(c) Section 1631(b) of such Act is amended—

(1) by inserting "(1)" immediately after "(b)", and

(2) by adding at the end thereof the following new paragraph:

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127."

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981."

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT
TO COVERED STATE AND LOCAL EMPLOYEES

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and"

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

(c) The provisions of section 7 of Public Law 94-202 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.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual's income and resources shall be deemed to include the income and resources of his sponsor and such sponsor's spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual."

(b) Part A of title XVI of such Act is amended by adding at the end thereof (after the new section added by section 201(c) of this Act) the following new section:

"ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIENS

"SEC. 1621. (a) For purposes of determining eligibility for and the amount of benefits under this title 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 three 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)(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 1612(a)) 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 title 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 1611(b)(1)), 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 1611(c).

"(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 1613) 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) \$1,500 in the case of a sponsor who has no spouse with whom he is living, or (ii) \$2,250 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) In determining the amount of income of an alien during the period of three years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1612(a)(2)(A)(i) 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 1612(a)(2)(A).

"(d)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this title, be required to provide to the Secretary such information and documentation with respect to his sponsor as may be necessary in order for the Secretary 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 Secretary such information and documentation as the Secretary may request and which such alien or his sponsor provided in support of such alien's immigration application.

"(2) The Secretary shall enter into agreements with the Secretary of State and the Attorney General whereby any information availa-

ble to such persons and required in order to make any determination under this section will be provided by such persons to the Secretary, 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) Any sponsor of an alien, and such alien, shall be jointly and severably liable for an amount equal to any overpayment made to such alien during the period of three 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 Secretary or recovered in accordance with section 1631(b) shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

"(f)(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 title by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), 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 203(a)(7) of the Immigration and Nationality Act;

"(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act;

"(C) paroled into the United States as a refugee under section 212(d)(5) of such Act; or

"(D) granted political asylum by the Attorney General."

(c) The amendments made by this section shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act for the first time after September 30, 1980.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote

the objectives or facilitate the administration of title II of the Social Security Act.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

"(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary."

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "SEC. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstra-

tion projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616), or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers."

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE
TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of \$2,000,000 for any fiscal year) as may be necessary.

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH
INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

"VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH
INSURANCE POLICIES

"SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

"(b)(1) Any medicare supplemental policy issued in any State which the Supplemental Health Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

"(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Standards (as defined in subsection (g)(2)(A));

"(B) includes a requirement equal to or more stringent than the requirement described in subsection (c)(2); and

"(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all medicare supplemental policies (as defined in subsection (g)(1)) issued in such State,

shall be deemed (for so long as the Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

"(2)(A) There is hereby established a panel (hereinafter in this section referred to as the 'Panel') to be known as the Supplemental Health Insurance Panel. The Panel shall consist of the Secretary, who shall serve as the Chairman, and four State commissioners or superintendents of insurance, who shall be appointed by the President and serve at his pleasure. Such members shall first be appointed not later than December 31, 1980.

"(B) A majority of the members of the Panel shall constitute a quorum, but a lesser number may conduct hearings.

"(C) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Panel may require.

"(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

"(E) Members of the Panel shall be allowed, while away from their homes or regular places of business in the performance of services for the Panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

"(c) The Secretary shall certify under this section any medicare supplemental policy, or continue certification of such a policy, only if he finds that such policy—

"(1) meets or exceeds (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another) the NAIC Model Standards; and

"(2) can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies.

For purposes of paragraph (2), policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

"(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Sec-

retary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

"(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

"(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) Subparagraph (A) shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations.

"(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

"(B) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph, a medicare supplemental policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(i) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (g)(2)(B));

"(ii) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 per cent of such policies are sold; or

"(iii) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State

after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

"(f)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective approved State regulatory programs described in subsection (b).

"(B) Such study shall also address the need for standards or certification of health insurance policies, other than medicare supplemental policies, sold to individuals eligible for benefits under this title.

"(C) The Secretary shall, no later than January 1, 1982, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

"(2) The Secretary shall submit to the Congress no later than July 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of—

"(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits

under this title of medicare supplemental policies which have been certified by the Secretary;

“(B) the need for any change in the certification procedure to improve its administration or effectiveness; and

“(C) whether the certification program and criminal penalties should be continued.

“(g)(1) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations. For purposes of this section, the term ‘policy’ includes a certificate issued under such policy.

“(2) For purposes of this section:

“(A) The term ‘NAIC Model Standards’ means the ‘NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act’, adopted by the National Association of Insurance Commissioners on June 6, 1979, as it applies to medicare supplement policies.

“(B) The term ‘State with an approved regulatory program’ means a State for which the Panel has made a determination under subsection (b)(1).

“(C) The State in which a policy is issued means—

“(i) in the case of an individual policy, the State in which the policyholder resides; and

“(ii) in the case of a group policy, the State in which the holder of the master policy resides.

“(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section. The Secretary shall first issue final regulations to implement the certification procedure established under subsection (a) not later than March 1, 1981.

“(i)(1) No medicare supplemental policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1982. On and after such date policies certified by the Secretary may bear such emblem, including policies which were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified policies issued prior to such date using such emblem in the notification.

“(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1982, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall

implement such program under subsection (a) with respect to medicare supplemental policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).

"(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1982, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph. In counting such days, days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation.

"(j) Nothing in this section shall be construed so as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State."

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on July 1, 1982.

And the Senate agree to the same.

That the House recede from its disagreement to the amendment of the Senate to the title of the bill, and agree to the same.

AL ULLMAN,
JAMES CORMAN,
J. J. PICKLE,
ANDREW JACOBS,
WILLIAM COTTER,
C. B. RANGEL,
BARBER B. CONABLE, Jr.,
BILL ARCHER,
JOHN J. DUNCAN,

Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABE RIBICOFF,
GAYLORD NELSON,
MAX BAUCUS,
BOB DOLE,
JOHN DANFORTH,
DAVE DURENBERGER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The difference between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—PROVISIONS RELATING TO DISABILITY INSURANCE

Limit on Family Disability Insurance Benefits

(Sec. 101)

Present law.—The social security disability insurance program (DI) determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average indexed monthly earnings the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount may be increased if the worker has a spouse or dependent children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

House bill.—The House bill limited total DI family benefits to the smaller of 80 percent of the worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). Under the provision, no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation was effective with respect to individuals becoming entitled to benefits on or after January 1, 1980.

Senate bill.—The Senate bill limited total DI family benefits to the smaller of 85 percent of the worker's AIME or 160 percent of the worker's PIA. As under the House bill, no family benefit would be reduced below 100 percent of the worker's primary benefit. The bill provided for the same effective date as the House bill except the limitation would be effective only with respect to individuals who *first* became entitled to benefits on or after January 1, 1980.

Conference agreement.—The conferees agreed to limit DI family benefits to the smaller of 85 percent of the worker's average indexed monthly earnings (AIME), as in the Senate bill, or 150 percent of the worker's primary insurance amount (PIA), as in the House bill. The limitation is effective only with respect to individuals who *first* become entitled to benefits on or after July 1, 1980.

Reduction in Dropout Years

(Sec. 102)

Present law.—Disabled workers are allowed to exclude up to 5 years of low earnings in averaging their earnings. However, at least 2 years of earnings must be used in the benefit computation.

House bill.—The House provision excluded years of low earnings in the computation of disability benefits according to the following schedule:

Worker's age :	<i>Number of dropout years</i>
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

The provision also allowed workers to drop out additional low earnings years if in those years the worker provided principal care of a child under age 6. In no case would the number of dropout years exceed 5.

Senate bill.—The Senate bill excluded years of low earnings in the computation of disability benefits according to the following schedule:

Worker's age :	<i>Number of dropout years</i>
Under 32.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

There was no provision for allowing additional dropout years for child care.

Conference agreement.—The conferees agreed to exclude years of low earnings in the computation of disability benefits according to the following schedule (as in the House bill):

Worker's age :	<i>Number of dropout years</i>
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

The provision also would allow a disabled worker to drop out additional years from the computation period if in those years there was a child (of such individual or his or her spouse) under age 3 living in the same household substantially throughout each such year and the disabled worker did not engage in any employment in each such year. Dropout years for periods of childcare would be provided only to the extent that the combined number of childcare dropout years and dropout years provided under the regular schedule do not exceed 3.

The new schedule of dropout years applies to disabled workers who *first* become entitled to benefits after June 1980. The provision continues to apply to a worker until his death unless before age 62 he ceases to be entitled to disability benefits for 12 continuous months.

The provision allowing childcare dropout years would be effective for monthly benefits payable for months after June 30, 1981.

The provision in present law which requires that at least 2 years of earnings be used in the benefit computation is retained.

Elimination of Second Medicare Waiting Period

(Sec. 103)

Present law.—Beneficiaries of disability insurance (DI) must wait 24 consecutive months after becoming entitled to benefits to become eligible for medicare. If a beneficiary loses his eligibility and then becomes disabled again, another 24-consecutive-month waiting period is required before medicare coverage is resumed.

House bill.—The House provision eliminated the requirement that a person who becomes disabled a second time must undergo another 24-consecutive-month waiting period after becoming reentitled to benefits before medicare coverage is available to him. The amendment applied to workers becoming disabled again within 60 months, and to disabled widows or widowers and adults disabled since childhood becoming disabled again within 84 months.

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provisions of the House and Senate bills and agreed that the provision would be effective 6 months after enactment.

Extension of Medicare for an Additional 36 Months

(Sec. 104)

Present law.—Medicare coverage ends when disability insurance benefits cease.

House bill.—The House provision extended medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period was part of the new 24-month trial work period. See section 303.)

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provisions of the House and Senate bills and agreed to apply the new provision to disability beneficiaries whose disabilities have not been determined to have ceased prior to the 6th month after enactment.

Funding for Vocational Rehabilitation Services for Disabled Individuals

Present law.—Reimbursement from social security trust funds is now provided to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. The purpose of the payment is to accrue savings to the trust funds as a result of rehabilitating the maximum number of beneficiaries into productive activity. The total amount of the funds that may be made available for such reimbursement may not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

House bill.—Effective for fiscal 1982, the House bill eliminated trust fund financing for rehabilitation services but provided trust fund re-

imbursement for the Federal share (80%) to the General Fund of the U.S. Treasury and to the States for twice the State share (20%×2) of rehabilitation services which result in the performance by a rehabilitated individual of substantial gainful activity (SGA) for a continuous period of 12 months or which result in employment for 12 consecutive months in a sheltered workshop. It directed the Secretary of HHS to study alternative methods of providing and financing the costs of rehabilitation services to disabled beneficiaries in order to realize maximum savings to the trust funds and to submit a report with recommendations to the President and the Congress by January 1, 1980.

Senate bill.—The Senate bill made no change from present law.

Conference agreement.—The conferees agreed not to change the provisions of present law.

The conferees anticipate that the new method of allocating trust fund money to the States for rehabilitation of social security clients which was recently adopted administratively will continue and be intensified in the future. This method generally allocates the trust fund money based on the relative number of social security beneficiaries each State rehabilitates with earnings at the substantial gainful activity (SGA) level, provided that no State loses more than $\frac{1}{3}$ of its previous year's funding. Currently, rehabilitation is considered to have been achieved when the client has been employed for two months. The managers expect that the measure of success, i.e., rehabilitation at the SGA level, will be modified as soon as administratively feasible so that the allocation formula will be based on the State's relative share of the total number of social security clients employed as a result of rehabilitation for no less than 6 months (although not necessarily consecutive) with earnings at the SGA level throughout the period. Furthermore, the managers expect that steps will be taken to develop procedures which will eventually result in the allocation being based on the State's relative share of total benefit terminations brought about by vocational rehabilitation services. The conferees instruct the Social Security Administration and the Rehabilitation Services Administration (recently transferred to the Department of Education) to continue to explore the possibility of developing more timely and effective methods of measuring performance in trust fund rehabilitations. The results of these efforts should be promptly communicated to the Ways and Means and Finance Committees.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

Benefits for Individuals Who Engage In Employment Activity

(Sec. 201)

Present law.—Under present law, an individual may qualify for SSI disability payments only if and for so long as he “is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months.” The Secretary of Health and Human Services is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual’s ability to engage in substantial gainful activity (SGA). At the present time, the level of earnings established by the Secretary for determining whether an individual is engaging in SGA is \$300 a month. An individual who in fact has earnings above this level (1) cannot become eligible for SSI disability and (2), if already eligible, will (after a 9-month trial work period) cease to be eligible.

Senate bill.—The Senate bill included an amendment which, on a demonstration basis, provided that a disabled recipient who loses his eligibility for regular SSI benefits because of performance of SGA would become eligible for a special benefit status, which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medicaid and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual’s earnings exceeded the amount which would cause the Federal SSI payment to be reduced to zero, the special benefit status would be terminated and the individual would not thereafter be eligible for any Federal SSI benefits or Federal cash benefits under the special benefits status unless he could reestablish his eligibility for SSI, which would include meeting the SGA limitation.

When a disabled SSI recipient’s earnings rise to the point that he no longer qualifies for Federal SSI benefits, State supplementary payments or the special benefit status, he would nevertheless continue to retain eligibility for medicaid and social services as though he were an SSI recipient if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual’s ability to continue his employment, and (2) the individual’s earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision allowing continuation of eligibility for med-

icaid and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind.

The Senate provisions would be effective for 3 years, during which the Department would be required to provide for a separate accounting of funds expended under this provision.

Conference agreement.—The conference agreement follows the Senate bill effective January 1, 1981 with the addition of a pilot program under which States could provide medical and social services to certain persons with severe impairments whose earnings exceed the substantial gainful activity limits and who are not receiving SSI, special benefits, or medicaid.

Under this pilot program, for the purpose of assisting States in providing medical or social services to certain severely handicapped persons, \$18 million in Federal funds would be available to States on an entitlement basis for a 3-year period beginning September 1, 1981. \$6 million would be available to States through the end of fiscal 1982. An additional \$6 million would be available for each of the two following fiscal years. Funds that are not used during each of the first two years could be carried forward by the State.

Funds would be allocated among the States in proportion to the number of disabled SSI recipients aged 18 to 65. Prior to the start of each fiscal year, each State that does not intend to use its allocation would so certify to the Secretary of Health and Human Services. If a State certifies that it will not use all or some portion of its funds for any fiscal year or years, its allocation (or the unused portion thereof) for the period covered by the certification will be reallocated by the Secretary of HHS among States participating in the program that can make use of additional funds.

From the allocated funds, the Secretary of HHS would pay each State 75 percent of the costs of operating an approved plan for providing medical and social services to severely handicapped individuals who have earnings in excess of the substantial gainful activity limits and are not receiving SSI, special benefits or medicaid, if the State determines:

- (1) that the absence of these benefits would significantly inhibit the individual's ability to continue his employment; and
- (2) that the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits (SSI, medicaid and title XX) that would be available to him in the absence of those earnings.

(It is not intended that States would require an individual to obtain a determination as to the level of or potential eligibility for benefits which might be payable under the SSI, medicaid, and title XX programs in the absence of his earnings. Rather it is intended that each participating State would use generally available information concerning the benefits provided in that State under these programs to establish reasonable income limits to carry out this criterion.)

The State plan would have to include (1) a statement of intent to participate in the program; (2) a designation of the agency to administer the program; (3) a description of the eligibility criteria which the State will apply and the procedures for determining eligibility (which may not involve use of the Disability Determination Service which makes disability determinations for the DI and SSI programs

unless it is not feasible to use any other agency for the pilot program); and (4) a description of the services which the State intends to provide under the program. The State may submit a separate State plan or it may incorporate this plan as an amendment to its State administrative plan submitted to HHS under title XX. Under the pilot program, States could provide medical and social services through their medicaid and social services programs (not limited by eligibility criteria and scope of services under titles XIX and XX) but would receive Federal matching for those services under this provision rather than under title XIX or title XX. States could also provide services through some other mechanism if they found it appropriate.

States would be required to provide a report to HHS addressing the operation and results, emphasizing the work incentive effects, of the pilot program. On the basis of State reports, HHS would be required to report to the Congress. The report would be due not later than October 1, 1983; and should include, but not necessarily be limited to, relevant demographic information, earnings, employment information, and primary impairments of the individuals who received services under the pilot program, and the types of services they received. HHS would be required to publish final regulations to implement this program no later than nine months after the date of enactment.

Employment in Sheltered Workshops

(Sec. 202)

Present law.—Under present law, income from activity in a sheltered workshop that is part of an active rehabilitation program are not considered earned income for purposes of determining SSI payments, and therefore do not qualify for the earned income disregards (\$65 a month plus ½ of additional earnings).

Senate bill.—The Senate bill provided that remunerations received in sheltered workshops and work activities centers would be considered earned income and therefore qualify for the earned income disregards.

Conference agreement.—The conference agreement follows the Senate bill and the provision would be effective October 1980.

Deeming of Parents' Income to Disabled or Blind Children

(Sec. 203)

Present law.—Present law requires that the parents' income and resources be deemed to a blind or disabled child who lives in the household with them and who is under age 18 in determining the child's eligibility for SSI, or under 21 in the case of an individual who is in school or a training program.

Senate bill.—Under the Senate bill, the deeming of parents' income and resources would be limited to disabled or blind children under age 18, whether or not the person is in school or training. Children receiving SSI who, on the effective date of the provision, are age 18 to 21 would be protected against loss of benefits due to this change.

Conference agreement.—The conference agreement follows the Senate bill and the provision would be effective October 1980.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

Termination of Benefits for Persons in Vocational Rehabilitation Programs

(Sec. 301)

Present law.—Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled.

House bill.—The House bill provided that DI benefits will continue after medical recovery for persons in approved vocational rehabilitation plans or programs, if the Commissioner of Social Security determines that continuing in those plans or programs will increase the probability of beneficiaries going off the rolls permanently.

Senate bill.—The Senate bill included the same provision for SSI and DI beneficiaries except that the Secretary, rather than the Commissioner, would make the determination as to whether benefits should be continued.

Conference agreement.—The conference agreement accepts the Senate extension of the provision to SSI beneficiaries, but adopts the House provision that the Commissioner will make the determination that benefits should be continued.

The conference committee wishes to make clear that it expects that, in most cases, medical cessation of disability will result in the termination of benefits, as now occurs in all cases. The conferees are concerned that under present vocational rehabilitation procedures many individuals have been permitted to enter approved programs even when there is a reasonable expectation of medical recovery before the termination of the program. (This is demonstrated by the fact that an increasing number of individuals have been terminated from the benefit rolls while participating in a State approved vocational rehabilitation program who were at the time of enrollment in the program diaried for reexamination on the basis of the time-limited nature of their medical impairment.) It is not the intent of this provision to continue benefits in these cases. It is the intent of the provision to consider only those exceptional cases where the disabled beneficiary is not expected at the beginning of the program to recover medically before the end of the program, but he or she does recover and is no longer considered disabled within the meaning of the Social Security Act, although some residual functional limitation still remains.

The provision is effective 6 months after enactment.

Treatment of Extraordinary Work Expenses

(Sec. 302)

Present law.—Regulations issued under present law provide that, in determining whether an individual is performing substantial gainful activity (SGA), extraordinary expenses incurred by the individual in connection with his employment, and because of his impairment, are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

House bill.—For purposes of DI, the House bill provided for a deduction from earnings of costs to the individual of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions.

Senate bill.—The Senate bill included the same provision, but also provided that the deduction would apply even where the individual does not pay the cost of the impairment-related work expenses (i.e. where the cost is paid by a third party). The bill added language giving the Secretary the authority to specify in regulations the type of care, services, and items that may be deducted, and provided that the amounts to be deducted shall be subject to such reasonable limits as the Secretary may prescribe. It also made the provision applicable to SSI.

Conference agreement.—The conferees adopted the Senate provision, but agreed that, for both programs, the disregard will be applied only where the individual paid the cost of the impairment related expense. In addition, impairment related work expenses would be disregarded in determining the monthly SSI payment of a disabled SSI recipient. It is the intent of the conferees that the regulations developed by the Secretary to carry out these provisions shall apply in a uniform manner to the determination of the amounts which may be deducted in both the DI and SSI programs. The provision is effective six months after enactment.

Extension of the Trial Work Period—Reentitlement to Benefits

(Sec. 303)

Present law.—Under the DI and SSI programs, when an individual completes a 9-month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following. Under the DI program, widows and widowers are not entitled to a trial work period.

House bill.—The House bill, in effect, extended the trial work period under the DI program to 24 months. In the last 12 months of the 24-month period an individual who was performing substantial gainful activity immediately following the 9-month trial work period would not receive cash benefits while engaging in substantial work activity, but would automatically be reinstated to active benefit status if earnings fall below the SGA level.

The bill also provided that the same trial work period would be applicable to disabled widows and widowers (who are not permitted a trial work period at all under existing law).

Senate bill.—The Senate bill was the same as the House bill with technical language changes, and also made the provision generally applicable to the SSI program.

Conference agreement.—The conference accepted the provisions of the Senate bill, and agreed that the provision would be effective with respect to individuals whose disabilities have not been found to have terminated before the sixth month after enactment.

Administration by State Agencies

(Sec. 304 (a) (b) (e) (f) and (h))

Present law.—Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HHS. Unlike the grant-in-aid programs, the relationship is contractual and State laws and practices are controlling with regard to many administrative aspects. State agencies make the determinations based on guidelines provided by the Department and the costs of making the determinations are paid from the disability trust fund in the case of DI claimants, or from general revenues in the case of SSI claimants, by way of advancements of funds or reimbursements to the contracting State agency. Present agreements allow both the State and the Secretary to terminate the agreement. The States generally may terminate with 12 months' notice and the Secretary may terminate if he finds the State has not complied substantially with any provision of the agreement.

House bill.—The House bill required that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It also required the Secretary to issue regulations specifying, in such detail as he deemed appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function "in order to assure effective and uniform administration of the disability insurance program throughout the United States." Certain operational areas were cited as "examples" of what the regulations may specify.

The bill also provided that if the Secretary found that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. In cases of termination by the State, the State would be required to continue to make disability determinations for not less than 180 days after notifying the Secretary of its

intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Senate bill.—The Senate bill was the same as the House bill, except that it:

(1) Deleted as an example of the kinds of matters which the Secretary's regulations may cover: "any other rules designed to facilitate or control or assure the equity and uniformity of the State's disability decision."

(2) Added language specifying that "Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law."

Conference agreement.—The conference agreement follows the Senate bill. The conference committee deleted the catch-all phrase of "any other rules designed to facilitate, or control, or assure the equity and uniformity of the State's disability determinations" as providing vague and unnecessary authority. The conference agreement provides that these changes will be effective beginning with the 12th month following the month in which the bill is enacted. Any State that has an agreement on the effective date of the amendment will be deemed to have given affirmative notice of wishing to make disability determinations under the regulations. Thereafter, it may give notice of termination which shall be effective no earlier than 180 days after the notice is given.

Protection of State Employees

(Sec. 304 (b) and (i))

Present law.—Under provisions of the Federal Personnel Manual, when the Federal Government takes over a function being carried out by a State, the Federal agency at its discretion may retain the State employees in their positions.

House bill.—The House bill required the Secretary to submit to the Committee on Ways and Means and the Committee on Finance by January 1, 1980, a detailed plan on how he expected to assume the functions of a State disability determination unit when this became necessary. The bill further provided that the plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out that function. If any amendment of Federal law or regulation was required to carry out such plan, a recommendation for such amendment was to be included in the plan for action, or for submittal by such committees, with appropriate recommendations to the committees having jurisdiction over the Federal civil service and retirement laws.

Senate bill.—The Senate bill was the same as the House bill except that it delayed the report by the Secretary to July 1, 1980, and required a report to Congress rather than to the Committees on Ways and Means and Finance. Also it added a requirement that if the Secretary assumes the disability determination function he must assure preference to State agency employees who are capable of performing duties in the disability determination process over any other individual in filling new Federal positions.

In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor determined that, with respect to any displaced State employees who were not hired by the Secretary, the State had made "fair and equitable arrangements to protect the interests of employees so displaced." The protective arrangements would have to include only those provisions provided under all applicable Federal, State, and local statutes, including the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements, the continuation of collective-bargaining rights, the assignment of affected employees to other jobs or to retraining programs, the protection of individuals against a worsening of their positions with respect to employment, the protection of health benefits and other fringe benefits, and the provision of severance pay.

Conference agreement.—The conference agreement follows the Senate bill except that the Secretary would not be required to provide a hiring preference to the administrator, deputy administrator, or assistant administrator (or comparable position) in the event that the Secretary found it necessary to assume the functions of a State agency. Although he would not be required to provide a preference to persons in those positions, he could do so if he determines that such action is appropriate. The effective date is the same as for the provision for administration of State agencies.

Federal Review of State Agency Decisions—Reversal of Decisions

(Sec. 304(c))

Present law.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of initial disability claims adjudicated by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. This is on a sample basis and varies from 2 percent in the larger States to 25 percent in the smaller States.

The Secretary has authority to reverse favorable decisions with respect to DI beneficiaries. He may reverse both favorable and unfavorable decisions in SSI.

House bill.—The House bill required Federal preadjudicative review of DI allowances according to the following schedule:

	<i>Minimum percent reviewed</i>
Decisions made in fiscal year:	
1980	15
1981	35
1982 and thereafter	65

Senate bill.—The Federal review of State agency decisions was to include both allowances and denials, according to the following schedule:

	<i>Minimum percent reviewed</i>
Decisions made in fiscal year:	
1981	15
1982	35
Thereafter	65

The Secretary would be given the authority to reverse decisions that are unfavorable to DI claimants.

Conference agreement.—The conference agreement follows the Senate schedule but provides (as in the House bill) for review only of allowances and continuances. The agreement follows the Senate bill as to granting authority to the Secretary to reverse denials.

The conference committee notes that the percentage requirements for preadjudicative review are nationwide requirements and that the Social Security Administration will determine whether they should be higher or lower on an individual State basis. The conferees also instruct the Secretary to report to the Ways and Means and Finance Committees by January 1982 concerning the potential effects on processing time and on the cost effectiveness of the requirement of the 65 percent review for fiscal year 1983, and thereafter. This provision is effective upon enactment.

Own-Motion Review of ALJ Decisions

(Sec. 304(g))

Present law.—After his claim has been denied by the State agency initially and on reconsideration, an applicant has the opportunity for a hearing before an administrative law judge (ALJ). In the past there had also been fairly extensive review of ALJ allowances and denials through own-motion review by the Appeals Council as authorized by the Administrative Procedure Act and the regulations of the Secretary. This own-motion review has almost been eliminated in recent years.

Senate bill.—The Secretary of Health and Human Services would be required to implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act (the disability determination provisions). He would be required to report to Congress by January 1, 1982, on the progress of this program. In his report, he must indicate the percentage of such decisions being reviewed and describe the criteria for selecting decisions to be reviewed and the extent to which such criteria take into account the reversal rates for individual administrative law judges by the Secretary (through the Appeals Council or otherwise), and the reversal rate of State agency determinations by individual administrative law judges.

Conference agreement.—The conference agreement follows the Senate bill with a modification which strikes the language specifying what is to be included in the required report. The conferees believe the report should indicate the percentage of ALJ decisions being reviewed and describe the criteria for selecting decisions to be reviewed. The conferees are concerned that there is no formal ongoing review of social security hearing decisions. The variance in reversal rates among ALJ's and the high overall ALJ reversals of determinations made at the prehearing level indicate that there is a need for such review. The conferees recognize that, at the hearing level, the claimant appears for the first time before a decisionmaker and additional evidence is generally submitted. The conferees also recognize that there have been significant changes in State agency denial rates and that in certain

areas the ALJ's and State agencies have been operating with different policy guidelines. The report should identify the effects of these factors as well as any differences in standards applied by ALJ's.

Information to Accompany Secretary's Decision

(Sec. 305)

Present law.—There is no statutory provision setting a specific amount of information to explain the decision made on a claim for benefits.

House bill.—The House bill required that any decision by the Secretary with respect to all OASDI claimants shall provide notice to the claimant which includes:

A citation and discussion of the pertinent law and regulations,

A list and summary of the evidence of record, and

The Secretary's determination and the reason(s) upon which it is based.

Senate bill.—The Senate bill required that notices of disability denial to DI and SSI claimants shall contain a statement of the case, in understandable language, and include:

A discussion of the evidence, and

The Secretary's determination and the reason(s) upon which it is based.

Conference agreement.—The conference agreement follows the Senate bill.

The conference committee wishes to make clear that the Secretary's statement of the case be brief, informal, and not technical. The conferees do not contemplate that the statement would resemble the more formal "statement of the case" approach used by the Veterans Administration (VA) in its appeals proceedings. In addition, the conference committee wishes to make clear that where a written personalized explanation has been provided explaining why the individual will no longer be entitled to disability benefits (e.g. cessations of disability, adverse reopenings of determinations, etc.) it will not be necessary to provide this information again in the actual termination notice.

The provision is effective for decisions made on or after the first day of the 13th month following the month of enactment.

Limitation on Court Remand

(Sec. 307)

Present law.—Prior to filing an answer in a court case, the Secretary may, on his own motion, remand a case back to an ALJ. Similarly, the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ.

House bill.—The House bill limited the absolute authority of the Secretary of HHS to remand court cases. It required that such remands would be discretionary with the court upon a showing by the Secretary of good cause. A second provision relates to remands by the court. The bill provided that a remand would be authorized only on a showing that there is new evidence which is material, and that there

was good cause for failure to incorporate it into the record in a prior proceeding.

Senate bill.—Same as House.

Conference agreement.—The conference agreement includes this provision of the Senate and House bills effective upon enactment. The conferees have been informed that there are sometimes procedural difficulties which prevent the Secretary from providing the court with a transcript of administrative proceedings. Such a situation is an example of what could be considered “good cause” for remand. Where, for example, the tape recording of the claimant’s oral hearing is lost or inaudible, or cannot otherwise be transcribed, or where the claimant’s files cannot be located or are incomplete, good cause would exist to remand the claim to the Secretary for appropriate action to produce a record which the courts may review under 205(g) of the act. It is the hope of the conferees that remands on the basis of these breakdowns in the administrative process should be kept to a minimum so that persons appealing their decision are not unduly burdened by the resulting delay.

Time Limits for Decisions on Benefit Claims

(Sec. 308)

Present law.—There is no limit on the time that may be taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

House bill.—The House bill required the Secretary to submit a report to Congress recommending appropriate time limits for the various levels of adjudication of title II cases. In recommending the limits, the Secretary was to give adequate consideration to both speed and quality of adjudication.

Senate bill.—Same as House bill.

Conference agreement.—The conferees accepted the provision of the House and Senate bills but with the Senate due date of July 1, 1980.

Payment for Existing Medical Evidence

(Sec. 309)

Present law.—Authority does not now exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

House bill.—The House bill would provide that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Senate bill.—The Senate bill included the same provision except that payment for evidence would be made to the provider only when such evidence is “requested” and required by the Secretary.

Conference agreement.—The conference agreement follows the Senate bill and is effective six months after enactment.

Payment for Certain Travel Expenses

(Sec. 310)

Present law.—Explicit authority does not exist under the Social Security Act to make payments from the trust funds to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

House bill.—The House bill provided permanent authority for payment of travel expenses incident to medical examination and the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the DI adjudication process.

Senate bill.—The Senate bill included the same provision and extended it to include SSI and medicare and all determinations under title II. However, a limitation on air travel costs included in the House bill was omitted in the title II authority.

Conference agreement.—The conference agreement follows the Senate bill with a modification to include the limitation on air travel costs.

The conference committee wishes to make it clear that this provision does not authorize reimbursement of a claimant's travel expenses in going to and from Social Security offices to file requests for reconsideration or to discuss the reconsideration decision. It is the intent of this provision to provide reimbursement only in the cases of those claimants who are entitled, as part of the reconsideration process, to engage in a face-to-face interview with a State agency decisionmaker if this procedure is implemented by the Social Security Administration.

Periodic Review of Disability Determinations

(Sec. 311)

Present law.—Administrative procedures now provide that a disability beneficiary's continued eligibility for benefits be reexamined only under a limited number of circumstances (i.e., where there is a reasonable expectation that the beneficiary will show medical improvement).

House bill.—The House bill provided that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. This review would be in addition to, and not considered as a substitute for, any other reviews which are required.

Senate bill.—The Senate bill included the same provision except that even cases where the initial prognosis shows the probability that the condition will be permanent would be subject to review made at such times as the Secretary determines to be appropriate.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

AFDC Work Requirement

(Sec. 401)

Present law.—Recipients of Aid to Families with Dependent Children who are not specifically exempt are required to register for manpower services, training, and employment as a condition of AFDC eligibility. Those who are exempt from the registration requirement are children under age 16, persons caring for a child under age 6, persons who are ill or needed as the caretaker for someone in the home who is ill, or persons who are remote from a work incentive program (WIN) project.

Assistance may be terminated “for so long as” an individual (who has been certified by the welfare agency as ready for employment or training) refuses without good cause to participate in employment or training under WIN. Under court interpretation WIN sanctions may be applied only “for so long as” there is refusal, thus allowing a recipient to move on and off AFDC without being subject to any specific period during which his benefits may be terminated.

Federal matching for WIN programs is 90 percent. The State matching share of 10 percent may be either in cash or in kind with respect to manpower activities. State matching for supportive services must be in cash.

Senate bill.—The Senate bill added “other employment related activities” to the types of activities for which AFDC recipients are required to register. These are described in the committee report as including employment search. The bill also specifically required that necessary social and supportive services be provided during any employment search activities under the WIN program. These services would be authorized to be provided to registrants prior to certification.

The bill authorized the Secretaries of Labor and HEW (now HHS) to establish, by regulation, the period of time during which an individual would not be eligible for assistance in the case of refusal without good cause to participate in a WIN program. In addition, the present law provision for a 60-day counseling period for persons who refuse to participate was eliminated.

The bill also: required that State supportive service units be co-located with manpower units to the maximum extent feasible; allowed State matching for supportive services to be in cash or in kind; clarified that income from WIN public service employment is not fully excluded in determining benefits (there would be no disregard of the first \$30 a month plus one-third of additional earnings); added to the individuals who are exempt from registration for WIN, individuals who are working at least 30 hours a week.

Conference agreement.—The conferees agreed to the Senate provision, with amendments. The conference agreement provides that the criteria for appropriate work and training to which an individual may be assigned under section 432(b) (1), (2), and (3) shall apply in the case of work to which an individual may be referred as part of employment search programs conducted under the work incentive program. In other words, job referral under the new employment search provision would be limited to jobs that meet the current WIN regulations relating to appropriate employment. (Present regulations provide limits as to reasonable travel time, provision for necessary supportive services, requirements for wages, health and safety, and others.)

In addition, the conferees agreed to limit an individual's job search period to 8 weeks in one year, and added a requirement that there be timely reimbursement of any employment search expenses paid for by the individual.

Under the conference agreement, the provisions relating to termination of assistance and treatment of PSE earnings are effective upon enactment. Other provisions are effective September 30, 1980.

Use of IRS to Collect Child Support for Non-AFDC Families

(Sec. 402)

Present law.—Present law authorizes States to use the Federal income tax mechanism for collecting support payments for families receiving AFDC, if the States have made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health and Human Services. The State must agree to reimburse the U.S. for any costs involved in making the collection.

Senate bill.—The Senate bill authorized use of IRS collection mechanisms in the case of families not receiving AFDC, subject to the same certification and other requirements that are now applicable in the case of families receiving AFDC.

Conference agreement.—The conferees agreed to the Senate provision, with an effective date of July 1, 1980.

Safeguards Restricting Disclosure of Certain Information Under AFDC and Social Services

(Sec. 403)

Present law.—Current law restricts the use or disclosure of information to purposes directly connected with: AFDC, SSI, Medicaid, or the Title XX social services program; any investigation, prosecution, or criminal or civil proceeding related to the administration of these programs; or the administration of any other federally assisted program providing assistance or services based on need. Present law also prohibits the disclosure to any committee or legislative body of

information which identifies by name or address any applicant for, or recipient of, such assistance or services.

Senate bill.—The Senate bill modified titles IV and XX to allow the disclosure of information regarding individuals assisted under the State's plan (1) for purposes of any authorized audit conducted in connection with the administration of the program including an audit performed by a legislative audit body, and (2) to the Committee on Finance and Committee on Ways and Means.

Conference agreement.—The conference agreement includes the provisions of the Senate bill, except that disclosure of information containing names and addresses of individual recipients to the Committees on Finance and Ways and Means would not be authorized. The conferees note that this limitation pertains only to names and addresses. As under existing law, the two committees would otherwise have full access to data and findings concerning the operations of these programs and would be able to request and receive the results of program audits. The conferees note that there is a similar provision relating to disclosure of information in H.R. 3434, which is now pending before the Congress. The conferees understand that the provisions in both bills will have the same result of allowing disclosure for purposes of any authorized audit by a legislative audit entity. The provision is effective on September 1, 1980.

Federal Matching for Child Support Activities Performed by Court Personnel

(Sec. 404)

Present law.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. Federal regulations allow States to claim Federal matching for the compensation of district attorneys, attorneys general, and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for expenditures (including compensation) for, or in connection with, judges or other court officials making judicial decisions, and other supportive and administrative personnel.

Senate bill.—The Senate bill authorized Federal matching funds for expenditures of courts (including, but not limited to compensation for judges or other persons making judicial determinations and other support and administrative personnel of courts who perform Title IV-D functions), but only for those functions specifically identifiable as IV-D functions. Matching would be provided only for expenditures in excess of levels of spending in the State for these activities in calendar 1978.

Conference agreement.—The conferees agreed to the Senate provision, with an amendment deleting the authorization for compensation of judges or other officials making judicial decisions, but allowing the authorization for expenditures for their administrative or support personnel, such as the bailiff, stenographer, and court reporter. The provision is effective for expenditures after July 1, 1980.

Child Support Management Information System

(Sec. 405)

Present law.—Federal matching for child support administrative costs, including the cost of establishing and using management information systems, is provided at a rate of 75 percent.

Senate bill.—The Senate bill increased Federal matching to 90 percent for the costs of developing and implementing child support management information systems, retaining the present 75 percent matching rate for the costs of operating such systems. The bill required the Secretary to provide technical assistance to the States and provided that a State system must meet certain specified requirements in order to receive Federal matching. The Senate bill further required continuing review by the Secretary of HHS of State systems.

Under the bill States choosing to establish and operate systems must include as part of such systems (1) the ability to control and monitor all the factors of the support collection and paternity determination process, (2) interface with the AFDC program, (3) security against access to data, and (4) the ability to provide management information on all cases from application through collection and referral.

Conference agreement.—The conferees agreed to the Senate amendment, with an effective date of July 1, 1981.

AFDC Management Information System

(Sec. 406)

Present law.—States receive 50 percent Federal matching for costs of administering their AFDC programs; there is no special funding for computer systems.

Senate bill.—The Senate bill provided 90 percent Federal matching to States for the cost of developing and implementing computerized AFDC management information systems and 75 percent for the cost of their operation. The Secretary of Health and Human Services would be required to approve State systems as a condition of Federal matching (both initially and on a continuing basis). In order to qualify for this increased match, a State system would have to include certain specified characteristics, including (1) ability to provide data on AFDC eligibility factors, (2) capacity for verification of factors with other agencies, (3) capability for notifying child support, food stamp, social services, and medicaid programs of changes in AFDC eligibility and benefit amount, (4) compatibility with systems in other jurisdictions, and (5) security against unauthorized access to or use of data in the system. The Department would be required to provide technical assistance to the States on a continuing basis.

Conference agreement.—The conferees agreed to the Senate provision to increase to 90 percent the matching for the cost of developing and implementing computerized systems. The 90 percent matching includes the purchase or rental of computer equipment and software. However, the matching rate for operating such systems would remain at 50 percent. The provision is effective July 1, 1981.

Child Support Reporting and Matching Procedures

(Sec. 407)

Present law.—Present law requires that the Office of Child Support Enforcement (1) maintain adequate records (for both AFDC and non-AFDC families) of all amounts collected and disbursed, and of the costs of collection and disbursement, and (2) publish periodic reports on the operation of the program in the various States and localities and at national and regional levels and the major problems encountered in implementing the program. The law also provides that the States will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate State reporting system is required.

Senate bill.—The Senate bill would prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. It would also require the Department of Health and Human Services to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Conference agreement.—The conferees agreed to the Senate bill, with an effective date of January 1, 1981.

Access to Wage Information for Child Support Program

(Sec. 408)

Present law.—Present law requires the Secretary of HHS to make available to States and political subdivisions wage information contained in the records of the Social Security Administration which is necessary to determine eligibility for AFDC. The law requires the Secretary to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

In addition, present law requires agencies that administer State unemployment compensation to make available to States and political subdivisions wage information contained in their records which is necessary to determine eligibility for AFDC, and requires the Secretary to establish safeguards to insure that information is used only for authorized purposes. There is no similar provision for purposes of child support.

Under the Internal Revenue Code, tax return information may be disclosed by IRS (1) to the Social Security Administration for purposes of administering the Social Security Act, and (2) to Federal, State and local child support agencies for establishing and enforcing child support obligations under the child support program. Agencies receiving this information must comply with specified safeguards. SSA may not transfer information it receives from IRS to State and

local agencies. Information must be obtained by the agencies directly from IRS.

Senate bill.—The Senate bill provided the same requirement for disclosure of wage information (other than tax return information) for purposes of the child support program as exists in present law for purposes of AFDC. It also provided the same requirement for provision of wage information by State unemployment compensation agencies for purposes of the child support program as exists in present law for purposes of AFDC.

The Senate bill required SSA to disclose tax return information obtained from IRS with respect to earnings from self-employment and wages (1) to officers and employees of HHS, and (2) to officers and employees of an appropriate State or local agency, body, or commission. Information could be disclosed for purposes of establishing, determining, and enforcing child support obligations under the child support program.

Agencies or commissions authorized to receive tax return information could disclose such information to any person to the extent necessary in connection with the processing and use of information necessary for the purpose of establishing, determining, or enforcing child support obligations.

Conference agreement.—Under the conference agreement, certain tax return information must be disclosed by the Social Security Administration to State and local child support enforcement agencies, as follows.

The conferees agreed to amend the Internal Revenue Code to provide that, upon written request, the Commissioner of Social Security shall directly disclose return information with respect to net earnings from self-employment, wages, and payments of retirement income to officers and employees of a State or local child support enforcement agency. Disclosure will be allowable only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating individuals owing child support obligations.

Any agency receiving information must comply with conditions specified in current law for safeguarding information. Under these safeguards, information may be used on a computer in uncoded form if the computer is used only by the child support enforcement agency. If this information is used on computer systems shared with agencies which are not child support agencies, it must be introduced into the system and coded so that it is available only to officers and employees of the child support enforcement agency. Generally, disclosure to individuals other than officers and employees of the child support enforcement agency would not be authorized; however, the information may be disclosed to the taxpayer to whom the information pertains. This provision is effective on enactment.

In addition, the conferees agree to amend title III of the Social Security Act, Grants to States for Unemployment Compensation Administration, to require the State agency administering the unemployment compensation program to disclose directly, upon request and on a reimbursable basis, to officers or employees of any State or local child support enforcement agency any wage information contained in

the records of the State agency. The agency is also required to establish safeguards necessary (as determined by the Secretary of Labor in regulations) to insure that information is used only for purposes of establishing, and collecting child support obligations from, and locating, individuals owing such obligations. If the Secretary of Labor finds that the State agency has failed to comply with requirements of this provision, he must notify the agency that further payments of administrative costs will not be made to the State until he is satisfied that there is no longer any such failure. The provision is effective July 1, 1980.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

Relationship Between Social Security and SSI Benefits

(Sec. 501)

Present law.—Under existing law, an individual eligible under both the OASDI and SSI programs, whose determination of eligibility for OASDI is delayed, can in some cases receive full payment under both programs for the same months. Because SSI benefits are determined on a quarterly basis, retroactive OASDI benefits are counted as income for purposes of reducing SSI benefits only for the quarter in which retroactive benefits are received.

Senate bill.—The Senate bill would require the Secretary to offset, against retroactive benefits under OASDI, amounts of SSI benefits paid for the same period. The amount of the offset would equal the amount of SSI that would not have been paid had OASDI benefits been paid on time. From the amount of social security benefits offset under the provision, States would be reimbursed for any amounts of State supplementary payments that would not have been paid; the remainder would be credited to general revenues.

Conference agreement.—The conference agreement follows the Senate bill effective with the 13th month after the month of enactment. The conferees do not intend that this adjustment of benefit amounts will have the effect of removing any individual on a retroactive basis from his status as an eligible individual under the SSI program.

Extension of the Term of the National Commission on Social Security

(Sec. 502)

Present law.—The terms of the members of the National Commission on Social Security are to last 2 years, and the Commission itself will expire on January 11, 1981.

Senate bill.—The Senate bill extended for 3 months the expiration date of the National Commission on Social Security and the terms of its members. Under the Senate provision, the Commission's work and the terms of its members would end on April 1, 1981, and its final report will be due on January 11, 1981.

Conference agreement.—The conference agreement follows the Senate bill. The conferees request that the National Commission also examine and report on the serious administrative problems currently facing the Social Security Administration which include growing program responsibility without adequate staffing and the effect of the three reorganizations within the last five years.

Depositing of Social Security Contributions with Respect to State and Local Covered Employment

(Sec. 503)

Present law.—Since 1951 coverage of State and local government employment has been provided through voluntary agreements between the Federal government and the individual States. The Social Security Act provides that the regulations of the Secretary shall be designed to make the deposit requirements imposed on the States the same, as far as practicable, as those imposed on private employers. Present regulations, in effect since 1959, require each State to deposit contributions with the Federal Reserve Bank and file wage reports of covered employees within 1 month and 15 days after the close of each calendar quarter.

Public Law 94-202 was enacted in 1976 to assure adequate consideration of any change in the deposit requirements. Public Law 94-202 requires that at least 18 months must elapse between the publication of regulations changing the deposit schedule and the effective date of the change.

On November 20, 1978, the Department published final regulations to become effective July 1, 1980, which will require more frequent deposits by the States. The new regulations will require the States to make deposits within 15 days after the end of each of the first 2 months of the calendar quarter and within 1 month and 15 days after the end of the final month of the quarter.

Senate bill.—The Senate bill required that, in lieu of the schedule of deposits called for in the regulation, effective July 1, 1980 the States would make deposits within 30 days after the end of each month. The provisions of P.L. 94-202 would not be applicable to changes in regulations that are designed to carry out this statutory change.

Conference agreement.—The conference agreement follows the Senate bill.

Aliens Receiving SSI

(Sec. 504)

Present law.—In order for an alien to be eligible for supplemental security income payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States “under color of law.” An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported by a “sponsor” in the United States. Legal aliens are eligible for SSI payments 30 days after their arrival in the United States.

Senate bill.—The Senate bill required an alien to reside in the United States for 3 years before he would be eligible for SSI. The provision would not apply to refugees, or to aliens who are suffering from blindness or disability on the basis of conditions which arose after the time they were admitted to the United States. The provision would also not apply in cases in which the support agreement is unenforceable under the Immigration and Nationality Act, or in cases in which the

sponsor fails to provide support and the alien demonstrates to the satisfaction of the Attorney General that he did not participate in fraud or misrepresentation on the part of the sponsor, that he believed that the sponsor had adequate resources to support him, and that he could not have reasonably foreseen the refusal or inability of the sponsor to comply with the support agreement.

The Senate bill would amend the Immigration and Nationality Act to make the sponsor's affidavit of support a legally enforceable contract. The sponsor must agree that for 3 years after admission of the alien he will provide such financial support (or equivalent in-kind support) as is necessary to maintain the alien's income at an amount equal to the amount the alien would receive if he were eligible for SSI (including any State supplementary payment). The agreement could be enforced with respect to an alien against his sponsor in a civil action brought by the Attorney General or by the alien in a U.S. District Court. It could also be enforced by any State or political subdivision which is making payments to the alien under any program based on need. In the latter case, the action could be brought in a U.S. District Court if the amount in controversy were \$10,000 or more, or in the State courts without regard to the amount in controversy. The agreement could be excused and unenforceable under certain specified circumstances, including death or bankruptcy of the sponsor. Also, the Senate bill provided that a sponsor who intentionally reduces his income or assets in order to be excused from his agreement would be responsible for the repayment of any public assistance provided the alien during the time the agreement was excused.

Conference agreement.—The conferees agreed that for purposes of eligibility for Supplemental Security Income (SSI) benefits, legally admitted aliens who apply for SSI benefits after September 30, 1980 will be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States, unless the alien becomes blind or disabled after entry. Under the agreement the eligibility of such aliens for SSI will be contingent upon their obtaining the cooperation of their sponsors in providing the necessary information to Social Security to carry out this provision. The provision would not apply to any alien who is (1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; (2) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act; (3) paroled into the United States as a refugee under section 212(d)(5) of such Act; or (4) granted political asylum by the Attorney General.

During the 3 years after entry into the United States, an alien may be eligible for SSI benefits only if his sponsor agrees to and does provide such information as the Secretary of Health and Human Services may require to carry out this provision. The alien and sponsor shall be jointly and severally liable to repay any SSI benefits which are incorrectly paid because of the sponsor's providing of misinformation or because of his failure to report, and any such incorrect payments which are not repaid would be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security Act.

In deeming a sponsor's income to an alien under this provision, the alien's SSI benefit would be reduced by the amount of any income deemed to him. Income deemed to the alien would be considered unearned income and would thus result in a dollar-for-dollar reduction in benefits (subject to the \$20 a month unearned income exclusion). The amount to be deemed would be equal to the gross income of the sponsor and his spouse reduced by an amount equal to a full SSI benefit for the sponsor and an amount equal to one-half of a full SSI benefit for each other person for whom the sponsor is legally responsible. (Income of a child, e.g., AFDC or SSI payments, which is specifically provided to or on behalf of a child in the household of the sponsor would not be included.) Except for the deeming provision, the alien's SSI benefit would be computed in the same manner as under existing law except that in-kind support and maintenance received by an alien living in the household of the sponsor (or sponsor's spouse) shall not result in the application of the one-third reduction. Income in the form of support or maintenance in cash or kind by the sponsor (or sponsor's spouse) would not be counted as income or resources to the extent such income or resources is taken into account in determining the amount of income and resources to be deemed from the sponsor to the alien.

On the same basis, the assets of the sponsor and his spouse would be determined as under SSI. Any resources in excess of this amount allowable under SSI (\$1,500 if the sponsor is single, \$2,250 for a couple) would be considered to be resources of the alien in addition to whatever resources the alien has in his own right.

Under the conference agreement, an alien applying for SSI would be required to make available to the Social Security Administration any documentation concerning his income or resources or those of his sponsor (if he has one) which he provided in support of his immigration application. The Secretary of Health, and Human Services would also be authorized to obtain copies of any such documentation from other agencies (i.e., State Department or Immigration and Naturalization Service). The Secretary of HHS would also be required to enter into cooperative arrangements with the State Department and the Justice Department to assure that persons sponsoring the immigration of aliens are informed at the time of sponsorship that, if the alien applies for public assistance, the sponsorship affidavit will be made available to the public assistance agency and the sponsor may be required to provide further information concerning his income and assets in connection with the alien's application for assistance.

Work Incentive and Other Demonstration Projects under the Disability Insurance and Supplemental Security Income Programs

(Sec. 505)

Present law.—The Secretary of Health and Human Services has no authority to waive requirements under titles II, XVI, and XVIII of the Social Security Act to conduct experimental or demonstration projects.

House bill.—The House bill authorized waiver of benefit requirements of the DI and medicare programs to allow demonstration proj-

ects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries, and required periodic reports and a final report on the findings by January 1, 1983.

Senate bill.—The Senate bill contained a similar provision but required an interim report by January 1, 1983 and final one by 5 years after the date of enactment. The provision further authorized experiments and demonstration projects which were likely to promote the objectives or improve the administration of the SSI program. The provision provided for allocation of costs of all such demonstration projects to the programs to which the project was most closely related. In the case of the SSI program, the Secretary was authorized to reimburse the States for the non-Federal share of payments or costs for which the State would not otherwise be liable.

The Senate provision also authorized waivers in the case of other disability insurance demonstration projects which SSA wished to undertake, such as study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation.

The Senate bill further authorized waiver of certain nonmedical requirements of the human experimentation statute, P.L. 93-348 (such as conditions of payment of benefits or copayments, deductibles or other limitations), but requires that the Secretary in reviewing any application for any experimental, pilot or demonstration project pursuant to the Social Security Act would take into consideration the human experimentation law and regulations in making his decision on whether to approve the application.

Conference agreement.—The conferees agreed to the provisions of the House and Senate bills with the exception of the Senate provision authorizing waiver of certain nonmedical requirements of the human experimentation statute. This latter provision was deleted.

With respect to SSI experiments, the Secretary would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. The Secretary could not require an individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at any time his voluntary agreement to participate. The Secretary, to the extent feasible, would be required to include recipients under age 18. The Secretary would also be required to include projects necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability.

The new provisions would be applicable to both applicants and beneficiaries, and would be effective upon enactment.

Provisions Relating to the Terminally Ill

(Sec. 506)

Present law.—Under the OASDI program the waiting period is the earliest period of 5 consecutive months in which an individual is under a disability. An individual is determined disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for not less than 12 months. If an individual becomes disabled and applies for benefits in the same month, the waiting period will be satisfied 5 months after the month of application. With all other conditions of eligibility having been met, benefits will be due for the sixth month after the month in which the disabling condition begins, and will be paid on the third day of the seventh month.

The waiting period cannot begin until the individual is insured for benefits (i.e., the individual has satisfied the quarters of coverage requirements). If the disabling condition begins before an individual is insured for benefits, the waiting period can begin only with the first month in which the individual has insured status.

If a worker is applying for benefits after having been entitled to DI benefits previously (or had a previous period of disability) within 5 years prior to the current application, the waiting period requirement does not have to be met again.

Senate bill.—The Senate bill eliminated the waiting period for persons with a terminal illness, i.e., a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations.

The provision was to be effective for applications filed in or after the month of enactment, or for disability decisions not yet rendered by the Social Security Administration or the courts prior to the month of enactment.

Benefits would be payable beginning October 1980.

Conference agreement.—The conferees did not agree to the Senate provision eliminating the waiting period for persons with a terminal illness, but in lieu thereof agreed to a provision authorizing up to \$2 million a year to be used by SSA for the purpose of participating in a demonstration project relating to the terminally ill which is currently being conducted by the Department of Health and Human Services. The purpose of participation is to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the Congress to amend the Social Security Act so as to provide the kinds of services most appropriate for individuals who are suffering from terminal illnesses.

Voluntary Certification of Medicare Supplemental Health Insurance

(Sec. 507)

Present law.—No provision in present law.

Senate bill.—Under the Senate bill, the Secretary would be required to establish, effective January 1, 1982, a voluntary certification program for medicare supplemental policies in States that fail to establish equivalent or more stringent programs. To be certified, a policy would have to: meet minimum standards with respect to benefits, simplicity of policy language, informational material for policyholders, preexisting conditions and cancellation clauses; and be expected to pay benefits to subscribers (as estimated, for a period not to exceed one year, on the basis of actual claims experience and premiums for such policy) equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. The Secretary would be required to submit a report on or before July 1, 1981, to the Committees on Finance, Ways and Means, and Interstate and Foreign Commerce which identifies those States that the Secretary finds cannot be expected to have established a qualified State regulatory program by January 1, 1982. The Federal voluntary certification program would be put into effect on January 1, 1982, in States that are so identified unless legislation to the contrary is enacted.

Upon conviction, a fine of up to \$25,000 and imprisonment for up to 5 years could be assessed for: (a) furnishing false information to obtain the Secretary's certification; (b) posing as a Federal agent to sell medicare supplemental policies; (c) knowingly selling duplicative policies; and (d) selling supplemental policies by mail in States which have not approved, or are deemed not to have approved, their sale.

The Secretary, in consultation with regulatory agencies, insurers and consumers, would be required to study and submit a report to the Congress by July 1, 1981, concerning the effectiveness of various State approaches to regulation of medicare supplemental policies, and the need for standards for health insurance policies sold to the elderly which are not subject to voluntary certification. On January 1, 1982, and at least every 2 years thereafter, the Secretary would be required to report on the effectiveness of the voluntary certification program and the criminal penalties established by the bill.

Conference agreement.—The conference agreement follows the Senate bill with the following modifications. The voluntary certification program would be effective July 1, 1982. To be certified under this program, a medicare supplemental policy (including any certificate issued thereunder) would have to: (a) meet or exceed the standards with respect to medicare supplemental policies set forth in the "NAIC Model Regulation to Implement the Individual Accident and Sickness Minimum Standards Act," as amended and adopted by the National Association of Insurance Commissioners on June 6, 1979 (including the standards relating to minimum benefit provisions, preexisting condition limitations, full disclosure, and requiring a no loss cancellation clause); and (b) be expected to pay benefits to subscribers (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims ex-

perience and earned premiums for such period) equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. (For purposes of determining whether the loss ratio requirement has been met under the voluntary certification program, policies issued as a result of solicitations of individuals through the mails or by mass media advertising would be deemed to be individual policies.) The Secretary would be empowered to authorize the use of an emblem by an insurer, in accordance with conditions to be specified by the Secretary, to indicate that a policy has been certified as meeting the standards and requirements of the voluntary certification program. It is expected that one such condition will be a requirement that the insurer agree to notify policyholders of the loss of certification in the event the Secretary determines that the policy no longer satisfies the standards and requirements of the voluntary certification program. It is also expected that the Secretary act in a manner consistent with the will of the State to prevent unfair competition in the use of the emblem.

The voluntary certification program would not be applicable to any policy issued in any State which is determined to have implemented under State law a regulatory program that provides for the application of standards with respect to all medicare supplemental policies (as defined in the Senate bill) that are equal to or more stringent than the standards relating to medicare supplemental policies contained in the NAIC Model Regulation as amended and adopted on June 6, 1979; and the loss ratio requirements for individual or group policies applied under the voluntary certification program. Such determinations as to whether a State's regulatory program meets these standards and requirements would be made by a Supplementary Health Insurance Panel, appointed by the President, and consisting of four Insurance Commissioners (or Superintendents) and the Secretary. On or before January 1, 1982, the Panel would prepare a report (for inclusion in the report to be submitted by the Secretary on January 1, 1982) to the appropriate Committees of the House and the Senate identifying those States that the Panel finds cannot be expected to have implemented a qualified regulatory program by July 1, 1982. The Federal voluntary certification program would be put into effect on July 1, 1982, in those States so identified by the Panel. Where a State which the Panel had expected to have implemented a qualified regulatory program by July 1, 1982, has not actually done so, the voluntary certification program would be applicable to such State until the panel determines and reports to the Secretary that the State has implemented an approved program. It is expected that the Panel will act promptly and that all determinations of the Panel would be promptly submitted to the Secretary for implementation.

Although the Panel's sole responsibility is to evaluate State regulatory programs against the test that the State program is at least equal to the NAIC standards and the prescribed loss ratio requirement, the bill includes language referring to "more stringent" standards. However, this language was not included for use as a benchmark by the Panel, but rather only to avoid the implication of any intent to encourage States to limit their regulatory programs to the minimal level. On the contrary, the conferees' intent is to assure that States are encouraged to implement such regulatory programs as they determine are

appropriate to their needs and that if a State regulatory program is at least equal to the standards and requirements provided for in the bill it would be approved by the Panel.

The delivery of a medicare supplemental policy by mail into a State which has not approved the sale of such a policy in the State would **be subject** to Federal criminal penalties unless such policy: (a) has been certified by the Secretary or approved by the State in which the policy is issued as meeting the standards and requirements of the voluntary certification program or the State's approved regulatory program, as the case may be, or has otherwise been deemed approved in accordance with provisions of the bill; and (b) the State into which the policy has been delivered has not specifically disapproved the policy for sale in the State.

The conferees have defined the place of issuance of a policy to be the State in which the policyholder resides in the case of an individual policy, and the State in which the holder of the master policy resides in the case of a group policy. The intent of the conferees is to allow an insurer to know which State its policy is considered to be issued in, and consequently to know whether it is issued in a State having an approved program. Nothing in this provision is intended to affect the rights of any State to regulate, in accordance with State law, policies which, under this definition, are considered to be issued in another State.

The Senate bill excludes group health policies of one or more employers or labor organizations from the definition of "medicare supplemental policy," and from the prohibition of knowingly selling a duplicative health insurance policy to a medicare-eligible individual, since such policies are not designed as supplemental policies and are sold to all age categories within the group's membership. The conferees recognize that many professional, trade and occupational associations also offer group health plans to their respective memberships. The intent is that such association, should not be treated differently than employers or labor organizations if the association: (a) is composed of individuals all of whom are actively engaged in the same profession, trade or occupation; (b) has been maintained in good faith for purposes other than the obtaining of insurance; and (c) has been in existence for at least two years prior to the date of its initial offering of such policy or plan to its members.

The Secretary's report on the results of the required study of State approaches to the regulation of supplementary policies would be submitted on January 1, 1982; and the first of the periodic reports on the effectiveness of the voluntary certification program and the criminal penalties would be due July 1, 1982.

Inclusion in Wages of FICA Taxes Paid by the Employer

Present law.—Sec. 209(f) of the Social Security Act and Sec. 3121(a)(6) of the Internal Revenue Code provide that payment by the employer of the employee F.I.C.A. tax liability is excluded from the definition of wages for social security payroll tax and benefit purposes. Although such a payment by the employer constitutes additional compensation includable for income tax purposes, existing law specifically exempts such an amount of additional compensation from social se-

curity taxes. The net effect is that, for a given level of total compensation (wages plus employer payment of the employee share of social security tax), somewhat lower social security taxes would be payable by the employer if he pays the employee F.I.C.A. tax instead of withholding it from the employee's wages.

Senate bill.—The Senate bill required that, with respect to remuneration paid after 1980, any amounts of employee F.I.C.A. taxes paid by an employer will be considered to constitute wages for both social security tax and benefit purposes but that this change will not apply in the case of payments made on behalf of employees of (1) small businesses (as used in the administration of section 7(a) of the Small Business Act), (2) of State and local governments, (3) of nonprofit organizations, and (4) persons employed as domestics.

Conference agreement.—The conferees have agreed to delete this provision of the Senate bill. While the Senate amendment would narrow the scope of the present law exclusion from wages, the conferees are concerned that its enactment would lend countenance to expanded utilization of the remaining exclusion. The conferees believe that this is an important issue in its own right, deserving further study and consideration by the Congress. The result of the conferees' decision is that present law remains in force.

AL ULLMAN,
JAMES C. CORMAN,
J. J. PICKLE,
ANDREW JACOBS, JR.,
WILLIAM R. COTTER,
C. B. RANGEL,
BARBER B. CONABLE, JR.,
BILL ARCHER,
JOHN J. DUNCAN,

Managers on the Part of the House.

RUSSELL B. LONG,
HERMAN E. TALMADGE,
ABE RIBICOFF,
GAYLORD NELSON,
MAX BAUCUS,
BOB DOLE,
JOHN C. DANFORTH,
DAVID DURENBERGER,

Managers on the Part of the Senate.

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and all points of order against the conference report for failure to comply with the provisions of clauses 3 and 4, rule XXVIII are hereby waived.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

(Mr. PEPPER asked and was given permission to revise and extend his remarks.)

Mr. PEPPER. Madam Speaker, I yield the usual 30 minutes for purposes of debate only to the able gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

May I, on behalf of the majority of the Rules Committee, commend and welcome to his first handling of a rule on the floor, the distinguished gentleman from Missouri, who has recently become a member of the Committee on Rules.

I am sure that he will do his job with excellence, and he is to be commended. I wish him a long and happy life upon the Committee on Rules and many other successful handling of rules on the floor.

Madam Speaker, the resolution today is House Resolution 673. It is a rule providing for the consideration of the conference report on H.R. 3236, the Social Security Disability Amendments Act of 1979. The rule waives various points of order against consideration of the conference report.

Madam Speaker, may I just say by way of a personal expression that I oppose certain provisions of this bill, the Social Security Disability Amendments Act of 1979, but the House chose to preserve the bill as it was presented by the distinguished gentleman from Texas, my devoted friend (Mr. PICKLE). I am sure that no one could have presented the bill more ably and with more sincerity and dedication than he did. If experience proves that further amendments should be made in this act, I am sure that he will always be attentive to consideration of those proposals and will give them fair regard so that the ends of justice for the people of this country might be best served.

The rule waives section 303(a)(4) of the Congressional Budget Act, which provides that consideration of new spending authority is not in order before the adoption of the first budget resolution. This waiver is necessary because, by amending the social security disability insurance program and other sections of the Social Security Act, H.R. 3236 creates new entitlement authority beginning in fiscal 1981.

The rule also waives section 401(b)(1) of the Budget Act which provides that it is not in order to consider legislation creating entitlement authority which would be effective before the beginning of the next fiscal year. This waiver is necessary because section 404 of the conference report creates entitlement authority which would be effective on July 1, 1980.

Section 404 allows Federal matching payments for child support duties performed by State and local court personnel. The Budget Committee supports both of these Budget Act waivers. In his letter to the Committee on Rules, the distinguished chairman of the Budget

Committee, the gentleman from Connecticut (Mr. GIAMMO), pointed out that there is ample precedent for these waivers because of the difficulty restructuring entitlement programs without technical violations of the Congressional Budget Act. The gentleman noted that enactment of H.R. 3236, as reported by the conferees, will result in savings of \$6 million in fiscal year 1980 and \$70 million in fiscal year 1981. These legislative savings are assumed in the budget resolution for fiscal years 1980 and 1981 now in conference.

The rule also waives clause 3 of rule XXVIII against consideration of the conference report. This rule limits, the Members will recall, the contents of the conference report to the scope of differences between the two Houses. This waiver in this case is needed primarily because enactment dates for various provisions of H.R. 3236 were changed by the conferees. Other compromises forged by the conferees also are technical scope violations.

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A pilot project involving State services to severely handicapped individuals who are not eligible for supplemental security income payments, an expansion of a Social Security Administration project examining the effect of social security disability programs on the terminally ill, and the standards for Federal certification of Medi-Gap insurance policies fall into this category.

I will say that I am very much pleased that the conferees brought to the House in this bill from the conference the so-called Medi-Gap bill of which I was the author in the House, which will do much to protect the elderly people in this country against many abuses which have been perpetrated against them by some unscrupulous agents of some unscrupulous insurance companies.

We had in the course of our hearings an example in the State of Illinois, I believe it was, of an elderly lady who owned a farm, who had to mortgage her farm to get I believe \$15,000 to pay the premiums on some 70 or 80 insurance policies, which over a course of 2 or 3 years had been sold to her by unscrupulous agents of some unscrupulous insurance companies.

We find, for example, the growth of the practice of selling insurance by mail. That would mean that a company in the District of Columbia could sell an elderly person in my State of Florida an insurance policy by mail. If there were fraud perpetrated upon that purchaser, the only redress would be for that individual to come to the District of Columbia and get a lawyer and bring suit here, with all the attendant expense and difficulty that it would entail.

Sometimes there are cancer policies, which would especially appeal to fraud in many cases, the obligation of the insurance policy would be in a long circuitous sentence that a Philadelphia lawyer could hardly unravel or understand. Yet it was a practice to take advantage of these policies with many people.

So this Medi-Gap bill adopts the principle of what we call the Good House-keeping Seal, whereby the companies

WAIVING CERTAIN POINTS OF ORDER AGAINST THE CONFERENCE REPORT ON H.R. 3236, SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

Mr. PEPPER. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 673 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 673

Resolved, That upon the adoption of this resolution it shall be in order to consider, sections 303(a)(4) and 401(b)(1) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, the conference report on the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes,

may submit their policies and their practices to a Government agency and if they are approved, there will be a certificate of issue and we hope the elderly will be advised when somebody comes up with what looks like maybe a questionable insurance policy. That individual could say, "I want to see your certificate. Have you got a certificate that your policies are fair and your practices are fair?"

So I want to commend the distinguished gentleman from Texas and others who had a part in this conference for including this provision in the conference report.

Finally, the rule waives clause 4 of rule XXVIII, which would permit points of order based on germaneness. This waiver is needed for several reasons. First, the other body chose to include changes in the SSI disability program in its version of the bill. These revisions were not contained in the House version of H.R. 3236, but were addressed in H.R. 3464, the SSI disability amendments of 1979, which passed the House on June 6, 1979, by a vote of 374 to 3.

Second, the version of H.R. 3236 passed by the other body contains amendments for aid to families with dependent children and child support programs. Similar items were considered by the House when it passed H.R. 4904, the Social Welfare Reform Amendments of 1979, on November 7, 1979, by a vote of 222 to 184.

Third, the other body included a provision establishing a program designed to eliminate abuses in the sale of Medi-Gap insurance to the elderly. The conferees agreed to adopt this provision.

Madam Speaker, this rule will allow the House to work its will on the excellent work of the conferees, and I urge my colleagues to support both the rule and the conference report.

Madam Speaker, I yield to my distinguished friend, the gentleman from New York (Mr. BIAGGI).

Mr. BIAGGI. Madam Speaker, I thank the gentleman for yielding.

I would like to take this opportunity to commend the gentleman from Florida for his extraordinary work and his leadership in investigating the Medi-Gap insurance frauds on which I was privileged to participate.

From the testimony, it is quite evident that the Select Committee on Aging once again performed well and serves as an important supplement to the standing legislative committees. It is this kind of work that justifies its continued existence and also the gentleman's leadership in this area of concern for the elderly is once again manifest.

The experience of abuse, we were confronted with was the most cruel and most horrible experience and treatment of the elderly by the established insurance companies. Day after day they worked their fraudulent practices. Hopefully with the enactment of this conference report, that will cease; at least, I am certain it will diminish.

Risking the hazard of being repetitious, I simply must again commend the gentleman from Florida (Mr. PEPPER) for his leadership and his extraordinary

and abiding commitment to the elderly.

Mr. PEPPER. Madam Speaker, I thank the distinguished gentleman from New York very much for his kind words.

While this Medi-Gap amendment bears my name, and I have worked, of course, on it; but it is the work of the Select Committee on Aging and one of those who made the most significant contribution to its passage, growing out of our long hearings on the subject, was the distinguished gentleman from New York (Mr. BIAGGI).

Madam Speaker, I yield to the able gentleman from Missouri (Mr. TAYLOR).

(Mr. TAYLOR asked and was given permission to revise and extend his remarks.)

Mr. TAYLOR. Madam Speaker, the distinguished gentleman from Florida was very generous in his praise and for that I want to express my appreciation and for the opportunity of serving on the Committee on Rules and for the cordiality that has been accorded me since I assumed that position.

Madam Speaker, House Resolution 673 is a rule waiving certain points of order against the conference report to the bill. H.R. 3236, the Social Security Disability Amendments of 1980. Specifically, this rule contains four waivers against the conference report. The first waiver is of section 303(a)(4) of the Congressional Budget Act of 1974 which prohibits the authorization of new spending authority before the first budget resolution is adopted. According to the testimony we received in the Rules Committee from the gentleman from Texas (Mr. PICKLE) and the gentleman from California (Mr. CORMAN), this waiver is necessary because the conference report contains several sections involving what may be defined as new entitlements which begin in fiscal 1981, and, as my colleagues are aware, we have not yet adopted the final version of the fiscal 1981 first concurrent resolution on the budget.

The second waiver is also a budget waiver—section 401(b)(1) of the Congressional Budget Act of 1974 which prohibits the enactment of new entitlement authority before October 1 of the current calendar year. This waiver is necessitated by the fact that one section of the conference report includes what may be defined as a 1980 entitlement with respect to SSI.

The rule also waives clause 3 of rule 28 which limits the contents of a conference report to the scope of the differences between the two Houses. Again, as was testified before the Rules Committee, because of an effort to spread out startup administrative costs so that they would not be a burden either to the administration or to the congressional budget, and because of a concern that the conference maintain the promise of both the House and Senate Committees that no benefit changes would affect anyone currently on the rolls, several effective dates were changed in the conference reports to dates later than either the House or Senate version, thus violating the scope rule on conference reports.

The fourth waiver in this rule is against clause 4 of rule 28—the germaneness rule on conference reports. In

this regard, I think it should be noted that the Senate combined H.R. 3236, regarding the social security disability program, with H.R. 3434, a House-passed bill which makes often parallel changes in the supplemental security income disability program. The Senate also made other changes in the SSI program, including changes regarding the eligibility of aliens for benefits. The germaneness problems arise from two sources: First, the Senate added to this bill several provisions regarding the AFDC program; and second, the Senate added to this bill a program to increase protection for our elderly citizens purchasing the so-called Medi-Gap health insurance policies which are designed to provide additional health protections which are designed to provide additional health protections in areas not covered or not fully covered by medicare. This particular legislative proposal has had as its chief proponent our esteemed colleague on the Rules Committee and the chairman of the Select Committee on Aging, the gentleman from Florida (Mr. PEPPER). These two provisions may not have been germane to the original bill as passed by the House, thus necessitating this final waiver in the rule. But I think it should be pointed out to my colleagues that the President and some 220 House Members have formally petitioned the conference committee to maintain the Medi-Gap provision in the final version of H.R. 3236.

In support of this rule, I would make three additional points. Nearly all of the issues in this conference report have been fully debated in the House, according to our two witnesses from the Ways and Means Committee—even if not in the context of this particular legislation. Second, with regard to the two budget waivers, the Budget Committee has polled its members and no one on the Budget Committee objects to the two budget waivers contained in this rule. And finally, this rule was unanimously adopted by the Rules Committee on a voice vote. For these reasons, I urge adoption of the rule.

Mr. PEPPER. Madam Speaker, I yield such time as he may need to the distinguished gentleman from Texas (Mr. PICKLE).

(Mr. PICKLE asked and was given permission to revise and extend his remarks.)

Mr. PICKLE. Madam Speaker, I rise in support of this rule. As chairman of the subcommittee which originated this legislation, I can testify that it has had a long and complicated history. But, it is a good bill, and the House ought to complete action on it today. There is nothing in this bill which has not already been the subject of long study and debate, and it is time to move on to other matters.

A waiver of points of order is necessary because the Senate combined the original House bill H.R. 3236 with portions of other House-passed legislation, especially H.R. 3464, and because the Senate also added to this legislation a program of increased control over the so-called Medi-Gap policies. It is also necessary because the bill has been un-

der consideration for some time. This prompted the conferees to change some effective dates so that they would be reasonable and so that no current beneficiaries would be accidentally affected by changes in the program.

A waiver is also needed because the timing of consideration of this legislation encounters difficulties with certain portions of the Budget Act. However, the Budget Committee has reviewed these matters and has given its approval to a waiver.

I urge, therefore, that this rule be passed so that the House can proceed expeditiously and complete action on the conference report.

Madam Speaker, may I also say in response to the gentleman from Florida, that as chairman of the subcommittee which originated the legislation and which is the subcommittee attempted to bring out a good bill, we recognize that the gentleman from Florida did not agree with all provisions of the bill and the gentleman from Florida showed his opposition in the Committee on Rules and on the floor; but the gentleman did it in a manner that was meritorious and in a gentlemanly fashion that is so typical of the services of the gentleman from Florida.

We did make some modifications with the Senate. The bill we passed may not be perfect and we will have to study and watch it in the years to come. We will do that and I give the gentleman that assurance.

I also would recognize the part the gentleman played in the Medi-Gap insurance. While we did not include in the conference report the amendment exactly as recommended by the other body, we have checked it back with the States and said, "You must get your house in order," and we give them time to do it. We leave it to the States so that we do not get into the question of jurisdiction of the Congress over insurance matters.

Madam Speaker, the committee has been asked two questions about the national panel. First, we have been asked is it the intent that the panel make independent determinations with respect to whether a State regulatory program includes standards which are equal to or more stringent than the standards contained in the model regulation approved by the National Association of Insurance Commissioners?

The answer is that the national panel would independently make the determinations, using criteria and detailed definitions based upon the language of this act which it, rather than the Department of Health and Human Services, develops.

Second, we have been asked since there may be situations in which a State implements a regulatory program after January 1, 1982, and before July 1, 1982, when the voluntary certification program is effective, is it the intent that the panel promptly review the State program and make its determination on a timely basis?

It was the understanding of the conferees that in every case, both prior to and after the effective date of the volun-

tary program, the panel would promptly review and make a determination on the State program. In the particular situation described by my colleague, it is the intent that the Panel make its determination, if at all possible, prior to the effective date of the voluntary program.

Let me also say we would not have taken this action on the Medi-Gap question had it not been for the perseverance of the gentleman from Florida and many that signed the petition with him; so I commend the gentleman for his work in that field and for his constant care for the poor and for the elderly and for all those that need human services. The gentleman from Florida is an extraordinary individual.

Madam Speaker, I rise in support of this rule and hope we can pass it and then pass the bill, because it is landmark legislation.

Mr. PEPPER. Madam Speaker, a number of our colleagues have anticipated that sometime there would be a Pickle-Pepper bill that would come forth in this House. Now that we have a Pepper rule and a Pickle bill, we have achieved that. I hope the Pepper rule and the Pickle bill will both be adopted.

Madam Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 3236,
SOCIAL SECURITY DISABILITY
AMENDMENTS OF 1980

Mr. PICKLE. Madam Speaker, I call up the conference report on the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to the provisions of clause 2, rule XXVIII, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of May 13, 1980.)

The SPEAKER pro tempore. The gentleman from Texas (Mr. PICKLE) will be recognized for 30 minutes, and the gentleman from Texas (Mr. ARCHER) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Madam Speaker, I yield myself 30 minutes.

(Mr. PICKLE asked and was given permission to revise and extend his remarks and to include extraneous matter.)

Mr. PICKLE. Madam Speaker, the House earlier adopted the rule on this conference report. The chairman of the Committee on Ways and Means, the gentleman from Oregon (Mr. ULLMAN) would be here to present the conference report but because the gentleman is involved in a markup before our committee, he has asked us to proceed with this measure. I hope that the gentleman from Oregon, the gentleman from California (Mr. CORMAN), and other members of the committee will be able to join us shortly.

Madam Speaker, I urge approval of the conference report on the bill H.R. 3236. The bill makes immediate improvements in the social security disability program. It also makes changes in the SSI, the AFDC, and child support programs and provides for increased supervision of medicare supplementals or, that is, Medi-Gap policy.

This legislation as we said in the discussion of the rule, has been in the making for 4 or 5 years. Most of the points in this bill have been discussed, debated, and studied for a long time. I think now it is time to pass this measure because I think it will serve as a landmark for the better and more effective operation of the disability program.

Madam Speaker, few programs have been more difficult to administer but few programs also are more important to the American people than the social security disability program.

The long history of this bill has shown it is possible for Members of both parties to work together for a bill they would

think would be an improvement in this program. Madam Chairman, I would commend the leaders of my subcommittee, particularly the gentleman from Texas (Mr. ARCHER) and the ranking Democrat (Mr. JACOBS) for their help, as well as the cooperation of the gentleman from New York (Mr. CONABLE) and the gentleman from Oregon (Mr. ULLMAN).

Madam Speaker, I would also say to the House we have had excellent cooperation by the gentleman from California (Mr. CORMAN).

Madam Speaker, the rule adopted requires the waiver of certain points of order because of the other body put into this bill some of the provisions of the SSI and the AFDC program which was an invasion of the jurisdiction of the gentleman from California. It has been a difficult matter for us to work out many of these problems but I want to commend the gentleman from California for his understanding and for his cooperation because we have come together with most of the bill points in full agreement and it has enabled us to proceed. I do want to pay my respect to all these people.

The real importance of this legislation, Madam Speaker, is not so much the changes we made in the cap or the drop-out years, but in the incentive for the return to work of people who are disabled or handicapped. We are trying to remove from these people this heavy sword that hangs over their heads that they might not have a sufficient work trial period, that they might lose their medicare or that they might lose their eligibility for these programs and that in turn if they could not get reduction on certain extra impairment expenses, that would be held against them with respect to their SGA amount.

Madam Speaker, we have given them those assurances and that kind of incentive to return to work we think is the most important part of this whole bill and will prove to be so in time to come.

We have made other changes in the area that have been mentioned, particularly in the Medi-Gap field and I commend the gentleman from Florida (Mr. PEPPER) for his cooperation.

Madam Speaker, this bill is a good bill. It should be adopted. I recommend it to the House for immediate passage.

I reserve the balance of my time.

The SPEAKER pro tempore (Mr. MURTHA). The gentleman from New York (Mr. CONABLE) is recognized for 30 minutes.

Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. ARCHER).

(Mr. ARCHER asked and was given permission to revise and extend his remarks.)

Mr. ARCHER. Mr. Speaker, I support the conference report on H.R. 3236.

The basic bill, designed to make improvements in the disability insurance program, began life 6 years ago in the Ways and Means Committee's Subcommittee on Social Security. In its slow and cautious development, a number of proposals—some of them mine—were considered, but eventually set aside, because they were deemed too controversial.

The aim was to prepare a bill that would enhance the program yet be of such modest dimensions that both Houses of the Congress could approve it rather easily. Despite this effort to produce legislation that would be universally acceptable, H.R. 3236 nevertheless managed to draw some opposition before it finally was approved by this body, 235 to 162, about 8 months ago, in September 1979.

Nearly 5 months later, on January 31 of this year, the other body approved the bill, 87 to 1, but not before it had added numerous amendments, most of them dealing with public assistance portions of the Social Security Act.

In keeping with the slow progress of the bill itself, the conference on H.R. 3236 consumed weeks. Although a few provisions related to the disability insurance program required extensive discussion before agreement could be reached, most of the controversy within the conference centered on items outside the social security system's fundamental elements.

One of the most difficult items to resolve was the so-called Medi-Gap amendment, to provide some control over health insurance policies sold as supplements to medicare. The conference agreement, attained after days of negotiations, would establish a voluntary certification program, effective in July 1982. The program would not apply in States with standards for such policies which meet, or exceed, standards set by the National Association of Insurance Commissioners.

Although the resolution of this issue hardly could be termed ideal, it does represent what a majority of conferees felt was a workable compromise—and the only one possible within the framework of that conference.

With respect to the amendments related to public assistance, I think it can be said fairly that they mark an overall improvement in the law. Let me just cite one example. Under current law, an alien can—and many aliens have—become eligible for public assistance under the supplemental security income (SSI) program only 30 days after arriving on our shores. Under the conference agreement, a legal alien would not automatically be eligible for SSI during the first 3 years of residence in this country. Within that period, an alien could receive SSI payments only in limited circumstances, in large part because the income and resources of the immigration sponsor would be taken into account in determining the alien's SSI eligibility.

This one amendment dates back to legislation offered several years ago by our late colleague, Bill Ketchum of California. It does not equal the original, and some of us would prefer a more rigid set of restrictions, but the conference agreement is a long step in the right direction, and it is infinitely better than present law.

As far as the primary legislation in this conference report is concerned, there were relatively slight differences between the approaches taken by this body and those taken by the other body. Therefore, agreements were reached more easily, and the end result is one that I can endorse.

H.R. 3236 would, among many other things, lower maximum family benefits in future disability insurance cases, but not to a punitive extent. Under current law, it is possible for total payment to a disabled worker and dependents to exceed, in purchasing power, the net income which the family had when the worker was well and on the job. The bill would reduce that possibility, affecting relatively few disability insurance cases.

This, and a few other changes in the bill, were designed to curb some disincentives to work. An even greater number of provisions were designed to improve incentives to work, and these clearly must be seen as liberalizations of the program. One of these—which I developed and introduced in subcommittee—would permit severely disabled workers to deduct, from earnings levels affecting their eligibility for benefits, those extraordinary expenses which enable them to get around and go to work. I am particularly pleased about this provision, because I believe it will remove an unfair impediment to many paraplegics, quadruplegics, and others with severe impairments who want to leave the benefit rolls and earn a living, but are discouraged because they would have to bear such a high cost in special devices, equipment, medicines, and services.

H.R. 3236 is laden with equally significant improvements in other aspects of disability insurance, one of the two programs which make up our Nation's social security cash benefits system. These changes in title II of the Social Security Act, joined with numerous amendments to additional titles of the act, form an acceptable package—one that should help both the recipients of Federal benefits and those who pay for those benefits, the American taxpayer.

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Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. ARCHER. I yield to the gentleman from Illinois.

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, I rise in support of the conference report to accompany H.R. 3236.

When H.R. 3236 was considered by the Senate earlier this year, an amendment which is designed to curb certain abuses of the supplemental security income program by newly arrived aliens was added by Senator CHARLES PERCY of Illinois. This amendment was originally contained in S. 1070 which was introduced by Senator PERCY and H.R. 5197, which I introduced on September 7, 1979. I introduced a similar bill in the 95th Congress.

Our current immigration law requires, as a condition of entry for certain categories of aliens, that they have a sponsor who is a citizen or permanent resident of the United States. As a condition for granting an immigration visa to the alien, the sponsor promises the Government that the immigrant will not become a public charge. The law, however, permits a new immigrant to apply for and receive supplemental se-

curity income (SSI) benefits only 30 days after arrival in the country. Because the courts have ruled that the sponsor's promise to support the immigrant is nothing but a "moral obligation," many sponsors choose to take advantage of this loophole and have renege on their promises of assuming full financial responsibility for the newly arrived alien. As a result of this loophole in the law, responsibility for financial support of the immigrant is shifted from the immigrant and his sponsor to the taxpayers.

The Percy-Corcoran provision closes this loophole by requiring 3-years residency in the United States for an alien—other than a political refugee—to qualify for SSI, unless blind or disabled subsequent to entering this country. Also, their sponsors are required to agree in a legally enforceable affidavit to support the alien financially for 3 years at a level necessary to maintain the alien's income at the amount to which the alien would be entitled, if he were eligible for SSI.

While the final version of this provision is not as strong as my original bill, I believe that the documentation which is required to be submitted to the Secretary of Health and Human Services by the sponsor and immigrant in order that an alien may be eligible for SSI benefits during the 3 years after entry into the United States provides sufficient safeguards so that the abuses of our immigration laws will be curbed.

I would, therefore, urge my colleagues to accept this provision which will correct this situation which has outraged the American public for several years and vote for the conference report.

Mr. ARCHER. I thank the gentleman for his comments.

Mr. CONABLE. Mr. Speaker, will the gentleman yield for a further comment?

Mr. ARCHER. I will be happy to yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, not only our former colleague from California, the late Bill Ketchum, but Senator Percy also took a considerable interest in this. So, the gentleman's interest is shared by a fine legislator from his State. There was a good deal of interest in it.

I must say, the fact that we are clamping down here illustrates the disarray we have relative to the issue of immigrants in this country. If we are permitting a flood of immigrants to come in without sponsors and without any careful screening, it is an interesting commentary that those who are backed by responsible people are now being held to a much tighter standard than previously by this provision. I think the provision is entirely appropriate, but it is obvious that we have got to get our whole refugee and immigrant policy in better shape than it is, or we are going to have massive contradictions similar to this incurring from the influx of Cubans in Florida taking place at the same time, by agreement and by widespread approval, when we are tightening the requirements made of immigrants who are sponsored into this country.

Mr. ARCHER. I thank the gentleman

for his comments, and I thank him for yielding the time to me.

Mr. PICKLE. Mr. Speaker, I yield such time as he may consume to the chairman of our committee, the gentleman from Oregon (Mr. ULLMAN).

(Mr. ULLMAN asked and was given permission to revise and extend his remarks.)

Mr. ULLMAN. Mr. Speaker, this conference agreement culminates 5 years of intensive review by the committee of the disability program. The original House bill was passed unanimously by the committee and passed the House by a substantial margin. The conference agreement we bring back to the House closely corresponds to the House bill. The conference agreement limits benefits to 85 percent of average indexed monthly earnings compared to 80 percent in the House bill. This increases benefits for low-income earners who become disabled. The other major change from the House bill is that funding for the vocational rehabilitation program remains the same as current law.

The rest of the disability bill remains virtually unchanged. It contains important new benefits for those people who take the initiative and go back to work. It improves the administration of the program, and it restores an old principle that people who go back to work after becoming disabled should be economically better off.

The Senate added several amendments affecting other programs to this bill. These amendments affect the supplemental security income (SSI), aid to families with dependent children (AFDC), the child support enforcement program, and the sale of medicare supplemental health insurance policies. The House, in separate legislation, passed H.R. 3464 by an overwhelming margin. With some changes, this bill was incorporated into the conference agreement. These changes improve benefits significantly for low-income, disabled beneficiaries who return to work.

The other change deals with SSI eligibility for aliens who have sponsors. Under current law, a sponsor signs an agreement stating that an alien will not become a public charge for the first 3 years the alien resides in the United States. However, in many cases these aliens were receiving SSI benefits 30 days after arriving in the country. The Senate wished to make all aliens ineligible for SSI for 3 years. The conference agreement follows the House provision that was passed in H.R. 4904—the welfare reform bill. Basically, an alien will be ineligible for benefits unless the alien becomes blind or disabled, the sponsor becomes eligible for public assistance.

The bill also makes minor administrative changes to the AFDC and child support programs. These changes are intended to reduce fraud and eliminate waste in the administration of these programs.

This bill encourages State governments to enact Medi-Gap insurance standards by July 1, 1982, equal to or more stringent than the model regulations proposed by the National Association of Insurance Commissioners. If an

individual State has not acted by that time, the Secretary of Health and Human Services will be required to establish a voluntary certification program for medicare supplemental policies.

These Medi-Gap provisions closely resemble Medi-Gap provisions which have been reported out by both the Ways and Means Committee and the Interstate and Foreign Commerce Committees. These are important protections to our elderly population when they consider buying medicare supplementary policies.

This bill saves money in both fiscal year 1980 and 1981. This bill will save \$70 million in 1981 which is slightly more than the savings anticipated by the first budget resolution passed by the House for 1981. The 5 years savings of this bill are substantial.

This bill is an important piece of legislation which should be enacted into law. I urge your support.

Mr. CONABLE. Mr. Speaker, I yield myself 6 minutes.

(Mr. CONABLE asked and was given permission to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, the conference report on H.R. 3236 should improve a number of programs under the Social Security Act.

The conferees agonized many days to bring forth this package, and it is better than I expected it would be when we started.

Under title II of the Social Security Act, it offers encouragement to those disabled people who want to work; it reduces glaring disparities between payments to younger and to older beneficiaries; it removes some obvious work disincentives, and it arrives at a compromise between the Federal and State Government positions with respect to the frequency with which collected payroll taxes must be deposited.

In the supplemental security income (SSI) program, which provides public assistance to the aged, blind and disabled, the conference report permits the continuation of medical and social services to recipients with severe disabilities who earn above the standard. In addition, the report restricts substantially the eligibility of legal aliens for SSI benefits.

Under both the SSI and title II programs, the report gives beneficiaries credit for extraordinary work expenses; it extends their trial work period from 9 to 24 months; it assures claimants a better explanation as to why they are denied benefits, and it permits payment to claimants for costly travel to undergo medical exams requested by the Government.

Under current law, State agencies make initial disability determinations through agreements between the States and the Federal Government. The conference report replaces those agreements with Federal regulations, and allows the Secretary of Health and Human Services to assume a State agency's functions if the regulations are not being followed. The report also requires the Secretary to provide a detailed advance report as to how such a takeover would be carried

out, without disruption of service, and it assures that in such cases, preference will be given to State employees in filling new Federal positions.

The conferees adopted, with modifications, most of the amendments made by the other body with respect to the programs of aid to families with dependent children (AFDC) and child support. By and large, these are good amendments. One of them would require AFDC recipients, not specifically exempt, to register for employment-related activities, including job search programs. Others would offer greater Federal matching to finance improvements in computer systems for both AFDC and child support.

More specifically with respect to changes made in the disability insurance program, there is one which I feel warrants special emphasis.

It has to do with a reduction in the number of years which may be "dropped out" in determining a disabled worker's benefits. A benefit is based upon average covered earnings, and in compiling that average under current law, the worker's 5 lowest earnings' years may be "dropped out."

Younger workers obviously have fewer earnings' years to take into account than older workers, and because earnings' levels have increased rapidly and dramatically in recent times, younger workers have increasingly higher average earnings and, consequently, disproportionately higher benefits. To reduce this benefit disparity, H.R. 3236 limits the number of "drop-out years" for younger disabled workers. Those under age 27 have no drop-out years, those aged 27 to 32 have 1; those 32 to 37 have 2; those 37 to 42 have 3; those 42 to 47 have 4, and those aged 47 and older have 5.

That same provision makes an allowance for young parents who leave the labor force to bear children and care for them in their very early years. It allows a young disabled worker to drop out as many as 3 years for child care. In no case, however, could the combined number of child care drop-out years and the drop-out years provided under the new schedule, exceed 3.

In effect, this is a very modest recognition of the adverse impact which the social security system can have upon women—in this case, young mothers. The provision applies equally to men, of course, but its primary application is to the increasing numbers of women workers who otherwise would lose up to 3 years of earnings, for benefit computation purposes, during their child-bearing years.

Other parts of the conference report already have been described in considerable detail, Mr. Speaker, and I do not wish to indulge in redundancy. Therefore, I would quickly sum up by saying that whereas I continue to disapprove in principle the propensity of the other body to decorate House-passed measures with so many amendments, which are unrelated to the basic legislation, I do endorse this particular conference report and commend it to my colleagues.

Mr. CORMAN. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from California.

(Mr. CORMAN asked and was given permission to revise and extend his remarks.)

Mr. CORMAN. Mr. Speaker, I appreciate the gentleman yielding. I just wanted to say that I support this conference report.

Mr. Speaker, I would like to insert at this point in the Record a summary of the major provisions of the conference agreement affecting the SSI, AFDC, and child support enforcement programs:

SSI disability.—Under the conference agreement, a disabled SSI recipient who loses his eligibility for regular SSI benefits because his earnings exceed the substantial gainful activity (SGA) earnings limitation (\$300 a month), but who continues to be medically disabled, would become eligible for a special benefit status, which would entitle him to cash benefits equivalent to those he would be entitled to receive under the regular SSI program. Persons who receive these special benefits would be eligible for medical and social services on the same basis as regular SSI recipients. States would have the option of supplementing the special Federal benefits. When the individual's earnings exceeded the amount which would cause the Federal SSI payment to be reduced to zero, the special benefit status would be terminated and the individual would not thereafter be eligible for any Federal SSI benefits or Federal cash benefits under the special benefits status unless he could reestablish his eligibility for SSI, which would include meeting the SGA limitation.

When a disabled SSI recipient's earnings rise to the point that he no longer qualifies for Federal SSI benefits, State supplementary payments or the special benefit status, he would nevertheless continue to retain eligibility for medical and social services as though he were an SSI recipient if the Secretary found (1) that termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and (2) the individual's earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings. The provision allowing continuation of eligibility for medical and social services for persons whose earnings make them ineligible for cash benefits would also apply to SSI recipients who are blind.

The provisions would be effective for 3 years, during which the Department would be required to provide for a separate accounting of funds expended under this provision.

In addition, there would be established, effective January 1, 1981, a pilot program under which States could provide medical and social services to certain persons with severe impairments whose earnings exceed the substantial gainful activity limits and who are not receiving SSI, special benefits, or medical aid.

Under this pilot program, for the purpose of assisting States in providing medical or social services to certain severely handicapped persons, \$18 million in Federal funds would be available to States on an entitlement basis for a 3-year period beginning September 1, 1981, \$6 million would be available to States through the end of fiscal 1982. An additional \$6 million would be available for each of the two following fiscal years. Funds that are not used during each of the first two years could be carried forward by the State.

Funds would be allocated among the States in proportion to the number of disabled SSI recipients aged 18 to 65. Prior to the start of each fiscal year, each State that does not intend to use its allocation would

so certify to the Secretary of Health and Human Services. If a State certifies that it will not use all or some portion of its funds for any fiscal year or years, its allocation (or the unused portion thereof) for the period covered by the certification will be reallocated by the Secretary of HHS among States participating in the program that can make use of additional funds.

From the allocated funds, the Secretary of HHS would pay each State 75 percent of the costs of operating an approved plan for providing medical and social services to severely handicapped individuals who have earnings in excess of the substantial gainful activity limits and are not receiving SSI, special benefits or medicaid, if the State determines:

(1) that the absence of these benefits would significantly inhibit the individual's ability to continue his employment; and

(2) that the individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits (SSI, medicaid and title XX) that would be available to him in the absence of those earnings.

(It is not intended that States would require an individual to obtain a determination as to the level of or potential eligibility for benefits which might be payable under the SSI, medicaid, and title XX programs in the absence of his earnings. Rather it is intended that each participating State would use generally available information concerning the benefits provided in that State under these programs to establish reasonable income limits to carry out this criterion.)

The State plan would have to include (1) a statement of intent to participate in the program; (2) a designation of the agency to administer the program; (3) a description of the eligibility criteria which the State will apply and the procedures for determining eligibility (which may not involve use of the Disability Determination Service which makes disability determinations for the DI and SSI programs unless it is not feasible to use any other agency for the pilot program); and (4) a description of the services which the State intends to provide under the program. The State may submit a separate State plan or it may incorporate this plan as an amendment to its State administrative plan submitted to HHS under title XX. Under the pilot program, States could provide medical and social services through their medicaid and social services programs (not limited by eligibility criteria and scope of services under titles XIX and XX) but would receive Federal matching for those services under this provision rather than under title XIX or title XX. States could also provide services through some other mechanism if they found it appropriate.

States would be required to provide a report to HHS addressing the operation and results, emphasizing the work incentive effects, of the pilot program. On the basis of State reports, HHS would be required to report to the Congress. The report would be due not later than October 1, 1983; and should include, but not necessarily be limited to, relevant demographic information, earnings, employment information, and primary impairments of the individuals who received services under the pilot program, and the types of services they received. HHS would be required to publish final regulations to implement this program no later than nine months after the date of enactment.

Employment in sheltered workshops.—For purposes of SSI, remuneration received from activity in a sheltered workshop or work activity center will be considered earned income and therefore qualify for the earned income disregards (\$65 a month, plus one-half of the remaining earnings), effective October, 1980.

Deeming of parents' income to disabled or blind children.—Under the conference agreement, the deeming of parents' income and resources would be limited to disabled or blind children under age 18, whether or not the person is in school or training. Children receiving SSI who, on the effective date of the provision, are age 18 to 21 would be protected against loss of benefits due to this change, effective October, 1980.

Treatment of extraordinary work expenses.—For purposes of both the Disability Insurance program and the SSI program, the conference agreement provides that, in determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be disregarded from such earnings the cost to such individual of any impairment-related work expenses, attendant care cost, medical devices, equipment, prosthesis, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition), regardless of whether these items or services are also necessary to enable him to carry out his normal daily functions.

In addition, the conference agreement provides that impairment-related work expenses will be disregarded in determining the monthly SSI benefit amount of a disabled SSI recipient. The disregard of impairment-related work expenses when determining both SGA and in calculating SSI benefits would be a permanent provision of law effective 6 months after enactment.

Extension of the trial work period.—The conference agreement extends the trial work period under both the DI and SSI programs to 24 months. In the last 12 months of the 24-month period an individual who was performing substantial gainful activity immediately following the 9-month trial work period would not receive cash benefits while engaging in substantial work activity, but would automatically be reinstated to active benefits status if earnings fall below the SGA level. The provision would become effective with respect to individuals whose disabilities have not been found to have terminated before the sixth month after enactment.

Termination of benefit for persons in vocational rehabilitation programs.—Under the provision, an individual enrolled in an approved program of vocational rehabilitation will continue to be entitled to DI and SSI benefits after he has medically recovered if the Commissioner of Social Security determines that continuing in that program will increase the probability of the beneficiary going off the rolls permanently. The provision is effective 6 months after enactment.

Aliens receiving SSI.—The conferees agreed that for purposes of eligibility for Supplemental Security Income (SSI) benefits, legally admitted aliens who apply for SSI benefits after September 30, 1980 will be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States, unless the alien becomes blind or disabled after entry. Under the agreement the eligibility of such aliens for SSI will be contingent upon their obtaining the cooperation of their sponsors in providing for the necessary information to Social Security to carry out this provision. The provision would not apply to any alien who is (1) admitted to the United States as a result of the application, prior to April 1, 1980, of the provisions of section 203(a)(7) of the Immigration and Nationality Act; (2) admitted to the United States as a result of the application, after

March 31, 1980, of the provisions of section 207(c)(1) of such Act; (3) paroled into the United States as a refugee under section 212(d)(5) of such Act; or (4) granted political asylum by the Attorney General.

During the 3 years after entry into the United States, an alien may be eligible for SSI benefits only if his sponsor agrees to and does provide such information as the Secretary of Health and Human Services may require to carry out this provision. The alien and sponsor shall be jointly and severally liable to repay any SSI benefits which are incorrectly paid because of the sponsor's providing of misinformation or because of his failure to report, and any such incorrect payments which are not repaid would be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security Act.

In deeming a sponsor's income to an alien under this provision, the alien's SSI benefit would be reduced by the amount of any income deemed to him. Income deemed to the alien would be considered unearned income and would thus result in a dollar-for-dollar reduction in benefits (subject to the \$20 a month unearned income exclusion). The amount to be deemed would be equal to the gross income of the sponsor and his spouse reduced by an amount equal to a full SSI benefit for the sponsor and an amount equal to one-half of a full SSI benefit for each other person for whom the sponsor is legally responsible. (Income of a child, e.g., AFDC or SSI payments, which is specifically provided to or on behalf of a child in the household of the sponsor would not be included nor would Federal SSI payments received by the sponsor and his spouse. Except for the deeming provision, the alien's SSI benefit would be computed in the same manner as under existing law except that in-kind support and maintenance received by an alien living in the household of the sponsor (or sponsor's spouse) shall not result in the application of the one-third reduction. Income in the form of support or maintenance in cash or kind by the sponsor (or sponsor's spouse) would not be counted as income or resources to the extent such income or resources is taken into account in determining the amount of income and resources to be deemed from the sponsor to the alien.

On the same basis, the assets of the sponsor and his spouse would be determined as under SSI. Any resources in excess of this amount allowable under SSI (\$1,500 if the sponsor is single, \$2,250 for a couple) would be considered to be resources of the alien in addition to whatever resources the alien has in his own right.

Under the conference agreement, an alien applying for SSI would be required to make available to the Social Security Administration any documentation concerning his income or resources or those of his sponsor (if he has one) which he provided in support of his immigration application. The Secretary of Health, and Human Services would also be authorized to obtain copies of any such documentation from other agencies (i.e., State Department on Immigration and Naturalization Service). The Secretary of HHS would also be required to enter into cooperative arrangements with the State Department and the Justice Department to assure that persons sponsoring the immigration of aliens are informed at the time of sponsorship that, if the alien applies for public assistance, the sponsorship affidavit will be made available to the public assistance agency and the sponsor may be required to provide further information concerning his income and assets in connection with the alien's application for assistance.

SSI demonstration projects.—Under the conference agreement, the Secretary of HHS would be authorized to waive the require-

ments of the SSI program to permit demonstration projects aimed at improving the program.

With respect to such SSI experiments, the Secretary would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. The Secretary could not require an individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at any time his voluntary agreement to participate. The Secretary, to the extent feasible, would be required to include recipients under age 18. The Secretary would also be required to include projects necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability.

The provision would become effective upon enactment.

AFDC work requirement.—The conference agreement would add to the present requirement that recipients of AFDC, who are not specifically exempt, register for employment and training the requirement that such recipients register for "other employment-related activities (including employment search)." The agreement also specifically requires that necessary social and supportive services be provided during any employment search activities under the WIN program. These services would be authorized to be provided to registrants prior to certification.

The agreement authorizes the Secretaries of Labor and HHS to establish, by regulation, the period of time during which an individual would not be eligible for assistance in the case of refusal without good cause to participate in a WIN program. In addition, the present law provision for a 60-day counseling period for persons who refuse to participate was eliminated.

The agreement also: requires that State supportive service units be colocated with manpower units to the maximum extent feasible; allows State matching for supportive services to be in cash or in kind; clarifies that income from WIN public service employment is not fully excluded in determining benefits (there would be no disregard of the first \$30 a month plus one-third of additional earnings); adds to the individuals who are exempt from registration for WIN, individuals who are working at least 30 hours a week.

The conference agreement provides that the criteria for appropriate work and training to which an individual may be assigned under section 432(b) (1), (2), and (3) shall apply in the case of work to which an individual may be referred as part of employment search programs conducted under the work incentive program. In other words, job referral under the new employment search provision would be limited to jobs that meet the current WIN regulations relating to appropriate employment. (Present regulations provide limits as to reasonable travel time, provision for necessary supportive services, requirements for wages, health, and safety, and others.)

In addition, the conferees agreed to limit an individual's job search period to 8 weeks in one year, and added a requirement that there be timely reimbursement of any employment search expenses paid for by the individual.

Under the conference agreement, the provisions relating to termination of assistance and treatment of PSE earnings are effective upon enactment. Other provisions are effective September 30, 1980.

IRS collection of child support for non-AFDC families.—The conference agreement authorizes use of IRS collection mechanisms in the case of families not receiving AFDC, subject to the same certification and other requirements that are now applicable in the case of collection on behalf of families receiving AFDC.

The provision is effective July 1, 1980.

Disclosure of information for AFDC and title XX.—For purposes of titles IV and XX of the Social Security Act, the conference agreement permits the disclosure of information regarding individuals assisted under the State's plan for purposes of any authorized audit conducted in connection with the administration of the program including an audit performed by a legislative body.

The provision is effective September 1, 1980.

Federal matching for child support activities performed by court personnel.—Under the agreement, Federal matching funds would be authorized under the Child Support Enforcement program for expenditures of courts (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and support personnel) but only for functions specifically identifiable as IV-D functions.

The provision is effective July 1, 1980.

Child support management information systems.—The agreement increases Federal matching to 90 percent for the costs of developing and implementing child support management information systems, retaining the present 75 percent matching rate for the costs of operating such systems. The agreement requires the Secretary to provide technical assistance to the States and provides that a State system must meet certain specified requirements in order to receive Federal matching. There would be continuing review on the part of the Secretary of HHS.

Under the agreement States choosing to establish and operate systems must include as part of such systems (1) the ability to control and monitor all the factors of the support collection and paternity determination process, (2) interface with the AFDC program, (3) security against access to data, and (4) the ability to provide management information on all cases from application through collection and referral.

The provision is effective July 1, 1981.

AFDC management information systems.—The agreement provides 90 percent Federal matching to States for the cost of developing and implementing computerized AFDC management information systems. The Secretary of Health and Human Services would be required to approve State systems as a condition of Federal matching (both initially and on a continuing basis). In order to qualify for this increased match, a State system would have to include certain specified characteristics, including (1) ability to provide data on AFDC eligibility factors, (2) capacity for verification of factors with other agencies, (3) capability for notifying child support, food stamp, social services, and medicare programs of changes in AFDC eligibility and benefit amount, (4) compatibility with systems in other jurisdictions, and (5) security against unauthorized access to or use of data in the system. The Department would be required to provide technical assistance to the States on a continuing basis.

The provision would become effective July 1, 1981.

Child support reporting and matching procedures.—The agreement would, effective January 1, 1981, prohibit advance payment of the Federal share of State administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected

and disbursed for the calendar quarter which ended 6 months earlier. It would also require the Department of Health and Human Services to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Access to wage information for child support program.—Under the conference agreement, certain tax return information must be disclosed by the Social Security Administration to State and local child support enforcement agencies, as follows.

The conferees agreed to amend the Internal Revenue Code to provide that, upon written request, the Commissioner of Social Security shall directly disclose return information with respect to net earnings from self-employment, wages, and payments of retirement income to officers and employees of a State or local child support enforcement agency. Disclosure will be allowable only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating individuals owing child support obligations.

Any agency receiving information must comply with conditions specified in current law for safeguarding information. Under these safeguards, information may be used on a computer in uncoded form if the computer is used only by the child support enforcement agency. If this information is used on computer systems shared with agencies which are not child support agencies, it must be introduced into the system and coded so that it is available only to officers and employees of the child support enforcement agency. Generally, disclosure to individuals other than officers and employees of the child support enforcement agency would not be authorized; however, the information may be disclosed to the taxpayer to whom the information pertains. This provision is effective on enactment.

In addition, the conferees agree to amend title III of the Social Security Act, Grants to States for Unemployment Compensation Administration, to require the State agency administering the unemployment compensation program to disclose directly, upon request and on a reimbursable basis, to officers or employees of any State or local child support enforcement agency any wage information contained in the records of the State agency. The agency is also required to establish safeguards necessary (as determined by the Secretary of Labor in regulations) to insure that information is used only for purposes of establishing, and collecting child support obligations from and locating, individuals owing such obligations. If the Secretary of Labor finds that the State agency has failed to comply with requirements of this provision, he must notify the agency that further payments of administrative costs will not be made to the State until he is satisfied that there is no longer any such failure. The provision is effective July 1, 1980.

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Mr. PICKLE. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Texas.

Mr. PICKLE. Mr. Speaker, I wish to express my thanks to the gentleman from California (Mr. CORMAN), because he has given this conference great cooperation. Our work has been done under difficult circumstances because of the melding of the two bills between the two bodies.

The gentleman from California (Mr. CORMAN) has cooperated and helped us advance this bill, and we think we have a good bill. I want personally to pay my respects to the gentleman for his help.

Mr. CONABLE. Mr. Speaker, I agree with the gentleman that the gentleman from California (Mr. CORMAN) has made a significant contribution to this measure.

Mr. PICKLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge approval of the conference report on H.R. 3236. The bill makes needed improvements in the social security disability program. It also makes changes in the SSI, AFDC, and child support program and provides for increased supervision of medicare supplemental—or Medigap—policies.

This legislation has been some time in the making. It began over 5 years ago with an extensive study of the social security disability program by the Ways and Means Subcommittee on Social Security. Work and further study of the issues raised then, and on new issues as they were discovered, has continued in a series of reports and hearings each year since that time.

Few programs are more difficult to administer—but few programs also are more important to the American people—than the social security disability program. The American people deserve a well run disability program and this legislation is definitely a step in that direction.

The long history of this bill has shown that it is possible for members of both parties and of many philosophical backgrounds to work together for the common good. I am extremely proud to have been associated with the chairman of the Ways and Means Committee, AL ULLMAN, with the ranking minority member BARBER CONABLE, and with all the members of the Social Security Subcommittee especially Congressman ANDREW JACOBS, and Congressman BILL ARCHER, who worked very hard on this legislation and who stuck to what they knew was right. I am also proud of the members of the Ways and Means Committee, particularly my fellow subcommittee chairman JIM CORMAN, who joined us in a very complicated conference and who worked hard there to bring this bill before you today.

Nearly all factions which expressed views one way or another on this bill are now working together. I particularly want to commend my good friend the Honorable CLAUDE PEPPER. This distinguished gentleman persisted in his objection but in a courteous and exemplary manner. I also want to commend the chairman of the Rules Committee for his constancy in seeing that there is ample time for all parties to express their views.

H.R. 3236 enjoyed a unanimous vote in committee and passed the House by a 73 vote margin, although it was at that time somewhat controversial. But the House was persuaded then—and it should be even more persuaded now—that this is a good bill which will lay the groundwork for a better disability program in the future.

The legislation enjoys the endorsement as well of the Honorable Patricia Harris, Secretary of the Department of Health and Human Services.

The real importance of this legislation is not in the changes in future benefits occasioned by the sections on the cap and dropout years. The real significance is that this bill will give work incentives to disabled citizens across the land. It will enable disabled persons to try to lead productive lives without a sword continually hanging over their heads that they will lose their benefits. The bill removes that fear and gives encouragement and support through an extended trial work period, through increased medicare coverage for the working disabled and by providing for deduction of impairment related expenses in computing eligibility for benefits. These are changes that will cost money, but in the long run they will be the most important parts of this bill.

The bill also makes several corrections in the administration of the program, including requiring a more personal notice to individuals who are denied disability benefits. This is an important reform that will help the American public better understand the program—and it will make the program more rational as well.

Because the Senate added several features to the bill, it now addresses many other important issues as well, issues I mentioned at the beginning of my statement. But I would point out to the House that these generally are matters which have already been considered and approved by the House or which enjoy substantial support in this body.

Again, therefore, I urge approval of this report.

I would also like to include in the RECORD a summary of the bill and a detailed statement of the Conference decisions, and the material is as follows:

SUMMARY OF THE SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980 H.R. 3236

The bill makes major improvements in the social security and Supplemental Security Income disability programs to improve work incentives and program accountability. Also makes changes in the SSI, AFDC, and Child Support programs and provides a voluntary certification program for medicare supplemental policies (medi-gap).

Disability insurance work incentives. To make needed corrections in the benefit formula and to enable more disabled beneficiaries to return to work despite their impairments, H.R. 3236 would (a) provide a limitation on family benefits to ensure that benefits are disproportionate to past earnings; (b) reduce the disparity between young and old disabled workers by introducing a schedule of variable drop-out years; (c) extend the present trial work period for disabled workers; (d) provide a trial work period for disabled widows and widowers; (e) deduct extraordinary impairment-related work expenses, attendant care costs, etc. from earnings in determining SGA; (f) extend medicare coverage for an additional 36 months to disabled beneficiaries who return to work; (g) eliminate the second 24-month medicare waiting period where a person again becomes disabled and entitled to benefits, and (h) provide demonstration and waiver authority for the study of various alternative ways of stimulating disabled workers to return to work.

Disability program accountability.—To improve program accountability, the bill provides a regulatory scheme to govern the State agencies who determine disability, a Federal review of State allowances on a pre-decision

basis and a periodic review of individuals on the rolls with nonpermanent disabilities, a more extensive review of ALJ decisions, and the institution of a more detailed notice of denial of disability benefits.

Legal aliens—SSI.—In determining whether a legal alien meets the income eligibility criteria for SSI, the income and resources of his immigration sponsor would be deemed to be available for his support for a period of 3 years after entry into the U.S. It will be the responsibility of the alien to obtain the cooperation of the sponsor in providing necessary information.

Disabled SSI recipients.—The bill would reduce work disincentives for the disabled by providing that a disabled SSI recipient who loses his eligibility for regular SSI benefits because he increases his earnings above the present disability limitation (\$300 a month), but who continues to be medically disabled, would be eligible for a special benefit status entitling him to benefits on the same basis as regular SSI recipients. In addition, the bill provides for a pilot program under which States could provide medical and social services to people with severe impairments who are not eligible for SSI or special benefits because their earnings exceed the limitation, but who continue to need assistance in order to work.

AFDC; child support enforcement.—The bill strengthens the AFDC work requirement; permits the IRS to collect child support for non-AFDC families and increases Federal matching for certain child support activities performed by courts and for computerization of AFDC and child support activities.

Depositing social security contributions for state and local employment.—Substitutes a requirement that states must deposit social security contributions within thirty days after the end of the month rather than the requirement in a pending regulation change that they be made on a 15-15-45 day basis.

Medigap.—A voluntary certification program for medicare supplemental policies would be established effective July 1, 1982. However, the program would not be applicable in any State which applies in its own regulatory program the standards recommended by the National Association of Insurance Commissioners and includes a requirement relating to loss ratios. Determinations as to whether a State has such a program would be made by a national panel, appointed by the President, consisting of four insurance commissioners and the Secretary. The bill also provides criminal penalties for fraudulent and deceptive practices in the sale of policies.

Terminally ill.—The bill authorizes a study of how the disability provisions of the Social Security Act affect the terminally ill.

Cost of bill.—H.R. 3236 provides substantial savings to the Social Security trust funds and in general revenue as follows: \$8 million in 1980, \$70 million in 1981, rising to \$1.1 billion in 1985.

H.R. 3236 AS APPROVED BY CONFERENCE COMMITTEE—PROVISIONS RELATING TO DISABILITY INSURANCE

I. WORK INCENTIVE SECTIONS Limit on Family Disability Insurance Benefits (Sec. 101)

Present Law. The social security disability insurance program (DI) determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average indexed monthly earnings (AIME) the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For

a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount (the primary insurance amount—PIA) may be increased if the worker has a spouse or dependent children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Conference Action. The bill limits total DI family benefits to the smaller of 85 percent of the worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). Under the provision, no family benefit would be reduced below 100 percent of the worker's primary benefit.

Scope and Effective Date. The limitation is effective only with respect to individuals who first become entitled to benefits on or after July 1, 1980.

Reduction in Dropout Years
(Sec. 102)

Present Law. Disabled workers are allowed to exclude up to 5 years of low earnings in averaging their earnings. However, at least 2 years of earnings must be used in the benefit computation.

Conference Action. The bill excluded years of low earnings in the computation of disability benefits according to the following schedule:

Workers age at disablement:	Number of dropout years
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

The provision also would allow a disabled worker to drop out additional low years of earnings, if in those years there was a child (of such individual or his or her spouse) under age 3 living in the same household and the disabled worker did not engage in any employment in each such year. In no case would the number of such dropout years exceed 3. Further, dropout years for periods of childcare would be provided only to the extent that the combined number of childcare dropout years and dropout years provided under the regular schedule do not exceed 3.

Scope and Effective Date. The new schedule of dropout years applies to disabled workers who first become entitled to benefits after June 1980. The provision continues to apply to a worker until his death unless before age 62 he ceases to be entitled to disability benefits for 12 continuous months.

Elimination of second medicare waiting period
(Sec. 103)

Present Law. Beneficiaries of disability insurance (DI) must wait 24 consecutive months after becoming entitled to benefits to become eligible for medicare. If a beneficiary loses his eligibility and then becomes disabled again, another 24 consecutive month waiting period is required before medicare coverage is resumed.

Conference Action. The bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24 consecutive month waiting period after

becoming reentitled to benefits before medicare coverage is available to him. The amendment applied to workers becoming disabled again within 60 months, and to disabled widows or widowers and adult disabled since childhood becoming disabled again within 84 months.

The conferees accepted the provisions of the House and Senate bills and agreed that the provision would be effective 6 months after enactment.

Extension of medicare for an additional 36 months
(Sec. 104)

Present Law. Medicare coverage ends when disability insurance benefits cease.

Conference Action. The bill extends medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36 month period was part of the new 24 month trial work period. See section 303.) The new provision applies to disability beneficiaries whose disabilities have not been determined to have ceased prior to the 6th month after enactment.

Funding for vocational rehabilitation services for disabled individuals

Present Law. Reimbursement from social security trust funds is now provided to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. The purpose of the payment is to accrue savings to the trust funds as a result of rehabilitation the maximum number of beneficiaries into productive activity. The total amount of the funds that may be made available for such reimbursement may not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

The House bill eliminated, effective for fiscal 1982, trust fund financing for rehabilitation services but provided trust fund reimbursement for the Federal share (80%) to the General Fund of the U.S. Treasury and to the States for twice the State share (20% x 2) of rehabilitation services which result in the performance by a rehabilitated individual of substantial gainful activity (SGA) for a continuous period of 12 months or which result in employment for 12 consecutive months in a sheltered workshop. The Senate bill struck the House provision.

Conference Action. No change from present law.

The conferees stated that they anticipate that the new method of allocating trust fund money to the States for rehabilitation of social security clients which was recently adopted administratively will continue and be intensified in the future. This method generally allocates the trust fund money based on the relative number of social security beneficiaries each State rehabilitates with earnings at the substantial gainful activity (SGA) level, provided that no State loses more than ½ of its previous year's funding. Currently, rehabilitation is considered to have been achieved when the client has been employed for two months. The managers expect that the measure of success, i.e., rehabilitation at the SGA level, will be modified as soon as administratively feasible so that the allocation formula will be based on the State's relative share of the total number of social security clients employed as a result of rehabilitation for no less than 6 months (although not necessarily consecutive) with earnings at the SGA level throughout the period. Furthermore, the managers expect that steps will be taken to develop procedures which will eventually result in the allocation being based on the State's relative share of total benefit terminations brought about by vocational rehabilitation services.

The conferees instruct the Social Security Administration and the Rehabilitation Services Administration recently transferred to the Department of Education to continue to explore the possibility of developing more timely and effective methods of measuring performance in trust fund rehabilitations. The results of these efforts should be promptly communicated to the Ways and Means and Finance Committees.

Termination of benefits for persons in vocational rehabilitation programs
(Sec. 301)

Present Law. Under present law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he has completed the program of vocational rehabilitation in which he has been enrolled.

Conference Action. The bill provides that DI benefits will continue after medical recovery for persons in approved vocational rehabilitation plans or programs, if the Commissioner of Social Security determines that continuing in those plans or programs will increase the probability of beneficiaries going off the rolls permanently. The provision is effective 6 months after enactment.

Treatment of extraordinary work expenses in determining SGA
(Sec. 302)

Present Law. Regulations issued under present law provide that in determining whether an individual is performing substantial gainful activity (SGA), extraordinary expenses incurred by the individual in connection with his employment and because of his impairment are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

Conference Action. The bill provides for a deduction from earnings of costs to the individual of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions. The Secretary is given the authority to specify in regulations the type of care, services and items that may be deducted, and the amounts to be deducted shall be subject to such reasonable limits as the Secretary may prescribe. The provision is effective six months after enactment.

Extension of the trial work period
(Sec. 303)

Present Law. Under the DI and SSI programs, when an individual completes a 9 month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following. Under the DI program, widows and widowers are not entitled to a trial work period.

Conference Action. The bill extends, in effect, the trial work period under the DI program to 24 months. In the last 12 months of the 24 month period the individual would not receive cash benefits while engaging in substantial work activity, but would automatically be reinstated to active benefit status if earnings fall below the SGA level.

The bill also provides that the same trial work period would be applicable to disabled widows and widowers (who are not permitted

a trial work period at all under existing law). The provision would be effective 6 months after enactment.

Work incentive and other demonstration projects under the disability insurance program

(Sec. 505)

Present Law. The Secretary of Health and Human Services has no authority to waive requirements under titles II, XVI, and XVIII of the Social Security Act to conduct experimental or demonstration projects.

Conference Action. The bill authorizes waiver of benefit requirements of the DI and medicare programs to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries. Also authorizes waivers in the case of other disability insurance demonstration projects which SSA wished to undertake, such as study of the effects of lengthening the trial work period, altering the 24 month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation. Requires an interim report by January 1, 1983 and final one by 5 years after the date of enactment. The authority would be applicable to both applicants and beneficiaries, and would be effective upon enactment.

II. PROGRAM ACCOUNTABILITY

Federal review of State agency decisions—reversal of decisions

(Sec. 304(c))

Present Law. Under current administrative procedures of the Social Security Administration, approximately 5 percent of initial disability claims adjudicated by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. This is on a sample basis and varies from 2 percent in the larger States to 25 percent in the smaller States.

Under existing law, the Secretary has authority to reverse favorable decisions with respect to DI beneficiaries.

Conference Action. The bill requires Federal preadjudicative review of DI allowances according to the following schedule:

Decisions made in fiscal year:	Minimum percent reviewed
1981	15
1982	35
1983 and thereafter	65

The Secretary would be given the authority to reverse decisions that are unfavorable to DI claimants

The conferees note that the percentage requirements for preadjudicative review are nationwide requirements and that the Social Security Administration will determine whether they should be higher or lower on an individual State basis. The conferees also instruct the Secretary to report to the Ways and Means and Finance Committees by January 1982 concerning the potential effects on processing time and on the cost effectiveness of the requirement of the 65 percent review for fiscal year 1983, and thereafter

Effective Date. Upon enactment.

Periodic review of disability determinations
(Sec. 311)

Present Law. Administrative procedures now provide that a disability beneficiary's continued eligibility for benefits be reexamined only under a limited number of circumstances (i.e., where there is a reasonable expectation that the beneficiary will show medical improvement).

Conference Action. The bill provides that

abled beneficiaries whose disability has not been determined to be permanent at least once every three years. Cases where the initial prognosis shows the probability that the condition will be permanent would be subject to review at such times as the Secretary determines to be appropriate.

Effective Date. January 1982.

Closing the record—Limit on prospective effect of application

(Sec. 306)

Present Law. Present law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a final decision. Thus, a claimant can continue to introduce new evidence at each step of the appeals process, even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application. This is frequently referred to as the "floating application" process.

Conference Action. The committee bill provides for foreclosing the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative law judge (ALJ) hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect.

Effective Date. Upon enactment.

Own motion review of ALJ decisions

(Sec. 304 (g))

Present Law. After his claim has been denied by the State agency initially and on reconsideration, an applicant has the opportunity for a hearing before an administrative law judge (ADJ). In the past there had also been fairly extensive review of ALJ allowances and denials through own-motion review by the Appeals Council as authorized by the Administrative Procedure Act and the regulations of the Secretary. This own-motion review has almost been eliminated in recent years.

Conference Action. The Secretary of Health and Human Services would be required to implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act (the disability determination provisions). He would be required to report to Congress by January 1, 1982, on the progress of this program.

The conferees state that the report should indicate the percentage of ALJ decisions being reviewed and describe the criteria for selecting decisions to be reviewed. The conferees are concerned that there is no formal ongoing review of social security hearing decisions. The variance in reversal rates among ALJ's and the high overall ALJ reversals of determinations made at the prehearing level indicate that there is a need for such review. The conferees recognize that, at the hearing level, the claimant appears for the first time before a decisionmaker and additional evidence is generally submitted. The conferees also recognized that there have been significant changes in State agency denial rates and that in certain areas the ALJ's and State agencies have been operating with different policy guidelines. The report should identify the effects of these factors as well as any differences in standards applied by ALJ's.

Effective Date. Upon enactment.

Limitation on court remand

(Sec. 307)

Present Law. Prior to filing an answer in a

decision, the Secretary of Health and Human Services may, on his own motion, remand the case back to an ALJ. Similarly, under existing law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ.

Conference Action. The bill limits the absolute authority of the Secretary to remand court cases. It requires that such remands would be discretionary with the court upon a showing by the Secretary of good cause. A second provision relates to remands by the court. The bill provides that a remand would be authorized only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding.

Effective Date. Upon enactment.

Information to accompany secretary's decision

(Sec. 305)

Present Law. There is no statutory provision setting a specific amount of information to explain the decision made on a claim for benefits.

Conference Action. The bill requires that notices of disability denial to DI and SSI claimants shall use a statement of the case in understandable language and include: A discussion of the evidence, and the Secretary's determination and the reason(s) upon which it is based.

Effective Date. The provision is effective for decisions made on or after the first day of the 13th month following the month of enactment.

Time limits for decisions on benefit claims

(Sec. 308)

Present Law. There is no limit on the time that may be taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

Conference Action. The bill requires the Secretary to submit a report to Congress recommending appropriate time limits for the various levels of adjudication of title II cases. In recommending the limits, the Secretary was to give adequate consideration to both speed and quality of adjudication.

Effective Date. The report is due on July 1, 1980.

Scope of Federal court review—Findings of fact

Present Law. In Social Security appeals, the U.S. District Court shall have power to enter upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a hearing. The findings of the Secretary as to any fact if supported by substantial evidence, shall be conclusive.

Senate Bill. The Senate bill modified the scope of Federal court review so that the Secretary's determinations with respect to facts in Title II and Title XVI would be conclusive, unless found to be arbitrary and capricious. The substantial evidence requirement would be deleted.

Conference Action. The conference deleted the provisions of the Senate bill because of the uncertainty as to the ramifications of the rule proposed and the concern that the administrative process is not operating with the degree of creditability which would justify elimination of the "substantial evidence rule." Appeals Council own motion review of ALJ decisions eventually should enhance the validity of the process and lead to the need for less reliance on judicial review. The conferees believe that the National Commission on Social Security should ex-

peals process generally and deal specifically with such elements as the Administration proposals for judicial review in addition to alternative approaches such as a Disability Court.

The conference committee would like to reiterate what both committees stated in their reports on P.L. 94-202 that the courts should interpret the substantial evidence rule with strict adherence to its principles, since the practice of some courts in making *de novo* factual determinations could result in very serious problems for the Federal judiciary and the social security programs.

III. PROGRAM ADMINISTRATION

Administration by State agencies

(Sec. 304 (a) (b) (e) (f) and (h))

Present Law. Present law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of Health and Human Services. Unlike the grant-in-aid programs, the relationship is contractual and State laws and practices are controlling with regard to many administrative aspects. State agencies make the determinations based on guidelines provided by the Department and the costs of making the determinations are paid from the disability trust fund in the case of DI claimants, or from general revenues in the case of SSI claimants by way of advancements of funds or reimbursements to the contracting State agency. Present agreements allow both the State and the Secretary to terminate the agreement. The States generally may terminate with 12 months' notice and the Secretary may terminate if he finds the State has not complied substantially with any provision of the agreement.

Conference Action. The bill requires that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It requires the Secretary to issue regulations specifying, in such detail as he deemed appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function "in order to assure effective and uniform administration of the disability insurance program throughout the United States." Certain operational areas were cited as "examples" of what the regulations may specify. These include such items as the nature of the administrative structure, the physical location of and relationship among agency staff units, performance criteria and fiscal control procedures. The bill also provides that this shall not be "construed to authorize the Secretary to take any action except pursuant to law or to regulations pursuant to law."

The bill also provides that if the Secretary found that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. The provision also allows for termination by the State. The State would be required to continue to make disability determinations for not less than 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Effective Date. The bill provides that these changes will be effective beginning with the 12th month following the month in which the bill is enacted. Any State that has an agreement on the effective date of the amendment will be deemed to have given affirmative notice of wishing to make disability determinations under the regulations. Thereafter, it may give notice of termination

which shall be effective no earlier than 180 days after the notice is given.

Protection of State employees

(Sec. 304 (b) and (1))

Present Law. Under provisions of the Federal Personnel Manual, when the Federal Government takes over a function being carried out by a State, the Federal agency in its discretion may retain the State employees in their positions.

Conference Action. The bill requires that if the Secretary of Health and Human Services assumes the disability determination function he must assure preference to State agency employees who are capable of performing duties in the disability determination process over any other individual in filling new Federal positions. However, the Secretary would not be required to provide a hiring preference to the administrator, deputy administrator, or assistant administrator (or comparable position) in the event that the Secretary found it necessary to assume the functions of a State agency. Although he would not be required to provide a preference to persons in those positions, he could do so if he determines that such action is appropriate.

In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor determined that, with respect to any displaced State employees who were not hired by the Secretary, the State had made "fair and equitable arrangements to protect the interests of employees so displaced." The protective arrangements would have to include only those provisions provided under all applicable Federal, State, and local statutes, including the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements, the continuation of collective-bargaining rights, the assignment of affected employees to other jobs or to retraining programs, the protection of individuals against a worsening of their positions with respect to employment, the protection of health benefits and other fringe benefits, and the provision of severance pay.

The bill also requires that the Secretary submit to the Committee on Ways and Means and the Committee on Finance by July 1, 1980, a detailed plan on how he expected to assume the functions of a State disability determination unit when this became necessary. The plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out that function. If any amendment of Federal law or regulation was required to carry out such plan, a recommendation for such amendment is to be included in the plan for action, for submittal to the Congress.

Effective Date. Same as for the provision for Administration by State agencies.

Payment for existing medical evidence

(Sec. 309)

Present Law. Authority does not now exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

Conference Action. The bill provides that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence requested and required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Effective Date. Six months after enactment.

Payment for certain travel expenses

(Sec. 310)

Present Law. Explicit authority does not exist under the Social Security Act to make payments from the trust funds to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

Conference Action. The bill provides permanent authority for payment of the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from participation in various phases of the adjudication process. The amount available for air travel normally shall not exceed coach fare.

Effective Date. Upon enactment.

IV. WAIVER OF WAITING PERIOD FOR TERMINALLY ILL

Waiver of waiting period for terminally ill (Sec. 506)

Present Law. Under the DI program the waiting period is the earliest period of 5 consecutive months in which an individual is under a disability. An individual is determined disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for not less than 12 months. If an individual becomes disabled and applies for benefits in the same month, the waiting period will be satisfied 5 months after the month of application. With all other conditions of eligibility having been met, benefits will be due for the sixth month after the month in which the disabling condition begins, and will be paid on the third day of the seventh month.

The waiting period cannot begin until the individual is insured for benefits (i.e., the individual has satisfied the quarters of coverage requirements). If the disabling condition begins before an individual is insured for benefits, the waiting period can begin only with the first month in which the individual has insured status.

If a worker is applying for benefits after having been entitled to DI benefits previously (or had a previous period of disability) within 5 years prior to the current application, the waiting period requirement does not have to be met again.

Senate Bill. The Senate bill eliminated the waiting period for persons with a terminal illness, i.e., a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations.

The provision was to be effective for applications filed in or after the month of enactment, or for disability decisions not yet rendered by the Social Security Administration or the courts prior to the month of enactment.

Benefits would be payable beginning October 1980.

Conference Action. The conferees did not agree to the Senate provision eliminating the waiting period for persons with a terminal illness, but in lieu thereof agreed to a provision authorizing up to \$3 million a year to be used by SSA to participate in a demonstration project which is currently being conducted within the Department of Health and Human Services. The purpose of the

project is to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the Congress to amend the Social Security Act so as to provide the kinds of services most appropriate for individuals who are suffering from terminal illnesses.

Mr. PICKLE. Mr. Speaker, I yield 5 minutes to the gentleman from Connecticut (Mr. RATCHFORD).

(Mr. RATCHFORD asked and was given permission to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, I come to the floor enthusiastically to support this conference report.

As a Member who serves under the chairmanship of the gentleman from Florida (Mr. PEPPER) on the Select Committee on Aging and as a Member who in my own right served as Commissioner of the department of aging in Connecticut for a 2-year period of time, there is no question, Mr. Speaker, that there is a national scandal today in the area of Medi-Gap and in the area of abuse of the elderly. I would like to outline some of the abuses we found.

First, we found salesmen who were selling policies which clearly duplicated the coverage of medicare.

Second, we found misrepresentation by salesmen as to what the policies actually covered.

Third—and we had very vivid testimony to this effect—we found policies were sold which duplicated existing policies on the person for whom insurance was being extended.

And, fourth, we found in the area of mail sales of policies that substantial fraud existed.

The positive side was that we found there are many States that had acted and acted aggressively in this area. My own State, the State of Connecticut, earlier this year passed legislation that went substantially further than many other States. Connecticut passed legislation which established a minimum individual loss ratio of 65 percent and a minimum group loss ratio of 75 percent. Also, the Connecticut law provides that any gaps or overlaps with medicare must be spelled out in writing and allows the State Commissioner of Insurance to develop the implementing regulations.

Unfortunately, there are many States that do not have this coverage, and as a result this legislation which is contained in the conference report today is needed, and it is needed badly. We found three areas nationally where coverage was needed in national legislation.

First, legislation which requires that before policies are approved by the commissioner of insurance or before insurance is approved, rather, it must be approved at the State level by the commissioner of insurance;

Second, a law which would make it unlawful for an insurance salesman to represent that he was a representative of employee of medicare;

And, third and finally, the law requires that there be the creation of a program of voluntary certification in the Department of Health, Education, and Welfare.

So it is for these three reasons that the Medi-Gap coverage is necessary. I am pleased that the conference committee reached agreement in this area, and I am pleased that we now will have a voluntary certification program.

I am pleased, above all, that the frail elderly will no longer be subject to the abuse we found rampant in the United States.

So, Mr. Speaker, I applaud the Committee on Ways and Means, and I applaud especially the work of the subcommittee. I urge adoption of the conference report.

Mr. CONABLE. Mr. Speaker, will the gentleman yield?

Mr. RATCHFORD. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this was a difficult matter of negotiation within the committee. There was great concern about Federal intrusions into the area of insurance regulation, and yet there was widespread evidence of abuse in mail order sales of Medi-Gap insurance.

We think we have worked out a compromise here—and may I say that Senator BAUCUS of the other body was extremely active in this effort—that will protect the elderly and will at the same time keep the Department of Health and Human Resources from getting heavily into the insurance regulation area.

For that reason, Mr. Speaker, I think the compromise is particularly hopeful. We have, in other words, not created a substantial intrusion of a new Federal function, and yet we have dealt with the abuse that has been such a widespread matter of concern.

Mr. RATCHFORD. Mr. Speaker, I strongly agree with the gentleman from New York (Mr. CONABLE).

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. RATCHFORD. I yield to the chairman of the Select Committee on Aging.

Mr. PEPPER. Mr. Speaker, I just want to join in the commendation of the conferees, especially those on the part of the House, in accepting these Medi-Gap amendments. This has been a gracious act on their part and, I think a meaningful one for the elderly people of this country.

Second, especially as chairman of the Select Committee on Aging, I want to commend the distinguished gentleman from Connecticut (Mr. RATCHFORD) for his great contribution in producing this Medi-Gap legislation.

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Mr. CONABLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN).

(Mr. DUNCAN of Tennessee asked and was given permission to revise and extend his remarks.)

Mr. DUNCAN of Tennessee. Mr. Speaker, I support the conference report on H.R. 3236 because I believe it represents the best set of compromises obtainable.

H.R. 3236, as passed by this House, was designed to make the disability insurance program more responsive to the needs of both beneficiaries and insured workers, whose taxes pay the benefits. It did so mainly by offering new incentives to those who are disabled but who are trying to become successfully employed again.

In the other body, these important provisions were not altered radically. There were some differences, of course, but they were not terribly difficult to resolve.

The real problems for the conferees were posed by amendments of the other body which had nothing to do with the original contents of H.R. 3236. These unrelated provisions make changes in several different titles of the Social Security Act and involve such widely disparate subjects as runaway fathers and insurance policies to supplement medicare.

The conference report changes title IV of the Social Security Act by requiring many adult recipients of aid to families with dependent children to register not only for work but for job search programs. It permits easier access to data needed in tracking down delinquent parents in child support cases. And it increases Federal matching money for improvements in information retrieval systems for welfare programs.

The report amends title XVIII of the Social Security Act by requiring the Secretary of Health and Human Services to establish a voluntary certification program for medicare supplemental policies in States which do not provide certain standards. This was an amendment of the other body, adopted by the managers on the part of the House only after prolonged negotiations. The amendment was modified in conference so that voluntary certification would not become effective until July 1982 and so that a certified policy would have to meet or exceed standards set by State insurance commissioners, not Federal law.

The voluntary certification program would not be applicable to any policy issued in a State which has standards that "are equal to (or) are more stringent than" standards set forth in a model regulation adopted by the association of State insurance commissioners. A panel, appointed by the President and consisting of the Secretary of HHS and four State insurance commissioners, would determine whether a State had acceptable standards. The statement of managers makes it clear that the conference report phrase "more stringent than" was not designed to be a benchmark for the panel but was inserted solely to emphasize the congressional intent that States should not be encouraged to limit their regulatory programs to a minimal level.

Although this portion of the report is not in precisely the form that some of us who served as managers would prefer it to be, it is a pragmatic solution to a very controversial and complex issue.

Much the same can be said of agreements reached on other sensitive issues by this conference. I doubt that any of the managers is completely satisfied with

every part of the report, but I believe that every manager on the part of the House is satisfied with the whole.

All in all, Mr. Speaker, it is a good report, worthy of approval by this body. ● Mr. BINGHAM. Mr. Speaker, I rise to clarify for the record why I am voting in favor of the conference report on the Social Security Disability Amendments of 1980 (H.R. 3236) when I voted against the original House-passed bill.

First, the conference committee version of H.R. 3236 includes the provisions of H.R. 3464, the supplemental security income disability amendments which make needed reforms in the SSI program and which was approved separately by the House on June 6, 1979, by a vote of 374 to 3. I supported passage of H.R. 3464 because of the help it will provide to the disabled with the lowest income. I sincerely regret that the Senate chose to attach H.R. 3464, which I favor, to H.R. 3236, which I voted against. Briefly, these SSI reform provisions are aimed at encouraging disabled SSI recipients to return to work and remain productive members of society by continuing SSI benefits even if their earned income exceeds the substantial gainful activity (SGA) earned income limit of \$300 per month.

Most importantly, this would protect the medicaid and social services eligibility of these SSI recipients who return to work. Under this legislation, a 3-year demonstration program would be established by January 1, 1981, protecting disabled SSI recipients who return to work from loss of benefits including medicaid and social services up to the amount they were receiving before they returned to work. More important, the conference committee provisions also establish a pilot program to assist States in providing medical or social services to severely handicapped persons who earn more than allowed by the substantial gainful activity (SGA) rule of \$300 per month and do not receive SSI, the special benefits explain above, or medicaid. However, because of current budget problems, funding of this pilot program would be delayed until fiscal year 1982. I look forward to implementation of this pilot program which will help severely disabled adults return or continue to work by allowing them to qualify for medicaid and social services. I have a number of constituents who will benefit from this long overdue reform.

Second, the conference committee reduced the cuts in social security disability benefits proposed in the House-passed version of H.R. 3236 and made it clear that the cuts would apply only to those young disabled workers with families who first qualify for benefits on or after July 1, 1980 instead of January 1, 1980 in the House version of H.R. 3236. This means that no current recipient of disability insurance benefits will be adversely affected by this 15 to 18 percent reduction in family benefits in this legislation. I regret that any cuts in benefits are included in this bill. I share the concern of current recipients of old age insurance that they set a precedent for further cuts in social security benefits and break faith with past, present and

future contributors to the social security trust funds. I pledge to all these concerned citizens that I will fight any further cuts in social security benefits as long as I am in Congress.

Third, the committee retained and expanded the House-passed provisions in H.R. 3236 and H.R. 3464 which further encourage social security and SSI beneficiaries to return to work despite their impairments. These provisions would:

Double the present trial period to 2 years for both the OASDI and SSI programs for individuals still disabled 6 months after enactment. The trial work period is the period during which a disabled individual may work without losing eligibility for benefits;

Deduct from a disabled individual's earnings impairment-related work expenses, including attendant care and medical equipment costs, in computing eligibility for OASDI and SSI benefits. This provision, effective 6 months after enactment, would apply only to those disabled individuals who pay their own expenses;

Extend medicare coverage for an additional 3 years to disabled beneficiaries who return to work;

Eliminate the second 2-year waiting period for medicaid benefits for those who reapply for benefits after unsuccessfully attempting to work, effective 6 months after enactment;

Consider as earned income that income received from sheltered workshops and work activities centers, thus making it eligible for earned-income disregards to determine SSI payments, as of October 1980;

Limit the deeming of parents' income and resources to disabled or blind children age 18 whether or not the child is in school or in training, beginning October 1980. Children between the ages of 18 and 21 who are receiving SSI benefits as of October 1980 would not have their benefits reduced; and

Continue OASDI and SSI benefits for medically recovered persons in approved vocational rehabilitation programs. Benefits would be continued only if the Social Security Commissioner determined that this would increase the probability of the beneficiary being permanently removed from the disabled rolls.

Fourth, the conference committee included a modified version of a Senate amendment I supported providing protection to consumers against fraudulent Medi-Gap insurance—private insurance policies which supplement medicare benefits. These provisions would require States to establish a voluntary certification program by July 1, 1982, for medicare supplemental policies. In order to receive State certification, these policies would have to meet or exceed standards established by the National Association of Insurance Commissioners in 1979; and pay benefits to subscribers that meet an established loss ratio of 75 percent for group policies and 60 percent for individual policies. A loss ratio is the amount an insurance company pays out to beneficiaries as compared to the amount collected in premium payments. This kind of consumer protection is needed as soon as possible so I hope States will move

quickly to establish their voluntary certification programs.

Finally, the conference committee version of H.R. 3236, H.R. 3464, authorizes a number of important demonstration programs including one which would eliminate the 5-month waiting period for the terminally ill to qualify for disability benefits. In addition, it tightens administration of the disability insurance program and the Aid For Dependent Children (AFDC) welfare program.

The decision to vote for H.R. 3236 as reported by the conference committee has been a difficult one because of the cuts in disability benefits to future recipients which were included in the legislation. But I believe on balance the provisions in this measure before us today do more good for social security and SSI recipients than harm. I hold out some hope that the decision to cut some disability benefits can be reevaluated next year when the National Commission on Social Security submits its extensive report to Congress on January 11. The report is expected to review the adequacy of social security benefits and recommend improvements. This should give Congress an opportunity to test the theory behind the cuts in disability benefits that they will help encourage recipients to return to work. I look forward to this opportunity. ●

● Mr. SHANNON. Mr. Speaker, I rise in strong support of the Medi-Gap provisions of the conference report on the Disability Amendments Act.

In the 15 years since medicare was first enacted, we have witnessed a dramatic increase in health care costs in this country. Health care costs have consistently increased at rates far exceeding the increases in the cost of living.

No group has suffered more from these increases than the elderly who have had to pay more out of their pockets in order to participate in the medicare program and to cover the increasingly larger share of their bills which medicare does not cover.

Consequently, the elderly are increasingly turning to the purchase of private health insurance policies to fill the gaps in medicare's inadequate coverage.

It has been estimated that two-thirds of the elderly have at least one such health insurance policy and that the elderly spend almost \$4 billion each year on these "Medi-Gap" policies.

The problem is that there are many abuses in the sale of these Medi-Gap policies. Hearings before the Senate and House Aging Committee's have documented the fact that policies are often sold to the elderly on the understanding they will pay for items which are not covered by medicare such as out-of-hospital prescription drugs and nursing homes. However, the reality is that most of these policies provide payment only for medicare's copayment and deductibles. Unethical insurance agents and a small number of insurance companies have also sought to capitalize on the fears of the elderly by selling them excessive or duplicative insurance with very limited value. The instances of abuse have reached the point of being a national scandal.

However, even in the face of undeniable evidence of widespread abuse, up until this year no legislation had been passed by either House of Congress which would help remedy this problem.

During the Ways and Means Health Subcommittee consideration of the Medicare-Medicaid Amendments Act of 1979 (H.R. 4000) I offered an amendment which was adopted that would set up a voluntary certification program of medicare supplemental insurance policies which is very similar to the program contained in this conference report which we are now considering.

Under both this proposal companies which sell Medi-Gap insurance policies can apply to the Secretary of Health and Human Resources for certification that the policy meets or surpasses certain minimum standards. If the policy meets the standards, this fact can be used in advertising and selling the policies. This should provide a competitive advantage to policies which do protect the elderly and work to the disadvantage of those policies which are not worth the paper they are written on.

This program will also provide criminal penalties for agents who engage in fraudulent sales practices. Violations are punishable by up to 5 years in prison and a \$25,000 fine. The same penalties will be applied to companies which sell Medi-Gap policies through the mail in States which have not approved those policies.

Under the certification program which we have before us, the elderly will soon have the protection from fraudulent sales practices and worthless insurance policies. I urge my colleagues to protect the elderly and approve the conference report.●

● **Mr. BIAGGI.** Mr. Speaker, I rise with mixed reactions to the pending conference report to accompany H.R. 3236, the social security disability amendments. The nature of my dilemma is this. When H.R. 3236 came before the House last September, I voted against the legislation because I considered it to be a punitive and premature piece of legislation which imposed unnecessary hardships on individuals and families participating in the disability insurance program.

However, the conference report includes a vitally important provision which was one of the major initiatives of the House Select Committee on Aging on which I am proud to be an original member. I refer to the so-called "Medi-Gap" provisions. In November, our committee under the exemplary leadership of Chairman **CLAUDE PEPPER** conducted a celebrated hearing on fraudulent medical insurance policies which were being sold to medicare recipients to cover those items which were spending nearly \$1 billion a year on unnecessary and oftentimes worthless insurance policies. The catalyst for the scandal was the fact that medicare, when enacted in 1966 was supposed to cover 80 percent of the health care need of seniors—today only covers 38 percent of actual needs. Included among medical items not covered by medicare are hearing aids, eyeglasses—needed by more than 90 percent of sen-

iors and much of the expenses associated with catastrophic illnesses.

We learned that senior citizens by the millions purchase so-called "Medi-Gap" insurance policies sold by private companies. Specifically, more than two-thirds of the 23 million seniors in this Nation have at least one Medi-Gap policy—many have more than one. All told some 19 million such policies estimated at a cost of \$1.5 billion were sold in 1977 alone.

At our hearing—we heard one especially horrifying story by the son and daughter of one elderly woman who was duped into buying 71 different health insurance policies at a cost of more than \$30,000 in premium payments. These policies were largely duplicative and worthless.

I actually did more than just participate in the House Select Committee on Aging hearing on this subject. In advance of the actual hearing, I joined an elderly woman at a private home to which a private insurance agent visited to sell a cancer insurance policy. I was advised by the agent of the extent of the policy's coverage and as a copy of the policy was handed over emblazoned in big red letters was the ominous warning cancer will strike. If this intimidating warning was not enough—the agent then launched into a discussion of the many medical expenses which the particular policy would cover if in fact cancer was contracted. However, the facts belie these promises. The overwhelming majority of medical expenses covered by these policies are triggered if you are in fact hospitalized. The fact is many cancer patients receive medical treatment outside of the traditional hospital—in clinics and the like. Under most cancer insurance policies—these expenses would not be covered. One of the House Select Committee on Aging staff members herself a victim of cancer purchased one of these policies and although paying \$100 in premiums, her policy only covered \$160 of some \$4,000 in medical expenses.

What our hearing revealed was that policies sold by major insurance companies were bona fide ripoffs to elderly consumers. An insurance policy at the very minimum should return at least 60 cents of the consumer dollar in terms of expenses covered. Yet our committee found that companies were returning as little as 37 cents on the dollar including one company—which practically garnered the entire market in cancer policies—returned on the average just 43 cents on the dollar.

Following this hearing, I joined Chairman **PEPPER** as a cosponsor of H.R. 2602, the so called Medi-Gap Act. It directed the Secretary of the Department of Health and Human Services to institute a program of voluntary certification of policies sold in supplementation of medicare. We worked hard to get the full House an opportunity to consider this legislation.

I am supporting the conference report to H.R. 3236 because it contains important language aimed at averting

continued consumer fraud in Medi-Gap insurance industry.

Specifically the language in the conference report provides:

Effective July 1, 1982, a voluntary certification program would require a medicare supplemental policy to meet or exceed standards established by the National Association of Insurance Commissioners in 1979 and pay consumers of group policies at least 75 cents on the premium dollar in benefits and for those holding individual policies the return should be at least 60 cents on the dollar.

Under the conference report, States would have until July 1, 1982, to design their own qualified certification program before the Federal program could be implemented. This is consistent with the provisions of the McCarran-Ferguson Act of 1945 which in effect leaves the regulation of the insurance industry largely to the States. It should be noted that several States, most notably my home State of New York have in fact adopted strong regulations which restrict or ban the sale of low-return insurance policies and which also bar the aforementioned "dread disease policies". New York State has been in the forefront in this area and I especially commend Commissioner **Al Lewis** from the State Insurance Commission.

The pending conference report also provides that the Secretary of Health and Human Services may issue certification to insurers who meet these standards and requirements. The conference report also intends that insurers notify policyholders of the loss certification.

The conference report does provide for certain exceptions. Included are group health policies held by one or more employers or labor organizations on grounds that these policies are not designed as supplemental coverage and are sold to all persons regardless of age. Also excluded are professional trade and occupational associations if the association exists for purposes other than obtaining insurance.

Finally, the conference report provides that Federal criminal penalties would be imposed on insurance companies who sell supplemental insurance policies through the mail in States which have not approved such policies with certain exceptions. This is vital to our commitment to consumer protection.

Over our 5-year history, the House Select Committee on Aging has been responsible for leading efforts which resulted in landmark legislation. One recalls the ending of mandatory retirement at age 65, the Older Americans Act Amendments of 1978 with its establishment of our first national program of providing meals to the homebound elderly. Today our mark is again being felt on the legislative process. It was our hearing that initially exposed the fraud victimizing millions of senior citizens. It was our hearing which disclosed the unscrupulous nature of certain insurance policies to unsuspecting seniors. Finally, it was H.R. 2602 sponsored by our chairman, Mr. **PEPPER** and cosponsored by the leadership of the committee which served as a catalyst for

the legislation before us today. I urge my colleagues to support this conference report because of the Medi-Gap language.

We are taking an important first step in an effort which will take many steps to reach total fruition. Admittedly our approach to this issue is voluntary in nature. It may require stronger action in the future. Let us hope that H.R. 3236 serves as a stimulus to States to do their best to prevent the sale of fraudulent Medi-Gap insurance policies. We must in short order enact legislation which will expand medicare coverage thus further diminishing the need for supplemental policies. Such legislation has been pending before the full House for some time—H.R. 3990. I urge the leadership to schedule this important bill for immediate consideration. As we continue to grapple with the optimum legislation for national health insurance, let us attack the issue incrementally including expansion of medicare coverage which is vital to the national health insurance needs of the our elderly.

In all candor—the Medi-Gap provisions are the saving graces of a piece of legislation to which I still harbor fundamental reservations. Specifically I remain opposed to the provisions which will limit the maximum amount of total benefits that may be paid to disability insurance beneficiaries to 85 percent of the workers average indexed monthly earnings or 150 percent of the workers benefit—whichever is less. While this provision is only for newly eligible recipients—the net result is still the same—we are reducing benefits for people in need at a time when inflation shows little sign of abating.

I also have strong reservations about the change in the so-called drop out years in computing benefits.

These provisions as well as certain other proposed changes in the disability program are based on two false premises. The first is that the disability insurance trust fund is in trouble and only by reducing benefits can we save it. This fund is sound for the next 75 years, according to the trustees of the social security system. The second false premise is that by reducing benefits, you provide work incentives for those on disability. For some this may be true but over 70 percent of recipients are over age 50 and have chronic disabilities which make rehabilitation impossible.

In essence this is not the time to make people more defenseless against inflation or recession. This will result with passage of H.R. 3236. However, in this bittersweet legislative proposal—the pros do outweigh the cons and the measure deserves support. Hopefully, next year we can review the disability program once more and do away with some of the more onerous provisions in this legislation.●

● Mr. COTTER. Mr. Speaker, I rise in strong support of H.R. 3236, the social security disability amendments.

I was privileged to be a conferee on this important legislation and can recommend this conference report without hesitation to my colleagues.

The purpose of this legislation is to provide added incentives for disabled workers to return to work and, in addition, not make disability payments attractive enough to dissuade people from returning to work.

The bill allows workers to return to work on a trial basis for 2 years without losing eligibility for benefits. It allows disabled workers to disregard work related expenses and extends medicare coverage for an additional 3 years to disabled beneficiaries who return to work. In addition, the legislation eliminates the 2-year waiting period for medicare benefits for disabled workers who find they cannot work.

The conferees labored intensely on a new Medi-Gap provision and I think the conferees decisions, on the whole, were balanced and deserve support.

Under the provision of the bill, States have until July 1, 1982, to establish their own regulations which would assure that Medi-Gap insurance policies meet or exceed the standards established by the National Association of Insurance Commissioners and have specified loss-ratios.

These minimum benefits provided a reasonable basis so that older Americans will be assured that the supplemental insurance policies they purchase really provide protection.

I was glad that the conferees accepted a provision that would limit the ability of unscrupulous legally admitted aliens who apply for SSI benefits immediately after coming to the country. In the future such aliens or their sponsors must repay any SSI benefits.

Under present law aliens admitted to this country must either be self-sufficient or have a sponsor that is capable of providing for their well-being. I think this new provision will cut down fraud and abuse in this area.

There are several small but important welfare benefits and, as a whole, I believe that this legislation deserves the overwhelming support of the House.●

● Mr. CARTER. Mr. Speaker, I am pleased to join in support of the conference report on H.R. 3236, the Social Security Disability Amendments of 1980, which is intended to provide better work incentives and to improve accountability in the disability insurance program.

In particular, I want to express my strong support for the provision in this conference report which establishes a voluntary certification program for medicare supplemental health insurance. This proposal, which has become known simply as Medi-Gap, is very similar to the Medi-Gap provision adopted by the Commerce Committee earlier this year and reported as part of H.R. 4000—the medicare and medicaid amendments—of which I am a sponsor.

In fact, I am proud to have been a cosponsor of the original Medi-Gap legislation, introduced by my good friend and distinguished chairman of the House Select Committee on Aging, Senator CLAUDE PEPPER of Florida. And I would like to take this opportunity to commend the Senator for his diligent efforts in bringing this matter to congressional attention—and for seeing that appropriate legislative action would be taken.

Following the Aging Committee's hearings, the Health and Environment Subcommittee held a special hearing on the problems surrounding the sale of medicare supplemental insurance and as a result of those hearings, our Commerce Committee reported legislation containing the voluntary Medi-Gap proposal.

Mr. Speaker, I regret very much that this legislation is necessary.

I regret that numerous examples of abusive practices have occurred with regard to the selling of medicare supplemental insurance to the elderly of this country.

Many, too many, older Americans have been intimidated or misled into buying the so-called Medi-Gap policies, which were later found to be duplicative, unnecessary, or simply inadequate.

However, because these abuses have occurred, congressional attention has been focused on this problem. And as a result, a very reasonable approach has been developed to address the situation—in my opinion.

Under the legislation, insurance companies could apply on a voluntary basis for certification of their Medi-Gap policies. And in States where reasonable measures have already been developed to regulate such policies—then the voluntary Federal certification program would not apply. Certainly, it would be our hope that all States would adopt at least the minimum standards necessary to insure protection of their medicare beneficiaries from any similar abuses in the future. While many States have in fact taken the initiative in this field, not all have done so.

In conclusion, I would urge my colleagues to support the conference report, which includes this important "Medi-Gap" provision to help end the abuses in the sale of health insurance to medicare beneficiaries.

I would also like to commend my distinguished colleagues—Congressman ULLMAN, chairman of the Ways and Means Committee, and Congressman CONABLE, the ranking minority member, for their excellent work on this conference report. And I appreciate the thoughtful consideration that they have given to the Medi-Gap issue and to the many other important provisions in this legislation.

Thank you, Mr. Speaker.●

● Mr. OBERSTAR. Mr. Speaker, I rise in opposition to the conference agreement on H.R. 3236 because the legislation before us now still contains, essentially unchanged, the provision which caused me to oppose the bill when it was before us last September.

This legislation will reduce benefits an average of 15 percent to 18 percent for any disabled worker who first becomes entitled to benefits after July 1, 1980. Averages, however, do not tell the whole story. The limitation will not affect workers over age 47 who have no dependents eligible for benefits. It affects all younger workers and all workers with families. For all intents and purposes, this bill abolishes mother's benefits because the ceiling on benefits is the same whether a worker has one dependent or

10. The average reduction to this younger worker is not 15 percent, it is 30 percent.

The limitation or cap on family benefits is not necessary to protect the disability insurance trust fund. Its inclusion in a bill designed to provide work incentives is an affront to those workers whose disabilities are so severe that no amount of personal initiative would enable them to reenter the labor market and it is an economic penalty to any worker with a family who has the misfortune to become disabled.

It is important for each and every Member of this body to understand the practical, every day effect of these changes. In many cases, the effect will be to push into poverty or on to welfare rolls the families of disabled wage earners. This will be particularly true of one parent families or families where the spouse of a disabled worker is unable, for whatever reason, to enter the labor market to supplement inadequate social security benefits.

Before voting on this bill, I would like each Member of Congress to review with me the manner in which benefits are computed.

The average monthly indexed earning (AIME) which is the basis for the primary benefit is computed by averaging every year of a worker's career. This means early years when the worker is not yet established in the labor market; years of unemployment or labor strife; years of military service at low wages; perhaps years of part-time work while continuing education, and, for women, child care years. Basically, we are talking about every year after a worker's 21st birthday. From those years, under current law, up to 5 years of low or no earnings can be dropped, but at least 2 earnings years must be used in the computation.

Under the legislation before us now, the number of permitted dropout years are reduced for every wage earner under age 47. Workers under age 27, those most likely to have the lowest annual earnings, will have to count every year. Above that age, one dropout year is allowed for each 5 years of age up to a maximum of five for an older worker. One additional change is made which will be of marginal help to workers—almost invariably women—who dropped out of the labor market to care for young children. The parent who completely discontinued working to care for a child under 3 may drop out a year of earnings for each year of childcare as long as the total number of dropout years do not exceed three.

The increase in number of years counted will mean a primary benefit reduction for every young worker with a family, but the "cap" on family benefits of 150 percent of a primary benefit or a maximum of 85 percent of average earnings hurts that worker even more.

Under current law, the maximum benefit paid to a family varies from 150 percent to 188 percent of a primary benefit. The worker with low average earnings is already "capped" at 150 percent of his or her own benefit. That low earnings worker will now be "capped" as low as 100 percent of a primary benefit.

To understand what this means to a family, we have to look at how benefits are paid.

Under current law, each eligible dependent of an annuitant is entitled to a benefit equal to 50 percent of the worker's benefit, but the total paid cannot exceed the family maximum. The limitations contained in this bill before us will provide for a maximum of one dependent. In many instances, no family benefits will be paid.

Disability benefits applications and approved claims increased gradually from 1962 when the 50-year age limit was dropped until they reached a peak in 1975. Since that time, approved claims have dropped sharply and the number of awards per 100,000 insured workers is less now than it was in 1970—458 per 100,000 against 479 per 100,000. The disability insurance trust fund is accumulating a surplus to the point we are talking about reallocating payroll taxes from that fund to the old age and survivors trust fund.

This reduction in numbers of awards is partially due to closer Office of Disability Operations' monitoring of the disability decisions of State agencies. It can also be attributed to the issuance of regulations setting forth, for the first time, the manner in which vocational factors—that is, age, education, experience—are to be evaluated when a worker is severely disabled. The administrative ability of the Social Security Administration to supervise disability awards will be strengthened by other features of H.R. 3236.

In plain everyday English, a younger worker is not adjudged disabled unless he or she is terminally ill or so severely impaired that the possibility of a return to the labor force is virtually nonexistent.

Older workers have a slightly less stringent application of vocational factors, but an older worker, frequently at the peak of lifetime earnings potential, is not found disabled if he is capable of performing the most basic, sedentary job in the economy at the minimum wage.

When a decision has been made that these workers meet the disability criteria of the law, must we compound their suffering by insuring that financial hardship accompanies physical hardship? Do we force their families on to our welfare rolls under the guise of a "work incentive?"

H.R. 3236 contains real work incentive features which I wholeheartedly support. I was one of the original sponsors of legislation to eliminate the second medicare waiting period and throughout my career I have strongly supported vocational rehabilitation services to help people enter or reenter the labor market.

When the House considered H.R. 3236 last September, it provided a "cap" on benefits of the lesser of 150 percent of a primary benefit or 80 percent of a prior average wage. The only change made in conference is that the maximum was set at 85 percent of average indexed earnings, rather than 80 percent. This minimal change does not significantly alter the fact that there will be absolutely no family benefits paid to thousands of young workers with low wages or to those

older workers who have gaps in their wage records.

The reductions in benefits contained in this legislation are not necessary to protect the integrity of the disability insurance trust fund. Removing the substantial disability insurance protection workers now have, will not result in any reduction in the tax on wages. We will add to the suffering of the family of a disabled worker and achieve no benefit equal to the hardship we will impose.

Reluctantly, I cast my vote in opposition to an otherwise commendable bill.●

Mr. PICKLE. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 389, nays 2, not voting 42. as follows:

[Roll No. 253]

YEAS—389

Abdnor	Carney	Ertel
Addabbo	Carr	Evans, Del.
Akaka	Carter	Evans, Ga.
Albosta	Cavanaugh	Evans, Ind.
Alexander	Chappell	Fary
Ambro	Cheney	Fascell
Anderson,	Chisholm	Fazio
Calif.	Clausen	Fenwick
Andrews, N.C.	Clay	Ferraro
Andrews,	Cleveland	Findley
N. Dak.	Clinger	Fisher
Annunzio	Coelho	Fithian
Anthony	Co eman	Flippo
Applegate	Collins, Ill.	Florio
Archer	Collins, Tex.	Ford, Mich.
Ashbrook	Conable	Ford, Tenn.
Ashley	Conte	Forsythe
Aspin	Conyers	Fountain
Atkinson	Corcoran	Fowler
Bafalis	Corman	Frenzel
Balley	Cotter	Frost
Baldus	Courter	Fuqua
Barnard	Crane, Daniel	Gaydos
Barnes	Crane, Philip	Gephardt
Bauman	D'Amours	Glaimo
Beard, R.I.	Danie, Dan	Gibbons
Beard, Tenn.	Daniel, R. W.	Gilman
Bedell	Danielson	Gingrich
Bellenson	Dannemeyer	Ginn
Benjamin	Daschle	Glickman
Bennett	Davis, Mich.	Goldwater
Bereuter	de la Garza	Gonzalez
Bethune	DeKard	Goodling
Bevill	DeLums	Gore
Blaggi	Derrick	Gradison
Bingham	Derwinski	Gramm
Blanchard	Devine	Gray
Boland	Dickinson	Grisham
Bolling	Dicks	Guarini
Boner	Dingell	Gudger
Bonior	Donnelly	Guyer
Bouquard	Dornan	Hagedorn
Brademas	Dougherty	Hall, Ohio
Brinkley	Downey	Hall, Tex.
Brodhead	Drinan	Hamilton
Brooks	Duncan, Tenn.	Hammer-
Broomfield	Early	schmidt
Broyhill	Eckhardt	Hance
Buchanan	Edgar	Hanley
Burgener	Edwards, Ala.	Harkin
Burlison	Edwards, Calif.	Harris
Burton, John	Edwards, Okla.	Harsha
Burton, Phillip	Emery	Hawkins
Butler	English	Heckler
Byron	Erdahl	Hefner
Campbell	Erlenborn	Heftel

Hightower	Lowry	Oakar	Sharp	Stratton	White	Mrs. Boggs with Mr. McEwen.
Hillis	Lujan	Obey	Shelby	Studds	Whitehurst	Mr. Breaux with Mr. Symms.
Hinson	Luken	Ottinger	Shumway	Stump	Whitley	Mr. Kazen with Mr. Hansen.
Holland	Lundine	Panetta	Shuster	Swift	Whittaker	Mr. LaFalce with Mr. Coughlin.
Hollenbeck	Lungren	Pashayan	Simon	Synar	Whitten	Mr. McCormack with Mr. Badham.
Holt	McClory	Patterson	Skelton	Tauke	Williams, Mont.	Mr. Nolan with Mr. Grassley.
Hopkins	McCloskey	Patterson	Smith, Iowa	Tauzin	Williams, Ohio	Mr. Santini with Mr. Green.
Horton	McDade	Paul	Smith, Nebr.	Taylor	Wilson, Bob	Mr. Foley with Mr. McKinney.
Howard	McDonald	Pease	Snowe	Thomas	Wilson, Tex.	Mr. AuCoin with Mr. Martin.
Hubbard	McHugh	Pepper	Snyder	Thompson	Winn	Mr. Brown of California with Mr. Boner of Tennessee.
Huckaby	McKay	Petri	Solarz	Traxler	Wirth	Mr. Davis of South Carolina with Mr. Garcia.
Hughes	Madigan	Peyster	Solomon	Tribie	Wolpe	Mr. Dodd with Mr. Leach of Louisiana.
Hutto	Maguire	Pickle	Spellman	Udall	Wright	Mr. Duncan of Oregon with Mr. Stewart.
Hyde	Markey	Porter	Spence	Ullman	Wyatt	Mr. Mathis with Mr. Perkins.
Ichord	Marks	Preyer	St Germain	Vander Jagt	Wydler	Mr. Van Deerlin with Mr. Volkmer.
Ireland	Marlenee	Price	Stack	Vank	Wylie	Mr. Minish with Mr. Runnels.
Jacobs	Marriott	Pritchard	Stagers	Vento	Yates	Mr. Charles H. Wilson of California with Mr. Bowen.
Jeffords	Matsui	Pursell	Stangeland	Waigren	Yatron	Mr. Dixon with Mr. Diggs.
Jeffries	Mattox	Quayle	Stanton	Walker	Young, Alaska	Ms. MIKULSKI changed her vote from "yea" to "nay."
Jenkins	Mavroules	Quillen	Stark	Wampler	Young, Fla.	So the conference report was agreed to.
Jenrette	Mazzoli	Rahall	Steed	Watkins	Young, Mo.	The result of the vote was announced as above recorded.
Johnson, Calif.	Mica	Rallsback	Stenholm	Waxman	Zablocki	A motion to reconsider was laid on the table.
Johnson, Colo.	Michel	Rangel	Stockman	Weaver	Zerferetti	
Jones, N.C.	Miller, Calif.	Ratchford	Stokes	Weiss		
Jones, Okla.	Miller, Ohio	Regula				
Jones, Tenn.	Mineta	Reuss				
Kastenmeier	Mitchell, Md.	Rhodes	Mikulski			
Kelly	Mitchell, N.Y.	Richmond				
Kemp	Moakley	Rinaldo				
Kildee	Moffett	Ritter	Anderson, Ill.			
Kindness	Mollohan	Roberts	AuCoin			
Kogovsek	Montgomery	Robinson	Badham			
Kostmayer	Moore	Roe	Boggs			
Kramer	Moorhead, Calif.	Rose	Bonker			
Lagomarsino	Moorhead, Pa.	Rosenthal	Bowen			
Latta	Mottl	Rostenkowski	Breaux			
Leach, Iowa	Murphy, Ill.	Roth	Brown, Calif.			
Leath, Tex.	Murphy, N.Y.	Roussetot	Brown, Ohio			
Lederer	Murphy, Pa.	Roybal	Coughlin			
Lee	Murtha	Rudd	Davis, S.C.			
Lehman	Musto	Russo	Diggs			
Leland	Myers, Ind.	Sabo	Dixon			
Lent	Myers, Pa.	Satterfield	Dodd			
Levitas	Natcher	Sawyer				
Lewis	Neal	Scheuer				
Livingston	Nedzi	Schroeder				
Lloyd	Nelson	Schulze				
Loeffler	Nichols	Sebe'lus				
Long, La.	Nowak	Seiberling				
Long, Md.	O'Brien	Sensenbrenner				
Lott		Shannon				

NAYS—2

Oberstar

NOT VOTING—42

	Duncan, Oreg.	Martin
	Fish	Mathis
	Foley	Minish
	Garcia	Nolan
	Grassley	Perkins
	Green	Rodino
	Hansen	Runnels
	Holtzman	Santini
	Kazen	Stewart
	LaFalce	Symms
	Leach, La.	Van Deerlin
	McCormack	Volkmer
	McEwen	Wilson, C.H.
	McKinney	Wolf

□ 1200

The Clerk announced the following pairs:

Mr. Wolf with Mr. Anderson of Illinois.
Mr. Rodino with Mr. Fish.

conference on H.R. 3236 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3236) to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the Record of May 13, 1980.)

• Mr. LONG. Mr. President, the conference report on H.R. 3236, the social security disability bill, represents a good compromise between the Senate and House versions of the legislation.

Both the Senate and House bills had the same overall objective: to improve the operations of the disability program by tightening up in those areas where inappropriate levels of benefits were payable under prior law or where administrative improvements were needed and by relaxing some of those provisions which unduly limited the incentives for rehabilitation. The conference agreement also includes important demonstration projects to examine the need and feasibility for providing certain benefits and services for severely handicapped persons who do not qualify for existing disability programs because their handicap does not prevent them from continuing to engage in substantial gainful work activity.

The demonstration program in the bill for persons who have not initially qualified for the social security or SSI disability programs would be administered by the States since it deals with individuals who have no eligibility under the Federal programs. As indicated in the more detailed summary of the agreement, the Secretary of Health and Human Services would also not be expected to authorize the States to utilize the State disability determination services in operating this pilot program.

The conference agreement also includes a number of important improvements in the welfare and child support programs and a modified version of the Senate provision for voluntary certification of certain health insurance policies which are sold as supplements to medicare coverage.

In addition, the agreement includes a provision which will carry out the intent of the Senate amendment related to the SSI eligibility of aliens by providing, in effect, that aliens who are sponsored into the country will have to look to their sponsors rather than to the welfare system for their support. This provision operates by treating the income of the sponsor as though it were the income of the alien during the period of 3 years after the alien enters the country.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of

incorrectly states that the sponsor's own SSI income would be exempt from this provision. That statement is not consistent with the conference report which provides that all income of the sponsor will be counted. This would include both Federal and State supplementary payments under the SSI program. This is explained in more detail in the attached summary of the bill.

This conference agreement represents the type of careful review of existing programs which is needed and demanded today. It will result in a substantial reduction in program costs. But it will also substantially improve the program. Over the next 5 years, H.R. 3236 is estimated by the Congressional Budget Office to reduce Federal expenditures by some \$2.6 billion. At the same time, however, it will correct a number of aspects of existing law which disabled individuals have seen as barriers to their attempts at rehabilitation.

There follows a more detailed summary of the provisions of the conference agreement on H.R. 3236:

MAJOR PROVISIONS OF H.R. 3236—SOCIAL SECURITY DISABILITY AMENDMENTS OF 1980

Limit on family disability insurance benefits.—H.R. 3236 will establish a maximum limitation on benefits payable to a disabled worker and his family. Under this limitation, the family benefits may not exceed the lesser of 85 percent of the average indexed monthly earnings (AIME) on which the worker's disability benefit is based or 150 percent of the disability benefit payable to the worker alone. This provision will not operate to reduce any family's benefit below 100 percent of the benefit which would be payable to the worker alone and it will apply only to workers who first become entitled to disability benefits after June 30, 1980.

Reduction in dropout years.—H.R. 3236 will limit the number of years of low earnings (or no earnings) which a disabled worker may drop out from his wage history so as to increase the average wage level which forms the basis for determining the benefit amount. Under prior law, all workers were permitted to drop out five years provided that at least two years remained to be averaged. This resulted in quite high benefits for some younger workers. Under H.R. 3236, the number of dropout years allowed to a worker will be scaled according to his age under the following schedule:

Worker's age at disability:	Number of dropout years
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

Workers who would otherwise be eligible for less than 3 dropout years under the above schedule will be permitted under H.R. 3236 to drop out additional years in which they had no earnings, if in those years they were living with a child under age 3. These child-care years will not increase the total number of dropout years to more than 3.

The limitation on the number of dropout years will apply only to workers who first become entitled to disability insurance benefits after June 30, 1980. The provision allowing additional child-care dropout years will apply only for benefits payable after June 1981.

Elimination of second Medicare waiting period.—Health insurance coverage under the social security Medicare program is available to individuals who receive disability insurance benefits but only after they have received those benefits for at least 24

months. An individual who ceases to be a beneficiary because he returns to work loses both cash benefits and Medicare entitlement. If he subsequently finds it necessary to reapply for disability insurance benefits, he must again wait 24 months before his Medicare coverage is resumed. H.R. 3236 will eliminate this second 24-month period for persons who become reentitled to disability benefits within 5 years after the end of a previous period of entitlement (within 7 years in the case of disabled widows or widowers and disabled children). This change will become effective 6 months after the date of enactment.

Extension of Medicare for additional 36 months.—In addition to eliminating the requirement for a second waiting period, H.R. 3236 will allow Medicare coverage to continue for a total of 36 months after an individual ceases to receive cash benefits because he has returned to work. This change will be effective for disabled workers whose disabilities have not been determined to have ceased prior to the sixth month after enactment.

Benefits for individuals who engage in employment activity.—H.R. 3236 will establish a three-year work incentive demonstration program to examine the desirability and feasibility of providing certain benefits and services to persons with severe handicaps who would not be considered disabled under existing programs because they are able to engage in substantial work activity despite their medical impairments. Under present law an individual is ineligible for disability benefits if he has the capacity to perform any substantial gainful activity (SGA). Regulations establish a dollar amount of earnings to define the SGA limit. Currently this is \$300 a month.

One part of the demonstration approach in H.R. 3236 would apply to individuals who initially have qualified for Supplemental Security Income (SSI) disability benefits under existing law, but who regain the ability to engage in employment to the extent that they would no longer be eligible for benefits. H.R. 3236 will allow such individuals to continue in a special benefit status as though they were still disabled until their income rises to the point at which benefits would be reduced to zero. An individual who initially qualified for SSI disability benefits under existing-law rules will also retain eligibility for medical and social services even after his earnings raise his income above this benefit breakeven point so long as he has not medically recovered and so long as the Secretary of Health and Human Services determines (1) that loss of medical or social services would seriously inhibit his ability to continue in employment and (2) that his earnings have not reached a level equivalent to the cash and other benefits which would be available in the absence of those earnings. This program will be in effect for a three-year period starting January 1, 1981. The Secretary of Health and Human Services is required to provide for separate accounts of benefits provided under this program in order to evaluate its effects on programs established by titles II, XVI, XIX, and XX of the Social Security Act.

A separate, though related, pilot program will be established by H.R. 3236 to enable States to provide medical and social services to severely handicapped individuals who have not established eligibility under existing law programs and who are working at wage levels which indicate that they would not be considered disabled for purposes of those programs. Medical and social services are to be provided on the basis of a State determination that the absence of the services would significantly inhibit continued employment and that the individual has not achieved a level of earnings representing a reasonable equivalent of the SSI, Medicaid, and social services benefits which might be available to him if he were not working.

Under this program, a total of \$18 million in Federal funds will be available over the period from September 1, 1981 through September 30, 1984 to provide 75 percent Federal matching for expenditures related to providing medical and social services under approved State plans to qualified individuals. Funding will be provided at a rate of \$6 million per year for each of the three years, allocated among the States in proportion to their adult SSI disability populations. Unused funds will be carried forward from year to year and provision is made for reallocating funds to the extent that some States decide not to participate in the program.

States will have great flexibility under this pilot program to establish the criteria for determining which individuals fall within the scope of eligibility and for establishing the procedures for determining eligibility and providing services. Inasmuch as the eligible population consists of individuals who clearly would not meet the basic definition of disability for existing-law programs, that is, inability to engage in substantial gainful activity, it would be inappropriate to involve the State disability determination services which make the disability findings for the DI and SSI programs. Accordingly, H.R. 3236 prohibits the use of those agencies unless there is no other way in which the program can be operated. Inasmuch as all States have agencies, such as the State Departments of Vocational Rehabilitation, which are designed to deal with the needs of handicapped individuals, there do not now appear to be any circumstances in which the Secretary of Health and Human Services would find it necessary to authorize the use of the State disability determination services for this program. The provisions of H.R. 3236, moreover, do not envision that participants would be referred for hypothetical benefit determinations under existing law programs for which they appear clearly ineligible because of their level of earnings. The Secretary of Health and Human Services is directed by H.R. 3236 to provide a report on the operations and results of this pilot program by October 1, 1983.

Employment in sheltered workshops.—H.R. 3236 modifies the treatment of remuneration paid to individuals who work in sheltered workshops so as to make it eligible for the earned income disregard provisions of the SSI program. This change will be effective as of October 1980.

Deeming of parents' income to disabled or blind children.—H.R. 3236 will modify the SSI rules related to the deeming of parents' income to eligible children so that deeming will cease when the child reaches age 18, so that deeming will not apply in the case of children age 18-21 who are in school. The provision will be effective as of October 1980 (but will not apply to children who are then age 18 or over if they would be adversely affected).

Termination of benefits for persons undergoing vocational rehabilitation.—H.R. 3236 will allow for continued payment of SSI or DI benefits to enable an individual to complete a program of vocational rehabilitation even though he has medically recovered from his disability. This provision will apply only if the Commissioner of Social Security determines that completion of the program will make it more likely that the individual will be permanently removed from the disability rolls. This generally would be limited to instances in which the medical recovery could not have been anticipated. The provision will become effective six months after enactment.

Treatment of extraordinary work expenses.—H.R. 3236 will permit SSI and DI beneficiaries to deduct from their earnings an amount equal to what they pay for extraordinary work expenses which are necessitated by their disability (including attendant care costs and the cost of medical devices, equipment, drugs, and services). The Secre-

tary of Health and Human Services is to prescribe regulations to limit allowable deductions to those which are necessary for employment and to establish reasonable limits on the amounts deductible. The deduction will be allowed in determining whether the individual is able to engage in substantial gainful activity for purposes of the DI and SSI programs and in determining the benefit amount for an SSI recipient (but not in determining whether an SSI applicant meets the income eligibility requirements of that program). The provision is effective six months after enactment.

Trial work period and reentitlement to benefits.—Under both the SSI and DI programs, an individual who continues to suffer from a severe medical disability and to meet other eligibility requirements is allowed to engage in employment for up to 9 months without losing eligibility because of the fact that he has regained the ability to work. At the end of this 9-month trial work period, if an individual is continuing to engage in substantial gainful activity, benefits are paid for three additional months and then are terminated. H.R. 3236 will provide for continuing technical eligibility for benefits for 15 months after the end of the 9-month trial work period. Except for the three-months allowed under present law, no benefits will be paid during that additional 15 month period, if the individual in fact has earnings above substantial gainful activity limits. However, if the individual ceases to work during that period, he will again start receiving benefits without having to reapply. The provision is effective six months after enactment.

Administration by State agencies.—H.R. 3236 will revise the statutory basis for the arrangements by which State disability determination services undertake to make findings of disability for purposes of the Federal programs of SSI and DI. Under the bill, these findings will be made by such State agencies in accord with regulations or other written guidelines issued by the Secretary of Health and Human Services pursuant to law. Agreements may be terminated upon written notice by the State or upon a finding by the Secretary that the State is failing to make disability determinations in accordance with the regulations. In either case, the change from State to Federal administration would take place only after a period of at least 180 days. The provision is effective twelve months after enactment.

Protection of State employees.—In the event it becomes necessary for the Federal government to assume the disability determination function from a State, H.R. 3236 will require that preference in employment be given to qualified State agency employees (other than the administrator or deputy or assistant administrator of the agency) and that the Secretary of Health and Human Services defer assumption of the State agency functions until the Secretary of Labor determines that fair and equitable arrangements have been provided by the State in accord with State and Federal laws for those employees who are not hired by the Federal government. H.R. 3236 also requires the Secretary of Health and Human Services to submit a detailed report by July 1, 1980 as to how Federal assumption of State function would be carried out in the event it should become necessary.

Federal review of State agency decisions.—H.R. 3236 will require the Department of Health and Human Services to reinstitute its former practice of reviewing determinations made by State agencies to the effect that individuals are or continue to be disabled for purposes of SSI and DI benefit payments. These reviews will be made prior to awarding benefits in the case of initial claims and reconsiderations and the Department will be required to review at least 15 percent of such determinations made in fiscal 1981, 35 percent of the determinations made in fiscal 1982, and 65 percent of the determinations

made in subsequent years. H.R. 3236 also will broaden the authority of the Secretary so as to permit Federal reversal of State agency decisions that are unfavorable to the claimant; however, the required review relates only to decisions which are initially favorable.

Own-motion review of decisions by Administrative Law Judges.—H.R. 3236 requires the Department of Health and Human Services to reinstitute its former practice of conducting a program of review on the Secretary's own motion of decisions rendered by Administrative Law Judges (ALJs) as a result of hearings related to the disability determination process.

Information to accompany Secretary's decision.—H.R. 3236 will require that SSI and DI notices of denial to claimants include an understandable explanation of the Secretary's decision and the basis for that decision. This provision is effective 13 months following enactment.

Limitation on prospective effect of an application.—Under existing law and regulations, applications for DI and SSI benefits remain effective until a final decision is made on a claim. Under H.R. 3236 applications filed after the date of enactment will be effective only to the extent that the claimant can establish that he meets the eligibility requirements as of a date no later than the month in which a hearing decision is made by an Administrative Law Judge. Under this change, for example, evidence as to a change in the claimant's medical condition which takes place after the hearing will no longer be relevant to that claim (although the individual is not precluded from filing a new initial claim on the basis of such evidence).

Limitation on court remands.—H.R. 3236 provides that courts may remand social security cases for further administrative consideration only if the Secretary makes a request for such a remand for good cause or if there is a showing that there is new and material evidence and good cause existed for the failure to incorporate it into the record in a prior proceeding. This change will be effective upon enactment.

Report on time limits for decisions on benefit claims.—H.R. 3236 requires the Secretary of Health and Human Services to submit a report to Congress by July 1, 1980 recommending time limits for various levels of adjudication of title II benefit claims. The report is to give adequate consideration to both speed and quality of adjudication.

Payment for existing medical evidence.—H.R. 3236 will allow the Secretary of Health and Human Services to pay non-Federal medical providers and physicians for the reasonable cost of furnishing information which they have which is requested and required by the Secretary for purposes of DI claims.

Payment for certain travel expenses.—H.R. 3236 provides explicit authority to reimburse claimants for travel expenses incident to medical examinations and for purposes of attending hearings and reconsideration interviews related to their claims under the DI, SSI, and medicare programs (including travel expenses for their representatives and witnesses). In reconsideration cases, this provision would not apply to routine visits to the local Social Security office to file for reconsideration but only to cases where the claimant is requested to appear for a more formal interview with the disability decisionmaker in the case.

Periodic review of disability determination.—Effective January 1982, H.R. 3236 requires, in addition to other reviews, that the status of all disability beneficiaries be reviewed periodically and that this periodic review be not less frequent than every three years except where the initial prognosis shows a probability that the condition will be permanent. Review of these latter cases will be conducted at such times as the Secretary determines appropriate.

Report by Secretary.—H.R. 3236 requires the Secretary of Health and Human Services to report to Congress by January 1985 concerning the results of implementing the provisions of this bill which relate to the Social Security Act disability programs.

AFDC work requirement.—Under present law, individuals who are not specifically exempt are required to register for manpower services, training and employment as a condition of eligibility for Aid to Families with Dependent Children. H.R. 3236 will add employment search to the types of activities for which these individuals are required to register under the work incentive (WIN) program. The bill requires that necessary social and supportive services be provided to persons who are engaged in employment search activities. Authority is added to provide these services to persons who are registered for WIN, but who have not yet been certified for participation. The criteria for appropriate work and training to which an individual may be assigned under the WIN program will apply in the case of work to which an individual may be referred as part of WIN employment search. This means that, although present regulations may be changed, whichever regulations are in effect at any time will apply to these jobs referrals as well as to required participation in other WIN components. An individual may not be required to participate in job search for more than 8 weeks in any year. (However, an individual will always be eligible for job referral.) Necessary expenses paid for by an individual who is participating in employment search must be reimbursed on a timely basis.

The bill authorizes the Secretaries of Labor and Health and Human Services to establish, by regulation, the period of time during which an individual is not eligible for assistance because of refusal without good cause to participate in the WIN program. It also eliminates the present law provision for a 60-day counseling period for persons who refuse to participate.

Other related provisions in the bill require that State supportive service units be collocated with manpower units to the maximum extent feasible; allow State matching for supportive services to be in cash or in kind; clarify that income from WIN public service employment is not fully excluded in determining benefits (there is no disregard of the first \$30 a month plus one-third of additional earnings); and add to the individuals who are exempt from registration for WIN, individuals who are working at least 30 hours a week.

The provisions for employment search are effective July 1, 1980. Provisions relating to termination of assistance and treatment of WIN PSE earnings are effective upon enactment.

Use of IRS to collect child support for non-AFDC families.—The bill authorizes States to use the Federal income tax mechanism for collecting support payments for families who are not receiving AFDC, if the States have made diligent and reasonable efforts to collect the payments without success and the amount sought is based on noncompliance with a court order for support. States will have access to IRS collection procedures only after certification of the amount of the child support obligation by the Secretary of Health and Human Services. The State must agree to reimburse the U.S. for any costs involved in making the collection. This authority, subject to the same requirements, is now available to the States with respect to families who are receiving AFDC. The provision is effective July 1, 1980.

Safeguards restricting disclosure of certain information under AFDC and Social Services.—The bill modifies AFDC and social services laws to allow the disclosure of information regarding individuals assisted under these programs for purposes of any authorized audit conducted in connection with the

administration of the programs, including an audit performed by a legislative audit body. The provision is effective September 1, 1980.

Federal matching for child support activities performed by court personnel.—The bill authorizes Federal matching for expenditures of courts for functions specifically identifiable as child support (title IV-D) functions. Allowable expenditures would include compensation for judges or other persons making judicial determinations, but would include expenditures for their administrative or support personnel, such as the bailiff, stenographer, and court reporter. The provision is effective July 1, 1980.

Child support management information system.—H.R. 3236 will increase Federal matching from 75 percent to 90 percent for the costs of developing and implementing State child support management information systems. These systems must have specified features in order to be eligible for this increased matching, including the ability to control and monitor all the factors of the support collection and paternity determination process, capacity for interface with the AFDC program, security against access to data, and the ability to provide management information on all cases from application through collection and referral. The Secretary will be required to provide technical assistance. The increased matching is authorized beginning July 1, 1981.

AFDC management information system.—Effective July 1, 1981, H.R. 3236 will increase Federal matching from 50 percent to 90 percent for the costs of developing and implementing AFDC management information systems. In order to qualify for this increased matching rate, a State system will have to include the ability to provide data on AFDC eligibility factors, capacity for verification of factors with other agencies, capability for notifying other welfare programs of changes in AFDC eligibility and benefit amount, compatibility with systems in other jurisdictions, and security against unauthorized access to or use of data in the system. The Secretary will be required to provide technical assistance.

Child support reporting and matching procedures.—In order to improve State reporting practices, the bill will prohibit advance payment of the Federal share of State child support administrative expenses for a calendar quarter unless the State has submitted a complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. It will also require the Secretary to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State. This provision has an effective date of January 1, 1981.

Access to wage information for child support program.—H.R. 3236 amends the Internal Revenue Code to provide that, upon written request, the Commissioner of Social Security shall directly disclose return information with respect to net earnings from self-employment, wages, and payments of retirement income to officers and employees of a State or local child support enforcement agency. Disclosure will be allowable only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing child support obligations. Any agency receiving information must comply with conditions specified in current law for safeguarding information. This provision for disclosure is effective on enactment.

In addition, the bill amends title III of the Social Security Act to require the State agency administering the unemployment compensation program to disclose directly, upon request and on a reimbursable basis, to officers or employees of any State or local child support agency any wage information

contained in the records of the State agency. The agency will be required to establish safeguards necessary (as determined by the Secretary of Labor in regulations) to insure that information is used only for purposes of the child support program. If the Secretary finds that the State agency has failed to comply with requirements of this provision, he must notify the agency that further payments of administrative costs will not be made to the State until he is satisfied that there is no longer any such failure. The provision is effective July 1, 1980.

Relationship between social security and SSI benefits.—Under existing law, an individual eligible under both the OASDI and SSI programs, whose determination of eligibility for OASDI is delayed, can in some cases receive full payment under both programs for the same months. H.R. 3236 will require the Secretary to offset, against retroactive benefits under OASDI, amounts of SSI benefits paid for the same period. The amount of the offset will equal the amount of SSI that would not have been paid had OASDI benefits been paid on time. From the amount of social security benefits offset under the provision, States will be reimbursed for any amounts of State supplementary payments that would not have been paid; the remainder will be credited to general revenues. The provision is effective the 13th month after the month of enactment.

Extension of the term of the National Commission on Social Security.—The bill extends for 3 months the expiration date of the National Commission on Social Security and the terms of its members. The Commission's work and the terms of the members will end April 1, 1981, and the final report will be due January 11, 1981.

Depositing of social security contributions with respect to State and local covered employment.—Effective July 1, 1980, States will be required to make deposits of social security contributions related to the wages of State and local government employees within 30 days after the end of each month.

Aliens receiving SSI.—For purposes of eligibility for Supplemental Security Income (SSI) benefits, legally admitted aliens who apply for SSI benefits after September 30, 1980 will, under the provisions of H.R. 3236, be deemed to have the income and resources of their immigration sponsors available for their support for a period of 3 years after their entry into the United States. The eligibility of these aliens for SSI will be contingent upon their obtaining the cooperation of their sponsors in providing the necessary information and evidence to enable the Social Security Administration to carry out this provision.

The provision will not apply to an alien who becomes blind or disabled after entry into the United States. It also will not apply to aliens admitted as refugees or granted political asylum by the Attorney General.

Under this provision, the alien's SSI benefit will be reduced by the amount of any income deemed to him. Income deemed to the alien will be considered unearned income and will thus result in a dollar-for-dollar reduction in benefits (after the application of the existing-law provision allowing a \$20 monthly deduction of earned or unearned income). The amount to be deemed will be equal to the gross income of the sponsor and his spouse reduced by an amount equal to a full Federal SSI benefit for the sponsor and an amount equal to one-half of a full Federal SSI benefit for each other person for whom the sponsor is legally responsible. Gross income is defined by H.R. 3236 in the broad terms applicable to the SSI program to encompass all earned and unearned income from whatever source (including any Federal or State payments under title XVI) and without the application of the exclusions which apply under the SSI

program. (In determining eligibility for SSI benefits, the SSI benefits themselves are not counted inasmuch as SSI entitlement does not logically arise until after the determination is made. For purposes of this provision, however, any SSI entitlement on the part of a sponsor would be determined first and any such SSI or State supplemental benefit entitlement would be included in the sponsor's income.)

The bill provides also that the assets of the sponsor and his spouse which are above the SSI allowable limits (\$1500 if the sponsor is single, \$2250 for a couple) will be considered to be resources of the alien, in addition to whatever resources the alien has in his own right.

The alien and sponsor shall be jointly and severally liable to repay any SSI benefits which are incorrectly paid because of the sponsor's providing of misinformation or because of his failure to report, and any incorrect payments which are not repaid will be withheld from any subsequent payments for which the alien or sponsor are otherwise eligible under the Social Security Act.

The bill requires that an alien applying for SSI must make available to the Social Security Administration any documentation concerning his income or resources or those of his sponsor (if he has one) which he provided in support of his immigration application. The Secretary of Health and Human Services will be authorized to obtain copies of any such documentation from other agencies. The Secretary will also be required to enter into cooperative arrangements with the State Department and the Justice Department to assure that persons sponsoring the immigration of aliens are informed at the time of sponsorship that, if the alien applies for public assistance, the sponsorship affidavit will be made available to the public assistance agency and the sponsor may be required to provide further information concerning his income and assets in connection with the alien's application for assistance.

Work incentive and other demonstration projects under the Disability Insurance and Supplemental Security Income programs.—H.R. 3236 includes provisions to waive benefit requirements of the DI and medicare programs to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries. Benefit requirements may also be waived in the case of other DI demonstration projects which SSA may wish to undertake, such a study of the effects of lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform, or otherwise stimulate new forms of rehabilitation. An interim report on the demonstrations is due January 1, 1983, and a final report by 5 years after the date of enactment.

The bill also authorizes experiments and demonstration projects which are likely to promote the objectives or improve the administration of the SSI program. The Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. Participation must be voluntary.

Provisions relating to the terminally ill.—The bill authorizes \$2 million a year to be used by SSA to participate in a demonstration project relating to the terminally ill which is currently being conducted by the Department of Health and Human Services. The purpose of participation is to study the impact on the terminally ill of provisions of the disability programs administered by the

Social Security Administration and to determine how best to provide services needed by individuals who are suffering from terminal illnesses.

Voluntary certification of Medicare supplemental health insurance.—H.R. 3236 will establish, effective July 1, 1982, a voluntary certification program for Medicare supplemental policies in States that fail to establish equivalent or more stringent programs. To be certified under the program, a Medicare supplemental policy would have to meet or exceed the standards for such policies as adopted by the National Association of Insurance Commissioners on June 6, 1979, including the standards relating to minimum benefit provisions, preexisting condition limitations, full disclosure, and requiring a no loss cancellation clause, and be expected to pay benefits to subscribers equal to 75 percent of premiums in the case of group policies and 60 percent in the case of individual policies. H.R. 3236 will also establish criminal penalties of up to \$25,000 and imprisonment for up to five years which could be assessed for: (a) furnishing false information to obtain the Secretary's certification; (b) posing as a Federal agent to sell Medicare supplemental policies; (c) knowingly selling duplicative policies; and (d) selling supplemental policies by mail in States which have not approved, or are deemed not to have approved their sale.

The Secretary, in consultation with regulatory agencies, insurers and consumers, will be required to study and report to the Congress by January 1, 1982 on State approaches to the regulation of supplementary policies. Periodic reports on the effectiveness of the voluntary certification, and the criminal penalties, are also required with the first of such reports due July 1, 1982. ●

● Mr. DOLE, Mr. President, I am particularly pleased that the Senate has before it the conference report on H.R. 3236, the Social Security Disability Amendments of 1980. As I stated at the time the Senate first considered this measure, it is one of the most important pieces of legislation the Congress will take up, and it will have as profound an effect on the lives of disabled Americans as any bill we will consider.

The leadership of our distinguished chairman during the deliberations of the conference committee was crucial in our negotiations with the House conferees, and I commend his efforts. I believe the result of the conference action is worthy of the support of all Senators, and I urge my colleagues to join me in voting for the conference report.

The chairman has already enumerated the provisions in the conference report, but I would like to comment on a few aspects of the bill. In particular, I believe the work incentive measures are the most important part of the legislation and I am extremely pleased that many of the incentives which I have supported for several years are included in the bill. These provisions will allow individuals with severe disabilities to continue to receive cash, health benefits, and social services while working at low wages and make it easier for them to return to the disability rolls if a work attempt fails. The provisions are more than incentives, they are the safety net that the handicapped need to give them the courage and the ability to try to work.

The bill makes improvements in the disability insurance program which will save the DI trust fund over \$3.5 billion over the next 5 years. That is an extremely important accomplishment in the light of social security financing problems and the overwhelming public sentiment favoring lower payroll taxes. The bill also represents an important first step toward balancing the Federal budget since overall the provisions save \$6 million in fiscal year 1980 and \$78 million in fiscal year 1981 going up to \$1.2 billion in fiscal year 1985.

Besides the reforms in the social security and supplemental security income disability programs, the bill makes needed improvements in the AFDC, child support, SSI, and medicare programs. These amendments will allow us to maintain better control over these programs so we can better serve recipients and taxpayers.

All in all, I believe the conference report offers a balanced package of improved protections and opportunities for those entitled to disability benefits while strengthening the insurance principles of the disability insurance program. I am happy to be able to support it and I urge adoption of the conference report.●

● Mr. BELLMON. Mr. President, I want to express my strong support of the conference report on H.R. 3236, the Social Security Disability Amendments of 1980. The conferees, have done an admirable job in shaping these reforms of the disability portions of the social security and supplemental security income programs. Due to the diligent work of the conferees, the savings that will accrue from H.R. 3236 over the next 5 years will total almost \$2.6 billion, alleviating some of the financial pressures that the social security system faces due to growing benefit costs.

In addition to saving substantial sums of money the reforms that are contained in this bill also provide greater equity in our social security system by eliminating windfall benefits for some recipients. For recipients becoming eligible for benefits from now on, the total family benefit may be no greater than 85 percent of a worker's averaged indexed monthly earnings or 150 percent of his/her primary insurance amount. This will insure that no one can receive benefits greater than their predisability earnings. It will also help assure that incentives exist for recipients to seek employment as soon as they are able to do so.

I want to especially commend the conferees for retaining in the conference agreement the key provisions of an amendment I offered in the Senate. This amendment requires the Secretary of the Department of Health and Human Services to set up a procedure for reviewing decisions made by Federal administrative law judges (ALJ) on disability claims. The appeals process in the disability program is costly, time consuming, and one of the weakest components of the disability adjudication system.

The number of cases that are appealed to the ALJ level and reversed has been steadily increasing over the last 10 years

to the point where now over 50 percent of the cases heard by administrative law judges are reversed in favor of the claimants. There is evidence of wide disparities in the quality of decisions made by different judges. The conference agreement requires the Secretary to report to the Congress by January 1, 1982, on the procedures being used in the review program, the criteria for selecting cases for review and the results of reviews conducted thus far. This report will enable the Congress to further evaluate the administrative law judge system and make other changes if needed.

The conference report is a positive step in addressing some of the problems in one of our country's most important social programs. The conference report not only corrects some of the inequities in the disability program by instituting meaningful reforms, but will also save almost \$2.6 billion over the next 5 years. The conference report deserves prompt approval by the full Senate.●

Mr. BAUCUS. Mr. President, I rise in support of the conference report to H.R. 3236, the Social Security Disability Amendments of 1980. I was privileged to be a conferee considering this legislation which improves our social security disability programs, and makes changes in AFDC and child support programs along with increased protection to the elderly who purchase medicare supplemental health insurance coverage.

I want to commend the distinguished chairman of the Finance Committee for his able management in reaching an agreement on the conference report.

The Social Security Disability Amendments of 1980 substantially modifies and reforms the disability programs. I want to highlight several provisions which represent significant improvements in our social security programs.

H.R. 3236 contains several provisions providing increased incentives for disabled individuals to return to work. The work incentive features of the bill are true reforms which will enable more disabled beneficiaries to return to work despite their impairments. I am referring especially to those provisions which extend medicare coverage for those disabled and handicapped workers who return to employment and eliminate the second medicare waiting period.

While the House conferees rejected the Senate provision eliminating the waiting period for persons with a terminal illness, the conference agreement does recognize that changes may have to be made in this area. Under the agreement, the Social Security Administration will participate in a demonstration project to examine how the disability programs affect the terminally ill.

Mr. President, I am especially pleased that an agreement was reached on legislation I introduced last year to protect the elderly from unscrupulous health insurance agents selling worthless and often duplicative health insurance coverage in supplementation of medicare. This was a difficult matter to resolve, but I am grateful for the cooperation and patience displayed by the conferees.

The Medi-Gap provision represents a positive beginning to combat the abuses

in the medicare supplemental health insurance area. The agreement reached in conference does not depart substantially from the provisions adopted by this body last January.

The Medi-Gap provision establishes a voluntary certification of medicare supplemental health insurance policies in States that do not adopt equal or more stringent programs of their own. The conference agreement encourages and stimulates States to take care of the problems in their own back yards. The Federal certification program would become effective for those States that by July 1, 1982, do not adopt standards meeting or exceeding the Medi-Gap standards adopted by the National Association of Insurance Commissioners in the Model Regulation to Implement the Individual Accident and Sickness Minimum Standards Act. States would also be required to establish minimum loss ratio standards of at least 60 percent in the case of individual policies and 75 percent in the case of group.

The legislation also establishes stringent penalties for engaging in fraudulent activities in the Medi-Gap area.

The Medi-Gap program will provide important protection to our elderly Americans who have been subjected to widespread abuse and high-pressure sales tactics in the Medi-Gap area. Enactment of this program will combat and reduce the abuses in Medi-Gap practices. It will provide assurance to older Americans that the insurance policy they purchase meets basic standards for coverage and benefits.

Mr. President, I urge the adoption of the conference report so that senior citizens are not forced to wait any longer for these minimum assurances.

● Mr. DURENBERGER. Mr. President, I rise in support of the conference report to accompany H.R. 3236. The bill makes immediate improvements in the social security disability program. It also makes changes in the SSI, the AFDC, and child support programs and provides for increased supervision of medicare supplemental insurance.

Mr. President, I support this bill as a member of the Committee on Finance and as a conferee. But additionally, the bill contains the provisions of S. 1643, that I introduced on August 2, 1979.

S. 1643 was introduced to correct a serious drawback in our assistance to the disabled person. The bill was intended to remove the provisions under social security law that discourage the severely disabled person from seeking employment. The bill also was intended to make it possible for both the public and private sectors to develop and implement innovative programs to help engage in meaningful long-term employment.

Experts in the field of rehabilitation know the value of employment for the disabled person. They also know the difficult problems that exist for the disabled person who seeks a job and, in so doing, jeopardizes the necessary health and financial benefits he or she receives under the various public and private programs.

Widely recognized and most important is the fact that social security programs,

which provide monthly payments and medical protection, include highly restrictive provisions that discourage and often prevent people from attempting gainful work. Examples of these inhibitive provisions are:

The low earning level constituting substantial gainful activity;

Two consecutive years of receiving social security disability benefits required for medicare eligibility;

One trial work period lasting 9 months, and applicable once in a person's lifetime; and

Reentitlement to financial and medical benefits necessitates a second waiting period similar to the initial entitlement of benefits.

Mr. President, S. 1643 corrected the inhibitive provisions cited above and encouraged beneficiaries to attempt to return to work and leave the disability rolls. These provisions which are a part of H.R. 3236 include the following:

The allowable job trial period is extended from 9 to 24 months. During the last 12 months of the trial period the disabled person would not be eligible for cash assistance if his or her monthly salary was more than \$300, but could receive medical and other benefits.

Extraordinary expenses necessary to allow a severely handicapped person to return to work will not be counted as part of the person's earnings if the expenses would cause the person to lose benefits.

Beneficiaries who have returned to work, but have not been declared medically recovered, can receive medicare coverage for an additional 36 months. Under the old law, medicare coverage ends when disability insurance stops.

Disabled persons who are forced by their disability to quit a trial work program can immediately regain medicare coverage, rather than waiting 24 months as the old law required.

The Secretary of the Department of Health and Human Services can establish demonstration projects to test alternative incentives to help the disabled return to work.

Mr. President, we must do more for people who are disabled. We must change the restrictive provisions and promote improvements in the law to encourage employers to provide employment alternatives to severely disabled persons. S. 1643 and this bill are positive steps in that direction. As a result of this legislation, we can create successful ventures for both employers and employees, as one example demonstrates.

In January 1978, Control Data Corp., headquartered in Minneapolis, developed project "Homework." Homework is a homebound employment program made possible through Control Data's computer-based education system called Plato. Through "Homework," a select group of Control Data's permanently and totally disabled employees have reentered the world of work.

Due to the encouraging results of the homework experiment within Control Data, other major corporations within the United States have expressed an interest in having Control Data help them establish a homework program for their company's disabled employees.

The most significant obstacle homework has encountered since its inception is the disincentives currently contained in the social security regulations and law. Even though each homemaker has been declared permanently and totally disabled by social security, the mere fact that each person attempts to work potentially leads to a discrimination of all financial and medicare benefits. I am proud to state that certain of these disincentives have been eliminated by this legislation.

Mr. President, S. 1643 and H.R. 3236 are positive steps toward saving taxpayers money in two respects:

They will produce general tax revenues from earnings realized by disabled persons; and

They will reduce the payout of benefits made by social security.

Even more important, making it possible for disabled persons to work means increased self-esteem, greater independence and a feeling of self-worth for disabled persons.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to. Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Public Law 96-265
96th Congress

An Act

To amend the Social Security Act to provide better work incentives and improved accountability in the disability programs, and for other purposes.

June 9, 1980
[H.R. 3236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Disability Amendments of 1980".

Social Security
Disability
Amendments of
1980.
42 USC 1305
note.

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TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

- 42 USC 403. SEC. 101. (a) Section 203(a) of the Social Security Act is amended—
 (1) by striking out “except as provided by paragraph (3)” in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof “except as provided by paragraphs (3) and (6)”;
 (2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and
 (3) by inserting after paragraph (5) the following new paragraph:
 “(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under section 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—
 “(A) 85 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or
 “(B) 150 percent of such individual’s primary insurance amount.”
- 42 USC 415.
 42 USC 402, 423. (b)(1) Section 203(a)(2)(D) of such Act is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (8)”.
- 42 USC 424a. (2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out “paragraph (6)” and inserting in lieu thereof “paragraph (7)”.
- 42 USC 415. (3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out “section 203(a)(6) and (7)” and inserting in lieu thereof “section 203(a)(7) and (8)”.
- (4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: “Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).”
- Supra.*

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980.

42 USC 403 note.

42 USC 415.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

SEC. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

42 USC 415.

“(2)(A) The number of an individual’s benefit computation years equals the number of elapsed years reduced—

“(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

“(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual’s elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual’s primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual’s computation base years, but which is not disregarded pursuant to clause (i) or to subparagraph (B) (in determining such individual’s benefit computation years) by reason of the reduction in the number of such individual’s elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual’s benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual’s benefit computation years as determined under this subparagraph shall in no case be less than 2.”

42 USC 403.

(b) Section 223(a)(2) of such Act is amended by inserting “and section 215(b)(2)(A)(ii)” after “section 202(q)” in the first sentence.

42 USC 423.

42 USC 415, 402.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the

42 USC 415 note.

Ante. p. 443. third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

42 USC 426. SEC. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

42 USC 1395c.

(2) Section 1811 of such Act is amended by striking out "consecutive".

42 USC 1395p.

(3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

45 USC 231f.

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

42 USC 426.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

Supra.
Supra.

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2),

or

"(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period."

42 USC 426 note.

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

42 USC 426.

SEC. 104. (a) Section 226(b) of the Social Security Act is amended—
(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

42 USC 422.

(2) by adding at the end thereof the following new sentence: "For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in para-

graph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months.”

42 USC 401.

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day.

Effective date.
42 USC 426 note.

TITLE II—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER THE SSI PROGRAM

BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

SEC. 201. (a) Part A of title XVI of the Social Security Act is amended by adding at the end thereof the following new section:

“BENEFITS FOR INDIVIDUALS WHO PERFORM SUBSTANTIAL GAINFUL ACTIVITY DESPITE SEVERE MEDICAL IMPAIRMENT

“SEC. 1619. (a) Any individual who is an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611(b) or under this section for the month preceding the month for which eligibility for benefits under this section is now being determined, and who would otherwise be denied benefits by reason of section 1611(e)(4) or ceases to be an eligible individual (or eligible spouse) because his earnings have demonstrated a capacity to engage in substantial gainful activity, shall nevertheless qualify for a monthly benefit equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of titles XIX and XX of this Act shall be considered a disabled individual receiving supplemental security income benefits under this title, for so long as the Secretary determines that—

42 USC 1382h.

42 USC 1382.

42 USC 1396,
1397.

“(1) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability, and continues to meet all non-disability-related requirements for eligibility for benefits under this title; and

“(2) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments).

42 USC 1382a.

“(b) For purposes of titles XIX and XX, any individual under age 65 who, for the month preceding the first month in the period to which this subsection applies, received—

“(i) a payment of supplemental security income benefits under section 1611(b) on the basis of blindness or disability,

42 USC 1382e.
87 Stat. 155.

“(ii) a supplementary payment under section 1616 of this Act or under section 212 of Public Law 93-66 on such basis,
“(iii) a payment of monthly benefits under subsection (a), or
“(iv) a supplementary payment under section 1616(c)(3),
shall be considered to be a blind or disabled individual receiving supplemental security income benefits for so long as the Secretary determines under regulations that—

“(1) such individual continues to be blind or continues to have the disabling physical or mental impairment on the basis of which he was found to be under a disability and, except for his earnings, continues to meet all non-disability-related requirements for eligibility for benefits under this title;

“(2) the income of such individual would not, except for his earnings, be equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611(b) (if he were otherwise eligible for such payments);

“(3) the termination of eligibility for benefits under title XIX or XX would seriously inhibit his ability to continue his employment; and

“(4) such individual's earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the benefits under this title and titles XIX and XX which would be available to him in the absence of such earnings.”

42 USC 1382e.

(b)(1) Section 1616(c) of such Act is amended by adding at the end thereof the following new paragraph:

“(3) Any State (or political subdivision) making supplementary payments described in subsection (a) shall have the option of making such payments to individuals who receive benefits under this title under the provisions of section 1619, or who would be eligible to receive such benefits but for their income.”

42 USC 1382
note.

(2) Section 212(a) of Public Law 93-66 is amended by adding at the end thereof the following new paragraph:

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

Ante. p. 445.

(c) Part A of title XVI of the Social Security Act is amended by adding at the end thereof (after the new section added by subsection (a) of this section) the following new section:

Ante. p. 445.

“MEDICAL AND SOCIAL SERVICES FOR CERTAIN HANDICAPPED PERSONS

42 USC 1382i.

“SEC. 1620. (a) There are authorized to be appropriated such sums as may be necessary to establish and carry out a 3-year Federal-State pilot program to provide medical and social services for certain handicapped individuals in accordance with this section.

“(b)(1) The total sum of \$18,000,000 shall be allotted to the States for such program by the Secretary, during the period beginning September 1, 1981, and ending September 30, 1984, as follows:

“(A) The total sum of \$6,000,000 shall be allotted to the States for the fiscal year ending September 30, 1982 (which for purposes of this section shall include the month of September 1981).

“(B) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allot-

ment made under subparagraph (A), shall be allotted to the States for the fiscal year ending September 30, 1983.

“(C) The total sum of \$6,000,000, plus any amount remaining available (after the application of paragraph (4)) from the allotments made under subparagraphs (A) and (B), shall be allotted to the States for the fiscal year ending September 30, 1984.

“(2) The allotment to each State from the total sum allotted under paragraph (1) for any fiscal year shall bear the same ratio to such total sum as the number of individuals in such State who are over age 17 and under age 65 and are receiving supplemental security income benefits as disabled individuals in such year (as determined by the Secretary on the basis of the most recent data available) bears to the total number of such individuals in all the States. For purposes of the preceding sentence, the term ‘supplemental security income benefits’ includes payments made pursuant to an agreement under section 1616(a) of this Act or under section 212(b) of Public Law 93-66.

“(3) At the beginning of each fiscal year in which the pilot program under this section is in effect, each State that does not intend to use the allotment to which it is entitled for such year (or any allotment which was made to it for a prior fiscal year), or that does not intend to use the full amount of any such allotment, shall certify to the Secretary the amount of such allotment which it does not intend to use, and the State’s allotment for the fiscal year (or years) involved shall thereupon be reduced by the amount so certified.

“(4) The portion of the total amount available for allotment for any particular fiscal year under paragraph (1) which is not allotted to States for that year by reason of paragraph (3) (plus the amount of any reductions made at the beginning of such year in the allotments of States for prior fiscal years under paragraph (3)) shall be reallocated in such manner as the Secretary may determine to be appropriate to States which need, and will use, additional assistance in providing services to severely handicapped individuals in that particular year under their approved plans. Any amount reallocated to a State under this paragraph for use in a particular fiscal year shall be treated for purposes of this section as increasing such State’s allotment for that year by an equivalent amount.

“(c) In order to participate in the pilot program and be eligible to receive payments for any period under subsection (d), a State (during such period) must have a plan, approved by the Secretary as meeting the requirements of this section, which provides medical and social services for severely handicapped individuals whose earnings are above the level which ordinarily demonstrates an ability to engage in substantial gainful activity and who are not receiving benefits under section 1611 or 1619 or assistance under a State plan approved under section 1902, and which—

“(1) declares the intent of the State to participate in the pilot program;

“(2) designates an appropriate State agency to administer or supervise the administration of the program in the State;

“(3) describes the criteria to be applied by the State in determining the eligibility of any individual for assistance under the plan and in any event requires a determination by the State agency to the effect that (A) such individual’s ability to continue his employment would be significantly inhibited without such assistance and (B) such individual’s earnings are not sufficient to allow him to provide for himself a reasonable equivalent of the

“Supplemental security income benefits.”

42 USC 1382e.
87 Stat. 155.
Certification to Secretary.

Reallocation.

42 USC 1382.
Ante, p. 445.
42 USC 1396a.

42 USC 1381,
1396, 1397.

cash and other benefits that would be available to him under this title and titles XIX and XX in the absence of those earnings;

"(4) describes the process by which the eligibility of individuals for such assistance is to be determined (and such process may not involve the performance of functions by any State agency or entity which is engaged in making determinations of disability for purposes of disability insurance or supplemental security income benefits except when the use of a different agency or entity to perform those functions would not be feasible);

"(5) describes the medical and social services to be provided under the plan;

"(6) describes the manner in which the medical and social services involved are to be provided and, if they are not to be provided through the State's medical assistance and social services programs under titles XIX and XX (with the Federal payments being made under subsection (d) of this section rather than under those titles), specifies the particular mechanisms and procedures to be used in providing such services; and

"(7) contains such other provisions as the Secretary may find to be necessary or appropriate to meet the requirements of this section or otherwise carry out its purpose.

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 2003(d)(1).

42 USC 1397b.

"(d)(1) From its allotment under subsection (b) for any fiscal year (and any amounts remaining available from allotments made to it for prior fiscal years), the Secretary shall from time to time pay to each State which has a plan approved under subsection (c) an amount equal to 75 per centum of the total sum expended under such plan (including the cost of administration of such plan) in providing medical and social services to severely handicapped individuals who are eligible for such services under the plan.

"(2) The method of computing and making payments under this section shall be as follows:

"(A) The Secretary 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 Secretary 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 he finds that his 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.

Regulations.

"(e) Within nine months after the date of the enactment of this section, the Secretary shall prescribe and publish such regulations as may be necessary or appropriate to carry out the pilot program and otherwise implement this section.

Reports to
Secretary and
Congress.

"(f) Each State participating in the pilot program under this section shall from time to time report to the Secretary 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 Secretary shall submit to the Congress a report on the program, incorporating the information contained in the State reports along with his findings and recommendations."

(d) The amendments made by subsections (a) and (b) shall become effective on January 1, 1981, but shall remain in effect only for a period of three years after such effective date. Effective date.
42 USC 1382h
note.

(e) The Secretary shall provide for separate accounts with respect to the benefits payable by reason of the amendments made by subsections (a) and (b) so as to provide for evaluation of the effects of such amendments on the programs established by titles II, XVI, XIX, and XX of the Social Security Act. 42 USC 1382h
note.

42 USC 401,
1381, 1396, 1397.

EARNED INCOME IN SHELTERED WORKSHOPS

SEC. 202. (a) Section 1612(a)(1) of the Social Security Act is amended— 42 USC 1382a.

(1) by striking out “and” after the semicolon at the end of subparagraph (A); and

(2) by adding after subparagraph (B) the following new subparagraph:

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

(b) The amendments made by subsection (a) shall apply only with respect to remuneration received in months after September 1980. 42 USC 1382a
note.

TERMINATION OF ATTRIBUTION OF PARENTS' INCOME AND RESOURCES WHEN CHILD ATTAINS AGE 18

SEC. 203. (a) Section 1614(f)(2) of the Social Security Act is amended by striking out “under age 21” and inserting in lieu thereof “under age 18”. 42 USC 1382c.

(b) The amendment made by subsection (a) shall become effective on October 1, 1980; except that the amendment made by such subsection shall not apply, in the case of any child who, in September 1980, was 18 or over and received a supplemental security income benefit for such month, during any period for which such benefit would be greater without the application of such amendment. Effective date.
42 USC 1382c
note.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting “(a)” after “SEC. 225.”, and by adding at the end thereof the following new subsection: 42 USC 425.

“(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

“(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

29 USC 720.

may (following his participation in such program) be permanently removed from the disability benefit rolls.”

Ante, p. 449.

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out “this section” each place it appears and inserting in lieu thereof “this subsection”.

42 USC 1383.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

42 USC 1382c.

“(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual’s eligibility for such benefit is based, has or may have ceased, if—

29 USC 720.

“(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.”

Effective date.
42 USC 425 note.

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

42 USC 423.

SEC. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”

42 USC 1382c.
Post, p. 453.

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the

amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”

(b) Section 1612(b)(4)(B) of such Act is amended by striking out “plus one-half of the remainder thereof, and (ii)” and inserting in lieu thereof the following: “(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual’s disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)”.

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act.

REENTITLEMENT TO DISABILITY BENEFITS

SEC. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out “section 223 or 202(d)” and inserting in lieu thereof “section 223, 202(d), 202(e), or 202(f)”.

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof “, or, in the case of an individual entitled to widow’s or widower’s insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.”.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out “or the third month following the month in which his disability ceases.” at the end of the first sentence and inserting in lieu thereof “or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.”.

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

42 USC 423. (ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

42 USC 422. (C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

(D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

(2)(A) Section 223 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 423.

“(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).” 42 USC 402.

(B) Section 216(i)(2)(D) of such Act is amended by striking out “(ii)” and all that follows and inserting in lieu thereof “(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section.” 42 USC 422.
42 USC 416.

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1382c.

“(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.” 42 USC 1382.
42 USC 1383.

(B) Section 1614(a)(3)(D) of such Act is amended by striking out “paragraph (4)” and inserting in lieu thereof “subparagraph (F) or paragraph (4)”. *Ante*, p. 450.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

“(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).”

Ante, pp. 445,
446.

Supra.

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day.

Effective date.
42 USC 402 note.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

SEC. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows: 42 USC 421.

“(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies 42 USC 416, 423.

the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

“(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

Regulations.

“(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

“(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

“(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

“(D) fiscal control procedures that the State agency may be required to adopt, and

“(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law.”

42 USC 421.

Disability
determinations.

(b) Section 221(b) of such Act is amended to read as follows:

“(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other

written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

“(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

Notification to Secretary.

“(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

Assumption of State agency function.

“(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary.”

State agency employees, determination by Secretary of Labor.

(c) Section 221(c) of such Act is amended to read as follows:
“(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency's determination and determine that such individual either is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination

42 USC 421.
Review.

42 USC 416, 423.

under this paragraph may be made before or after any action is taken to implement such determination.

42 USC 416.
42 USC 423.

"(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

"(3) In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982."

42 USC 421.

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

Report to
Congress.
42 USC 421 note.

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

Effective date.
42 USC 421 note.
State
agreements with
Secretary of
Health and
Human Services,
notification.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

Plan, submittal
to Congress.
42 USC 421 note.

42 USC 421.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

SEC. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

42 USC 405.

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

42 USC 1383.

(c) The amendments made by this section 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.

42 USC 405 note.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

42 USC 402.

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary)."

42 USC 405.

(b) Section 216(i)(2)(G) of such Act is amended—

42 USC 416.

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

- 42 USC 423. (3) by striking out the second sentence.
- (c) Section 223(b) of such Act is amended—
- (1) by inserting “(and shall be deemed to have been filed in such first month)” immediately after “shall be deemed a valid application” in the first sentence,
- (2) by striking out the period at the end of the first sentence and inserting in lieu thereof “and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).”, and
- 42 USC 402 note. (3) by striking out the second sentence.
- (d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

- 42 USC 405. SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes “and the Secretary shall” and inserting in lieu thereof the following: “The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, 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;”.

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

- Report to Congress.
42 USC 401 note.
42 USC 401.
- SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—
- (1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;
- (2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;
- (3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and
- (4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence." 42 USC 423.

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 401.

"(j) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 410.

42 USC 1383.

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the

42 USC 1382c.

points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

42 USC 1395i.

(c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

Travel expenses,
authorized trust
fund payments.

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

42 USC 410.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

42 USC 421.

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title."

Effective date.
42 USC 421 note.

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

Submittal to
Congress.
42 USC 401 note.

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

TITLE IV—PROVISIONS RELATING TO AFDC AND CHILD SUPPORT PROGRAMS

WORK REQUIREMENT UNDER THE AFDC PROGRAM

42 USC 602.

SEC. 401. (a) Section 402(a)(19)(A) of the Social Security Act is amended—

(1) by striking out all that follows "(A)" and precedes clause (i), and inserting in lieu thereof the following: "that every individual, as a condition of eligibility for aid under this part, shall

register for manpower services, training, employment, and other employment-related activities (including employment search, not to exceed eight weeks in total in each year) with the Secretary of Labor as provided by regulations issued by him, unless such individual is—

(2) by striking out “or” at the end of clause (v);

(3) by striking out “under section 433(g)” in clause (vi);

42 USC 633.

(4) by adding “or” after the semicolon at the end of clause (vi);

and

(5) by inserting after clause (vi) the following new clause:

“(vii) a person who is working not less than 30 hours per week;”

(b) Section 402(a)(19)(B) of such Act is amended by inserting “to families with dependent children” immediately after “that aid”. 42 USC 602.

(c) Section 402(a)(19)(D) of such Act is amended by striking out “, and income derived from a special work project under the program established by section 432(b)(3)”. 42 USC 632.

(d) Section 402(a)(19)(F) of such Act is amended—

(1) by striking out, “and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))” in the matter preceding clause (i), and inserting in lieu thereof “(and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor) any child, relative or individual”; and

(2) by inserting “and” after the semicolon at the end of clause (iv), and striking out all that follows.

(e) Section 402(a)(19)(G) of such Act is amended—

(1) by inserting “(which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3))” immediately after “administrative unit” in clause (i);

(2) by striking out “subparagraph (A),” in clause (ii), and inserting in lieu thereof “subparagraph (A) of this paragraph (I)”;

(3) by striking out “part C” where it first appears in clause (ii) and inserting in lieu thereof “section 432(b) (1), (2), or (3)”; and

(4) by striking out “employment or training under part C,” in clause (ii) and inserting in lieu thereof “employment or training under section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment-related (including but not limited to employment search) activities, as well as timely payment for necessary employment search expenses, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment.”

(f) Section 402(a)(19) of such Act is further amended—

(1) by striking out “and” at the end of subparagraph (F);

(2) by adding “and” after the semicolon at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

“(H) that an individual participating in employment search activities shall not be referred to employment opportunities which do not meet the criteria for appropriate work

and training to which an individual may otherwise be assigned under section 432(b)(1), (2), or (3);”

42 USC 632.
42 USC 603.

(g) Section 403(c) of such Act is amended by striking out “part C” and inserting in lieu thereof “section 432(b)(1), (2), or (3)”.

(h) Section 403(d)(1) of such Act is amended by adding at the end thereof the following new sentence: “In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.”

Ante, p. 461.

42 USC 602 note.

(i) The amendments made by this section (other than those made by subsections (c) and (d)) shall take effect on September 30, 1980, and the joint regulations referred to in section 402(a)(19)(F) of the Social Security Act (as amended by this section) shall be promulgated on or before such date, and take effect on such date.

**USE OF INTERNAL REVENUE SERVICE TO COLLECT CHILD SUPPORT FOR
NON-AFDC FAMILIES**

SEC. 402. (a) The first sentence of section 452(b) of the Social Security Act is amended by inserting “(or undertaken to be collected by such State pursuant to section 454(6))” immediately after “assigned to such State”.

42 USC 652.
42 USC 654.

Effective date.
42 USC 652 note.

(b) The amendment made by subsection (a) shall take effect July 1, 1980.

**SAFEGUARDS RESTRICTING DISCLOSURE OF CERTAIN INFORMATION
UNDER AFDC AND SOCIAL SERVICE PROGRAMS**

SEC. 403. (a) Section 402(a)(9) of the Social Security Act is amended—

42 USC 602.

(1) by striking out “and” at the end of clause (B); and

(2) by striking out “; and the safeguards” and all that follows and inserting in lieu thereof the following: “, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;”.

42 USC 1397b.

(b) Section 2003(d)(1)(B) of such Act is amended—

(1) by striking out “provides that” and inserting in lieu thereof “provides safeguards which restrict”;

(2) by striking out “will be restricted”;

(3) by inserting “(A)” after “connected with”; and

(4) by inserting before the semicolon at the end thereof the following: “, and (B) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental entity which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or legislative body (other than an entity referred to in clause (B) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient;”.

(c) The amendments made by this section shall take effect on September 1, 1980.

Effective date.
42 USC 602 note.

FEDERAL MATCHING FOR CHILD SUPPORT DUTIES PERFORMED BY
CERTAIN COURT PERSONNEL

SEC. 404. (a) Section 455 of the Social Security Act is amended by adding at the end thereof the following new subsection:

42 USC 655.

“(c)(1) Subject to paragraph (2), there shall be included, in determining amounts expended by a State during any quarter for the operation of the plan approved under section 454, so much of the expenditures of courts of such State and its political subdivisions (excluding expenditures for or in connection with judges and other individuals making judicial determinations, but not excluding expenditures for or in connection with their administrative and support personnel) as are attributable to the performance of services which are directly related to, and clearly identifiable with, the operation of such plan.

42 USC 654.

“(2) The aggregate amount of the expenditures which are included pursuant to paragraph (1) for the quarters in any calendar year shall be reduced (but not below zero) by the total amount of expenditures described in paragraph (1) which were made by the State for the 12-month period beginning January 1, 1978.

“(3) The State agency may, if the law (or procedures established thereunder) of the State so provides, pay so much of the amount it receives under subsection (a) for any quarter as is payable by reason of the provisions of this subsection directly to the courts of the State (or political subdivisions thereof) furnishing the services on account of which the payment is payable.”.

(b) The amendment made by subsection (a) shall apply with respect to expenditures made by States on or after July 1, 1980.

Effective date.
42 USC 655 note.

CHILD SUPPORT MANAGEMENT INFORMATION SYSTEM

SEC. 405. (a) Section 455(a) of the Social Security Act is amended—

42 USC 655.

(1) by striking out “and” at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof “, and”; and

(3) by adding after and below paragraph (2) the following new paragraph:

“(3) equal to 90 percent (rather than the percent specified in clause (1) or (2)) of so much of the sums expended during such quarter as are attributable to the planning, design, development, installation or enhancement of an automatic data processing and information retrieval system which the Secretary finds meets the requirements specified in section 454(16);”.

Automatic data
processing and
information
retrieval system.

(b) Section 454 of such Act is amended—

Infra.

42 USC 654.

(1) by striking out “and” at the end of paragraph (14),

(2) by striking out the period at the end of paragraph (15) and inserting in lieu thereof “, and”, and

(3) by adding after paragraph (15) the following new paragraph:

“(16) provide, at the option of the State, for the establishment, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under section 452(d), of an automatic data processing and information retrieval system designed effectively and efficiently to assist

Post. p. 464.

management in the administration of the State plan, in the State and localities thereof, so as (A) to control, account for, and monitor (i) all the factors in the child support enforcement collection and paternity determination process under such plan (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses and mailing addresses (including postal ZIP codes) of any individual with respect to whom child support obligations are sought to be established or enforced and with respect to any person to whom such support obligations are owing) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether such individual is paying or is obligated to pay child support in more than one jurisdiction, (II) checking of records of such individuals on a periodic basis with Federal, intra- and inter-State, and local agencies, (III) maintaining the data necessary to meet the Federal reporting requirements on a timely basis, and (IV) delinquency and enforcement activities), (ii) the collection and distribution of support payments (both intra- and inter-State), the determination, collection and distribution, of incentive payments both inter- and intra-State, and the maintenance of accounts receivable on all amounts owed, collected and distributed, and (iii) the costs of all services rendered, either directly or by interfacing with State financial management and expenditure information, (B) to provide interface with records of the State's aid to families with dependent children program in order to determine if a collection of a support payment causes a change affecting eligibility for or the amount of aid under such program, (C) to provide for security against unauthorized access to, or use of, the data in such system, and (D) to provide management information on all cases under the State plan from initial referral or application through collection and enforcement."

42 USC 652.

(c) Section 452 of such Act is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in section 454(16), unless he finds that such document, when implemented, will generally carry out the objectives of the management system referred to in such subsection, and such document—

Ante. p. 463.

"(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

Ante. p. 463.

"(B) contains a description of the proposed management system referred to in section 455(a)(3), including a description of information flows, input data, and output reports and uses,

"(C) sets forth the security and interface requirements to be employed in such management system,

"(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

"(E) contains an implementation plan and backup procedures to handle possible failures,

"(F) contains a summary of proposed improvement of such management system in terms of qualitative and quantitative benefits, and

“(G) provides such other information as the Secretary determines under regulation is necessary.

“(2)(A) The Secretary shall through the separate organizational unit established pursuant to subsection (a), on a continuing basis, review, assess, and inspect the planning, design, and operation of, management information systems referred to in section 455(a)(3), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under paragraph (1) and the conditions specified under section 454(16).

Ante, p. 463.

Ante, p. 463.

“(B) If the Secretary finds with respect to any statewide management information system referred to in section 455(a)(3) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.”

(d) Section 452 of the Social Security Act is further amended by adding after subsection (d) (as added by subsection (c) of this section) the following new subsection:

Ante, p. 464.

“(e) The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 455(a)(3).”

Technical assistance to States.

(e) The amendments made by this section shall take effect on July 1, 1981, and shall be effective only with respect to expenditures, referred to in section 455(a)(3) of the Social Security Act (as amended by this Act), made on or after such date.

Effective date.
42 USC 652 note.

AFDC MANAGEMENT INFORMATION SYSTEM

SEC. 406. (a) Section 403(a)(3) of the Social Security Act is amended—

42 USC 603.

- (1) by striking out “and” at the end of subparagraph (A);
- (2) by redesignating subparagraph (B) as subparagraph (C); and
- (3) by inserting after subparagraph (A) the following new subparagraph:

“(B) 90 per centum of so much of the sums expended during such quarter as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX, and”.

Infra.

42 USC 1396.

42 USC 1397.

42 USC 602.

(b)(1) Section 402(a) of such Act is amended—

- (A) by striking out “and” at the end of paragraph (28);
- (B) by striking out the period at the end of paragraph (29) and inserting in lieu thereof “; and”; and
- (C) by adding after paragraph (29) the following new paragraph:

“(30) at the option of the State, provide for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including but not limited to (I) identifiable correlation factors (such as social security numbers, names, dates of birth, home addresses, and mailing addresses (including postal ZIP codes), of all applicants and recipients of such aid and the relative with whom any child who is such an applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility and payment pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, social service, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system.”

42 USC 1396.

42 USC 602.

(2) Section 402 of such Act is further amended by adding at the end thereof the following new subsection:

“(d)(1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a)(30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

Ante, p. 465.

“(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

“(B) contains a description of the proposed statewide management system, including a description of information flows, input data, and output reports and uses,

“(C) sets forth the security and interface requirements to be employed in such statewide management system,

“(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

“(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

“(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

“(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

“(2)(A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a)(3)(B), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a)(30) of this section.

Ante, p. 465.

Ante, p. 466.

“(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a)(3)(B) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.”

(c) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

“TECHNICAL ASSISTANCE FOR DEVELOPING MANAGEMENT INFORMATION SYSTEMS

“SEC. 413. The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(3)(B) of this Act.”

42 USC 612.

Ante, p. 465.

Effective date.

(d) The amendments made by this section shall be effective with respect to expenditures made during calendar quarters beginning on or after July 1, 1981.

42 USC 612 note.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

SEC. 407. (a) Section 455(b)(2) of the Social Security Act is amended by striking out “The Secretary” and inserting in lieu thereof “Subject to subsection (d), the Secretary”.

42 USC 655.

(b) Section 455 of such Act is further amended by adding after subsection (c) (as added by section 404 of this Act) the following new subsection:

Ante, p. 463.

“(d) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for any quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).”

42 USC 603.

(c) Section 403(b)(2) of such Act is amended—

- (1) by striking out “and” at the end of clause (A); and
- (2) by adding immediately before the semicolon at the end of clause (B) the following: “, and (C) reduced by such amount as is necessary to provide the ‘appropriate reimbursement of the Federal Government’ that the State is required to make under

42 USC 657.

section 457 out of that portion of child support collections retained by it pursuant to such section”.

Effective date.

42 USC 603 note.

(d) The amendments made by this section shall be effective in the case of calendar quarters commencing on or after January 1, 1981.

ACCESS TO WAGE INFORMATION FOR PURPOSES OF CARRYING OUT STATE PLANS FOR CHILD SUPPORT

26 USC 6103.

SEC. 408. (a)(1) Subsection (l) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end thereof the following new paragraph:

“(7) DISCLOSURE OF CERTAIN RETURN INFORMATION BY SOCIAL SECURITY ADMINISTRATION TO STATE AND LOCAL CHILD SUPPORT ENFORCEMENT AGENCIES.—

“(A) IN GENERAL.—Upon written request, the Commissioner of Social Security shall disclose directly to officers and employees of a State or local child support enforcement agency return information from returns with respect to net earnings from self-employment (as defined in section 1402), wages (as defined in section 3121(a) or 3401(a)), and payments of retirement income which have been disclosed to the Social Security Administration as provided by paragraph (1) or (5) of this subsection.

26 USC 1402.

26 USC 3121,

3401.

“(B) RESTRICTION ON DISCLOSURE.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations. For purposes of the preceding sentence, the term ‘child support obligations’ only includes obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the Secretary of Health and Human Services under part D of title IV of such Act.

“Child support obligations.”

42 USC 654.

42 USC 651.

“(C) STATE OR LOCAL CHILD SUPPORT ENFORCEMENT AGENCY.—For purposes of this paragraph, the term ‘State or local child support enforcement agency’ means any agency of a State or political subdivision thereof operating pursuant to a plan described in subparagraph (B).”

26 USC 6103.

(2)(A) Subparagraph (A) of section 6103(p)(3) of such Code (relating to records of inspection and disclosure) is amended by striking out “(1)(1) or (4)(B) or (5)” and inserting in lieu thereof “(1)(1), (4)(B), (5), or (7)”.

(B) Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended by striking out “(1)(3) or (6)” in so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof “(1)(3), (6), or (7)”.

(C) Clause (i) of section 6103(p)(4)(F) of such Code is amended by striking out “(1)(6)” and inserting in lieu thereof “(1)(6) or (7)”.

26 USC 7213.

(D) The first sentence of paragraph (2) of section 7213(a) of such Code is amended by striking out “subsection (d), (1)(6), or (m)(4)(B)” and inserting in lieu thereof “subsection (d), (1)(6) or (7), or (m)(4)(B)”.

Effective date.

26 USC 6103

note.

42 USC 503.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b)(1) Section 303 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(d)(1) The State agency charged with the administration of the State law—

“(A) shall disclose, upon request and on a reimbursable basis, directly to officers or employees of any State or local child support enforcement agency any wage information contained in the records of such State agency, and

Wage information.

“(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to insure that information disclosed under subparagraph (A) is used only for purposes of establishing and collecting child support obligations from, and locating, individuals owing such obligations.

Safeguards, establishment.

For purposes of the preceding sentence, the term ‘child support obligations’ only includes obligations which are being enforced pursuant to a plan described in section 454 of this Act which has been approved by the Secretary of Health and Human Services under part D of title IV of this Act.

“Child support obligations.”

42 USC 654.

42 USC 651.

“(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he shall make no further certification to the Secretary of the Treasury with respect to such State.

Noncompliance of State agency.

“(3) For purposes of this subsection, the term ‘State or local child support enforcement agency’ means any agency of a State or political subdivision thereof operating pursuant to a plan described in the last sentence of paragraph (1).”

Definition.

(2) Paragraph (2) of section 304(a) of the Social Security Act is amended by striking out “subsection (b) or (c)” and inserting in lieu thereof “subsection (b), (c), or (d)”.

42 USC 504.

(3) The amendments made by this subsection shall take effect on July 1, 1980.

Effective date.
42 USC 503 note.

TITLE V—OTHER PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

SEC. 501. (a) Part A of title XI of the Social Security Act is amended by inserting immediately after section 1126 the following new section:

“ADJUSTMENT OF RETROACTIVE BENEFITS UNDER TITLE II ON ACCOUNT OF SUPPLEMENTAL SECURITY INCOME BENEFITS

“SEC. 1127. Notwithstanding any other provision of this Act, in any case where an individual—

42 USC 1320a-6.

“(1) makes application for benefits under title II and is subsequently determined to be entitled to those benefits, and

“(2) was an individual with respect to whom supplemental security income benefits were paid under title XVI (including State supplementary payments which were made under an agreement pursuant to section 1616(a) or an administration agreement under section 212 of Public Law 93-66) for one or more months during the period beginning with the first month

42 USC 1381.

87 Stat. 155.

for which a benefit described in paragraph (1) is payable and ending with the month before the first month in which such benefit is paid pursuant to the application referred to in paragraph (1),

42 USC 401.

the benefits (described in paragraph (1)) which are otherwise retroactively payable to such individual for months in the period described in paragraph (2) shall be reduced by an amount equal to so much of such supplemental security income benefits (including State supplementary payments) described in paragraph (2) for such month or months as would not have been paid with respect to such individual or his eligible spouse if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively; and from the amount of such reduction the Secretary shall reimburse the State on behalf of which such supplementary payments were made for the amount (if any) by which such State's expenditures on account of such supplementary payments for the period involved exceeded the expenditures which the State would have made (for such period) if the individual had received the benefits under title II at the times they were regularly due during such period rather than retroactively. An amount equal to the portion of such reduction remaining after reimbursement of the State under the preceding sentence shall be covered into the general fund of the Treasury."

42 USC 404.

(b) Section 204 of such Act is amended by adding at the end thereof the following new subsection:

42 USC 1381.

Ante, p. 469.

42 USC 1383.

"(e) For payments which are adjusted by reason of payment of benefits under the supplemental security income program established by title XVI, see section 1127."

(c) Section 1631(b) of such Act is amended—

(1) by inserting "(1)" immediately after "(b)", and

(2) by adding at the end thereof the following new paragraph:

42 USC 401.

Ante, p. 469.42 USC 1320a-6
note.

"(2) For payments for which adjustments are made by reason of a retroactive payment of benefits under title II, see section 1127."

(d) The amendments made by this section shall be applicable in the case of payments of monthly insurance benefits under title II of the Social Security Act entitlement for which is determined on or after the first day of the thirteenth month which begins after the date of the enactment of this Act.

EXTENSION OF NATIONAL COMMISSION ON SOCIAL SECURITY

42 USC 907a.

SEC. 502. (a) Section 361(a)(2)(F) of the Social Security Amendments of 1977 is amended by striking out "a term of two years" and inserting in lieu thereof "a term which shall end on April 1, 1981".

(b) Section 361(c)(2) of the Social Security Amendments of 1977 is amended by striking out all that follows the semicolon and inserting in lieu thereof "and the Commission shall cease to exist on April 1, 1981."

TIME FOR MAKING OF SOCIAL SECURITY CONTRIBUTIONS WITH RESPECT TO COVERED STATE AND LOCAL EMPLOYEES

42 USC 418.

SEC. 503. (a) Subparagraph (A) of section 218(e)(1) of the Social Security Act is amended to read as follows:

"(A) that the State will pay to the Secretary of the Treasury, within the thirty-day period immediately following the last day of each calendar month, amounts equivalent to the sum of the

taxes which would be imposed by sections 3101 and 3111 of the Internal Revenue Code of 1954 if the services for which wages were paid in such month to employees covered by the agreement constituted employment as defined in section 3121 of such Code; and”.

26 USC 3101,
3111.
26 USC 3121.

(b) The amendment made by subsection (a) shall be effective with respect to the payment of taxes (referred to in section 218(e)(1)(A) of the Social Security Act, as amended by subsection (a)) on account of wages paid on or after July 1, 1980.

Effective date.
42 USC 418 note.
42 USC 418.

(c) The provisions of section 7 of Public Law 94-202 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.

42 USC 405a.
42 USC 405a
note.

ELIGIBILITY OF ALIENS FOR SSI BENEFITS

SEC. 504. (a) Section 1614(f) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

42 USC 1382c.

“(3) For purposes of determining eligibility for and the amount of benefits for any individual who is an alien, such individual’s income and resources shall be deemed to include the income and resources of his sponsor and such sponsor’s spouse (if such alien has a sponsor) as provided in section 1621. Any such income deemed to be income of such individual shall be treated as unearned income of such individual.”

Infra.

(b) Part A of title XVI of such Act is amended by adding at the end thereof (after the new section added by section 201(c) of this Act) the following new section:

Ante, p. 445.

“ATTRIBUTION OF SPONSOR’S INCOME AND RESOURCES TO ALIENS

“SEC. 1621. (a) For purposes of determining eligibility for and the amount of benefits under this title 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 three 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.

Eligibility
determination
for benefits.
42 USC 1382j.

“(b)(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 1612(a)) of such sponsor and such sponsor’s spouse (if such spouse is living with the sponsor) shall be determined for such year.

Ante, p. 449.

“(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 title 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 1611(b)(1)), 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

42 USC 1382.

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 1611(c).

42 USC 1382.

“(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:

42 USC 1382b.

“(A) The total amount of the resources (as determined under section 1613) 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) \$1,500 in the case of a sponsor who has no spouse with whom he is living, or (ii) \$2,250 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.

42 USC 1382a.

“(c) In determining the amount of income of an alien during the period of three years after such alien's entry into the United States, the reduction in dollar amounts otherwise required under section 1612(a)(2)(A)(i) 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 1612(a)(2)(A).

Information and
documentation
respecting
sponsor.

“(d)(1) Any individual who is an alien shall, during the period of three years after entry into the United States, in order to be an eligible individual or eligible spouse for purposes of this title, be required to provide to the Secretary such information and documentation with respect to his sponsor as may be necessary in order for the Secretary 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 Secretary such information and documentation as the Secretary may request and which such alien or his sponsor provided in support of such alien's immigration application.

“(2) The Secretary 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 Secretary, 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.

Sponsor and
alien, liability
for overpayment.

“(e) 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 three 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 Secretary

or recovered in accordance with section 1631(b) shall be withheld from any subsequent payment to which such alien or such sponsor is entitled under any provision of this Act.

Ante, p. 470.

“(f)(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 title by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), 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.

“Aged, blind, or disabled individual”, nonapplicability.
42 USC 1382c.

“(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 203(a)(7) of the Immigration and Nationality Act;

8 USC 1153.

“(B) admitted to the United States as a result of the application, after March 31, 1980, of the provisions of section 207(c)(1) of such Act;

Ante, p. 103.

“(C) paroled into the United States as a refugee under section 212(d)(5) of such Act; or

Ante, p. 107.

“(D) granted political asylum by the Attorney General.”.

(c) The amendments made by this section shall be effective with respect to individuals applying for supplemental security income benefits under title XVI of the Social Security Act for the first time after September 30, 1980.

Effective date.
42 USC 1382j
note.
42 USC 1381.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

42 USC 1310
note.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

42 USC 401.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods

42 USC 401,
1395.

under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

Report to
Congress.

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

42 USC 401.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

Ante. p. 459.

“(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.”

Ante. p. 473.

42 USC 1310.

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting “(1)” after “Sec. 1110. (a)”;

(2) by striking out “for (1)” and “(2)” and inserting in lieu thereof “for (A)” and “(B)”, respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out “under subsection (a)” each place it appears and inserting in lieu thereof “under paragraph (1)”;

(5) by striking out “purposes of this section” and inserting in lieu thereof “purposes of this subsection”; and

(6) by adding at the end thereof the following new subsection:

Waiver.

42 USC 1381.

“(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616),

42 USC 1382e.

or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

42 USC 1396.

“(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

42 USC 1381.

“(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

“(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

“(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

“(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers.”

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act.

Report to
Congress.
42 USC 1310
note.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

42 USC 1395ll
note.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of \$2,000,000 for any fiscal year) as may be necessary.

Appropriation
authorization.

VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH
INSURANCE POLICIES

SEC. 507. (a) Title XVIII of the Social Security Act is amended by adding at the end thereof the following new section:

“VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH
INSURANCE POLICIES

42 USC 1395ss.

“SEC. 1882. (a) The Secretary shall establish a procedure whereby medicare supplemental policies (as defined in subsection (g)(1)) may be certified by the Secretary as meeting minimum standards and requirements set forth in subsection (c). Such procedure shall provide an opportunity for any insurer to submit any such policy, and such additional data as the Secretary finds necessary, to the Secretary for his examination and for his certification thereof as meeting the standards and requirements set forth in subsection (c). Such certification shall remain in effect if the insurer files a notarized statement with the Secretary no later than June 30 of each year stating that the policy continues to meet such standards and requirements and if the insurer submits such additional data as the Secretary finds necessary to independently verify the accuracy of such notarized statement. Where the Secretary determines such a policy meets (or continues to meet) such standards and requirements, he shall authorize the insurer to have printed on such policy (but only in accordance with such requirements and conditions as the Secretary may prescribe) an emblem which the Secretary shall cause to be designed for use as an indication that a policy has received the Secretary's certification. The Secretary shall provide each State commissioner or superintendent of insurance with a list of all the policies which have received his certification.

Emblem.

List of certified policies.

State regulatory program, standards and requirements.

“(b)(1) Any medicare supplemental policy issued in any State which the Supplemental Health Insurance Panel (established under paragraph (2)) determines has established under State law a regulatory program that—

“(A) provides for the application of standards with respect to such policies equal to or more stringent than the NAIC Model Standards (as defined in subsection (g)(2)(A));

“(B) includes a requirement equal to or more stringent than the requirement described in subsection (c)(2); and

“(C) provides for application of the standards and requirements described in subparagraphs (A) and (B) to all medicare supplemental policies (as defined in subsection (g)(1)) issued in such State,

shall be deemed (for so long as the Panel finds that such State regulatory program continues to meet the standards and requirements of this paragraph) to meet the standards and requirements set forth in subsection (c).

Supplemental Health Insurance Panel establishment.

“(2)(A) There is hereby established a panel (hereinafter in this section referred to as the ‘Panel’) to be known as the Supplemental Health Insurance Panel. The Panel shall consist of the Secretary, who shall serve as the Chairman, and four State commissioners or superintendents of insurance, who shall be appointed by the President and serve at his pleasure. Such members shall first be appointed not later than December 31, 1980.

Quorum.

“(B) A majority of the members of the Panel shall constitute a quorum, but a lesser number may conduct hearings.

“(C) The Secretary shall provide such technical, secretarial, clerical, and other assistance as the Panel may require.

“(D) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

Appropriation authorization.

“(E) Members of the Panel shall be allowed, while away from their homes or regular places of business in the performance of services for the Panel, travel expenses (including per diem in lieu of subsistence) in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

Travel expenses.

“(c) The Secretary shall certify under this section any medicare supplemental policy, or continue certification of such a policy, only if he finds that such policy—

Medicare supplemental policy, certification criteria.

“(1) meets or exceeds (either in a single policy or, in the case of nonprofit hospital and medical service associations, in one or more policies issued in conjunction with one another) the NAIC Model Standards; and

“(2) can be expected (as estimated for the entire period for which rates are computed to provide coverage, on the basis of incurred claims experience and earned premiums for such period and in accordance with accepted actuarial principles and practices) to return to policyholders in the form of aggregate benefits provided under the policy, at least 75 percent of the aggregate amount of premiums collected in the case of group policies and at least 60 percent of the aggregate amount of premiums collected in the case of individual policies.

For purposes of paragraph (2), policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) shall be deemed to be individual policies.

Individual policies.

“(d)(1) Whoever knowingly or willfully makes or causes to be made or induces or seeks to induce the making of any false statement or representation of a material fact with respect to the compliance of any policy with the standards and requirements set forth in subsection (c) or in regulations promulgated pursuant to such subsection, or with respect to the use of the emblem designed by the Secretary under subsection (a), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

False statement or representation, penalties and fines.

“(2) Whoever falsely assumes or pretends to be acting, or misrepresents in any way that he is acting, under the authority of or in association with, the program of health insurance established by this title, or any Federal agency, for the purpose of selling or attempting to sell insurance, or in such pretended character demands, or obtains money, paper, documents, or anything of value, shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

“(3)(A) Whoever knowingly sells a health insurance policy to an individual entitled to benefits under part A or enrolled under part B of this title, with knowledge that such policy substantially duplicates health benefits to which such individual is otherwise entitled, other than benefits to which he is entitled under a requirement of State or Federal law (other than this title), shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

42 USC 1395c, 1395j.

"(B) For purposes of this paragraph, benefits which are payable to or on behalf of an individual without regard to other health benefit coverage of such individual, shall not be considered as duplicative.

"(C) Subparagraph (A) shall not apply with respect to the selling of a group policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations.

Policies mailed for prohibited purpose.

"(4)(A) Whoever knowingly, directly or through his agent, mails or causes to be mailed any matter for a prohibited purpose (as determined under subparagraph (B)) shall be guilty of a felony and upon conviction thereof shall be fined not more than \$25,000 or imprisoned for not more than 5 years, or both.

Definition.

"(B) For purposes of subparagraph (A), a prohibited purpose means the advertising, solicitation, or offer for sale of a medicare supplemental policy, or the delivery of such a policy, in or into any State in which such policy has not been approved by the State commissioner or superintendent of insurance. For purposes of this paragraph, a medicare supplemental policy shall be deemed to be approved by the commissioner or superintendent of insurance of a State if—

"(i) the policy has been certified by the Secretary pursuant to subsection (c) or was issued in a State with an approved regulatory program (as defined in subsection (g)(2)(B));

"(ii) the policy has been approved by the commissioners or superintendents of insurance in States in which more than 30 percent of such policies are sold; or

"(iii) the State has in effect a law which the commissioner or superintendent of insurance of the State has determined gives him the authority to review, and to approve, or effectively bar from sale in the State, such policy;

except that such a policy shall not be deemed to be approved by a State commissioner or superintendent of insurance if the State notifies the Secretary that such policy has been submitted for approval to the State and has been specifically disapproved by such State after providing appropriate notice and opportunity for hearing pursuant to the procedures (if any) of the State.

Exceptions.

"(C) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a medicare supplemental policy into a State if such person has ascertained that the party insured under such policy to whom (or on whose behalf) such policy is mailed is located in such State on a temporary basis.

"(D) Subparagraph (A) shall not apply in the case of a person who mails or causes to be mailed a duplicate copy of a medicare supplemental policy previously issued to the party to whom (or on whose behalf) such duplicate copy is mailed, if such policy expires not more than 12 months after the date on which the duplicate copy is mailed.

Benefit information.

"(e) The Secretary shall provide to all individuals entitled to benefits under this title (and, to the extent feasible, to individuals about to become so entitled) such information as will permit such individuals to evaluate the value of medicare supplemental policies to them and the relationship of any such policies to benefits provided under this title.

State regulatory programs, study and evaluation.

"(D)(1)(A) The Secretary shall, in consultation with Federal and State regulatory agencies, the National Association of Insurance Commissioners, private insurers, and organizations representing

consumers and the aged, conduct a comprehensive study and evaluation of the comparative effectiveness of various State approaches to the regulation of medicare supplemental policies in (i) limiting marketing and agent abuse, (ii) assuring the dissemination of such information to individuals entitled to benefits under this title (and to other consumers) as is necessary to permit informed choice, (iii) promoting policies which provide reasonable economic benefits for such individuals, (iv) reducing the purchase of unnecessary duplicative coverage, (v) improving price competition, and (vi) establishing effective approved State regulatory programs described in subsection (b).

“(B) Such study shall also address the need for standards or certification of health insurance policies, other than medicare supplemental policies, sold to individuals eligible for benefits under this title.

“(C) The Secretary shall, no later than January 1, 1982, submit a report to the Congress on the results of such study and evaluation, accompanied by such recommendations as the Secretary finds warranted by such results with respect to the need for legislative or administrative changes to accomplish the objectives set forth in subparagraphs (A) and (B), including the need for a mandatory Federal regulatory program to assure the marketing of appropriate types of medicare supplemental policies, and such other means as he finds may be appropriate to enhance effective State regulation of such policies.

Report to Congress.

“(2) The Secretary shall submit to the Congress no later than July 1, 1982, and periodically as may be appropriate thereafter (but not less often than once every 2 years), a report evaluating the effectiveness of the certification procedure and the criminal penalties established under this section, and shall include in such reports an analysis of—

Report to Congress.

“(A) the impact of such procedure and penalties on the types, market share, value, and cost to individuals entitled to benefits under this title of medicare supplemental policies which have been certified by the Secretary;

“(B) the need for any change in the certification procedure to improve its administration or effectiveness; and

“(C) whether the certification program and criminal penalties should be continued.

“(g)(1) For purposes of this section, a medicare supplemental policy is a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payment made under this title, which provides reimbursement for expenses incurred for services and items for which payment may be made under this title but which are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed pursuant to this title; but does not include any such policy or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations (or combination thereof), for employees or former employees (or combination thereof) or for members or former members (or combination thereof) of the labor organizations. For purposes of this section, the term ‘policy’ includes a certificate issued under such policy.

Medicare supplemental policy, definition.

“(2) For purposes of this section:

“Policy.”

“(A) The term ‘NAIC Model Standards’ means the ‘NAIC Model Regulation to Implement the Individual Accident and Sickness Insurance Minimum Standards Act’, adopted by the

“NAIC Model Standards.”

- National Association of Insurance Commissioners on June 6, 1979, as it applies to medicare supplement policies.
- Definition. “(B) The term ‘State with an approved regulatory program’ means a State for which the Panel has made a determination under subsection (b)(1).
- “(C) The State in which a policy is issued means—
- “(i) in the case of an individual policy, the State in which the policyholder resides; and
- “(ii) in the case of a group policy, the State in which the holder of the master policy resides.
- Regulations. “(h) The Secretary shall prescribe such regulations as may be necessary for the effective, efficient, and equitable administration of the certification procedure established under this section. The Secretary shall first issue final regulations to implement the certification procedure established under subsection (a) not later than March 1, 1981.
- Emblem usage, effective date. “(i)(1) No medicare supplemental policy shall be certified and no such policy may be issued bearing the emblem authorized by the Secretary under subsection (a) until July 1, 1982. On and after such date policies certified by the Secretary may bear such emblem, including policies which were issued prior to such date and were subsequently certified, and insurers may notify holders of such certified policies issued prior to such date using such emblem in the notification.
- “(2)(A) The Secretary shall not implement the certification program established under subsection (a) with respect to policies issued in a State unless the Panel makes a finding that such State cannot be expected to have established, by July 1, 1982, an approved State regulatory program meeting the standards and requirements of subsection (b)(1). If the Panel makes such a finding, the Secretary shall implement such program under subsection (a) with respect to medicare supplemental policies issued in such State, until such time as the Panel determines that such State has a program that meets the standards and requirements of subsection (b)(1).
- Panel findings, transmittal to congressional committees, effective date. “(B) Any finding by the Panel under subparagraph (A) shall be transmitted in writing, not later than January 1, 1982, to the Committee on Finance of the Senate and to the Committee on Interstate and Foreign Commerce and the Committee on Ways and Means of the House of Representatives and shall not become effective until 60 days after the date of its transmittal to the Committees of the Congress under this subparagraph. In counting such days, days on which either House is not in session because of an adjournment sine die or an adjournment of more than three days to a day certain are excluded in the computation.

“(j) Nothing in this section shall be construed so as to affect the right of any State to regulate medicare supplemental policies which, under the provisions of this section, are considered to be issued in another State.”

(b) The amendment made by this section shall become effective on the date of the enactment of this Act, except that the provisions of paragraph (4) of section 1882(d) of the Social Security Act (as added by this section) shall become effective on July 1, 1982.

Effective date.
42 USC 1395ss
note.

Ante, p. 476.

Approved June 9, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-100 (Comm. on Ways and Means) and No. 96-944 (Comm. of Conference).

SENATE REPORT No. 96-408 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 125 (1979): Sept. 6, considered and passed House.
Dec. 5, considered in Senate.

Vol. 126 (1980): Jan. 30, 31, considered and passed Senate, amended.
May 22, House agreed to conference report.
May 29, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 16, No. 24 (1980): June 9, Presidential statement.

June 9, 1980

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

Today I have signed H.R. 3236, the Social Security Disability Amendments of 1980. This bill is the product of several years of intensive study and review conducted by this Administration and the Congress. It forms a balanced package, with amendments to strengthen the integrity of the disability programs, increase equity among beneficiaries, offer greater assistance to those who are trying to work, and improve program administration.

Since the mid-1950s the social security disability insurance (DI) program has offered protection to insured workers who have lost wages because of unexpected and often catastrophic disabilities. More recently, since 1974, the Supplemental Security Income (SSI) program has provided Federal financial assistance to needy disabled persons whether or not they are covered under the disability insurance program.

Despite their medical impairments, most disabled DI and SSI beneficiaries would like to work. Often they are able to find employment either in their previous occupations or in new jobs. But returning to work can now cause a recipient to lose all his cash and medical benefits, and this formidable financial risk deters many beneficiaries from seeking or accepting serious job offers.

H.R. 3236 is designed to help disabled beneficiaries return to work by minimizing the risks involved in accepting paid employment. It does this in several ways:

- By providing automatic reentitlement to benefits if an attempt to return to work fails within one year;
- By continuing medical protection for up to three years after a person returns to work, and by providing immediate reentitlement to medical benefits if the individual subsequently returns to the disability rolls;
- By taking account of an individual's disability-related work expenses in determining eligibility for benefits; and
- By continuing--on an experimental basis for three years--cash and medical benefits to SSI recipients with low earnings.

H.R. 3236 establishes a special pilot program that will provide \$18 million over a three-year period to allow States to offer medical and social services to employed handicapped people to help them continue working. It also gives the Social Security Administration new authority to test the effect of further changes in the law. Changes which show promise for helping DI and SSI beneficiaries can then be made a permanent part of the law.

H.R. 3236 adjusts the maximum limitation on disability insurance dependents' benefits. The adjustment addresses problems that exist because some disabled workers can receive cash disability benefits that are greater than their previous employment income. The adjusted benefit limitation will not apply to people currently receiving benefits. In fact, no person now receiving benefits will have his or her benefits reduced as a result of any provision in this bill. The final version of the limitation is more restrictive than the Administration proposed, and will impact adversely on some beneficiaries. Therefore, I will expect the Department of Health and Human Services to evaluate carefully its effect on new beneficiaries and be prepared to recommend any changes that may be needed.

A major provision of H.R. 3236 establishes a voluntary certification program for health insurance supplemental to Medicare--commonly referred to as "Medigap" policies--in states that do not have adequate programs of their own to control abuses in the sale of these policies. The new voluntary certification program, which I strongly and actively supported, will do the senior citizens of our country a great service.

It will ensure that approved policies meet prescribed minimum standards, and it will set penalties for furnishing fraudulent or misleading information and for other abuses.

Finally, I would like to recognize the contributions made by Congressman Jake Pickle, Congressman Al Ullman, Congressman Jim Corman, Congressman Claude Pepper, Senator Gaylord Nelson, Senator Russell Long and Senator Max Baucus. Their able leadership and cooperation were essential to the passage of this bill.

JIMMY CARTER

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96th Congress }
2d Session }

COMMITTEE PRINT

{ WMCP: 96-64

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

**DISABILITY AMENDMENTS
OF 1980—H.R. 3236**

PROVISIONS RELATING TO DISABILITY INSURANCE
PUBLIC LAW 96-265 ENACTED JUNE 9, 1980



JULY 21, 1980

Prepared for the use of the Committee on Ways and Means by its Staff

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DISABILITY AMENDMENTS OF 1980

Summary of Disability Insurance Provisions

H.R. 3236 as Approved by the Conference Committee and Signed
Into Law—Public Law 96-265

I. WORK INCENTIVE SECTIONS.

LIMIT ON FAMILY DISABILITY INSURANCE BENEFITS (SEC. 101)

Prior Law.—The social security disability insurance program (DI) determines the amount of benefits payable based on an individual's previous earnings. The formula for determining disability benefits is the same as for retirement benefits. The benefit level is arrived at by applying a formula to the average indexed monthly earnings (AIME) the individual had over the course of a period of years which approximates the number of years in which he could reasonably have been expected to be in the work force. For a retired worker, this period is equal to the number of years between the ages of 21 and 62. For a disabled worker, the number of years of earnings to be averaged ends with the year before he became disabled. In either case, the resulting averaging period is reduced by 5.

The basic benefit amount (the primary insurance amount—PIA) may be increased if the worker has a spouse or dependent children. Benefits for the spouse are payable if the spouse is over age 62 or if the spouse is caring for minor or disabled children. Benefits for children are payable if they are under age 18 or are disabled (as a result of a disability which existed in childhood) or if they are full-time students over age 18 but under age 22. The combined benefit for the worker and all dependents is limited by a family maximum provision to no more than 150 to 188 percent of the worker's benefit alone.

Conference Action.—The bill limits total DI family benefits to the smaller of 85 percent of the worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). Under the provision, no family benefit would be reduced below 100 percent of the worker's primary benefit.

Scope and Effective Date.—The limitation is effective only with respect to individuals who first become entitled to benefits on or after July 1, 1980.

REDUCTION IN DROPOUT YEARS (SEC. 102)

Prior Law.—Disabled workers are allowed to exclude up to 5 years of low earnings in averaging their earnings. However, at least 2 years of earnings must be used in the benefit computation.

Conference Action.—The bill excluded years of low earnings in the computation of disability benefits according to the following schedule:

Workers age at disablement:	Number of dropout years
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

The provision also would allow a disabled worker to drop out additional low years of earnings, if in those years there was a child (of such individual or his or her spouse) under age 3 living in the same household substantially throughout each such year and the disabled worker did not engage in any employment in each such year. In no case would the number of such dropout years exceed 3. Further, dropout years for periods of childcare would be provided only to the extent that the combined number of childcare dropout years and dropout years provided under the regular schedule do not exceed 3.

Scope and Effective Date.—The new schedule of dropout years applies to disabled workers who first become entitled to benefits after June 1980. The provision continues to apply to a worker until his death unless before age 62 he ceases to be entitled to disability benefits for 12 continuous months.

ELIMINATION OF SECOND MEDICARE WAITING PERIOD (SEC. 103)

Prior Law.—Beneficiaries of disability insurance (DI) must wait 24 consecutive months after becoming entitled to benefits to become eligible for medicare. If a beneficiary loses his eligibility and then becomes disabled again, another 24 consecutive month waiting period is required before medicare coverage is resumed.

Conference Action.—The bill eliminates the requirement that a person who becomes disabled a second time must undergo another 24 consecutive month waiting period after becoming reentitled to benefits before medicare coverage is available to him. The amendment applied to workers becoming disabled again within 60 months, and to disabled widows or widowers and adult disabled since childhood becoming disabled again within 84 months.

The conferees accepted the provisions of the House and Senate bills and agreed that the provision would be effective 6 months after enactment.

EXTENSION OF MEDICARE FOR AN ADDITIONAL 36 MONTHS (SEC. 104)

Prior Law.—Medicare coverage ends when disability insurance benefits cease.

Conference Action.—The bill extends medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36 month period is part of the new 24 month trial work period. See section 303.) The new provision applies to disability beneficiaries whose disabilities have not been determined to have ceased prior to the 6th month after enactment.

FUNDING FOR VOCATIONAL REHABILITATION SERVICES FOR DISABLED
INDIVIDUALS

Prior Law.—Reimbursement from social security trust funds is now provided to State vocational rehabilitation agencies for the cost of vocational rehabilitation services furnished to disability insurance beneficiaries. The purpose of the payment is to accrue savings to the trust funds as a result of rehabilitating the maximum number of beneficiaries into productive activity. The total amount of the funds that may be made available for such reimbursement may not, in any year, exceed 1½ percent of the social security disability benefits paid in the previous year.

The House bill eliminated, effective for fiscal 1982, trust fund financing for rehabilitation services but provided trust fund reimbursement for the Federal share (80 percent) to the General Fund of the U.S. Treasury and to the States for twice the State share (20 percent × 2) of rehabilitation services which result in the performance by a rehabilitated individual of substantial gainful activity (SGA) for a continuous period of 12 months or which result in employment for 12 consecutive months in a sheltered workshop. The Senate bill struck the House provision.

Conference Action.—No change from prior law.

The conferees stated that they anticipate that the new method of allocating trust fund money to the States for rehabilitation of social security clients which was recently adopted administratively will continue and be intensified in the future. This method generally allocates the trust fund money based on the relative number of social security beneficiaries each State rehabilitates with earnings at the substantial gainful activity (SGA) level, provided that no State loses more than one-third of its previous year's funding. Currently, rehabilitation is considered to have been achieved when the client has been employed for 2 months. The managers expect that the measure of success, i.e., rehabilitation at the SGA level, will be modified as soon as administratively feasible so that the allocation formula will be based on the State's relative share of the total number of social security clients employed as a result of rehabilitation for no less than 6 months (although not necessarily consecutive) with earnings at the SGA level throughout the period. Furthermore, the managers expect that steps will be taken to develop procedures which will eventually result in the allocation being based on the State's relative share of total benefit terminations brought about by vocational rehabilitation services.

The conferees instruct the Social Security Administration and the Rehabilitation Services Administration recently transferred to the Department of Education to continue to explore the possibility of developing more timely and effective methods of measuring performance in trust fund rehabilitations. The results of these efforts should be promptly communicated to the Ways and Means and Finance Committees.

TERMINATION OF BENEFITS FOR PERSONS IN VOCATIONAL
REHABILITATION PROGRAMS (SEC. 301)

Prior Law.—Under prior law an individual is not entitled to DI and SSI benefits after he has medically recovered, regardless of whether he

has completed the program of vocational rehabilitation in which he has been enrolled.

Conference Action.—The bill provides that DI benefits will continue after medical recovery for persons in approved vocational rehabilitation plans or programs, if the Commissioner of Social Security determines that continuing in those plans or programs will increase the probability of beneficiaries going off the rolls permanently. The provision is effective 6 months after enactment.

TREATMENT OF EXTRAORDINARY WORK EXPENSES IN DETERMINING SGA (SEC. 302)

Prior Law.—Regulations issued under prior law provide that in determining whether an individual is performing substantial gainful activity (SGA), extraordinary expenses incurred by the individual in connection with his employment and because of his impairment are to be deducted to the extent that such expenses exceed what his expenses would be if he were not impaired. Regulations specify that expenses for medication or equipment which the individual requires to enable him to carry out his normal daily functions may not be considered work related, and may not be deducted even if they are also essential to the individual's employment.

Conference Action.—The bill provides for a deduction from earnings of costs to the individual of extraordinary impairment-related work expenses; attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions. The Secretary is given the authority to specify in regulations the type of care, services and items that may be deducted, and the amounts to be deducted shall be subject to such reasonable limits as the Secretary may prescribe. The provision is effective six months after enactment.

EXTENSION OF THE TRIAL WORK PERIOD (SEC. 303)

Prior Law.—Under the DI and SSI programs, when an individual completes a 9 month trial work period, and then in a subsequent month performs work constituting substantial gainful activity (SGA), his benefits are terminated. He obtains benefits for the first month in which he performs SGA (after the trial work period has ended) and for the 2 months immediately following. Under the DI program, widows and widowers are not entitled to a trial work period.

Conference Action.—The bill extends, in effect, the trial work period under the DI program to 24 months. In the last 12 months of the 24 month period the individual would not receive cash benefits while engaging in substantial work activity, but would automatically be reinstated to active benefit status if earnings fall below the SGA level.

The bill also provides that the same trial work period would be applicable to disabled widows and widowers (who are not permitted a trial work period at all under existing law). The provision would be effective 6 months after enactment.

WORK INCENTIVE AND OTHER DEMONSTRATION PROJECTS UNDER THE
DISABILITY INSURANCE PROGRAM (SEC. 505)

Prior Law.—The Secretary of Health and Human Services has no authority to waive requirements under titles II, XVI, and XVIII of the Social Security Act to conduct experimental or demonstration projects.

Conference Action.—The bill authorizes waiver of benefit requirements of the DI and medicare programs to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries. It also authorizes waivers in the case of other disability insurance demonstration projects which SSA wished to undertake, such as study of the effects of lengthening the trial work period, altering the 24 month waiting period for medicare benefits, altering the way the disability program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of private contractors, employers and others to develop, perform or otherwise stimulate new forms of rehabilitation. The bill requires an interim report by January 1, 1983 and final one by 5 years after the date of enactment. The authority would be applicable to both applicants and beneficiaries, and would be effective upon enactment.

II. PROGRAM ACCOUNTABILITY

FEDERAL REVIEW OF STATE AGENCY DECISIONS—REVERSAL OF DECISIONS (SEC. 304 (c))

Prior Law.—Under current administrative procedures of the Social Security Administration, approximately 5 percent of initial disability claims adjudicated by the State disability determination units are reviewed by Federal examiners. This review occurs after the benefit has been awarded, i.e., it is a postadjudicative review. This is on a sample basis and varies from 2 percent in the larger States to 25 percent in the smaller States.

Under prior law, the Secretary had authority to reverse favorable decisions with respect to DI beneficiaries.

Conference Action.—The bill requires Federal preadjudicative review of DI allowances according to the following schedule:

Decisions made in fiscal year:	Minimum percent reviewed
1981.....	15
1982.....	35
1983 and thereafter.....	65

The Secretary would be given the authority to reverse decisions that are unfavorable to DI claimants.

The conferees note that the percentage requirements for preadjudicative review are nationwide requirements and that the Social Security Administration will determine whether they should be higher or lower on an individual State basis. The conferees also instruct the Secretary to report to the Ways and Means and Finance Committees by January 1982 concerning the potential effects on processing time and on the cost effectiveness of the requirement of the 65 percent review for fiscal year 1983, and thereafter.

Effective Date.—Upon enactment.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS (SEC. 311)

Prior Law.—Administrative procedures now provide that a disability beneficiary's continued eligibility for benefits be reexamined only under a limited number of circumstances (i.e., where there is a reasonable expectation that the beneficiary will show medical improvement).

Conference Action.—The bill provides that there will be a review of the status of disabled beneficiaries whose disability has not been determined to be permanent at least once every three years. Cases where the initial prognosis shows the probability that the condition will be permanent would be subject to review at such times as the Secretary determines to be appropriate.

Effective Date.—January 1982.

CLOSING THE RECORD—LIMIT ON PROSPECTIVE EFFECT OF APPLICATION
(SEC. 306)

Prior Law.—Prior law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility until all levels of administrative review have been exhausted, i.e., until there is a final decision. Thus, a claimant can continue to introduce new evidence at each step of the appeals process, even if it refers to the worsening of a condition or to a new condition that did not exist at the time of the initial application. This is frequently referred to as the "floating application" process.

Conference Action.—The conference bill provides for foreclosing the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative law judge (ALJ) hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect.

Effective Date.—Upon enactment.

OWN MOTION REVIEW OF ALJ DECISIONS (SEC. 304 (g))

Prior Law.—After his claim has been denied by the State agency initially and on reconsideration, an applicant has the opportunity for a hearing before an administrative law judge (ALJ). In the past there had also been fairly extensive review of ALJ allowances and denials through own-motion review by the Appeals Council as authorized by the Administrative Procedure Act and the regulations of the Secretary. This own-motion review has almost been eliminated in recent years.

Conference Action.—The Secretary of Health and Human Services would be required to implement a program of reviewing, on his motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act (the disability determination provisions). He would be required to report to Congress by January 1, 1982, on the progress of this program.

The conferees state that the report should indicate the percentage of ALJ decisions being reviewed and describe the criteria for selecting decisions to be reviewed. The conferees are concerned that there is

no formal ongoing review of social security hearing decisions. The variance in reversal rates among ALJ's and the high overall ALJ reversals of determinations made at the prehearing level indicate that there is a need for such review. The conferees recognize that, at the hearing level, the claimant appears for the first time before a decisionmaker and additional evidence is generally submitted. The conferees also recognize that there have been significant changes in State agency denial rates and that in certain areas the ALJ's and State agencies have been operating with different policy guidelines. The report should identify the effects of these factors as well as any differences in standards applied by ALJ's.

Effective Date.—Upon enactment.

LIMITATION ON COURT REMAND (SEC. 307)

Prior Law.—Prior to filing an answer in a court appeal of the final administrative decision, the Secretary of Health and Human Services may, on his own motion, remand the case back to an ALJ. Similarly, under prior law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ.

Conference Action.—The bill limits the absolute authority of the Secretary to remand court cases. It requires that such remands would be discretionary with the court upon a showing by the Secretary of good cause. A second provision relates to remands by the court. The bill provides that a remand would be authorized only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding.

Effective Date.—Upon enactment.

INFORMATION TO ACCOMPANY SECRETARY'S DECISION (SEC. 305)

Prior Law.—There is no statutory provision setting a specific amount of information to explain the decision made on a claim for benefits.

Conference Action.—The bill requires that notices of disability denial to DI and SSI claimants shall use a statement of the case in understandable language and include: "A discussion of the evidence, and the Secretary's determination and the reason(s) upon which it is based."

Effective Date.—The provision is effective for decisions made on or after the first day of the 13th month following the month of enactment.

TIME LIMITS FOR DECISIONS ON BENEFIT CLAIMS (SEC. 308)

Prior Law.—There is no limit on the time that may be taken by the Social Security Administration to adjudicate cases at any stage of adjudication. Several Federal district courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

Conference Action.—The bill requires the Secretary to submit a report to Congress recommending appropriate time limits for the various levels of adjudication of title II cases. In recommending the limits,

the Secretary was to give adequate consideration to both speed and quality of adjudication.

Effective Date.—The report is due on July 1, 1980. However, this report has not yet been submitted by the Secretary.

SCOPE OF FEDERAL COURT REVIEW—FINDINGS OF FACTS

Prior Law.—In Social Security appeals, the U.S. District Court shall have power to enter upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Secretary, with or without remanding the case for a hearing. The findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive.

Senate Bill.—The Senate bill modified the scope of Federal court review so that the Secretary's determinations with respect to facts in Title II and Title XVI would be conclusive, unless found to be arbitrary and capricious. The substantial evidence requirement would be deleted.

Conference Action.—The conference deleted the provisions of the Senate bill because of the uncertainty as to the ramifications of the rule proposed and the concern that the administrative process is not operating with the degree of creditability which would justify elimination of the "substantial evidence rule." Appeals Council own-motion review of ALJ decisions eventually should enhance the validity of the process and lead to the need for less reliance on judicial review. The conferees believe that the National Commission on Social Security should examine the disability adjudication and appeals process generally and deal specifically with such elements as the Administration proposals for judicial review in addition to alternative approaches such as a Disability Court.

The conference committee would like to reiterate what both committees stated in their reports on P.L. 94-202 that the courts should interpret the substantial evidence rule with strict adherence to its principles, since the practice of some courts in making *de novo* factual determinations could result in very serious problems for the Federal judiciary and the social security programs.

III. PROGRAM ADMINISTRATION

ADMINISTRATION BY STATE AGENCIES (SEC. 304(a)(b)(e)(f) AND (h))

Prior Law.—Prior law provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of Health and Human Services. Unlike the grant-in-aid programs, the relationship is contractual and State laws and practices are controlling with regard to many administrative aspects. State agencies make the determinations based on guidelines provided by the Department and the costs of making the determinations are paid from the disability trust fund in the case of DI claimants, or from general revenues in the case of SSI claimants, by way of advancements of funds of reimbursements to the contracting State agency. Present agreements allow both the State and the Secretary to terminate the agreement. The States generally may terminate

with 12 months' notice and the Secretary may terminate if he finds the State has not complied substantially with any provision of the agreement.

Conference Action.—The bill requires that disability determinations be made by State agencies according to regulations or other written guidelines of the Secretary. It requires the Secretary to issue regulations specifying, in such detail as he deemed appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function "in order to assure effective and uniform administration of the disability insurance program through the United States." Certain operational areas were cited as "examples" of what the regulations may specify. These include such items as the nature of the administrative structure, the physical location of and relationship among agency staff units, performance criteria and fiscal control procedures. The bill also provides that this shall not be "construed to authorize the Secretary to take any action except pursuant to law or to regulations pursuant to law."

The bill also provides that if the Secretary found that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his findings, terminate State administration and make the determinations himself. The provision also allows for termination by the State. The State would be required to continue to make disability determinations for not less than 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Effective Date.—The bill provides that these changes will be effective beginning with the 12th month following the month in which the bill is enacted. Any State that has an agreement on the effective date of the amendment will be deemed to have given affirmative notice of wishing to make disability determinations under the regulations. Thereafter, it may give notice of termination which shall be effective no earlier than 180 days after the notice is given.

PROTECTION OF STATE EMPLOYEES (SEC. 304 (b) AND (i))

Prior Law.—Under provisions of the Federal Personnel Manual, when the Federal Government takes over a function being carried out by a State, the Federal agency in its discretion may retain the State employees in their positions.

Conference Action.—The bill requires that if the Secretary of Health and Human Services assumes the disability determination function he must assure preference to State agency employees who are capable of performing duties in the disability determination process over any other individual in filling new Federal positions. However, the Secretary would not be required to provide a hiring preference to the administrator, deputy administrator, or assistant administrator (or comparable position) in the event that the Secretary found it necessary to assume the functions of a State agency. Although he would not be required to provide a preference to persons in those positions, he could do so if he determines that such action is appropriate.

In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor determined that, with respect to any displaced State employees who were not hired by the Secretary, the State had made "fair and equitable arrangements to protect the interests of employees so displaced." The protective arrangements would have to include only those provisions provided under all applicable Federal, State, and local statutes, including the preservation of rights and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements, the continuation of collective-bargaining rights, the assignment of affected employees to other jobs or to retraining programs, the protection of individuals against a worsening of their positions with respect to employment, the protection of health benefits and other fringe benefits, and the provision of severance pay.

The bill also requires that the Secretary submit to the Congress by July 1, 1980, a detailed plan on how he expected to assume the functions of a State disability determination unit when this became necessary. The plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out that function. If any amendment of Federal law or regulation was required to carry out such plan, a recommendation for such amendment is to be included in the plan for action, for submittal to the Congress. The report has not yet been transmitted to the Congress.

Effective Date.—Same as for the provision for Administration by State agencies.

PAYMENT FOR EXISTING MEDICAL EVIDENCE (SEC. 309)

Prior Law.—Authority does not now exist to pay physicians and other potential sources of medical evidence for medical information already in existence when a claimant files an application for disability insurance benefits. Such authority does exist in the SSI program.

Conference Action.—The bill provides that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employment of the Federal Government, which supplies medical evidence requested and required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Effective Date.—Six months after enactment.

PAYMENT FOR CERTAIN TRAVEL EXPENSES (SEC. 310)

Prior Law.—Explicit authority does not exist under the Social Security Act to make payments from the trust funds to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations, and to applicants, their representatives, and any reasonably necessary witnesses for travel expenses incurred to attend reconsideration interviews and proceedings before administrative law judges. Such authority now is being provided annually under appropriation acts.

Conference Action.—The bill provides permanent authority for payment of the travel expenses of individuals (and their representatives in the case of reconsideration and ALJ hearings) resulting from

participation in various phases of the adjudication process. The amount available for air travel normally shall not exceed coach fare.
Effective Date.—Upon enactment.

IV. PROVISIONS FOR TERMINALLY ILL (SEC. 506)

Prior Law.—Under the DI program the waiting period is the earliest period of 5 consecutive months in which an individual is under a disability. An individual is determined disabled if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or is expected to last for not less than 12 months. If an individual becomes disabled and applies for benefits in the same month, the waiting period will be satisfied 5 months after the month of application. With all other conditions of eligibility having been met, benefits will be due for the sixth month after the month in which the disabling condition begins, and will be paid on the third day of the seventh month.

The waiting period cannot begin until the individual is insured for benefits (i.e., the individual has satisfied the quarters of coverage requirements). If the disabling condition begins before an individual is insured for benefits, the waiting period can begin only with the first month in which the individual has insured status.

If a worker is applying for benefits after having been entitled to DI benefits previously (or had a previous period of disability) within 5 years prior to the current application, the waiting period requirement does not have to be met again.

Senate Bill.—The Senate bill eliminated the waiting period for persons with a terminal illness, i.e., a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months and which has been confirmed by two physicians in accordance with the appropriate regulations.

The provision was to be effective for applications filed in or after the month of enactment, or for disability decisions not yet rendered by the Social Security Administration or the courts prior to the month of enactment.

Benefits would be payable beginning October 1980.

Conference Action.—The conferees did not agree to the Senate provision eliminating the waiting period for persons with a terminal illness, but in lieu thereof agreed to a provision authorizing up to \$2 million a year to be used by SSA to participate in a demonstration project which is currently being conducted within the Department of Health and Human Services. The purpose of the project is to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration. It is expected that this demonstration authority and the resulting reports which will be made on demonstration projects will provide the information necessary to enable the Congress to amend the Social Security Act so as to provide the kinds of services most appropriate for individuals who are suffering from terminal illnesses.

Legislative History of H.R. 3236 (96th Congress) and Other Disability Bills Before the Social Security Subcommittee in Previous Congresses—Congressional Research Service Report

The following background paper and legislative history was prepared by David Koitz, Education and Public Welfare Division, Congressional Research Service, Library of Congress. It is a portion of a larger report prepared for Congressman Sam M. Gibbons, Chairman, Subcommittee on Oversight, Committee on Ways and Means, as background material on some hearings that the Subcommittee intends to conduct on work disincentive effects of income maintenance. It should be noted that since this paper deals solely with work disincentives it does not discuss the so-called program accountability provisions of H.R. 3236 and earlier bills. These would be provisions such as the reinstatement of preadjudicative review, review of persons on the rolls with nonpermanent disabilities, the appeals process, and the provisions relating to the State agencies which adjudicate disability.

WORK DISINCENTIVES AND DISABILITY INSURANCE

INTRODUCTION

The social security disability insurance program has been plagued by a history of underfinancing. Within 5 years after enactment in 1956, the Board of Trustees of the social security programs was forecasting that the DI program would not have sufficient resources at some future date to meet fully its benefit obligations. Over the 23-year life of the program, 1957 to 1979, the trustees reported a long-run financing deficiency on 15 separate occasions.¹ As a result, on some six occasions Congress has had to take steps to increase the amount of tax revenues going to the program. Whether the program has been the victim of abuse or misuse by many persons finding a way to avoid work or simply the victim of a stream of inaccurate estimates of caseload and cost is difficult to answer. Nonetheless, coupling this situation with the fact that the program is supposed to provide cash benefits to a segment of the population that at least is perceived to be out of work only because of the existence of a severely disabling condition, the question of whether the program or aspects thereof inhibit work is a constant concern. An almost automatic reaction by many first-time observers of the program is to inquire whether the people benefiting from it are really unable to work.

Similar concerns are not expressed about those receiving social security retirement and survivor benefits, stemming from the view that the retirement beneficiaries and most of the survivor beneficiaries are older and no longer in their prime working years. Perhaps even there is the view that these beneficiaries are receiving benefits that

¹ In four such reports, while reflecting a financial deficiency, the "imbalances" were within what were considered then to be "acceptable" margins of variation from actuarial balance.

are simply a matter of right when one reaches a certain advanced age. Disability, on the other hand, frequently carries the image of a younger worker forced from his job by an accident or illness leaving him with a limiting physical or mental condition. And with it, the perception that with medical care, retraining, possibly the use of a prosthetic device or the like, the individual can be restored to some sort of productive and remunerative capacity.

While this is certainly not an unreasonable perspective, it has to be framed by some understandings of the nature of the program. What was this program expected to accomplish? What has it done for 25 years? With a definition as tough as it has, at least in law, one senses that only the severest of disabled people were to be entitled to benefits. It is not only necessary for an individual to have a severely limiting impairment, but the definition requires that the individual must be unable to do almost any form of work that might exist within several regions of the country.

Certainly with this definition, it is reasonable to ask whether more than a small number of people in society could be so impaired that they might be eligible for benefits. One can imagine that even persons with a complete loss of body motion, sight, hearing, with grossly impaired mental faculties, or with other severely limiting conditions can do some form of work having remunerative value. Society must have the wherewithal to find some way of fitting these people with marketable skills or otherwise returning them to the labor force. Coupled with this view perhaps is the feeling that only a relatively small number of persons—maybe only a few hundred thousand—should be on the DI rolls, rather than the nearly 3 million currently receiving benefits. Perhaps the program even should be viewed only as a temporary stopping-off point while impaired individuals attempt to relocate themselves in the labor force, rather than as a permanent source of income until retirement age or death as it now is for most of those who join it.

But such a perspective ignores the most obvious of intentions in starting the program—namely the creation of an earlier and more adequate retirement benefit under social security. One of the first steps taken by the Congress in the social security area with regard to disability was to minimize the reduction or loss of benefits suffered by certain older workers who, because they became disabled prior to reaching retirement age, had periods of reduced or no earnings included in their earnings records for purposes of computing retirement benefits. The 1954 Social Security Amendments included a so-called "disability freeze" provision under which periods of extended total disability that occurred before age 65 would be excluded from the earnings records of retired workers (the minimum age for social security retirement benefits then was 65). In authorizing the actual payment of disability benefits 2 years later, concern principally for the older workers once again was reflected by the limitation of entitlement to DI benefits only to workers who were at least 50 years of age. The Report to the House of Representatives from the Committee on Ways and Means in 1955 on H.R. 7225 states that:

Your committee believes that retirement protection for the 70 million workers under old-age and survivors insurance is incomplete because it does not now provide a lower retirement age for those who are demonstrably retired by reason of a permanent and total disability. We recommend the closing of this serious gap in the old-age and survivors insurance system by providing for the payment of retirement benefits at age 50 to those regular workers who are forced into premature retirement because of disability.

Moreover, even with the removal of the "age-50 minimum" limitation in 1960 the program's population has remained primarily one of older workers. The average age of a DI beneficiary was between 58 and 59 in the early years of the program. In 1976, it was between 51 and 52. Some 69 percent of new awards made in 1976 went to persons 50 years of age or older. Some 29 percent went to persons 60 years of age or older.

As might be expected with persons at these ages, the types of disorders found are those typically associated with advanced age. More than 30 percent of those awarded benefits in 1976 suffered from heart and circulatory conditions. More than 18 percent had musculoskeletal disorders, the majority of whom had arthritis. Ten percent had cancer and 7 percent had respiratory impairments. Only a little more than 5 percent of awards resulted from impairments caused by accidents.

Also of significance is the fact that more than 30 percent of the persons who joined the DI roll in 1972 died within approximately 5 years after becoming entitled, and another 20 percent or so reached age 65 and were receiving social security retirement benefits.

The basic point is that the young "accident-case" stereotype hardly matches the profile of the typical newly awarded beneficiary. More likely, the newly awarded DI beneficiary resembles an individual receiving early retirement benefits from the social security retirement program.

Presenting a profile of the DI beneficiary in this manner is not intended to suggest that it is futile, given his "likely" age and disorder, to attempt to legislate changes in the program which have the objective of altering the work behavior and attitudes of the disabled; but only to implant the notion that a dramatic change in the size of the program is unlikely to result from efforts to enhance work incentives or reduce work disincentives. By the same token, it is not meant to suggest that concern for the work behavior of the disabled as it relates to the DI program has been overemphasized in recent years or that it represents an over-reaction to the growth which the program has undergone since its inception.

While the typical DI beneficiary is 51 or 52 years of age, some 31 percent of disabled workers who came onto the rolls in 1976 were under age 50. About 15 percent were under age 40. In actual numbers the under age-40 group totaled more than 84,000 persons that year. Moreover, while the introduction of younger disabled workers to the program in 1960 conceivably should have raised the overall recovery rate of the program's recipients, program data show that this did not happen. A recent Social Security Bulletin article points out that legislative changes made in the 1960-67 period increased the proportion of the DI beneficiaries whose disabilities were not likely to be permanent, but the overall recovery rate for the program did not increase accordingly.² The article states that the recovery rate per thousand beneficiaries per year rose from less than 10 in 1960 to more than 30 by 1967. However, in later years it declined sharply, reaching about 15 recoveries per thousand beneficiaries in 1976. The article also points out that while the recovery rate was much higher for persons who entered the rolls under the age of 40 than it was for older workers,

² Treitel, Ralph. Recovery of Disabled Beneficiaries: A Followup Study of 1972 Allowances. Social Security Bulletin, vol. 42, no. 4, April 1979, p. 5.

it was still not a substantial rate. Of the more than 54,000 persons who came onto the benefit rolls and were under age 40 in 1972, less than 11,000 (20 percent) were terminated because of medical recovery or a return to work by the end of 1975. Approximately 37,000 (68 percent) were still receiving benefits. For those who came on in the 40-49 age group, the recovery rate during that 3-year period was only 10 percent; and some 71 percent were still receiving benefits at the end of the period.

Furthermore, the growth of the system cannot be ignored. It has been dramatic, particularly in the early and mid-1970s. In 1960, 4 years after DI benefits were first authorized, 208,000 disabled workers were awarded benefits. In 1978, the number of new awards was 457,000—more than twice the number made in 1960—and this level even reflects a very substantial decline in the new award rate which took place since 1975. Since the inception of the program, nearly 8 million workers joined the benefit roll (1957-79), some 4.8 million of whom came on in the 1970-79 period. In other words, about 60 percent of those who were awarded benefits over the life of the program came on during a period which began 14 years after the program was introduced.

The growth in the number of accessions to the benefit rolls probably was due in large part to a combination of growing public awareness of the program as an early retirement possibility, more liberal benefits, and a number of adverse economic periods when relatively high unemployment either forced or enticed older workers with significant health problems to seek out alternatives to working. In short, factors affecting motivation and attitude toward working and receiving benefits, and not just the physical or mental conditions of the disabled, probably play a major role in explaining why the program is the size that it is.

In summary, interest in developing work incentives in the DI program has to be thought of principally in terms of delaying what might otherwise be early retirement. In so doing, one will probably have to be cautious not to overturn or reverse the basic purposes of providing such benefits in the first place. Some 72 percent of the disabled men and 76 percent of the disabled women on the DI rolls in 1976 were 50 years of age or older. While it might be a reasonable social goal in regard to any program providing benefits to the disabled to find ways to keep people in a productive capacity, either by giving them as few incentives as possible to come on to the benefit rolls or as many incentives as possible to return to work once they do come on, there is a fine line that has to be walked between not simply denying or reducing benefits to persons for whom they were intended and creating adequate work incentives. As the 1955 committee report of the Ways and Means Committee states:

Your committee believes that the covered worker forced into retirement after age 50 and prior to age 65 should not be required to become virtually destitute before he is eligible for benefits as he must under the assistance program. Certainly there is as great a need to protect the resources, the self-reliance, the dignity and the self-respect of disabled workers as of any other group

We believe that everything possible should be done to support and strengthen vocational rehabilitation. Rehabilitation, where it is possible, is the most economical method of providing for disabled persons and is the most satisfactory for the individual

Important as rehabilitation is, it cannot be a substitute for disability benefits. Many disabled persons cannot be vocationally rehabilitated and even those who can will need benefits during rehabilitation. The major proportion of the disabled people who can be successfully rehabilitated are those who are only partially disabled or who are under age 50

Further, while creation of work incentives and removal or work disincentives in the DI program probably would have the largest potential for success among younger disabled workers, it has to be kept in mind that the younger disabled person is not the typical beneficiary of the program—he is in the minority. And while his ability to stay in or return to work is probably the greatest, he already has the most difficult time among DI applicants of getting on to the rolls because of his age,³ and he has a demonstrated recovery rate which, while relatively low, is already six or seven times greater than that of the age-55 disabled worker.

WORK INCENTIVE ISSUES LEADING UP TO RECENT DI LEGISLATION,
H.R. 8286

Major concerns in the 1970's about the DI program

The recent interest in the Congress in the social security DI program, which has been building up since the mid-1970's has been driven for the most part by three concerns. The first is the rising cost of the system. Originally the program was financed with a combined tax rate on the employee and the employer of .50 percent of taxable earnings. Today, after numerous legislated liberalizations and a period of expansive enrollment the combined tax rate is 1.50 percent of taxable earnings, and it is scheduled to rise in the future to an ultimate combined rate of 2.20 percent of taxable earnings. The annual cost of the system has risen from \$3 billion in 1970 to an estimated \$16 billion in 1980. The second concern is over repeated allegations that the program has suffered from a number of administrative failings. It is argued that the decision-making process does not always render uniform and equitable decisions from one applicant or beneficiary to another; that oversight of the State disability determination services and Administrative Law Judges (the principal entities making decisions about the existence of a disability) has not been adequate enough to avoid a loosening of the standards of eligibility; and that there has not been enough follow-up of whether a beneficiary's disabling condition continues after he joins the benefit roster. Much of this concern stems from the fact that the Social Security Administration abandoned a number of review and oversight procedures at a time when the number of new beneficiaries surged. Whether there is a cause and effect relationship here or a mere coincidence has been difficult to ascertain; however, most program experts believe that the two situations were related at least partially. Finally, there is the concern that, coupled with rising benefit levels, various aspects of the program have served to be ineffective work incentive measures or have created barriers for the beneficiary to attempt to return to work.

While these concerns overlap a great deal, the growth of the program has probably been the most visible of the three, and the one which has exerted the greatest pressure on the Congress to review the workings

³ Age is one of the nonmedical aspects of the definition of disability for DI benefits required by law.

of the program. As previously mentioned, the legitimacy or illegitimacy of this growth, while having been explored by many, has been difficult to get a handle on since the extent that each possible cause of growth had on the aggregate size of the program is unclear and probably indeterminable, particularly with respect to the growth which took place during the past decade.

It has been suggested that awareness of the existence of the program has risen. Findings from the 1966 and 1972 Surveys of the Disabled conducted by the Office of Research and Statistics of the Social Security Administration show that knowledge of the program's existence did go up during the period between the two surveys.⁴ The subsequent introduction of the Supplemental Security Income (SSI) program in 1974 may have further increased awareness of the program. There were significant outreach efforts initiated by the Social Security Administration as well as by public interest groups during the first few years of the SSI program intended to let the needy elderly and disabled know of the new program. This coupled with the fact that SSI recipients also may be entitled to DI benefits if they have a sufficient work record, and are required by law to file a dual application for SSI and DI benefits, may have significantly broadened the public's knowledge of the DI program. This is bolstered by the fact that more applications for DI benefits were filed in 1974 than in any other year in the history of the program. The number of DI applications increased from 1,067,500 in 1973 to 1,331,200 in 1974, almost a 25 percent increase.⁵ Moreover, the overall level of applications has not fallen significantly from that peak year. Some 1.185 million applications were filed in 1978, and 1.223 million were filed in 1979. Further, the rate of applications per thousand insured workers in the population grew throughout the early 1970s and was still some 30 to 40 percent higher in the post-SSI implementation years than the rate that existed in the 1965 to 1970 period.

However, even though awareness of the program may have grown and may explain in large part the growth in the rolls, other factors affecting the actual decision to apply for benefits also may have played a role in the growth of the program. One such factor is the increase which has occurred in the relative size of benefits. Studies done by the Office of Research and Statistics and the Office of the Actuary of the Social Security Administration point out that not only have benefits increased in absolute terms, but that the benefits have grown in terms of the amount of earnings they replace (i.e., the ratio of the disabled worker's initial benefit to his earnings before becoming disabled). The study by the Office of Research and Statistics showed that the ratio of the average benefit award given to the worker alone to his earnings in the year before the onset of his disability rose from 51 percent in 1969 to 59 percent in 1975. Further, the authors state that "one fourth of those entitled in 1969 had replacement rates of 80 percent of their previous earnings, but in 1975 this proportion had increased to 31 percent. In fact, one-fourth of the newly entitled

⁴ U.S. Dept. of Health, Education, and Welfare. Social Security Administration. Office of Research and Statistics. *The Growth in the Observed Disability Incidence Rates 1967-1974*. Prepared by Mordechai E. Lando and Aaron Kruta. Presented at the Annual Meeting of the American Public Health Association, October 19, 1976, p. 3.

⁵ Lando, Mordechai E., and Aaron Kruta. *Disability Insurance: Program Issues and Research*. Social Security Bulletin, v. 39, no. 10, October 1976, p. 10.

received more in benefits than they earned while working."⁶ The actuaries' study suggested that average replacement rates for a worker with median earnings and having dependents increased from about 60 percent in 1967 to 90 percent in 1976 (as measured by the ratio of benefits received by the worker and his dependents to his after-tax earnings in the year before the onset of disability).⁷ While different periods of measure and family composition were used and different replacement values resulted, both studies point to a rather significant increase in replacement rates over the period in which enrollment in the program grew most rapidly.

Another factor which increased the value of the benefits was the introduction of Medicare coverage for DI beneficiaries in 1972. Medicare benefits can be provided after a DI beneficiary has been on the cash benefit rolls for 24 consecutive months. It is estimated that the value of Medicare protection to the DI beneficiary is more than \$100 per month on average. While it is very likely that a DI applicant does not put much weight on the value of Medicare at the time he makes his decision to apply, since he will have to wait 24 months to receive such protection anyway, the loss of Medicare coverage to someone who is thinking about leaving the rolls probably poses a very serious threat, particularly if there is any question of whether or not he will be able to obtain health insurance through his employer or privately.

This leads to another possible factor contributing to the growth, namely a decline in the termination rate. A smaller percentage of the total beneficiaries left the roll each year from the inception of the program through at least the late 1970s. Much of this, as might be expected, was due to a decline in the rate of beneficiary deaths and conversions to the retirement rolls as a greater number of younger and less severely disabled persons joined the DI rolls.⁸ However, the rate of terminations due to recovery, return to work, or rehabilitation also declined in the late 1960s and early 1970s, contrary to the general intuitive feeling that it should have risen. In 1967, when there were some 1.1 million disabled workers on the rolls, 37,000 beneficiaries recovered and were terminated; yet in 1975, when there were 2 million disabled workers on the rolls only 39,000 recovered. The recovery rate actually declined from 32 persons per thousand beneficiaries in 1967 to a little higher than 16 persons per thousand beneficiaries in 1975.⁹ It has been suggested that this was due to the fact that the incentives to leave the benefit roll were eroded by the rising value of cash benefits and the concern about the loss of health insurance protection, coupled with the fear of being unable to adapt to working conditions after making the irrevocable decision to leave the rolls.

Still another possible factor contributing to the growth is that lax administration, and pressure put on the Social Security Administration by the Congress and the public during the early 1970s, to place speed ahead of accuracy in making disability determinations caused an unintended loosening of the strict definition of disability, allowing

⁶ Lando, Mordechai E., Malcolm B. Coate, and Ruth Krans. Disability Benefit Applications and the Economy. Social Security Bulletin, v. 42, no. 10, October 1979, p. 6.

⁷ U.S. Dept. of Health, Education, and Welfare. Social Security Administration. Office of the Actuary. Experience of Disabled Worker Benefits under OASDI, 1965-1974. Washington, Jan. 1977.

⁸ The 1960 Social Security Amendments authorized DI benefits for disabled workers under age 50. The 1965 Amendments liberalized the definition of disability to permit persons into the program whose disabilities were expected to last as few as 12 months, instead of "indefinitely" as required under prior law.

⁹ Treitel, loc. cit.

many borderline disabled persons into the program permitting many others who had recovered to stay on. While administrative shortcomings have little to do with program awareness and the propensity on the part of the applicant or beneficiary to apply and recover, a loosening of administrative standards can have an impact on the number of persons who actually are allowed into the program and the number who actually are terminated. It even has been suggested that the relatively obscure degradation of administration over the years has been the real factor accounting for the growth. Prior to 1972, more than 70 percent of the decisions made by the State disability determination agencies to allow applicants into the program were reviewed by Federal examiners to verify their correctness. A sample review process was adopted in 1972 after which only 5 percent of the allowed cases were subjected to this review, and then only after the individual was allowed onto the rolls. In the late 1960s, approximately 10 percent of all beneficiaries were reviewed each year to ascertain whether or not they continued to be eligible. In the first half of the 1970s, only about 4 percent of the beneficiaries on the rolls were investigated annually. Whether these and other measures had a direct link on the size of the rolls is not really clear, but their timing does raise the impression that they were related events. This is bolstered by the fact that increases in the denial rate for new applicants and in the number of persons terminated in recent years have actually brought about a leveling off of the number of persons on the rolls. This shift has been attributed by some program analysts to the Social Security Administration's subtle but distinct emphasis since 1976 on improving the quality of disability decisions.

Legislative momentum in the 94th Congress and 95th Congress

The recent action on the part of Congress in changing the DI program reflects an attempt to deal with some of these problems, at least with those arising from the program's own features. This renewed interest probably began within the Committee on Ways and Means in July 1974 with the issuance of the Committee Staff Report on the Disability Insurance Program. Pointing to "chronic actuarial deficiencies," a time-consuming multi-level appeals process that carried a high reversal rate, removal of a major Federal review procedure from the claims process, and the tendency of the courts to take more and more latitude in determining who suffers from a disability for the purposes of entitlement to DI, the staff report concludes that:

* * * a number of serious problems exist in connection with the operation of the program. Some of these problems, it is hoped, are temporary, particularly those resulting from the strains that the Social Security system has undergone in connection with the implementation of the Supplemental Security Income program and the carrying out of the Social Security Administration's responsibilities under the Black Lung Program. Other problems arise out of the manner in which the program is being administered and out of the law itself. These problems, however, are not beyond the capabilities of the Social Security Administration or the Congress and they can be corrected or at least held within reasonable bounds by assuring that this admittedly complex program is administered efficiently at every level.¹⁰

Within 2 years the then new Subcommittee on Social Security of the Ways and Means Committee began exploring some of the problems

¹⁰ U.S. Congress, House, Committee on Ways and Means, Committee Staff Report on the Disability Insurance Program, 93rd Cong., 2d Sess. Washington, U.S. Govt. Print. Off., July 1974, p. 2.

with the aim of developing remedial legislation where needed. Hearings were held in February 1976 and again in May and June of that year. In September, Congressman James Burke, then Chairman of the subcommittee, introduced a disability reform measure, entitled the "Disability Insurance Amendments of 1976," H.R. 15630. Among other provisions intended to improve the administration of the program, make the definition of disability less subjective and improve the financing of the program, the bill contained a number of work-incentive measures.

The bill provided that the amount of earnings which would cause the termination of disability benefits, the so-called "substantial gainful activity" level, would automatically increase as average wages rise in the economy. It provided for a 24-month "trial work" period before earnings would terminate benefits (in lieu of the 9-month period provided under the existing law) and for the gradual reduction of benefits during the trial work period on the same basis as was done for retired people. It further eliminated the second 2-year waiting period for Medicare benefits for disabled workers who went off the rolls but whose disability recurred and who then reapplied for benefits. And finally it imposed a limit on the benefits of young disabled workers—and survivors of deceased workers—so that they could not get more in benefits than an individual retiring at age 65 who had the maximum wage base his entire working life. All these provisions were aimed at work-incentive problems perceived to interfere with beneficiary motivation in seeking work and engaging in rehabilitation.

Although not described as a work-incentive measure, the bill further provided for a limit on trust fund rehabilitation expenditures at the 1976 level with subsequent increases in future years only to adjust for inflation. This was a recommendation of the GAO which felt that this limit was desirable until such time that the Department of Health, Education, and Welfare could demonstrate that additional funds would be expended effectively in bringing about savings to the trust funds through terminations resulting from rehabilitation.

This new proposal was based in part on a 1976 GAO report which suggested that the benefit to the trust funds of providing separate rehabilitation funding for social security clients had declines substantially in the early 1970s when compared to the cost of rehabilitation. It was also based on the rather limited overall success that the separate funding procedure had attained over its first 9 years of availability, 1965 to 1974. According to a committee staff document, only about 20,000 beneficiaries had been terminated from the benefit roll as a result of rehabilitation during that period. The amount of funding provided had exceeded \$200 million. Further, the number of successes represented a very small fraction of the more than 3.5 million disabled workers who had joined the DI roster during those years.

While no action was taken by the subcommittee on the bill during the remainder of that session of Congress, the bill did become a forerunner of a number of DI bills taken up by the subcommittee over the next 3 years.

Congressman Burke resubmitted his bill the following year, the Disability Insurance Amendments of 1977, H.R. 8076. Like the preceding bill, the general thrust of the new bill was to improve the administration of the program and enhance work incentives. This bill

contained most of the same work incentive measures that were contained in H.R. 15630 of the 94th Congress, with four notable exceptions. First the "cap" limiting DI benefits to the maximum level payable to an age-65 retiree was dropped. That cap was aimed primarily at the situation in which a younger disabled worker could receive substantially higher benefits than his older counterpart because of the way earnings were counted for purposes of computing benefits. The differential was caused by the fact that the older worker would have a longer period of earnings used in the computation of benefits than the younger worker. Generally this resulted in the inclusion of a number of low years of earnings from the early part of the older worker's career in his average earnings computation, which in turn tended to deflate his benefit amount. The younger worker, i.e., below age 47 at the time of entitlement to benefits, had fewer years of earnings used to compute his benefits, and the years that were used tended to be more recent than those of his older counterpart and thus higher because wage levels were generally higher when he worked. Older workers also were limited by the fact that in the past the social security wage base had not kept pace with wage growth generally particularly in the 1950s and 1960s. The wage base had been relatively low in comparison to that of recent years and thus did not allow the older worker in some instances to fully reflect his earnings in the benefit computation, at least not as fully as that of the younger worker.

The H.R. 15630 "cap" would have lessened the differential at least for the older and younger workers at higher earnings levels (i.e., those who had earnings at the social security wage base), by precluding the younger worker whose benefits were based on earnings from a period of time shorter than that used by the older worker from receiving a higher benefit than would be payable to the worker retiring at age 65 who had earnings at the wage base level or higher throughout his career.

It was recognized that the "cap" was less than a perfect solution to the overall problem of potentially excessive benefit levels, for it did little with respect to high earnings replacement which appeared to be occurring at moderate- and low-earnings levels as well as at the higher levels. However, it did serve to draw attention to at least one situation of potentially high benefits being paid out from the DI program.

With the introduction in the spring of 1977 of the "wage-indexing" decoupling measures as part of the Carter Administration's proposal to correct the financial problems of the social security system as a whole, the H.R. 15630 "cap" was no longer seen as being necessary. One of the "wage-indexing" measures called for the indexing of earnings histories. This meant that the year-to-year earnings used to compute average monthly earnings would be increased to reflect the earnings level that they would represent if they had been earned today. Workers having a similar work background, but who worked at different points in their lives, would have roughly the same amount of earnings used in the computation of their average earnings and thus they would have similar benefit amounts. It would not matter whether the period of their covered earnings occurred recently or many years prior—their earnings would be treated as if they had been earned recently for benefit computation purposes. This change combined

with other changes in the benefit formula had the effect of "leveling down" the DI benefits of younger workers, so that they would be more in line with those of older disabled workers and those payable under the retirement program.

This potential lessening of the benefit differential between the younger and older disabled worker by the decoupling measures was recognized in H.R. 8076 by the exclusion of the "cap" from the bill. However, in the introduction of the bill the Chairman remarked that it was still unclear whether the decoupling measures also would be adequate enough to avoid all situations of high earnings replacement from continuing to occur in the future, and it was suggested that the Social Security Administration might continue to examine the incidence of high replacement rates under the new benefit formula being adopted with the decoupling measures.

The second change made in H.R. 8076 from the "work incentive" measures proposed the previous year was the exclusion of the two provisions affecting the maximum amount of earnings a disabled worker could have without causing a termination of benefits. The first such provision in H.R. 15630 was to allow this maximum level, referred to by law as the substantial gainful activity level, to rise in the future at the same rate that average wages rise in the economy. The second change would have allowed a DI beneficiary to have earnings above this maximum level while he was in a "trial work period" and still retain benefit status, but the amount of benefits received would be reduced by \$1 for every \$2 he had in earnings above the maximum threshold. These provisions were excluded from H.R. 8076 because of the lack of any research evidence suggesting that they might be effective work motivation measures and because of potential high costs. In fact, the little evidence that did exist suggested that alterations that had been made to the substantial gainful activity threshold over the years of the program, which had been raised incrementally from \$100 a month in the program's early years to \$200 in 1977, had no effect on the work effort of DI beneficiaries.¹¹ The bill did include, however, a one-time increase in the substantial gainful activity level to \$250 and a new demonstration authority requiring the Social Security Administration to carry out projects designed to determine the relative advantages and disadvantages of possible new methods of treating the work activities of disabled beneficiaries, including such methods as reducing their benefits gradually because of earnings.

The third change incorporated in H.R. 8076 was the exclusion of the limitation allowing increases in trust fund expenditures for rehabilitation only to the extent that they reflected increases in inflation, and the substitution of a new provision altering the way trust fund rehabilitation funds were to be distributed to the State rehabilitation agencies. At that time, the allocation of trust fund rehabilitation money to the States was based on the relative size of the disabled population in each State. The new provision would have altered this distribution somewhat by linking a portion of the overall money that would be made available for social security clients to the number of

¹¹ Franklin, Paula A. The Impact of Substantial Gainful Activity Level on Disabled Beneficiary Work Patterns. *Social Security Bulletin*, v. 39, no. 8, August 1976, p. 20-29.
The substantial gainful activity level was raised to \$240 in 1978, retroactive to January 1977.

beneficiaries actually terminated from the benefit rolls as a result of each State's rehabilitation efforts. It was also intended to simplify the existing rehabilitation financing provisions.

There are three separate potential sources of funding for State rehabilitation activities relating to social security clients—the Basic State Rehabilitation Grants programs, the social security trust funds, and the supplemental security income program. The bill would have consolidated the trust fund money into the Basic State Rehabilitation Grants program, by raising the overall authorization level of that program and eliminating most of the trust fund financing. The new money added to the Basic State Grants authorization would have been distributed on the same basis as the existing authorization for that program—i.e., more or less a combination of population and per capita income—coupled with a required minimum 20 percent match by the State. Trust fund reimbursements would occur only where an actual termination from the benefit rolls was brought about for a minimum of 12 consecutive months as a result of the rehabilitation services provided to the beneficiary. Moreover, the amount of this payment was to be equal to the State's share of the costs of providing such services to the terminated beneficiary (usually 20 percent of such costs), plus a bonus amount equal to another 20 percent of those costs. In effect, the State agency was to receive 80 percent of the costs of the services it provided to any social security client from the Basic Grants program (a level equal to the Federal reimbursement it received on all other types of clients), and if the services resulted in the client's termination from the social security benefit rolls, the trust funds would pay for the State's share of the costs of rehabilitating that client plus another 20 percent. The total amount of reimbursement for a terminated beneficiary would have been equal to 120 percent of the costs.

In contrast to the temporary change incorporated in H.R. 15630, this provision was intended to be a permanent change.¹²

A fourth change incorporated in H.R. 8076 from the preceding bill was the addition of a provision to continue Medicare coverage for a period of 3 years after cash benefits cease. Coupled with the provisions in the bill to provide a DI beneficiary with a 12-month suspended entitlement period following the termination of cash benefits, this provision was intended to remove what was perceived to be a significant disincentive for DI beneficiaries to leave the benefit rolls—i.e., the finality of the benefit loss. This had been a recommendation made in 1975 by a committee of Federal and State disability/rehabilitation experts. Their report stated that:

For the severely disabled who have chronic disorders, Medicare or Medicaid benefits represent a significant contribution to a beneficiary's income and hence to his sense of economic security and health maintenance. Also, effective private or other health insurance may not generally be available to the severely disabled individual. Potential and active VR clients, faced with the prospect or opportunity for re-employment which would eventually result not only in loss of monthly benefits but loss of health benefits as well, are likely to, and do, weight the total economic values of the monetary and health benefits before accepting job placement. This issue becomes most acute and apparent when the employment target will produce wages of only slightly more than the SGA [substantial gainful

¹² It should be mentioned that the Rehabilitation Services Administration and Social Security Administration in recent years have altered the manner in which trust fund rehabilitation money is distributed to the States, with more emphasis being placed on "performance" or "successful" rehabilitation. This was done under current law.

activity) level. Even when the Federal minimum wage (approximately \$4,200 yearly) is applicable to the job opportunity, the combination of total benefit amount and health benefits potential may well exceed the after tax income from work. Such a major disincentive was not envisioned when the original Title II BRP (Beneficiary Rehabilitation Program) was enacted.¹⁸

This new provision was to be applicable to all beneficiaries who were terminated from the benefit roll, except for those who recovered medically.

The subcommittee did not take up the Chairman's new bill immediately following its introduction in June 1977, for the imminent financing problems facing the entire social security system consumed most of the subcommittee's time during the remainder of the year. However, the Social Security Amendments of 1977 (H.R. 9346, enacted in December 1977) authorized among a number of provisions intended to ameliorate those financing problems, the Administration's wage-indexed decoupling measures—including the provision requiring earnings histories to be indexed. The decoupling measures were directed more at the long-range financing problems of the entire system than at the specific problems associated with the level of benefits being paid out of the DI programs. They changed the benefit computation procedures for almost all forms of social security benefits. Nonetheless, they were expected to have the major residual effect of substantially reducing the benefit differential between the younger and older disabled worker and of generally reducing DI replacement rates. Coupled with the dampening effect caused by the wage-indexing of earnings histories, the new benefit formula incorporated an average 5 percent reduction in benefits for the entire social security system for new beneficiaries over the long run. The average reduction in new DI benefit awards was estimated to be somewhere in the range of 7 to 10 percent, and the average reduction for the new, younger disabled worker was estimated to be even greater, in some cases approaching as much as 30 percent. Moreover while a transition period to the new system was built into the amendments for the retirement program, allowing persons approaching retirement during the next 5 years to use a modified version of the old method of computing benefits, the new formula became effective for new DI and survivor beneficiaries in 1979.

Despite the impact of these amendments on DI benefits, the Ways and Means Committee Report leading up to the Amendments made clear that this did not conclude its review and possible legislative recommendations related to the DI program.

Beginning in late spring 1978, the subcommittee on social security began consideration of DI legislative proposals with emphasis on those contained in the Chairman's bill, H.R. 8076. In September 1978, the subcommittee reported out a bill to the full committee, H.R. 14084, the Disability Insurance Amendments of 1978. As with the Chairman's preceding bills, this bill also had a major section dealing with work incentives. While there were numerous changes made to various other parts of the Chairman's previous bill, particularly in the administrative area, probably the major difference between the subcommittee's new bill and H.R. 8076 was the recommendation to adopt a new limitation on the benefit amount of disability awards where they involved the payment of benefits to dependents in addition to those of the disabled worker. The new limit was

¹⁸ SSA-RSA Ad Hoc Committee, Final Report—Ways to Improve the Trust Fund and SSI Programs (Rehabilitation Services), September 1976.

proposed primarily as a means to further reduce work disincentives. The report from the subcommittee to the full committee began with the statement:

One of the continuing problems in disability is the fact that the amount of benefits received by disability beneficiaries may constitute a substantial work disincentive. Our decoupling legislation enacted last year helped to some degree in this regard but many commentators think the disability benefit formula itself still creates a major problem.¹⁴

The report further cited studies by actuaries of the Social Security Administration and in the private sector that high replacement rates constituted a major disincentive for the disabled worker to work and engage in rehabilitation, and pointed out that a recent analysis performed by the Department of Health, Education, and Welfare showed that even after the decoupling changes, the benefit formula would still produce relatively high replacement rates for disabled beneficiaries and their families. The report quoted a speech given by the Secretary of HEW in April 1978 in which he remarked on the Department's analysis:

Some Beneficiaries Receive Excessive Benefits.—Six percent of last year's awards actually increased the disabled person's after-tax income. Almost one-fifth of awards produced earnings replacement rates of more than 80 percent.

The report also pointed out the experience in the private sector with high replacement rates. The report stated:

There is evidence that high replacement rates increase the incidence rates for private group long-term disability insurance policies. Private insurance plans with replacement rates in excess of 70 percent have disability incidence rates two-thirds higher than the average, and plans with replacement rates below 50 percent have incidence one-third below average. Because of this experience, private insurers generally attempt to limit disability benefits to 50 or 60 percent of gross earnings.

The subcommittee recommendation to deal with the potentially excessive DI replacement rates was to limit total DI family benefits to the smaller of 80 percent of the disabled worker's average indexed monthly earnings or 150 percent of the worker's benefit, whichever was lower. No one currently on the benefit roll would be affected, and the disabled worker with dependents would be guaranteed to receive at least the level to which he alone was entitled, even if that level exceeded the new limitations. Similarly, benefit amounts of disabled workers without families would not be affected.

Two factors contribute to potentially high replacement rates in the social security program. One is that the benefit formula is weighted in favor of low-income workers. There are three steps in the social security benefit formula. The first one converts the first \$194 of average indexed monthly earnings into benefits at the rate of 90 percent.¹⁵ The second and third steps have successively lower percentages. The second factor is the payment of benefits in addition to those paid to the disabled worker because the worker has dependents.

The first step in the benefit formula converting benefits into earnings at the rate of 90 percent already would have exceeded the subcommittee's limitation. However, the subcommittee did not want to alter this tilt in the benefit formula, particularly since the high replacement rates it potentially created were concentrated among disabled workers

¹⁴ U.S. Congress. House. Committee on Ways and Means. Subcommittee on Social Security. Proposed Disability Insurance Amendments of 1978 (H.R. 14084). Committee Print, 95th Cong., 2d Sess. (WMCP: 95-101) Washington, U.S. Govt. Print. Off., 1978, p. 1.

¹⁵ This is the first step in the formula for persons attaining age 62, or dying or becoming disabled before age 62, in 1980. The steps actually are expanded each year at the same rate the average wage in the economy rises.

having relatively low earnings. Dependents' benefits, on the other hand, were not confined to disabled workers at the lower earnings levels. In fact, analyses showed that family benefits were more prevalent in the middle and higher earnings brackets.

The first portion of the subcommittee's new limitation—80 percent of average indexed monthly earnings—was similar in form to the social security workers' compensation offset provision already in the law. This existing provision reduces DI benefits when the combined benefits from both a DI and a workers' compensation award exceed 80 percent of past earnings. The proposal was not completely identical in form to the workers' compensation offset in that the proposed limitation would apply to average indexed monthly earnings, while three alternative measures of past earnings can be used to determine the maximum combined benefit level under the existing provision (whichever is most favorable to the beneficiary). Typically, the 80 percent DI/workers' compensation limit is applied to the highest year of earnings, starting with the year in which the disability occurred and including the 5 preceding years. Further, the offset is applied against the benefits of disabled beneficiaries without dependents in addition to those with family benefits. Nonetheless, the principle that benefits should not exceed some measure of past earnings was carried over into the committee's provision.¹⁹

However, because the impact of the 80 percent of average indexed monthly earnings limitation would be greatest for disabled worker families at the lower average indexed monthly earnings levels, and because such a limitation would not affect disabled workers' families where the disabled worker had fairly high average indexed monthly earnings (at that time, above approximately \$900 per month), the subcommittee adopted a second measure limiting family benefits to no more than 150 percent of the disabled worker's benefit. This second measure was to apply only if it would result in lower family benefits than the 80 percent of average indexed monthly earnings permitted. Under the existing family maximum rules, which apply to the entire social security program, a family could receive maximum benefits ranging from 150 percent to 188 percent of the worker's benefit depending upon the level of the worker's benefit. Generally the higher the worker's own benefit, the higher the family maximum percentage would be. Families of workers with low benefits were already subjected to a maximum family benefit pegged at the 150 percent level. This part of the subcommittee's proposal in effect would make the maximum DI family benefit uniform at 150 percent of the worker's benefit at all benefit levels.

Analysis given to the subcommittee showed that the effect of this combined approach to limiting DI family benefits would produce a more even reduction in the maximum family benefit payable at all levels of benefits than that resulting from the 80 percent limitation alone. It was estimated to have the equivalent effect of holding maximum family benefits to about 65 percent of average indexed monthly earnings at the highest benefit levels.

Another new measure affecting benefit levels adopted by the subcommittee was to vary the number of years of earnings a disabled

¹⁹ It should be noted, though, that the combined level of the two benefits can never be reduced to a level that would be less than what the worker would have received from social security alone. In other words, the social security benefit level is the guaranteed minimum.

worker could drop in computing his average earnings for the calculation of his initial benefit. Under the existing law, 5 years of low earnings could be dropped for almost all types of social security benefit computations, retirement, survivors, and disability alike. This theoretically gave the younger worker (or family of a deceased worker who died at an early age) an advantage over the older worker, since the younger worker was allowed to drop out a larger portion of his earnings record from the average monthly earnings computation. A worker disabled at age 29 for instance could drop 5 out of his highest 7 years of earnings in computing his average or 71 percent of the portion of the earnings record used for benefit computation purposes. An age-50 disabled worker, on the other hand, could drop only 5 out of 28 years i.e., 18 percent of his countable earnings record. The subcommittee recommended that the number of years of low earnings which a worker could drop in computing his average be made roughly proportional for disabled workers of all ages. The subcommittee proposal would have allowed no drop-out years for workers under age 28, but would have allowed a gradually higher number of drop-out years for workers of higher ages, up to a maximum of 5 for workers age 45 and older. The subcommittee added one exception, which provided that if the worker was responsible for the principal care of a child under age 6 for more than 6 months in any calendar year, the number of drop-out years would be increased by 1 for each such year but to no more than 5.

This proposal was intended to reduce further the disparity in benefits between younger and older disabled workers. In contrast to the new family maximum benefit provision, this proposal was to apply to workers both with and without dependents.

Neither of these new benefit reduction measures was recommended for other parts of the social security program, i.e., to retirement or survivor benefits, since the primary focus was on work incentives in the DI program. Also, with respect to the proposed limit on family benefits, the prevalence of family benefit situations (and thus the likelihood of high replacement rates) was substantially greater among disability beneficiaries than among retirees and survivor beneficiaries. Some 20 percent of the disabled workers in current payment status in 1976 had 2 or more dependents also receiving benefits. Only 1.6 percent of the retirees in current payment status had 2 or more dependents receiving benefits, and only 9 percent of the survivor cases in current payment status involved families of three or more.¹⁷

The subcommittee endorsed all of the other work-incentive measures of the chairman's previous bill, and in addition, included two new provisions to further stimulate work activity. The first would have allowed a DI applicant to exclude the costs to the worker of any extraordinary work expenses necessitated by a severe impairment in computing whether earnings alone are too high to permit the payment of benefits (i.e., they exceed the substantial gainful activity threshold). Existing regulations permitted the deductions of such expenses, but only if such expenses were not needed for daily living. In other words, if they only were needed to engage in work activity, their deduction was permitted; however, if the beneficiary needed

¹⁷ Social Security Administration, Office of Research and Statistics.

them to meet his daily living needs as well, they were not considered as being extraordinary work expenses.

The second measure provided that no beneficiary would be terminated from the benefit roll due to medical recovery if the beneficiary were participating in an approved vocational rehabilitation plan which the Social Security Administration determined would increase the likelihood that he would be permanently removed from the rolls. The concern here was that when medical recovery was ascertained, the type of activity the individual was determined to be able to do was often of an unskilled nature which, even if available, would not keep him employed on a long-term basis and off the benefit rolls. This proposal had been a long-standing recommendation of social security rehabilitation experts.

Legislative activity of the 96th Congress

The full committee did not have time in the remaining portion of the 95th Congress to take up the subcommittee's bill. However, early on in the 96th Congress, a similar bill was introduced by the new chairman of the Social Security Subcommittee, Representative J. J. Pickle. This bill, H.R. 2054, contained the same work-incentive measures as those in the subcommittee's bill of the previous year, with one exception. H.R. 2054 had a slightly lower family benefit limitation. Instead of setting the maximum at 80 percent of average indexed monthly earnings or 150 percent of the worker's benefit, H.R. 2054 set the maximum at 75 percent of average indexed monthly earnings or 150 percent of the worker's benefit.

The Administration also introduced a DI bill, H.R. 2854, which incorporated many of the work-incentive measures that were contained in the various DI bills that had been pending before the subcommittee in the previous two Congresses. In the way of benefit reductions, the Administration proposed both a new family benefit limitation and a variable drop-out years scheme. The Administration's family benefit limitation, which set the maximum to the lower of 80 percent of the worker's average indexed monthly earnings or the existing law limits, was the only notable difference in the work incentive area from the chairman's bill.¹⁸

Further, the Administration's bill proposed changes in the disability aspects of the SSI program—an area outside of the Social Security Subcommittee's jurisdiction.

The subcommittee held markup sessions on the various bills and recommendations it had before it in March 1978. For the most part, it stuck to the work incentive measures contained in the earlier versions of the bill. The only significant change made in the work-incentive area from H.R. 2054 was to restore the subcommittee recommendation of the preceding Congress setting the maximum DI family benefit at 80 percent of average indexed monthly earnings or 150 percent of the worker's benefit. This level was felt to be a middle ground among the various family benefit limitation proposals the subcommittee had before it.

The subcommittee's bill, H.R. 3236, was reported to the full committee in April 1979. The only major vote to modify any of the work-incentive aspects of the bill was on a proposal by Representative

¹⁸ There were, however, many substantive differences in the provisions to alter the administration of the program.

Gephardt to set the new family benefit limitation at a lower level than that recommended by the subcommittee. This alternative would have set maximum DI benefits at 80 percent of average indexed monthly earnings or 130 percent of the worker's benefit, whichever was lower. The intent of the amendment was to provide a greater financial incentive for the disabled worker from a two-earner family to remain in or return to work. Analysis accompanied the proposal showing that even the subcommittee's new proposal would have left some two-earner couples better off by having the disabled spouse join the DI rolls rather than continue to work. The amendment was defeated by a close vote.

The full committee reported out the bill later in the month, and it passed the House in September by a vote of 235 to 162.

The same month, the full committee reported out a bill which originated in the 95th Congress to make various changes in disability aspects of the Supplemental Security Income program. The new bill, H.R. 3464, had been introduced by Representative James Corman, the Chairman of the Subcommittee on Public Assistance and Unemployment Compensation of the Ways and Means Committee. The bill of the previous year had passed the House (H.R. 12972), but time did not permit further action by the Senate before the session ended.

Among other provisions, H.R. 3464 contained measures intended to reduce work disincentives in the SSI program.

The first and major provision of the bill would have raised the amount of earnings a disabled-SSI recipient (or applicant) could have before being determined ineligible for benefits. It raised the substantial gainful activity level for a disabled SSI applicant or recipient from the level then of \$280 per month to \$481 per month. (This increase would not have applied to the DI program.) It further allowed deduction of impairment-related work expenses in determining if an individual's earnings fell below the substantial gainful activity level as in the DI bill.

This increase in the substantial gainful activity level would have, in effect, modified the definition of disability for the SSI program, and for the first time moved it away from that used in the DI program. It represented an attempt to recognize that, for some individuals, a disabling condition does not always mean a complete loss of earnings ability. It was intended to aid such disabled persons who wanted to try working but were apprehensive about their ability to sustain employment while completely losing their SSI benefit (as well as the Medicaid and social service benefits that came with SSI eligibility).

Another provision of the bill allowed a deduction of 20 percent of gross earnings as well as deduction of impairment-related work expenses for determining a monthly benefit amount (i.e., once eligibility has been shown) in addition to the existing law exclusions of the first \$65 in monthly earnings and 50 percent of the remainder.

The bill also provided for presumptive re-entitlement for SSI benefits during the 4-year period immediately following the termination of SSI benefits (continuing until a determination was made that the individual's disability had ceased). The bill further included a number of measures to parallel some of the work incentive measures incorporated in H.R. 3236.

H.R. 3464 passed the House in June 1979 by a vote of 374 to 3.

The Senate Finance Committee completed its consideration of H.R. 3236 and other disability proposals and reported its recommendations

for changes to the Senate in November 1979. The committee maintained the thrust of H.R. 3236 by keeping the emphasis on measures intended to improve both administration and work-incentives. It did, however, make a few significant changes.

As did the House-passed version of H.R. 3236, the Finance Committee's bill placed new limits on DI family benefits, but the committee's limits would have been less stringent than those in the House bill. Specifically, the committee recommended limiting DI family benefits to 85 percent of average indexed monthly earnings or 160 percent of the worker's benefit, whichever was lower (as compared to 80 percent and 150 percent, respectively, in the House bill).

In addition, the committee considered, but did not adopt, a proposal to require an offset against disability benefits where the beneficiary received benefits under a variety of other programs—workers' compensation, civil service retirement, railroad retirement, veterans' disability, et al.—rather than just having an offset when workers' compensation benefits were present, as under existing law. In lieu of actually recommending this proposal, the committee asked GAO to study the prevalence of receipt of multiple disability benefits and various approaches of keeping the aggregate benefits below the level of an individual's pre-disability earnings. The committee anticipated holding hearings on the issue in 1980.

The committee also adopted the proposal in the House-passed version of H.R. 3236 to reduce the number of dropout years which younger disabled workers could use in computing benefits. The committee's bill, however, did not completely eliminate the use of dropout years for very young disabled workers, as did the House-passed bill. It afforded disabled workers below age 32 with one dropout year (whereas the House-passed bill did this only for workers aged 27-31). It further eliminated the aspect of the House-passed version of the provision which provided additional dropout years for periods of childcare.

The committee further deleted the provision altering the trust fund financing of rehabilitation, and added a second research and demonstration provision to the bill to cover other aspects of the program, besides possible changes to the substantial gainful activity measure, which might have an impact on the disabled worker's work behavior.

With respect to work-incentive measures in the SSI program, the Committee adopted its own provision in lieu of the amendment contained in H.R. 3464 to raise the level of substantial gainful activity. The provision, which was a modified version of a bill introduced by Senator Dole (S. 591), allowed an individual to have the higher level of earnings permitted by H.R. 3464 for eligibility purposes (i.e., the breakeven point), but only once a person was on the rolls and in a special benefit status. It did not provide the higher earnings limitation to persons applying for benefits.

The provision also differed from the House bill by not giving the 20 percent gross earnings disregard, as well as not permitting the deduction of impairment related work expenses for benefit computation purposes (they could be deducted only for eligibility determinations). It further differed from the House bill by allowing the continuation of Medicaid and social services when earnings exceeded even the higher earnings level (the breakeven point) under certain conditions to be prescribed by regulation.

These provisions were given a 3-year life as demonstration authority (instead of being made a permanent change as in H.R. 3464), so that they could be re-evaluated before being made into a permanent part of the program.

The committee further deleted the provision of H.R. 3464 which provided for a 4-year presumptive re-entitlement period for disabled SSI recipients who left the benefit roll (the bill did, however, retain the provision of H.R. 3464 providing for a 1-year SSI re-entitlement period, the same as that which had been proposed for DI beneficiaries in the House-passed version of H.R. 3236).

The only major vote on the Senate floor pertaining to the work-incentive measures contained in the bill was on an amendment by Senator Metzenbaum to set the new family benefit limitation at a substantially higher level than the Committee recommended, i.e., at 100 percent of average indexed monthly earnings. This amendment was defeated by a 47 to 47 vote.

The conferees for the House and Senate met to resolve the differences between the two bodies throughout the month of April, 1980 and reached agreement in early May, 1980 and filed the conference report on May 13, 1980. The House approved the conference report on May 22, 1980, and the Senate on May 29, 1980. On June 9, 1980, the President signed H.R. 3236 and it became Public Law 96-265.

Text of Public Law Provisions Relating to Disability Insurance

TITLE I—PROVISIONS RELATING TO DISABILITY BENEFITS UNDER OASDI PROGRAM

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

- 42 USC 403. SEC. 101. (a) Section 203(a) of the Social Security Act is amended—
- (1) by striking out “except as provided by paragraph (3)” in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof “except as provided by paragraphs (3) and (6)”;
 - (2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and
 - (3) by inserting after paragraph (5) the following new paragraph:
“(6) Notwithstanding any of the preceding provisions of this subsection other than paragraphs (3)(A), (3)(C), and (5) (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under section 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled to disability insurance benefits, whether or not such total benefits are otherwise subject to reduction under this subsection but after any reduction under this subsection which would otherwise be applicable, shall be, reduced or further reduced (before the application of section 224) to the smaller of—
“(A) 85 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or
“(B) 150 percent of such individual’s primary insurance amount.”
- 42 USC 415.
42 USC 402, 423.
- 42 USC 424a.
- 42 USC 403. (b)(1) Section 203(a)(2)(D) of such Act is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (8)”.
- 42 USC 415. (2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out “paragraph (6)” and inserting in lieu thereof “paragraph (7)”.
- (3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out “section 203(a) (6) and (7)” and inserting in lieu thereof “section 203(a) (7) and (8)”.
- (4) Section 215(i)(2)(D) of such Act is amended by adding at the end thereof the following new sentence: “Notwithstanding the preceding sentence, such revision of maximum family benefits shall be subject to paragraph (6) of section 203(a) (as added by section 101(a)(3) of the Social Security Disability Amendments of 1980).”
- Supra.*

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes eligible for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) after 1978, and who first becomes entitled to disability insurance benefits after June 30, 1980. 42 USC 403 note.
42 USC 415.

REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER DISABLED WORKERS

Sec. 102. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows: 42 USC 415.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years reduced—

"(i) in the case of an individual who is entitled to old-age insurance benefits (except as provided in the second sentence of this subparagraph), or who has died, by 5 years, and

"(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual's elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual's primary insurance amount for purposes of any subsequent eligibility for disability or old-age insurance benefits unless prior to the month in which such eligibility begins there occurs a period of at least 12 consecutive months for which he was not entitled to a disability or an old-age insurance benefit. If an individual described in clause (ii) is living with a child (of such individual or his or her spouse) under the age of 3 in any calendar year which is included in such individual's computation base years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 3) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual was living with such child substantially throughout the period in which the child was alive and under the age of 3 in such year and the individual had no earnings as described in section 203(f)(5) in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) which, before the application of section 215(f), meet the conditions of subclause (I), and (III) this sentence shall apply only to the extent that its application would not result in a lower primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2". 42 USC 403.

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence. 42 USC 423.
42 USC 415, 402.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual who first becomes entitled to disability insurance benefits on or after July 1, 1980; except that the 42 USC 415 note.

Ante. p. 443. third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months beginning on or after July 1, 1981.

PROVISIONS RELATING TO MEDICARE WAITING PERIOD FOR RECIPIENTS OF DISABILITY BENEFITS

42 USC 426. Sec. 103. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out "consecutive" in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out "consecutive" in the matter following paragraph (2).

42 USC 1395c. (2) Section 1811 of such Act is amended by striking out "consecutive".

42 USC 1395p. (3) Section 1837(g)(1) of such Act is amended by striking out "consecutive".

45 USC 231f. (4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out "consecutive" each place it appears.

42 USC 426. (b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

Supra.
Supra.

"(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

"(1) more than 60 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

"(2) more than 84 months before the month in which his current disability began in any case where such monthly benefits were of the type specified in clause (A)(ii) or (A)(iii) of such subsection,

shall not include any month which occurred during such previous period."

42 USC 426 note. (c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after the first day of the sixth month which begins after the date of the enactment of this Act.

CONTINUATION OF MEDICARE ELIGIBILITY

42 USC 426. Sec. 104. (a) Section 226(b) of the Social Security Act is amended—

(1) by striking out "ending with the month" in the matter following paragraph (2) and inserting in lieu thereof "ending (subject to the last sentence of this subsection) with the month", and

(2) by adding at the end thereof the following new sentence:
"For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified-railroad retirement beneficiary as described in para-

42 USC 422.

graph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, and throughout all of which such individual would have been entitled to monthly insurance benefits under title II or as a qualified railroad retirement beneficiary had such individual been unable to engage in substantial gainful activity, but not in excess of 24 such months."

42 USC 401.

(b) The amendments made by subsection (a) shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day.

Effective date.
42 USC 426 note.

TITLE III—PROVISIONS AFFECTING DISABILITY RECIPIENTS UNDER OASDI AND SSI PROGRAMS; ADMINISTRATIVE PROVISIONS

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER VOCATIONAL REHABILITATION PLANS

SEC. 301. (a)(1) Section 225 of the Social Security Act is amended by inserting "(a)" after "Sec. 225.", and by adding at the end thereof the following new subsection:

42 USC 425.

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment, on which the individual's entitlement to such benefits is based, has or may have ceased, if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

29 USC 720.

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual

may (following his participation in such program) be permanently removed from the disability benefit rolls.”.

Ante, p. 449.

(2) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out “this section” each place it appears and inserting in lieu thereof “this subsection”.

42 USC 1383.

(b) Section 1631(a) of such Act is amended by adding at the end thereof the following new paragraph:

42 USC 1382c.

“(6) Notwithstanding any other provision of this title, payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall not be terminated or suspended because the physical or mental impairment, on which the individual’s eligibility for such benefit is based, has or may have ceased, if—

29 USC 720.

“(A) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

“(B) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls.”.

Effective date.
42 USC 425 note.

(c) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to individuals whose disability has not been determined to have ceased prior to such first day.

EXTRAORDINARY WORK EXPENSES DUE TO SEVERE DISABILITY

42 USC 423.

Sec. 302. (a)(1) Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”.

42 USC 1382c.
Post, p. 453.

(2) Section 1614(a)(3)(D) of such Act is amended by inserting after the first sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to such individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions; except that the

amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe.”

(b) Section 1612(b)(4)(B) of such Act is amended by striking out “plus one-half of the remainder thereof, and (ii)” and inserting in lieu thereof the following: “(ii) such additional amounts of earned income of such individual (for purposes of determining the amount of his or her benefits under this title and of determining his or her eligibility for such benefits for consecutive months of eligibility after the initial month of such eligibility), if such individual’s disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, as may be necessary to pay the costs (to such individual) of attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary (as determined by the Secretary in regulations) for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions, except that the amounts to be excluded shall be subject to such reasonable limits as the Secretary may prescribe, (iii) one-half of the amount of earned income not excluded after the application of the preceding provisions of this subparagraph, and (iv)”.

42 USC 1382a.

(c) The amendments made by this section shall apply with respect to expenses incurred on or after the first day of the sixth month which begins after the date of the enactment of this Act.

42 USC 423 note.

REENTITLEMENT TO DISABILITY BENEFITS

Sec. 303. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out “section 223 or 202(d)” and inserting in lieu thereof “section 223, 202(d), 202(e), or 202(f)”.

42 USC 422.

42 USC 423, 402.

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof “, or, in the case of an individual entitled to widow’s or widower’s insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled.”

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out “or the third month following the month in which his disability ceases.” at the end of the first sentence and inserting in lieu thereof “or, subject to subsection (e), the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity.”

(B) Section 202(d)(1)(G) of such Act is amended—

(i) by redesignating clauses (i) and (ii) as clauses (III) and (IV), respectively, and

- 42 USC 423. (ii) by striking out "the third month following the month in which he ceases to be under such disability" and inserting in lieu thereof ", or, subject to section 223(e), the termination month (and for purposes of this subparagraph, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".
- 42 USC 422. (C) Section 202(e)(1) of such Act is amended by striking out "the third month following the month in which her disability ceases (unless she attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless she attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which her disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".
- 42 USC 402. (D) Section 202(f)(1) of such Act is amended by striking out "the third month following the month in which his disability ceases (unless he attains age 65 on or before the last day of such third month)." at the end thereof and inserting in lieu thereof ", subject to section 223(e), the termination month (unless he attains age 65 on or before the last day of such termination month). For purposes of the preceding sentence, the termination month for any individual shall be the third month following the month in which his disability ceases; except that, in the case of an individual who has a period of trial work which ends as determined by application of section 222(c)(4)(A), the termination month shall be the earlier of (I) the third month following the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (II) the third month following the earliest month in which such individual engages or is determined able to engage in substantial gainful activity, but in no event earlier than the first month occurring after the 15 months following such period of trial work in which he engages or is determined able to engage in substantial gainful activity,".

(2)(A) Section 223 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 423.

“(e) No benefit shall be payable under subsection (d)(1)(B)(ii), (e)(1)(B)(ii), or (f)(1)(B)(ii) of section 202 or under subsection (a)(1) of this section to an individual for any month, after the third month, in which he engages in substantial gainful activity during the 15-month period following the end of his trial work period determined by application of section 222(c)(4)(A).” 42 USC 402.

(B) Section 216(i)(2)(D) of such Act is amended by striking out “(ii)” and all that follows and inserting in lieu thereof “(ii) the month preceding (I) the termination month (as defined in section 223(a)(1)), or, if earlier (II) the first month for which no benefit is payable by reason of section 223(e), where no benefit is payable for any of the succeeding months during the 15-month period referred to in such section.” 42 USC 422.
42 USC 416.

(c)(1)(A) Section 1614(a)(3) of such Act is amended by adding at the end thereof the following new subparagraph: 42 USC 1382c.

“(F) For purposes of this title, an individual whose trial work period has ended by application of paragraph (4)(D)(i) shall, subject to section 1611(e)(4), nonetheless be considered (except for purposes of section 1631(a)(5)) to be disabled through the end of the month preceding the termination month. For purposes of the preceding sentence, the termination month for any individual shall be the earlier of (i) the earliest month after the end of such period of trial work with respect to which such individual is determined to no longer be suffering from a disabling physical or mental impairment, or (ii) the first month, after the period of 15 consecutive months following the end of such period of trial work, in which such individual engages in or is determined to be able to engage in substantial gainful activity.” 42 USC 1382.
42 USC 1383.

(B) Section 1614(a)(3)(D) of such Act is amended by striking out “paragraph (4)” and inserting in lieu thereof “subparagraph (F) or paragraph (4)”. Ante, p. 450.

(2) Section 1611(e) of such Act is amended by adding at the end thereof the following new paragraph:

“(4) No benefit shall be payable under this title, except as provided in section 1619 (or section 1616(c)(3)), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1614(a)(3)(F) for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1614(a)(4)(D)(i).” Ante, pp. 446, 446.
Supra.

(d) The amendments made by this section shall become effective on the first day of the sixth month which begins after the date of the enactment of this Act, and shall apply with respect to any individual whose disability has not been determined to have ceased prior to such first day. Effective date.
42 USC 402 note.

DISABILITY DETERMINATIONS; FEDERAL REVIEW OF STATE AGENCY DETERMINATIONS

Sec. 304. (a) Section 221(a) of the Social Security Act is amended to read as follows: 42 USC 421.

“(a)(1) In the case of any individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency, notwithstanding any other provision of law, in any State that notifies 42 USC 416, 423.

the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may again make disability determinations under this paragraph.

Regulations.

"(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

"(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

"(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

"(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State offices and to State records relating to its administration of the disability determination function,

"(D) fiscal control procedures that the State agency may be required to adopt, and

"(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency's activities relating to the disability determination.

Nothing in this section shall be construed to authorize the Secretary to take any action except pursuant to law or to regulations promulgated pursuant to law."

42 USC 421.
Disability
determinations.

(b) Section 221(b) of such Act is amended to read as follows:
"(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other

written guidelines, the Secretary shall, not earlier than 180 days following his finding, and after he has complied with the requirements of paragraph (3), make the disability determinations referred to in subsection (a)(1).

"(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1), no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days, or (if later) until the Secretary has complied with the requirements of paragraph (3). Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).

Notification to
Secretary.

"(3)(A) The Secretary shall develop and initiate all appropriate procedures to implement a plan with respect to any partial or complete assumption by the Secretary of the disability determination function from a State agency, as provided in this section, under which employees of the affected State agency who are capable of performing duties in the disability determination process for the Secretary shall, notwithstanding any other provision of law, have a preference over any other individual in filling an appropriate employment position with the Secretary (subject to any system established by the Secretary for determining hiring priority among such employees of the State agency) unless any such employee is the administrator, the deputy administrator, or assistant administrator (or his equivalent) of the State agency, in which case the Secretary may accord such priority to such employee.

Assumption of
State agency
function.

"(B) The Secretary shall not make such assumption of the disability determination function until such time as the Secretary of Labor determines that, with respect to employees of such State agency who will be displaced from their employment on account of such assumption by the Secretary and who will not be hired by the Secretary to perform duties in the disability determination process, the State has made fair and equitable arrangements to protect the interests of employees so displaced. Such protective arrangements shall include only those provisions which are provided under all applicable Federal, State and local statutes including, but not limited to, (i) the preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (ii) the continuation of collective-bargaining rights; (iii) the assignment of affected employees to other jobs or to retraining programs; (iv) the protection of individual employees against a worsening of their positions with respect to their employment; (v) the protection of health benefits and other fringe benefits; and (vi) the provision of severance pay, as may be necessary."

State agency
employees,
determination
by Secretary of
Labor.

(c) Section 221(c) of such Act is amended to read as follows:

"(c)(1) The Secretary may on his own motion or as required under paragraphs (2) and (3) review a determination, made by a State agency under this section, that an individual is or is not under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may modify such agency's determination and determine that such individual either is or is not under a disability (as so defined) or that such individual's disability began on a day earlier or later than that determined by such agency, or that such disability ceased on a day earlier or later than that determined by such agency. A review by the Secretary on his own motion of a State agency determination

42 USC 421.
Review.

42 USC 416, 423.

under this paragraph may be made before or after any action is taken to implement such determination.

42 USC 416.
42 USC 423.

"(2) The Secretary (in accordance with paragraph (3)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)). Any review by the Secretary of a State agency determination under this paragraph shall be made before any action is taken to implement such determination.

"(3) In carrying out the provisions of paragraph (2) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 15 percent of all such determinations made by State agencies in the fiscal year 1981,

"(B) at least 35 percent of all such determinations made by State agencies in the fiscal year 1982, and

"(C) at least 65 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1982."

42 USC 421.

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

Report to
Congress.
42 USC 421 note.

(g) The Secretary of Health and Human Services shall implement a program of reviewing, on his own motion, decisions rendered by administrative law judges as a result of hearings under section 221(d) of the Social Security Act, and shall report to the Congress by January 1, 1982, on his progress.

Effective date.
42 USC 421 note.
State
agreements with
Secretary of
Health and
Human Services,
notification.

(h) The amendments made by subsections (a), (b), (d), (e), and (f) shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an agreement with the Secretary of Health and Human Services under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after the notification is given.

(i) The Secretary of Health and Human Services shall submit to the Congress by July 1, 1980, a detailed plan on how he expects to assume the functions and operations of a State disability determination unit when this becomes necessary under the amendments made by this section, and how he intends to meet the requirements of section 221(b)(3) of the Social Security Act. Such plan should assume the uninterrupted operation of the disability determination function and the utilization of the best qualified personnel to carry out such function. If any amendment of Federal law or regulation is required to carry out such plan, recommendations for such amendment should be included in the report.

Plan, submittal
to Congress.
42 USC 421 note.

42 USC 421.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS

Sec. 305. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

42 USC 405.

(b) Section 1631(c)(1) of such Act is amended by inserting after the first sentence thereof the following new sentence: "Any such decision by the Secretary 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 Secretary's determination and the reason or reasons upon which it is based."

42 USC 1383.

(c) The amendments made by this section 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.

42 USC 405 note.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

Sec. 306. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

42 USC 402.

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary)."

42 USC 405.

(b) Section 216(i)(2)(G) of such Act is amended—

42 USC 416.

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

- 42 USC 423. (3) by striking out the second sentence.
- (c) Section 223(b) of such Act is amended—
- (1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,
- (2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and
- (3) by striking out the second sentence.
- 42 USC 402 note. (d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

- 42 USC 405. SEC. 307. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, 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."

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

- Report to Congress.
42 USC 401 note.
42 USC 401. SEC. 308. The Secretary of Health and Human Services shall submit to the Congress, no later than July 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—
- (1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;
- (2) the maximum period of time (after application for reconsideration of any decision described in paragraph (1) is filed) within which a decision of the Secretary on such reconsideration should be made;
- (3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and
- (4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

PAYMENT FOR EXISTING MEDICAL EVIDENCE

Sec. 309. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence." 42 USC 423.

(b) The amendment made by subsection (a) shall apply with respect to evidence requested on or after the first day of the sixth month which begins after the date of the enactment of this Act. 42 USC 423 note.

PAYMENT OF CERTAIN TRAVEL EXPENSES

Sec. 310. (a) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 401.

"(g) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations." 42 USC 410.

(b) Section 1631 of such Act is amended by adding at the end thereof the following new subsection: 42 USC 1383.

"Payment of Certain Travel Expenses

"(h) The Secretary shall pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under this title, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 1614(e)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the 42 USC 1382c.

points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

42 USC 1395i. (c) Section 1817 of such Act is amended by adding at the end thereof the following new subsection:

Travel expenses,
authorized trust
fund payments.

42 USC 410.

"(i) There are authorized to be made available for expenditure out of the Trust Fund such amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to any determination under this title. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

42 USC 421.

SEC. 311. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(i) In any case where an individual is or has been determined to be under a disability, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years; except that where a finding has been made that such disability is permanent, such reviews shall be made at such times as the Secretary determines to be appropriate. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title."

Effective date.
42 USC 421 note.

(b) The amendment made by subsection (a) shall become effective on January 1, 1982.

REPORT BY SECRETARY

Submittal to
Congress.
42 USC 401 note.

SEC. 312. The Secretary of Health and Human Services shall submit to the Congress not later than January 1, 1985, a full and complete report as to the effects produced by reason of the preceding provisions of this Act and the amendments made thereby.

AUTHORITY FOR DEMONSTRATION PROJECTS

SEC. 505. (a)(1) The Secretary of Health and Human Services shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of (A) various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries and (B) altering other limitations and conditions applicable to such disabled beneficiaries (including, but not limited to, lengthening the trial work period, altering the 24-month waiting period for medicare benefits, altering the manner in which such program is administered, earlier referral of beneficiaries for rehabilitation, and greater use of employers and others to develop, perform, and otherwise stimulate new forms of rehabilitation), to the end that savings will accrue to the Trust Funds, or to otherwise promote the objectives or facilitate the administration of title II of the Social Security Act.

42 USC 1310
note.

(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any particular system either locally or nationally.

42 USC 401.

(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods

42 USC 401,
1395.

under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Secretary to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Secretary to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in paragraph (1).

Report to
Congress.

(4) The Secretary shall submit to the Congress no later than January 1, 1983, a report on the experiments and demonstration projects with respect to work incentives carried out under this subsection together with any related data and materials which he may consider appropriate.

42 USC 401.

Ante. p. 459.

(5) Section 201 of the Social Security Act is amended by adding at the end thereof (after the new subsection added by section 310(a) of this Act) the following new subsection:

Ante. p. 473.

"(k) Expenditures made for experiments and demonstration projects under section 505(a) of the Social Security Disability Amendments of 1980 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary."

42 USC 1310.

(b) Section 1110 of the Social Security Act is amended—

(1) by inserting "(1)" after "SEC. 1110. (a)";

(2) by striking out "for (1)" and "(2)" and inserting in lieu thereof "for (A)" and "(B)", respectively;

(3) by redesignating subsections (b) and (c) as paragraphs (2) and (3), respectively;

(4) by striking out "under subsection (a)" each place it appears and inserting in lieu thereof "under paragraph (1)";

(5) by striking out "purposes of this section" and inserting in lieu thereof "purposes of this subsection"; and

(6) by adding at the end thereof the following new subsection:

Waiver.

42 USC 1381.

"(b)(1) The Secretary is authorized to waive any of the requirements, conditions, or limitations of title XVI (or to waive them only for specified purposes, or to impose additional requirements, conditions, or limitations) to such extent and for such period as he finds necessary to carry out one or more experimental, pilot, or demonstration projects which, in his judgment, are likely to assist in promoting the objectives or facilitate the administration of such title. Any costs for benefits under or administration of any such project (including planning for the project and the review and evaluation of the project and its results), in excess of those that would have been incurred without regard to the project, shall be met by the Secretary from amounts available to him for this purpose from appropriations made to carry out such title. The costs of any such project which is carried out in coordination with one or more related projects under other titles of this Act shall be allocated among the appropriations available for such projects and any Trust Funds involved, in a manner determined by the Secretary, taking into consideration the programs (or types of benefit) to which the project (or part of a project) is most closely related or which the project (or part of a project) is intended to benefit. If, in order to carry out a project under this subsection, the Secretary requests a State to make supplementary payments (or makes them himself pursuant to an agreement under section 1616),

42 USC 1382e.

or to provide medical assistance under its plan approved under title XIX, to individuals who are not eligible therefor, or in amounts or under circumstances in which the State does not make such payments or provide such medical assistance, the Secretary shall reimburse such State for the non-Federal share of such payments or assistance from amounts appropriated to carry out title XVI.

42 USC 1396.

42 USC 1381.

"(2) With respect to the participation of recipients of supplemental security income benefits in experimental, pilot, or demonstration projects under this subsection—

"(A) the Secretary is not authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his or her participation in the project;

"(B) the Secretary may not require any individual to participate in a project; and he shall assure (i) that the voluntary participation of individuals in any project is obtained through informed written consent which satisfies the requirements for informed consent established by the Secretary for use in any experimental, pilot, or demonstration project in which human subjects are at risk, and (ii) that any individual's voluntary agreement to participate in any project may be revoked by such individual at any time;

"(C) the Secretary shall, to the extent feasible and appropriate, include recipients who are under age 18 as well as adult recipients; and

"(D) the Secretary shall include in the projects carried out under this section such experimental, pilot, or demonstration projects as may be necessary to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions which may result in permanent disability, including programs in residential care treatment centers."

(c) The Secretary shall submit to the Congress a final report with respect to all experiments and demonstration projects carried out under this section no later than five years after the date of the enactment of this Act.

Report to Congress.
42 USC 1310 note.

ADDITIONAL FUNDS FOR DEMONSTRATION PROJECT RELATING TO THE TERMINALLY ILL

SEC. 506. (a) The Secretary of Health and Human Services is authorized to provide for the participation, by the Social Security Administration, in a demonstration project relating to the terminally ill which is currently being conducted within the Department of Health and Human Services. The purpose of such participation shall be to study the impact on the terminally ill of provisions of the disability programs administered by the Social Security Administration and to determine how best to provide services needed by persons who are terminally ill through programs over which the Social Security Administration has administrative responsibility.

42 USC 1395// note.

(b) For the purpose of carrying out this section there are authorized to be appropriated such sums (not in excess of \$2,000,000 for any fiscal year) as may be necessary.

Appropriation authorization.

* * * * *

SUMMARY OF COSTS AND SAVINGS ESTIMATES ON DISABILITY INSURANCE PROVISIONS OF PUBLIC LAW 96-265

TABLE A—ESTIMATED EFFECT ON OASDI EXPENDITURES BY PROVISION, FISCAL YEARS 1980-85

[In millions]

Provision	Fiscal year—					
	1980	1981	1982	1983	1984	1985
Limitation on total family benefits for disabled-worker families (Sec. 101), effective July 1980:						
Benefit payments	-\$3	-\$83	-\$189	-\$309	-\$438	-\$576
Reduction in number of dropout years for younger disabled workers (Sec. 102), effective July 1980:						
Benefit payments	-1	-32	-76	-132	-193	-268
Childcare dropout, effective July 1981:						
Benefit payments		1	5	8	12	17
Administrative costs		1	1	1	1	1
Continuing DI benefits for persons in V. R. plan (Sec. 301), effective December 1980:						
Benefit payments		1	2	2	2	2
Administrative costs		(1)	(1)	(1)	(1)	(1)
Deductions of impairment related work expenses (Sec. 302), effective December 1980:						
Benefit payments		1	5	9	13	17
Administrative costs		(1)	(1)	(1)	(1)	(1)
Federal review of State agency allowances (Sec. 304): ²						
Benefit payments		-2	-18	-66	-119	-180
Administrative costs			9	13	13	14
More detailed notices specifying reason for denial of disability claim (Sec. 305), effective July 1981:						
Administrative costs		6	18	19	20	21
Payment for existing medical evidence (Sec. 309), effective December 1980: Administrative costs						
Administrative costs		19	22	23	24	25
Periodic review of continuing eligibility for disability benefits (Sec. 311), effective January 1982:						
Benefit payments			-2	-28	-70	-118
Administrative costs		(1)	43	53	55	57
Total net effect on OASDI expenditures: ³						
Benefit payments	-4	-114	-273	-516	-793	-1,106
Administrative costs		26	93	109	133	118
Total	-4	-88	-180	-407	-680	-988
Other: Reduction in interest income due to change in timing of deposits from State and local governments (Sec. 503)		27	25	27	29	32

¹ Cost or saving of less than \$1,000,000.² The effective dates for Federal preeffectuation review would be as follows: a 15-percent review of State agency allowances and continuances made in fiscal year 1981, a 35-percent review of such allowances in fiscal year 1982 and a 65-percent review in fiscal year 1983 and thereafter.³ Does not include demonstration authority expenditures under sec. 505. Actual expenditures under sec. 505 will depend on design of approved projects, but costs have been estimated to be as high as \$15,000,000 annually.

Notes: (1) A positive figure represents additional benefit payments, and a negative figure represents a reduction in benefit payments. (2) The above estimates are based on the economic assumptions underlying the March update of the President's 1981 budget.

Source: Social Security Administration, Office of the Actuary, July 11, 1980.

TABLE B—CHANGE IN ACTUARIAL BALANCE OF THE OASDI PROGRAM OVER THE LONG-RANGE PERIOD
(1979-2053) BY PROVISION

[Percentage, of payroll costs]

Description of item	OASI	DI	OASDI
Cost of social security system under present law.....	11.47	1.92	13.38
Balance under present law.....	-1.41	.21	-1.20
Changes of the bill:			
Limitation on total family benefits for disabled-worker families (85/ 150).....	(¹)	.08	.08
Reduction in number of dropout years for younger disabled workers...	.01	.05	.06
Childcare dropout years.....	(¹)	-.01	-.01
Continuing DI benefits for persons in VR plans.....	(¹)	(¹)	(¹)
Deduction of impairment-related work expenses from earnings in determining SGA.....	(¹)	-.01	-.01
Federal review of State agency determinations.....	(¹)	.05	.05
Periodic review of disabled beneficiaries.....	(¹)	.03	.03
Miscellaneous.....	(¹)	(¹)	(¹)
Total, net effect of changes.....	.01	.19	.20
Balance under conference committee bill.....	-1.40	.40	-1.00

¹ Cost effect less than 0.005 percent of taxable payroll.

Note: These estimates are based on the intermediate (alternative II) assumptions of the 1979 trustees report.

Source: Office of the Actuary, Social Security Administration, May 22, 1980.

AID TO LEGISLATIVE HISTORY
(Section and Page References)

P.L. 96-265

Social Security Disability Amendments of 1980

Approved June 9, 1980

Prepared by:

Technical Documents Branch

Division of Technical Documents and Privacy

OFFICE OF REGULATIONS

July 1, 1980

P.L. 96-265 (94 Stat. 441) Approved June 9, 1980
"Social Security Disability Amendments of 1980"

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H.Rep. 96-100</u>	<u>S.Rep 96-408</u>	<u>H.C.Rep. 96-944</u>
Payment of Certain Travel Expenses	201(j)	310(a)	459	4, 29	60	60
Allocation of Costs for Demonstration Projects	201(k)	505(a)(5)	474	7, 24	81-82	72-73
Child's Insurance Benefits--Reentitlement to Disability Benefits	202(d)(1)(G)	303(b)(1)(B)	451	7-8 24-25	51	53-54
Child's Insurance Benefits--Disability Insurance Benefits--(I) Medical Recovery (I) Able Engage Substantial Gainful Activity	202(d)(1)(G)(i) (new (G)(I) and (G)(II))	303(b)(1)(B)(ii)	451	7-8 24-25	51	53-54
Child's Insurance Benefits--Disability Insurance Benefits Technical Amendment	202(d)(1)(G)(i) (Redesignated as (G)(III))	303(b)(1)(B)(i)	451	24-25	51	53-54
Child's Insurance Benefits--Disability Insurance Benefits Technical Amendment	202(d)(1)(G)(ii) (Redesignated as (G)(IV))	303(b)(1)(B)(i)	451	24-25	51	53-54
Widow's Benefits--Trial Work--Extension of Disability Insurance Benefits	202(e)(1)	303(b)(1)(c)	452	7-8 24-25	51	53-54
Widower's Benefits--Trial Work--Extension of Disability Insurance Benefits	202(f)(1)	303(b)(1)(D)	452	7-8 24-25	51	53-54
Limit on Prospective Effect of Application	202(j)(2)	306(a)	457	26-27	57	--
Limit on Family Disability Insurance Benefits	203(a)(1)	101(a)(1)	442	2, 4-6	35-41	45
Limit on Family Disability Insurance Benefits Technical Amendment	203(a)(2)(D)	101(b)(1)	442	2	35-41	45

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H. Rep. 96-100</u>	<u>S. Rep. 96-408</u>	<u>H.C. Rep. 96-944</u>
Limit to 85% AIME or 150% PIA	203(a)(6) (new)	101(a)(3)	442	2, 4-6	35-41	45
Technical Amendment	203(a)(6) (Redesignated (a)(7))	101(a)(2)	442	2	35-41	45
Technical Amendment	203(a)(7) (Redesignated (a)(8))	101(a)(2)	442	2	35-41	45
Technical Amendment	203(a)(8)	101(b)(2)	442	2	35-41	45
Technical Amendment	203(a)(8) (Redesignated (a)(9))	101(a)(2)	442	2	35-41	45
Adjust Title II Retroactive Benefits for Supplemental Security Income	204(e)	501(b)	470	--	78-79	69
Information to Support Decision Re Disability	205(b)	305(a)	457	12, 26, 37	56-57	58
Limitation on Court Remands	205(g)	307	458	13, 27, 31	58-59	58-59
Reduction Drop-out Years for Young Disabled	215(b)(2)(A)	102(a)	443	2-3 6-7 32-35	41-43	46-47
Technical Amendment	215(i)(2)(A) (i)(III)	101(b)(3)	442	--	--	--
Limit on Total Disability Insurance Family Benefits	215(i)(2)(D)	101(b)(4)	442	2, 4-6	35-41	45
Disability Ends (Trial Work)	216(i)(2)(D)	303(b)(2)(B)	453	7-8	51	53-54
Limit on Prospective Effect of Application	216(i)(2)(G)	306(b)(1)	457	26-27	57	--
Limit on Prospective Effect of Application	216(i)(2)(G)	306(b)(2)	457	26-27	57	--
Limit on Prospective Effect of Application	216(i)(2)(G)	306(b)(3)	458	26-27	57	--
State and Local Payment Schedule for FICA Deposits	218(e)(1)(A)	503(a)	470	--	79-80	70
Disability Determination-- Administration by State Agencies	221(a)	304(a)	453	8-10	52-56	54-55
Disability Determination-- Administration by State Agencies	221(b)	304(b)	454	8-10	52-56	54-55
Federal Review of State Agency Decisions--Decisions Reversals by Secretary	221(c)	304(c)	455	8-10	52-56	56-57
Technical Amendment	221(d)	304(d)	456	--	--	--
Disability Determination-- Administration by State Agencies	221(e)	304(e)(1)	456	8-10	52-56	54-55
Disability Determination-- Administration by State Agencies	221(e)	304(e)(2)	456	8-10	52-56	54-55

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H.Rep. 96-100</u>	<u>S.Rep. 96-408</u>	<u>H.C.Rep. 96-944</u>
Disability Determination-- Administration by State Agencies	221(e)	304(e)(3)	456	8-10	52-56	54-55
Disability Decision-- Administration by State Agencies	221(g)	304(f)(1)	456	8-10	52-56	54-55
Disability Decision-- Administration by State Agencies	221(g)	304(f)(2)	456	8-10	52-56	54-55
Periodic Review of Disability Determinations	221(i)	311(a)	460	25-26	60-16	60-61
Trial Work Definition Amendment	222(c)(1)	303(a)(1)	451	7-8	51	53-54
Trial Work Re-entitlement to Disability Insurance Benefits	222(c)(3)	303(a)(2)	451	7-8	51	53-54
Trial Work Termination Month	223(a)(1)	303(b)(1)(A)	451	7-8	51	53-54
Reduction Dropout Years	223(a)(2)	102(b)	433	6-7	41-43	46-47
Limit on Prospective Effect of Application	223(b)	306(c)(1)	458	26-27	57	--
Limit on Prospective Effect of Application	223(b)	306(c)(2)	458	26-27	57	--
Limit on Prospective Effect of Application	223(b)	306(c)(3)	458	26-27	57	--
Extra Work Expense (SGA) in Severe Disability	223(d)(4)	302(a)(1)	450	7	50-51	53
Payment For Existing Medical Evidence	223(d)(5)	309(a)	459	13	59-60	59-60
SGA/Trial Work	223(e)	303(b)(2)(A)	453	7-8	51	53-54
Continued Pay of Benefits to Persons Under Vocational Rehabilitation Plans	225(a) (Redesignated formerly §225)	301(a)(1)	449	3, 11-12	48-50	52
Technical Amendment	225(a) (as Redesignated)	301(a)(2)	450	--	--	--
Continued Pay of Benefits to Persons Under Vocational (new) Rehabilitation Plans	225(b)	301(a)(1)	449	28	48-50	52
Medicare Waiting Period	226(b)(2)(A)	103(a)(1)(A)	444	7-8	43	47
Medicare Waiting Period	226(b)(2)(B)	103(a)(1)(A)	444	7-8	43	47
Medicare Waiting Period	226(b)(end)	103(a)(1)(B)	444	7-8	43	47
Continuation of Medicare Eligibility	226(b)(end)	104(a)(1)	444	7-8	43-44	47
Continuation of Medicare Eligibility	226(b)(end)	104(a)(2)	444	7-8	43-44	47
Elimination Second Medicare Waiting Period	226(f) (new)	103(b)	444	7-8	43	47
Elimination Second Medicare Waiting Period	226(f) (Redesignated as (g.))	103(b)	444	7-8	43	47

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H.Rep. 96-100</u>	<u>S.Rep. 96-408</u>	<u>H.C.Rep. 96-944</u>
Access to Wage Information For Child Support Program	303(d)(sic)	408(b)(1)	468	--	71	66-68
Access to Wage Information For Child Support Program	304(a)(2)	408(b)(2)	469	--	71	66-68
Disclosure of Information For AFDC and Social Services	402(a)(9)(B)	403(a)(1)	462	--	65-66	63-64
Disclosure of Information for AFDC and Social Services	402(a)(9)(C)	403(a)(2)	462	--	65-66	63-64
AFDC Work Requirement	402(a)(19)(A)	401(a)(1)	460	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(A) (v)	401(a)(2)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(A) (vi)	401(a)(3)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(A) (vi)	401(a)(4)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(A) (vii)	401(a)(5)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(B)	401(b)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(D)	401(c)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(F)	401(d)(1)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(F) (end)	401(d)(2)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(F) (end)	401(f)(1)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(G)	401(e)(1)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(G) (ii)	401(e)(2)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(G) (ii)	401(e)(3)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(G) (ii)	401(e)(4)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(G) (end)	401(f)(2)	461	--	61-63	62-63
AFDC Work Requirement	402(a)(19)(H)	401(f)(3)	461	--	61-63	62-63
AFDC Management Information System	402(a)(28)	406(b)(1)(A)	465	--	69-70	65
AFDC Management Information System	402(a)(29)	406(b)(1)(B)	465	--	69-70	65
AFDC Management Information System	402(a)(30)	406(b)(1)(C)	465	--	69-70	65
AFDC Management Information System	402(d)	406(b)(2)	466	--	69-70	65
AFDC Management Information System	403(a)(3)(A)	406(a)(1)	465	--	69-70	65
AFDC Management Information System	403(a)(3)(B) (new)	406(a)(3)	465	--	69-70	65
AFDC Management Information System	403(a)(3)(B) (Redesignated (C))	406(a)(2)	465	--	69-70	65
Child Support Reporting and Matching Procedure	403(b)(2)(A)	407(c)(1)	467	--	70-71	66

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H.Rep. 96-100</u>	<u>S.Rep. 96-408</u>	<u>H.C.Rep. 96-944</u>
Child Support Reporting and Matching Procedure	403(b)(2)(B)	407(c)(2)	467	--	70-71	66
AFDC Work Requirement	403(c)	401(g)	462	--	61-63	62-63
AFDC Work Requirement	403(d)(1)	401(h)	462	--	61-63	62-63
AFDC Management Information System	413	406(c)	467	--	69-70	65
Use of I.R.S. to Collect Child Support For Non-AFDC Families	452(b)	402(a)	462	--	65	63
Child Support Management Information System	452(d)	405(e)	464	--	68-69	65
Child Support Management Information System (Technical Assistance to States)	452(e)	405(d)	465	--	68-69	65
Child Support Management Information System	454(14)	405(b)(1)	463	--	68-69	65
Child Support Management Information System	454(15)	405(b)(2)	463	--	68-69	65
Child Support Management Information System	454(16)	405(b)(3)	463	--	68-69	65
Child Support Management Information System	455(a)(1)	405(a)(1)	463	--	68-69	65
Child Support Management Information System	455(a)(2)	405(a)(2)	463	--	68-69	65
Child Support Management Information System	455(a)(3)	405(a)(3)	463	--	68-69	65
Child Support Report and Matching Procedures	455(b)(2)	407(a)	467	--	70-71	66
Federal Matching For Child Support Activity by Court Personnel	455(c)	404(a)	463	--	66-68	64
Child Support Report and Matching Procedures	455(d)	407(b)	467	--	70-71	66
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110	505(b)(4)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110	505(b)(5)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110(a)(1)	505(b)(1)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110(a)(1)	505(b)(2)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110(a)(2)	505(b)(2)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstration Projects (DI and SSI)	1110(b) (Redesignated 1110(a)(2))	505(b)(3)	474	3, 4-8	82-83	72-73

<u>Subject</u>	<u>SS Act Section</u>	<u>P.L. Section</u>	<u>94 Stat.</u>	<u>H.Rep. 96-100</u>	<u>S.Rep. 96-408</u>	<u>H.C.Rep. 96-914</u>
Work Incentive and Other Experiments and Demonstrations Projects (DI and SSI)	1110(c)	505(b)(3)	474	3, 4-8	82-83	72-73
Work Incentive and Other Experiments and Demonstrations (new) Projects (DI and SSI)	1110(b)	505(b)(6)	474	3, 4-8	82-83	72-73
Adjustment of Title II Retroactive Benefits for Supplemental Security Income Payment	1127	501(a)	469	--	78	69
Extension Trial Work/ Disability Reentitlement	1611(e)(4)	303(o)(2)	453	7-8	51	53-54
Employment in Sheltered Workshops	1612(a)(1)(A)	202(a)(1)	449	--	47-48	51
Employment in Sheltered Workshops	1612(a)(1)(C)	202(a)(2)	449	--	47-48	51
Extra Work Expense and Severe Disability (SGA Test)	1612(b)(4)(B)	302(b)	451	7	50-51	53
Extra Work Expense and Severe Disability (SGA Test)	1614 (a)(3)(D)	302(a)(2)	450	7	50-51	53
Extension of Trial Work Period/Re-Entitlement to Benefits	1614(a)(3)(D)	303(o)(1)(B)	453	7-8	51	53-54
Extension of Trial Work Period/Re-Entitlement to Benefits	1614(a)(3)(F)	303(o)(1)(A)	453	7-8	51	53-54
Deeming Parents' Income to Disabled or Blind Children Under 18	1614(f)(2)	203(a)	449	--	48	51
Eligibility of Aliens For Supplemental Security Income	1614(f)(3)	504(a)	471	--	80-81	70-72
Benefits for Individuals Who Perform Substantial Gainful Activity (SGA) Despite Severe Medical Impairment	1616(e)(3)	201(b)(1)	446	7	44-47	49-51
Benefits for Individuals Who Perform S.G.A. Despite Severe Medical Impairment	1619	201(a)	445	7	44-47	49-51
Medical and Social Services For Certain Handicapped Persons	1620	201(o)	446	--	44-47	49-51
SSI Eligibility of Aliens/ Deem Income and Resources Of Sponsor To Alien	1621	504(b)	471	--	80-81	70-72
Continue Benefits For Certain Persons In Vocational Rehabilitation	1631(a)(6)	301(b)	450	11-12	48-50	52
Adjust Title II Retroactive Benefits For SSI Payments	1631(b)(1)(sic)	501(c)(1)	470	--	78	69
Adjust Title II Retroactive Benefits For SSI Payments	1631(b)(2)(sic)	501(c)(2)	470	--	78	69
Information Required With Secretary's Decision of Disability	1631(o)(1)	305(b)	457	12	56-57	58

Subject	Provisions of Law	P.L. Section	94 Stat.	H.Rep. 96-100	S.Rep. 96-108	H.C.Rep. 96-914
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Social Security Disability Amendments of 1980: Legislative History and Summary of Provisions

by the staff of the Office of
Legislative and Regulatory Policy

Social Security Disability Amendments of 1980: Legislative History and Summary of Provisions*

This article describes the legislative history of Public Law 96-265, the Social Security Disability Amendments of 1980, and contains a summary of the provisions of the new law. In passing these major disability insurance and supplemental security income provisions, the Congress hoped to improve the equity of the program, remove disincentives to rehabilitation and work, increase positive work incentives, and strengthen program administration. Other provisions were intended to strengthen and improve the administration of both the aid to families with dependent children and the child support enforcement programs.

On June 9, 1980, President Carter signed into law H.R. 3236 (Public Law 96-265), the Social Security Disability Amendments of 1980. The President's signing statement described the legislation as "a balanced package, with amendments to strengthen the integrity of the disability programs, increase equity among beneficiaries, offer greater assistance to those who are trying to work, and improve program administration." In addition, the bill contains amendments designed to strengthen and improve the administration of both the aid to families with dependent children (AFDC) and the child support enforcement (CSE) programs.

The major provisions affecting the old-age, survivors, and disability insurance (OASDI—title II or, in this article, DI) and supplemental security income (SSI—title XVI) disability programs are as follows:

1. Revisions of the DI benefit structure to—

A. Establish a maximum family disability benefit at the lesser of 85 percent of the average indexed monthly earnings (AIME), or 150 percent of the primary insurance amount (PIA), but no less than 100 percent of the PIA. The new DI family maximum is designed to ensure that beneficiaries and their families will not receive benefits significantly higher than the worker's predisability net earnings.

B. Make the number of years that can be dropped from the computation (averaging) period proportional to the age of the disabled worker (1

year can be disregarded for each 5 years after age 21 up to the year in which the worker becomes disabled, with a maximum of 5 dropout years). The proportional dropout years provision is designed to assure that workers with comparable wage histories receive comparable benefits, regardless of the age at which they become disabled.

2. A number of provisions designed to encourage disabled beneficiaries to attempt to return to work. These work incentives are provided by a phased schedule under which cash and medical support will be withdrawn gradually as earnings rise. The major incentives will—

A. Deduct extraordinary impairment-related work expenses from a disabled individual's earnings for purposes of determining whether the individual is engaging in substantial gainful activity. (Applies to both DI and SSI.)

B. Provide a 15-month "reentitlement" period, following the 9-month trial work period, during which a disabled beneficiary can become automatically reentitled to disability benefits if a work attempt is not successful. (Applies to both DI and SSI.)

C. Extend the trial work period, previously applicable to disabled workers and childhood disability beneficiaries, to disabled widow(er)s. (Applies only to DI.)

D. Provide Medicare coverage for 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically

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recovered. The first 12 months of this 36-month period are part of the automatic reentitlement period that is discussed in B above. (Applies only to DI.)

E. Eliminate the second 24-month Medicare waiting period for an individual who again becomes disabled and entitled to disability benefits within a certain period of time. (Applies only to DI.)

F. Authorize demonstration projects as follows:

(1) A 3-year experiment to provide special cash benefit payments, Medicaid, and social services to SSI disability recipients who have completed their trial work periods and continue to earn in excess of the amount allowed for substantial gainful activity (SGA). The special cash benefits would end when the countable income reached the "breakeven" point (the point at which income reduces payments to zero). Blind or disabled SSI recipients will continue to be eligible for Medicaid and social services even if income above the "breakeven" point causes them to stop receiving cash benefits under certain circumstances. (Applies only to SSI.)

(2) A 3-year pilot project of an optional program of grants to the States for medical assistance and social services to severely handicapped persons who have earnings in excess of SGA; who do not qualify for DI or SSI benefits, Medicaid, or social services otherwise; and who need these services to continue working. (Applies to both DI and SSI.)

(3) Authority for the Secretary of Health and Human Services to conduct experiments and demonstrations to test the effectiveness of various ways of encouraging disabled beneficiaries to return to work. (Applies to both DI and SSI.)

3. A series of provisions designed to improve DI and SSI program administration by strengthening the disability determination and adjudicatory process. The major provisions require the Secretary to—

A. Issue regulations specifying performance standards and administrative requirements and procedures to be followed by the States in performing the disability determination function.

B. Assume the disability determination function from a State agency if either (1) the State agency substantially fails to make disability determinations in a manner consistent with the regulations and other written guidelines, or (2) the State agency notifies the Secretary that it no longer wishes to make disability determinations.

C. Review a specified percentage of State agency determinations before benefits can be paid.

D. Review the status of a disabled individual, unless the disability has been found to have been permanent, at least once every 3 years.

Additional provisions designed to improve program administration would—

E. Implement a program of reviewing, on the Secretary's own motion, decisions rendered by administrative law judges in disability cases and to report to Congress on the progress of the program.

F. Permit the Secretary to revise a State agency decision and make it more favorable to the claimant.

G. Foreclose the introduction of new evidence in OASDI claims after decisions are made at hearings.

H. Permit old-age, survivors, and disability insurance cases to be remanded from the courts on the Secretary's own motion only for "good cause" shown, and on the court's motion only if there is new and material evidence that was not previously submitted and "good cause" exists for not having submitted that evidence.

4. Provisions affecting the AFDC and CSE programs are revisions that would—

A. Strengthen the work incentive (WIN) program.

B. Allow the use of the Internal Revenue Service to collect child support for non-AFDC as well as AFDC families.

C. Change the authority to disclose certain information under AFDC and social services.

D. Permit Federal matching for child support activities performed by court personnel.

E. Increase Federal matching for child support and AFDC management information systems.

F. Provide access to wage information for the child support program.

Background and Legislative History

During the early 1970's, the disability incidence rates—the number of disability awards in relation to the insured population—increased significantly and resulted in substantial increases in the cost of the disability program. In its 1973 report, the Board of Trustees of the Social Security Trust Funds noted the significant increase in the cost of the DI program resulting from higher disability incidence; the Trustees stated that if the trend of higher disability rates continued, the resultant cost increase of the disability program would be of sufficient magnitude to require additional financing.

During the next several years, both the administration and Congress studied the question of why the disability rates were increasing and what changes might

be made in the DI program. Between 1973 and 1978, the administration convened several internal work groups that closely scrutinized the disability claims process—from the initial interview in the district office, through the appeals process, to the final decision rendered by the Secretary. These work groups made numerous recommendations for improving the administration of the disability program. Many of those recommendations were implemented administratively; others required legislative changes.

Simultaneously with the administration's actions, the Congress was also considering the question of disability reform. Numerous bills focusing on problems in the disability programs were introduced. Representative James Burke, Democrat of Massachusetts, who was Chairman of the House Subcommittee on Social Security from 1976 to 1978, introduced bills¹ in both the 94th Congress (1975-76) and the 95th Congress (1977-78), but final congressional action was never taken on these bills.

In 1978, the House Ways and Means Subcommittee on Social Security held hearings at which the Social Security Administration representatives testified about problems in Federal-State relationships and the quality assurance procedures in the DI program. Subsequently, in September 1978, the Subcommittee reported a bill² designed to address these and other problems in the disability insurance program. Congress adjourned, however, without taking action on the bill.

While the House Subcommittee on Social Security was concentrating on the DI program, the House Ways and Means Subcommittee on Public Assistance and Unemployment Compensation turned its attention to the SSI program. During the 95th Congress, the Subcommittee heard testimony about problems that the disabled face in attempting to enter the labor market and how the SSI program presented disincentives for those disabled recipients who wanted to seek gainful employment. The House eventually passed two bills³ designed to remedy this situation and to improve the administration of the SSI program, but the Senate adjourned without taking action on those bills.

¹ H. R. 15630 and H. R. 8076, the so-called Burke disability bills, dealt primarily with financial issues, the definition of disability, the Federal-State relationship, work incentives for disabled individuals, and a limitation on rehabilitation expenditures.

² H. R. 14084 included provisions that would have increased equity in the benefit structure by limiting the total DI family benefits payable and providing for a variable number of dropout years, provided work incentives by extending the trial work period, and improved Federal-State program administration by requiring preeffectuation review.

³ H. R. 7200 included provisions relating to the receipt of SSI payments by aliens, the deeming of parents' income to disabled and blind children, and the finding of presumptive disability for those disabled individuals who had previously received SSI disability payments; and H. R. 12972 included provisions to increase the earnings limitations under SSI and to provide an income disregard for work-related expenses and attendant care costs.

Projections of the Board of Trustees in 1977 indicated that the combined cash benefit trust funds would be exhausted early in the 1980's unless remedial action was taken. The administration developed proposals designed to restore fiscal integrity to the social security programs. Congress responded to these fiscal concerns and passed the financing and decoupling amendments of 1977, which were enacted into law.⁴ Although some members of Congress wanted to include disability "reform" legislation at the time, it was decided to consider the disability reform issues separately in the future. In its report on the Social Security Amendments of 1977,⁵ the House Committee on Ways and Means warned that, with regard to the DI program, "attention must still be focused on why the costs of the program have risen so rapidly to a level far greater than anticipated. The possibility of not only reducing the cost of the programs but also making it more susceptible to administrative control must be thoroughly explored."

The disability bills that had been introduced in the Congress in 1976-78 focused the congressional eye on the disability program issues most in need of attention. These bills also set the stage for concerted congressional effort to resolve those issues when the 96th Congress convened in 1979.

Carter Administration's Recommendations

In 1979, the administration recommended numerous legislative changes to Congress. These proposals were included in the administration's "Disability Insurance Reform Act of 1979," which was introduced in the House of Representatives as H.R. 2854 by J. J. Pickle, Democrat of Texas, Chairman of the House Ways and Means Subcommittee on Social Security, and the Subcommittee's ranking Republican, William Archer, Republican of Texas, on March 13, 1979. The following proposals were included:

I. Benefit Equity

A. Maximum family benefits in DI cases: The amount of benefits that a disabled worker and family could receive would be limited to 80 percent of the average indexed monthly earnings (AIME) used to determine the worker's benefit or, if greater, 100 percent of the PIA. As under prior law, the worker would receive the full amount of the worker's benefit, but the benefit amount of the auxiliaries would be reduced so that the total family benefit would not considerably exceed the worker's predisability earnings.

⁴ P.L. 95-216 (H.R. 9346).

⁵ House of Representatives Report No. 95-702, Part I.

B. Proportional dropout years: Because the administration wanted to assure that workers with comparable wage histories receive comparable benefits, regardless of the age at which they become disabled, it recommended that the number of dropout years be proportional to the age of the worker at the time of disablement (as an indication of the length of the worker's career). For example, the proposal allowed workers who became disabled at age 30 to drop 1 year of low (or no) earnings in computing their benefit, while workers who became disabled at age 47 or older were allowed to drop the maximum of 5 low (or no) earnings years in computing their benefit.

2. Work Incentives

A. Work expense deductions: The cost incurred by a disabled DI or SSI beneficiary for impairment-related work expenses, services, devices, and attendant care costs necessary to engage in gainful activity would be deducted from the beneficiary's earnings in determining SGA. (If the care, services, or items were furnished without cost to the disabled individual, the Secretary would specify the amount of the deduction that could be allowed.)

In determining SSI eligibility and the amount of the SSI payment, only those impairment-related work expenses, services, devices, and attendant care costs actually paid for by the beneficiary would be excluded.

B. Automatic reentitlement to DI and SSI benefits: DI and SSI beneficiaries who have not medically recovered could be automatically reentitled during a 15-month reentitlement period following the 9-month trial work period if a work attempt is not successful.

C. Extending entitlement for Medicare and Medicaid: The period of coverage for DI and SSI beneficiaries who have not medically recovered would be extended for 36 months after cash benefits stop because a worker is engaging in substantial gainful activity.

D. Elimination of the second Medicare waiting period: The second Medicare 24-month waiting period for former DI beneficiaries who become disabled again within a certain time period (60 months for disabled workers) would be eliminated.

E. Trial work period for disabled widows and widowers: The 9-month trial work period would be extended to disabled widow(er)s who are entitled under the DI program.

F. Demonstration projects: The Secretary would be authorized to waive any of the requirements under the OASDI, SSI, and Medicare programs in conducting experiments or demonstration projects

to test the effectiveness of various alternatives for encouraging disabled beneficiaries to return to work.

3. Improved Program Administration

A. Disability determination and review: The Secretary would be given the authority to terminate, through regulations, an agreement with a State to make disability determinations because of unsatisfactory performance by the State and to administer the State determination process. The Secretary would be authorized to reverse State agency denials.

B. Closed evidentiary record: The introduction of new evidence would not be permitted after the decision is made at the hearing by an administrative law judge.

C. Judicial review: The judicial review of social security claims would be limited to issues of constitutionality and statutory interpretations.

The administration also recommended changes in the SSI program in its "Social Welfare Reform Amendments of 1979," introduced in the House of Representatives as H.R. 4321 jointly by James Corman, Democrat of California, Chairman of the Ways and Means Subcommittee on Public Assistance, and Al Ullman, Democrat of Oregon, Ways and Means Committee Chairman, on June 5, 1979. The President's proposals included—

1. **Eligibility of aliens for SSI benefits:** This proposal would make a sponsor's agreement of support legally binding for 5 years, authorize legal action to secure reimbursement of public assistance paid to newly arrived aliens, and provide that aliens who receive unreimbursed public assistance would be regarded as public charges and subject to possible deportation.

2. **Relationship between social security and SSI benefits:** Retroactive OASDI benefit payments would be reduced by the amount of SSI benefits that were paid for the same period that would not have been paid had the OASDI benefits been paid on time.

3. **Deeming of parents' income and resources to disabled or blind children:** The SSI program definition of the term "child" would be changed to eliminate deeming of parental income and resources to an individual at age 18. The law required parents' income and resources to be deemed to children aged 18–20 who were students living with their parents, but did not require such deeming to nonstudent children aged 18–20. A child aged 18–20 who became a student could thus lose part or all of SSI payments.

4. **Treatment of remuneration for work in sheltered workshops:** All remuneration received in sheltered

workshops would be considered earned income and would therefore qualify for the SSI earned income disregards.

Action in the House of Representatives

Social Security Disability Insurance Provisions

Subcommittee on Social Security Action on DI Provisions. On February 21, 1979, the Subcommittee on Social Security of the House Committee on Ways and Means began hearings on proposals to improve the disability insurance program. In opening the hearings, Chairman J.J. Pickle noted that a trend toward lower disability incidence rates seemed to be developing. He indicated that the trend may have been due to improvements in economic conditions and to better administrative procedures such as increased quality assurance and increased use of consultative medical examinations. Chairman Pickle pointed out, however, that the disability program is still subject to wide and unforeseen fluctuations and explained that he had introduced legislation (H.R. 2054) to put the disability program on a more equitable and stable footing.

The Subcommittee on Social Security held public hearings in February and March 1979, at which members of the Congress, the administration, the public, and representatives of interested organizations testified regarding the disability program and offered suggestions for improving it. Secretary of Health, Education, and Welfare,⁶ Joseph A. Califano, Jr., testified that some of the problems the administration found during its review of the disability program were: (1) The growth of the system which had far exceeded all expectations, (2) disincentives in the program which discouraged beneficiaries from attempting to return to the work force, and (3) a confusing and cumbersome process for determining if an individual is disabled.

To correct these problems, the administration focused its efforts on the benefit structure, work incentives, and program administration. Secretary Califano stated that the administration's proposals, which were contained in H.R. 2854, were designed to improve both the equity and efficiency of the disability program.

Following these hearings, the Subcommittee held its markup sessions. The Subcommittee's recommendations, similar to many provisions in the administration's bill, were incorporated in a "clean" bill, H.R. 3236, which was introduced in the House on March 27, 1979. The Subcommittee's version of H.R. 3236 included the following:

⁶ The Department of Health, Education, and Welfare has since been reorganized into two departments: Health and Human Services, and Education.

1. Benefit Equity

A. Maximum family benefits in disability cases: The total family benefits for any month would be limited to 80 percent of a worker's AIME or 150 percent of the PIA, whichever is lower, with a minimum guarantee of 100 percent of the PIA. (The administration's bill did not include the 150 percent limitation.)

B. Proportionate dropout years: The number of years of low or no earnings that could be dropped in computing a disabled worker's benefits would vary and be determined by the age of the worker, according to the following schedule:

Worker's age	Dropout years
Under 27	0
27-31	1
32-36	2
37-41	3
42-46	4
47 and over	5

The Subcommittee added a provision for childcare dropout years. This provision would credit 1 dropout year for each year in which the worker provided the principal care of a child under the age of 6. However, the number of variable dropout years combined with the number of childcare dropout years could not exceed 5. (The administration's bill did not provide for any childcare dropout years.) The use of the smaller number of dropout years would continue to be applicable for any subsequent disability or retirement benefits unless the worker left the rolls for 12 consecutive months prior to the subsequent eligibility.

2. Work Incentives

To stimulate disabled beneficiaries to return to work despite their impairments, provisions were included to—

A. Deduct extraordinary impairment-related work expenses, attendant care cost, and the cost of medical devices and equipment paid by the disabled individual, from a disabled person's earnings in determining SGA. (Similar to the administration's proposal in H.R. 2854, except the administration proposed that if the care, services, or items were furnished without cost to the disabled individual, the Secretary would specify the amount of allowable deduction.)

B. Provide a 15-month reentitlement period after the 9-month trial work period. Although under the DI program cash benefits are not payable for more than 3 months of this period if the individual engages in SGA, the individual could be reentitled to benefits if unable to continue working.⁷

⁷ Same as administration's proposal in H.R. 2854.

C. Provide Medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered (the first 12 months of this 36-month period is part of the reentitlement period discussed in B above).⁸

D. Eliminate the second 24-month Medicare waiting period where an individual again becomes disabled and entitled to benefits within a certain period of time.⁹

E. Extend the same trial work period applicable for disabled workers to disabled widow(er)s.¹⁰

F. Require SSA to implement 3-year demonstration projects under the DI program to encourage work activity. The Secretary could waive compliance with DI and Medicare requirements, as necessary, to carry out these projects. (Similar to an administration proposal in H.R. 2854.)

G. Permit benefits to continue after medical recovery for a beneficiary who is participating in an approved vocational rehabilitation (VR) program if SSA determines that such participation will increase the likelihood that the beneficiary may be permanently removed from the disability rolls. (An administration proposal in H.R. 4321.)

3. Improved Program Administration

To improve the administration of the disability program, the following provisions were included:

A. The Secretary of Health and Human Services was required to establish, through regulations, procedures and performance standards for the States to follow in the disability determination process. The States would be given the option of continuing to administer the program in compliance with these regulations or turning administration over to the Federal Government.¹¹

B. Under a Subcommittee proposal, the Secretary would be required to review a specified percentage of State agency determinations of allowances before the payment of benefits. The percentages were: at least 30 percent in fiscal year 1980, 60 percent in fiscal year 1981, and 80 percent in fiscal year 1982 and thereafter.

C. The Subcommittee also proposed to change the method of reimbursing States for providing vocational rehabilitation services to disabled beneficiaries. The beneficiary rehabilitation program would be eliminated. Instead, the States would use general VR funds in providing rehabilitation services to disabled beneficiaries. (The States receive

general VR funds on an 80/20 matching basis from the general revenues.) If the disabled beneficiary engages in SGA (or is employed in a sheltered workshop) for a continuous period of 12 months, the State would be reimbursed for its 20-percent matching funds and would also be rewarded with a 20-percent bonus.

D. The Subcommittee proposed to require the Secretary to review the status of disabled beneficiaries on the rolls at least once every 3 years unless a finding is made that the individual's disability is permanent.

E. The Subcommittee proposed to reimburse, out of social security trust funds, non-Federal institutions and physicians for existing medical evidence submitted to support disability claims.

F. The Subcommittee proposed to require the Secretary to provide claimants with a decision notice containing a clear explanation of the decision, a brief summary of the evidence on which the decision was based, and, as appropriate, a brief statement of the law and regulations.

G. The Subcommittee proposed to provide for the payment from social security trust funds of reasonable costs of travel by claimants to obtain required medical examinations and for claimants and their witnesses and representatives to attend reconsideration interviews and hearings.

H. The Subcommittee stipulated that the evidentiary record in a case would be closed after a hearings decision has been made.¹²

On April 2, 1979, the Subcommittee on Social Security referred the bill to the full Ways and Means Committee.

Committee on Ways and Means Action on DI Provisions. On April 9, 1979, the Committee on Ways and Means held its markup session on H.R. 3236. The only changes made in the bill, as it had been approved by the Subcommittee on Social Security, were—

1. Disability determinations: Because the committee was concerned about how State employees would be treated if the Federal Government had to take over the operation of a State disability determination unit, a provision was added requiring the Secretary to report to the House Committee on Ways and Means and the Senate Committee on Finance by January 1, 1980, about how the Federal Government would assume these responsibilities.

2. Preeffectuation review: The mandated percentages of Federal review of State agency allowances were reduced to 15 percent in fiscal year (FY) 1980, 35 percent in FY 1981, and 65 percent in FY 1982 and later.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

3. Decision notices: The Committee clarified the intent of this provision and indicated that it did not expect the notices to be voluminous documents.

The Committee also considered and rejected three amendments to H.R. 3236: (1) A proposal to change the limitation on total family benefits from 150 percent of PIA to 130 percent (defeated by a vote of 16-14); (2) a proposal to make the DI impairment-related work expense provision, with respect to the blind, the same as the current SSI work expense provision for the blind (defeated by a voice vote); and (3) a proposal that persons under age 55 must meet a medical-only definition of disability in order to qualify for DI benefits (defeated by a vote of 13-12). On April 12, 1979, the Committee on Ways and Means reported the bill to the House.

House Rules Committee and Floor Action on DI Provisions. Action on the bill was delayed as several major groups raised questions about the legislation, and controversy arose as to the rules under which the bill would be considered on the House floor. Both the 1979 Advisory Council on Social Security and the National Commission on Social Security expressed concern that such major legislation was being acted upon in the absence of any recommendations from those statutorily appointed groups. They urged that the House take no action on the bill pending further review.

In addition, an ad hoc group of individuals and associations concerned about social security legislation affecting the disabled, "Save our Security" (SOS), was formed with John W. McCormack (former Speaker of the House), Wilbur D. Mills (former Chairman of the House Ways and Means Committee), and James A. Burke (former Chairman of the Ways and Means Subcommittee on Social Security) as Honorary Cochairmen; and Wilbur J. Cohen (former Secretary of Health, Education, and Welfare) as Chairman. This group strongly opposed several of the provisions of the bill—especially those that could result in lower benefit amounts for workers becoming disabled in the future and their families. A major effort of the SOS group was to assure that when H.R. 3236 was considered on the floor of the House of Representatives there would be an opportunity to consider several of the provisions separately rather than to simply vote for or against the bill as a whole.

The House Committee on Rules held hearings on June 6 and 7, 1979, and reported House Resolution 310, which provided for a modified rule and 1 hour of debate on H.R. 3236. The rule provided that no amendments would be in order except those recommended by the Ways and Means Committee, which are not amendable, and an amendment, offered by Representative Simon, which would delay the implementation of the provision on vocational rehabilitation funding by 1 year until fiscal year 1982.

Because of a crowded House floor schedule, consideration of House Resolution 310 and the debate on H.R. 3236 did not begin until September 6, 1979. Much of the discussion and debate centered around the proposed limitation on total family benefits and the variable number of dropout years. The House agreed to the Committee amendments (see discussion above on the Committee markup session) and Representative Simon's amendment to delay the implementation of the VR funding provision until fiscal year 1982. The House of Representatives passed H.R. 3236 by a vote of 235-162 on September 6, 1979, and sent the bill to the Senate.

SSI Disability Provisions

Subcommittee on Public Assistance and Unemployment Compensation Action on SSI Provisions. Almost simultaneously with the actions taken by the Ways and Means Subcommittee on Social Security on the administration's DI proposals, the Ways and Means Subcommittee on Public Assistance and Unemployment Compensation was considering the administration's SSI disability proposals. On April 3, 1979, the Subcommittee began hearings on the proposals (contained in H.R. 2854) that would remove work disincentives in the SSI disability program and improve the administration of the SSI program.

Following the hearing, the Subcommittee held its markup sessions and incorporated some of these provisions in a "clean" bill, H.R. 3464, which was introduced in the House on April 5, 1979. That same day, the Subcommittee referred the bill to the Committee on Ways and Means. The provisions in H.R. 3464 would have the following effects:

1. Work Incentives

A. Increase the SGA level in the SSI program to the dollar level at which countable earnings equal the applicable SSI payment standards. In determining countable earnings for SGA purposes, the following amounts would be excluded from gross earnings: (a) 20 percent of gross earnings, (b) \$65, (c) an amount equal to the cost of any impairment-related work expense necessary for the individual to work regardless of who paid for these expenses, and (d) one-half of the remainder. (This was a Subcommittee proposal.)

B. Exclude 20 percent of a disabled person's gross earnings and an amount equal to the cost of any impairment-related work expenses paid by the individual in determining eligibility for, and the amount of, the SSI benefits. These disregards would be in addition to the present exclusions and would be applied after the \$65 exclusion and prior to the exclusion of one-half of the remainder. (This provision is a modification of an adminis-

tration proposal in H.R. 2854. The Subcommittee added the 20-percent exclusion to the administration's proposal to exclude impairment-related work expenses.)

C. Resume SSI payments automatically if the worker stopped performing SGA within 1 year after disability payments ended. (Although no provision was included to automatically reestablish Medicaid eligibility when SGA stops, individuals who live in States where Medicaid eligibility follows SSI eligibility would have their Medicaid eligibility reestablished.) If the worker stopped performing SGA, SSI disability payments would be resumed on a presumptive disability basis. (The income and resource test would still have to be met.)¹³

D. Permit benefits to continue after medical recovery for recipients in approved VR programs if SSA determines that continuing in such programs will increase the probability of the person leaving the disability rolls permanently.¹⁴ (This was a Subcommittee proposal.)

2. Improved Program Administration

A. Authorize experiments that would be likely to promote the objectives of the SSI program or to facilitate its administration, with the following qualifications: (a) Recipient participation would be voluntary, (b) the total income and resources of an individual would not be substantially reduced as a result of an experiment, and (c) there must be a project to determine the feasibility of treating drug addicts and alcoholics to prevent permanent disability. (This provision is similar to an administration proposal in H.R. 2854. The three qualifications the Subcommittee placed in H.R. 3464, however, were not in either H.R. 2854 or H.R. 3236.)

B. Require that notices to applicants for SSI benefits whose claims are being denied at either the initial or reconsideration levels contain a citation of the pertinent law and regulations, a list of the evidence of record and a summary of the evidence, and the Secretary's decision and the reasons for the decision.¹⁵ (This was a Subcommittee proposal.)

3. Other SSI Improvements

The bill would also terminate the deeming or attribution of parents' income and resources when a disabled child attains age 18, with the qualification that the benefits of present recipients would not be reduced as a

result of this provision. (Similar to a proposal in the administration's welfare reform bill, H.R. 4321.)

On April 10, after amending the SGA provision to delete the exclusion of 20 percent of gross earnings in determining countable earnings for SGA purposes, the House Ways and Means Committee reported H.R. 3464 to the House.

House Rules Committee and Floor Action. In early May 1979, the House Rules Committee conducted a hearing on H.R. 3464 and reported House Resolution 259, which provided for a modified closed rule and 2 hours for debate, to the House. On June 6, 1979, the House passed H.R. 3464 by a vote of 374-3 and sent the bill to the Senate.

Action in the Senate

Senate Committee on Finance Action

In early October 1979, the Senate Finance Committee held public hearings on the proposed disability legislation included in H.R. 3236, H.R. 3464, H.R. 2854 (the administration's bill), and other proposals that were submitted. Stanford G. Ross, Commissioner of Social Security, testifying for the administration, cited the growth of the disability program and warned that its cost would rise from \$15 billion to \$30 billion within 10 years unless major legislative changes were made. He also stressed that the current legislation was designed to correct three critical areas of the disability program: (1) The high replacement rates for disabled workers, (2) the lack of incentives that would encourage beneficiaries to attempt to work and to leave the disability rolls, and (3) the cumbersome administration of the program.

Commissioner Ross spoke against the provisions in H.R. 3464 that would, if enacted, change the earnings level for determining SGA and provide a 20-percent increase in the earned-income exclusion in the SSI program, but he expressed support for the H.R. 3464 provisions permitting deduction of some impairment-related work expenses from earnings in determining SGA (regardless of who paid them) and in determining benefits (only if the beneficiary paid them). In addition, Commissioner Ross expressed support for adopting the H.R. 2854 provision limiting judicial review, broadening the H.R. 3236 demonstration authority to include other than work-incentive experiments, and providing for the extension of Medicaid eligibility for 3 years after SSI disability benefits end in the same way that Medicare eligibility would be extended after social security disability benefits ended.

Proposals in other bills that were considered by the Committee related to: (1) Benefits for disabled recipients who have earnings from gainful employment, (2) Medicaid eligibility for individuals who are disabled but do not meet the requirements for disability benefits because they are performing SGA, (3) the

¹³ Same as administration's proposal in H.R. 2854 and similar to a provision in H.R. 3236 that would affect the DI program.

¹⁴ Similar to a provision in H.R. 3236 that would affect the DI program.

¹⁵ *Ibid.*

waiting period to receive DI benefits in the case of individuals with illnesses that would result in death within 12 months after the impairment became disabling, and (4) provisions designed to encourage disabled DI beneficiaries to return to work.

In late October 1979, the Senate Finance Committee conducted markup sessions. The Committee amended and consolidated provisions of the House approved DI legislation, H.R. 3236, and SSI legislation, H.R. 3464. Senator Talmadge had also introduced a number of bills to amend to the AFDC and CSE programs. The provisions in these bills were then introduced and agreed upon as amendments to H.R. 3236.

The bill, as reported by the Senate Finance Committee, differed from the House-passed bills in the following manner:

1. Provisions Increasing Benefit Equity Under DI

A. Limited the total family benefits payable in a disability case to the lesser of 85 percent of the worker's AIME or 160 percent of the PIA. (The House provision was 80 percent and 150 percent, respectively.)

B. Allowed at least 1 dropout year to all workers under the age of 32 and deleted the House provision granting childcare dropout years. (Under the House provision, the worker under age 27 may not be eligible for any regular dropout years.)

2. Provisions Strengthening Work Incentives Under Both DI and SSI

A. Modified the House provision in H.R. 3236 that would permit the deduction of the costs of impairment-related work expenses and certain other costs from earnings for the purpose of determining whether an individual is engaging in SGA to allow the deduction even where the costs were paid by a third party. (Applies to both DI and SSI.)

B. Added a 3-year demonstration project that would extend special benefits to disabled SSI recipients whose earnings equal or exceed the SGA level until their countable income reached the Federal breakeven point. Recipients of the special benefits would be eligible for Medicaid and social services on the same basis as SSI recipients. States would have the option of supplementing the special benefits. Medicaid and social services could continue to be available to individuals whose earnings preclude payment if they could not keep working without the services these programs provide and their earnings were insufficient to purchase the coverage. (Applies to SSI only.)

C. Added a provision to treat remuneration for work in sheltered workshops as earned income for purposes of determining SSI payments. (This SSI

provision was contained in the administration's welfare reform bill, H.R. 4321.

3. Improved DI and SSI Program Administration

A. Added a Senate Finance Committee provision that would delete the substantial evidence requirement and instead modify the scope of Federal court review so that the Secretary's determinations with respect to facts in claims under OASDI and SSI would be conclusive, unless found to be arbitrary and capricious.

B. Modified the House provision in H.R. 3236 that required the Secretary to perform a preeffectuation review on disability allowances to authorize such review in cases of denials as well as allowances. The schedule for review was changed to 15 percent of the national workload in fiscal year 1981, 35 percent in fiscal year 1982, and 65 percent in years thereafter.

C. Deleted the House provision that would change the funding provisions for providing VR services for DI beneficiaries.

D. Modified the House provision in H.R. 3236 to authorize SSA to continue to review eligibility of even permanently disabled persons.

E. Modified the House provisions in H.R. 3236 and H.R. 3464 to require that denial notices be expressed in language understandable to the claimant.

4. Provisions Relating to AFDC and CSE Programs

A. Added a provision to make several changes in the work incentive program, including: (1) A requirement that WIN registrants participate in employment search activities, (2) elimination of the 60-day counseling period for refusal to cooperate before assistance can be terminated, and (3) authorization to establish in regulations the period of time during which an individual will be ineligible for assistance in the case of a refusal without a good cause to participate in the WIN program.¹⁶ The Senate Finance Committee, in adding this provision to the bill, stated "that AFDC recipients who are able to work should be required to actively seek employment and that this should be made explicit in the law." Recent demonstration projects, concentrating on employment search activities, have shown that increased emphasis on job search activities have been effective in placing new AFDC recipients into jobs.

B. Added a provision to increase the Federal matching rate for AFDC fraud investigations and prosecutions from 50 percent to 75 percent.

¹⁶ Similar to a provision in the administration's welfare reform bill, H.R. 4321.

C. Added a provision to exempt any governmental agency, or component or instrumentality thereof authorized by law to conduct audits or similar activities in connection with the administration of the AFDC program from the general prohibition against disclosure of personal information about AFDC recipients to legislative bodies. This provision also permitted disclosure to the Senate Committee on Finance and the House Committee on Ways and Means.

D. Added a provision to increase the Federal matching for AFDC costs incurred by States to 90 percent for developing and implementing a computerized AFDC management information system.¹⁷

E. Added a provision to extend Internal Revenue Service authority to collect child support for non-AFDC child support enforcement cases.

F. Added a provision to allow Federal matching for State expenditures (including compensation) for child support activities performed by court personnel and other supportive and administrative personnel. As noted in the Senate Finance Committee report, the Congress included the provision because there is "a tremendous backlog of cases awaiting court action in some States" that was created, in large part, by the emphasis on child support enforcement caused by the CSE program.

G. Added a provision to increase the Federal matching to 90 percent for child support costs incurred by States in developing and implementing computer management information systems.

H. Added a provision to prohibit advance payments to the State of the Federal share of the child support program administrative expenses for a calendar quarter unless the State has submitted a full and complete report of the amount of child support collected and disbursed for the calendar quarter that ended 6 months earlier. The amount of the advance payment would also be reduced in the Federal share of child support collections made but not reported by the State.¹⁸

I. Added a provision to grant authority for States and localities to have access—for purposes of the child support program—to earnings information in records maintained by SSA and State employment security agencies. In addition, SSA would be specifically authorized to disclose certain tax return information to State and local child support enforcement agencies.¹⁹

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid.

5. Other Provisions

A. Expanded the authority of the Secretary to conduct demonstration projects by permitting waiver of certain benefit requirements of DI and Medicare to allow demonstration projects to test ways to stimulate disabled beneficiaries and recipients to return to work. (This provision was also contained in H.R. 2854 and H.R. 3236, and a similar provision was in H.R. 3464.)

B. Added a Senate Finance Committee provision to authorize SSA to participate in a demonstration project designed to determine how best to provide services needed by disabled individuals who are terminally ill.

C. Added a provision to require an alien to reside in the United States for 3 years before becoming eligible for SSI. (This provision is a substitute for one contained in the administration's welfare reform bill, H.R. 4321. The administration had proposed making a sponsor's agreement for support legally binding for 5 years, authorizing legal action to secure reimbursement for public assistance paid to newly arrived aliens, and regarding aliens who received unreimbursed public assistance as public charges.)

D. Added a provision requiring that retroactive OASDI benefits would be adjusted by the amount of SSI benefits already paid that would not have been paid if the social security benefits had been paid timely and taken into account as income on the regularly scheduled payment dates.²⁰

E. Added a provision that would close the so-called "FICA II" loophole by stating that, after 1980, any amounts of employee social security taxes paid by an employer would be considered to constitute wages and would, therefore, be subject to social security taxation, except in the case of domestic employment.

F. Added a Senate Finance Committee provision requiring social security contributions for State and local employees to be deposited 30 days after the end of each month.

On November 8, 1979, the Senate Finance Committee reported H.R. 3236 to the full Senate.

Senate Floor Action

On December 5, 1979, the Senate began its floor debate on H.R. 3236. Final debate, which occurred in late January 1980, centered primarily on attempts to modify the provision of the bill dealing with the limitation on family benefits. An amendment to substantially liberalize the provision failed by a vote of 50-34.

²⁰ Ibid.

On January 31, 1980, the Senate passed H.R. 3236 by a vote of 87-1, as modified by the following floor amendments:

1. A modification by Senator Strom Thurmond, Republican of South Carolina, to the Senate Finance Committee's "FICA II" provision, which would require that any amounts of employee FICA taxes paid by an employer would be considered to constitute wages for both social security tax and benefit purposes, and would not be applicable in the case of payments made on behalf of employees of State and local governments; employees of small businesses, including farmers; employees of tax-exempt institutions; and domestic employees. (The Finance Committee provision excluded only domestic employees.)

2. An amendment by Senator Charles Percy, Republican of Illinois, that would modify the Immigration and Nationality Act to make a sponsor's agreement of support for an alien legally binding for 3 years, subject to certain exceptions. This amendment would also modify the Finance Committee's 3-year residency requirement for SSI eligibility of aliens.

3. An amendment by Senator Gaylord Nelson, Democrat of Wisconsin, to require the Secretary of Health and Human Services to develop a plan that would provide State employees who are capable of performing duties in the disability process preferential hiring, notwithstanding any other provision in law, when the Secretary either partially or fully assumes the disability determination function of a State agency. In addition, the Secretary would not be permitted to assume such function until the Secretary of Labor determines that the State has made arrangements to protect, under every applicable Federal, State, and local statute, employees who will not be hired.

4. An amendment by Senator Birch Bayh, Democrat of Indiana, which would eliminate the waiting period for persons with a terminal illness (a medically determinable physical impairment that is expected to result in death of such individual within 12 months after onset and that has been confirmed by two physicians).

5. An amendment by Senator Herman Talmadge, Democrat of Georgia, to limit the Secretary's right to regulate State agencies making disability determinations to actions authorized by law.

6. An amendment by Senator Henry Bellmon, Republican of Oklahoma, that would require the Secretary to review disability decisions issued by administrative law judges and to report to the Congress by January 1, 1982, on the progress of this review.

7. An amendment by Senator Max Baucus, Democrat of Montana, to establish a voluntary program to certify Medicare supplemental health insurance policies (the so-called Medi-Gap policies) that would meet certain minimum standards.

Action in the House-Senate Conference Committee

Following the appointment of the House-Senate conferees, the Conference Committee, chaired by Representative Al Ullman (Chairman of the House Ways and Means Committee) convened on March 27, 1980, and began its deliberations on H.R. 3236. These deliberations extended throughout April and into May.

The conferees quickly reached a compromise on the benefit equity provisions. They agreed to limit the amount of benefits a family just coming on the disability rolls could receive to the lesser of 85 percent of the disabled worker's AIME (as in the Senate bill) or 150 percent of the worker's PIA (as in the House bill) but not less than 100 percent of PIA. The Committee also agreed to follow the House schedule for the number of dropout years that can be used in computing the amount of the disability benefits. In addition, the childcare dropout provision in the House bill was modified so that, for monthly benefits payable for July 1981 and later, a worker could be eligible for additional dropout years if a child under age 3 lived in the disabled worker's household substantially throughout a year and the disabled worker did not have earnings in that year. If any year is dropped because of childcare, however, the total number of years dropped—regular and childcare—cannot exceed 3.

The House-Senate differences regarding work incentive provisions were resolved later when the conferees agreed that for purposes of determining whether the individual's level of earnings demonstrate an ability to engage in SGA for both the DI and SSI programs, the costs of impairment-related work expenses will be deductible only if paid for by the beneficiary; in addition, for SSI, the deduction will be allowed for benefit-computation purposes. However, an initial applicant must meet the income test and qualify for benefits without the deduction.

The conferees also agreed to a Senate provision authorizing the Secretary to specify, in regulations, the type of care, services, and items that may be deducted and to prescribe the reasonable limits as to the amount of earnings that may be excluded. Agreement was also reached to include the Senate language, which provides that remuneration for work in sheltered workshops will be considered, for SSI purposes, earned—rather than unearned—income.

The conferees also agreed to provisions regarding the work incentive demonstration projects. One of these provisions authorized the Secretary to conduct experiments and demonstrations to test the effectiveness of various alternatives in encouraging disabled beneficiaries to work. In addition, the Secretary is directed to undertake a project to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of

irreversible medical conditions that may result in permanent disability. The conferees adopted the Senate's provisions for special SSI benefits and continued Medicaid and social services eligibility for people who had received SSI disability benefits but who are engaging in SGA. They also added a provision under which funds would be provided to States for establishing programs of medical assistance and social services for severely handicapped people who have not qualified for cash disability benefits.

The numerous differences that existed in the provisions for improved program administration were resolved by the conferees with relatively little difficulty. Agreement was reached to follow the Senate schedule for reviewing State agency disability determinations (15 percent in fiscal year 1981, 35 percent in fiscal year 1982, and 65 percent in years thereafter), but to limit the review to only allowances and continuances as proposed by the House. In addition, the Senate provision to permit the Secretary to review State agency determinations and make them more favorable was adopted. In its report, the Conference Committee instructed the Secretary to report to the House Ways and Means and Senate Finance Committees by January 1982 concerning the potential effects on processing times and on the cost effectiveness of the requirement of the 65 percent preeffectuation review scheduled for fiscal year 1983 and thereafter.

The conferees also agreed to the House version of the proposal requiring the Secretary to review the status of DI or SSI beneficiaries at least once every 3 years unless a finding is made that the individual's disability is permanent. They agreed that disability denial notices be expressed in language understandable to the claimant and include a discussion of the evidence and reasons why the claim was denied.

The conferees further agreed to the Senate proposal requiring the Secretary to implement a program of reviewing, on his own motion, decisions rendered by administrative law judges (ALJ's) as a result of disability hearings and to report to Congress on the progress of this program. The Conference Committee report pointed out:

In the past there had also been fairly extensive review of ALJ allowances and denials through own-motion review by the Appeals Council as authorized by the Administrative Procedure Act and the regulations of the Secretary. This own-motion review has almost been eliminated in recent years.

The new provision is, therefore, designed to move toward greater review of ALJ decisions.

The conferees deleted the Senate amendment that would have provided that the Secretary's determinations with respect to facts in OASDI and SSI claims would be conclusive unless found to be arbitrary and capricious. The conferees were not convinced it would have the intended effect.

The Senate amendment that requires the Secretary to provide a hiring preference to State agency employees (other than the agency administrator and his deputy), in the event the Secretary assumes the functions of a State agency, was adopted. In addition, the Secretary would be prohibited from assuming the State functions until the Secretary of Labor had determined that, with respect to any State agency employees not hired by the Secretary, the State had made fair and equitable arrangements to protect the interests of the displaced employees.

In considering the Senate AFDC and CSE amendments, the conferees deleted the provision to increase the Federal matching rate for AFDC fraud investigations and prosecutions. The conferees agreed to the remaining AFDC and CSE provisions. The provision to allow disclosure of AFDC recipient information to legislative bodies was modified to exclude the disclosure of individual recipients' names and addresses to legislative bodies such as the Senate Finance Committee and House Ways and Means Committee. Also, the provision to allow Federal matching for costs incurred by a court in making judicial determinations related to CSE was modified to exclude judges' salaries from this matching.

After considerable discussion over the course of several conference sessions, the conferees finally agreed to delete the Senate provision that would have eliminated the waiting period for persons with a terminal illness and, instead, compromised on a provision that authorizes SSA to use up to \$2 million a year for the purpose of participating in a demonstration project relating to the terminally ill. This project is currently being conducted by the Health Care Financing Administration. The conferees adopted the Senate proposal for a Medi-Gap provision, but modified it by specifying the criteria under which a Medicare supplemental policy would be certified.

The conferees agreed to a modified version of the Senate provision regarding aliens that provides that income and resources of sponsors be deemed to aliens for 3 years after entry and holds aliens and sponsors jointly liable for any overpayment during the 3-year period resulting from incorrect information furnished to SSA. They also agreed to a Senate provision for adjusting retroactive social security benefits by the amount of SSI benefits already paid that would not have been paid if the social security benefits had been paid, and therefore taken into account as income, on their regularly scheduled payment dates.

The conferees agreed to the Senate provision to require that deposits from State and local governments be due 30 days after the end of each month. However, they deleted the provision to count any employer payment of employee FICA taxes as wages for social security crediting and taxing purposes because they

thought the issue needed further congressional consideration and study.²¹ Also deleted was a provision to establish a new funding concept in the vocational rehabilitation program designed to increase incentives to the States to help beneficiaries return to work. The conferees believed that the new performance-based allocation system for reimbursing the States for VR services put in place by the Secretary for FY 1979 should continue and be explored further in the future. However, SSA and the Rehabilitation Services Administration are instructed to explore more timely and effective methods of measuring performance in rehabilitations and report the results of these efforts to the Congress.

On May 13, 1980, the House-Senate Conference Committee reported the bill: H.R. 3236, as agreed to by the conferees, was passed on May 22, 1980, by the House of Representatives by a vote of 289-2, and on May 29, 1980, by the Senate on a voice vote. On June 9, 1980, H.R. 3236 was signed by President Carter and became Public Law 96-265, the Social Security Disability Amendments of 1980. The specific provisions of the final legislation are described below.

Summary of Major Provisions

Provisions Increasing Equity

Maximum Family Benefit. The new law sets the maximum family benefit in disability cases at 85 percent of the average indexed monthly earnings or 150 percent of the primary insurance amount, whichever is less, but no less than 100 percent of the primary insurance amount. This provision is effective for individuals eligible after 1978 who were never entitled to disability benefits before July 1980.

One concern that led to this change was that high benefit amounts and replacement rates for some disabled worker families had contributed to growth in the DI program by encouraging persons with serious medical conditions to stop working and apply for benefits and by discouraging those receiving benefits from returning to work. Another concern involved the appropriateness of situations where DI benefits exceed predisability take-home pay, regardless of the effect that such situations might have in encouraging applications for benefits or discouraging rehabilitation. Under the previous law, for example, about 6 percent of newly entitled DI beneficiaries and their families would receive benefits that would be higher than the worker's predisability *net* earnings.

Dropout Years. Effective for individuals who were never entitled to disability benefits before July 1980, the

number of years that can be dropped from the computation (averaging) period is proportional to the age of the disabled worker: 1 year can be disregarded for each 5 years after age 21 up to the year in which the worker becomes disabled. As under prior law, the minimum required for the averaging period is 2 years and the maximum number of dropout years is 5.

Under the previous law, younger workers could disregard a higher proportion of their working years than older workers. For example, by disregarding 5 years and counting only 2, a 29-year-old disabled worker would receive a benefit based on the best 29 percent of his or her earnings. A worker aged 50 or older was able to drop only 5 of 28 or more years and would receive a benefit based on 82 percent or more of lifetime earnings. Older workers, therefore, generally had to use more of their low years of earnings than younger workers.

To allow for the fact that younger persons may not work while caring for children, the new law permits workers to drop up to 3 years in which they have no earnings and have children under age 3 living with them. If any year is dropped because of childcare, however, the total number of years dropped—regular and childcare—cannot exceed 3. The childcare provision is effective for monthly benefits after June 1981.

Provisions Strengthening Work Incentives

Exclusion of Extraordinary Work Expenses Due To Severe Disability. This provision states that for purposes of determining whether the level of earnings received by a disabled beneficiary demonstrates ability to engage in substantial gainful activity for both the DI and SSI programs, the costs to the beneficiary of attendant care services, medical devices, equipment prostheses, and similar items and services needed to enable the beneficiary to work will be excluded from income. These costs will be excluded whether or not the items and services are also required for normal daily functions. For SSI recipients, the deduction is permitted in computing the monthly benefit amount. In establishing initial SSI eligibility, however, an applicant must meet the income test and qualify initially without application of the deduction. The change is effective for expenses incurred 6 months after enactment and later.

This change reflects the view that a worker's gross earnings are not a fair measure of a worker's ability to engage in substantial gainful activity when a very substantial part of those earnings must be used to pay for extraordinary impairment-related work expenses. Those whose earnings after these work expenses are deducted do not exceed the SGA level will continue to be considered disabled for benefit purposes.

Automatic Reentitlement to Benefits. Extends under both the DI and SSI programs a person's status as a disabled individual for 15 months after the completion

²¹ Although dropped from H.R. 3236, a similar provision was later enacted in P.L. 96-499 (H.R. 7765), Omnibus Reconciliation Act of 1980.

of a 9-month trial work period, as long as there is no medical recovery. Although under the DI program cash benefits are not payable for more than 3 months of this period if the individual engages in SGA, the individual can automatically be reinstated to active benefit status if the work attempt subsequently fails and he or she stops substantial gainful activity. Thus, when earnings exceed SGA, cash benefits will be stopped, but the individual is offered the new assurance of automatic reentitlement in the first year after the trial work period ends. This provision is effective 6 months after enactment.

In commenting on the need for such a change, the Senate Finance Committee stated that it was "concerned that the present 9-month trial work period is insufficient as an incentive for disabled people to return to work" The Committee said further: "The abruptness of the termination of the trial work period forces people who work for some time and then, because of their impairment, must stop work, to refile an application and go through the lengthy determination process again. The Committee believes the possibility of having to go through this process again poses a sizable impediment to disabled beneficiaries contemplating a return to work."

Extension of Medicare Coverage. Medicare coverage under the DI program is extended for an additional 24 months after the end of the automatic reentitlement period. Thus, Medicare benefits can remain available for 3 years after cash benefits end and 2 years after the reentitlement period. This provision is effective for individuals whose disability has not been determined to have ceased before the 6th month after enactment.

It is often argued that the loss of medical coverage is frequently more of a disincentive than is the loss of cash benefits because medical needs are more uncertain and unpredictable than are cash needs and it may be difficult for a disabled person to obtain private medical insurance. It is hoped that by extending Medicare coverage for up to 4 years after the return to work, the individual has had ample opportunity to adjust to working, to feel secure working, and to make the necessary arrangements for medical coverage either individually or through an employer's group plan.

Waiver of Second Medicare Waiting Period. The requirement is eliminated that a person who was previously receiving DI benefits and entitled to Medicare (and who, within a specified period of time, becomes disabled a second time) must undergo another 24-month waiting period before Medicare is available. Also, if a previously disabled individual who was not entitled to Medicare becomes disabled again within a specified time period, the months for which that individual received cash benefits will count for purposes of qualifying for Medicare. (The specified time period is 60 months (5 years) for workers—the length of time generally required to regain insured status for disability

benefits; for widow(er)s and adults disabled in childhood, it is 84 months (7 years)—the period during which a disability would have to occur in order for benefits to be payable on the basis of the deceased worker's earnings.)

This provision assures those who go back to work that the fact that they have attempted to work will not cause a delay in becoming eligible for Medicare should their work attempt fail and they return to the DI rolls. The provision is effective 6 months after enactment.

Three-Year Demonstration Projects.

1. Special SSI payments and eligibility for Medicaid and social services. For the next 3 years, people who have completed the trial work periods and continue to earn in excess of the SGA amount are provided special cash benefit payments. These benefits will be calculated in the same manner as are SSI disability benefits. Individuals receiving the special benefits will continue to be eligible for Medicaid and social services on the same basis as regular SSI recipients. In addition, individuals who are blind or disabled SSI recipients will continue to be eligible for Medicaid and social services even if income above the "breakeven" point causes them to stop receiving cash benefits, as long as they—

- continue to be blind or to have the disabling condition that caused them to be considered disabled;

- would be entitled to cash payments except for their earnings;

- would be seriously inhibited in continuing employment if they lost Medicaid and social services eligibility; and

- do not have earnings high enough to allow them to provide a reasonable equivalent of the SSI benefits, State supplementary payments, Medicaid, and social services they would have in the absence of earnings.

These changes generally assure SSI disability beneficiaries that working will not disadvantage them. Their cash benefit will be reduced only gradually to reflect increases in their earnings (or other income) and their medical and other services are continued even after cash benefits have stopped if their continuation is needed to assure that the individual can continue to work. This provision is effective January 1, 1981.

2. Medical assistance and social services for certain handicapped persons. A 3-year pilot program under which States (at their option) could receive Federal grants to help meet the cost of providing medical assistance and social services to severely handicapped persons who are not receiving SSI is also provided. Eligibility is limited to those persons who have earnings in excess of the SGA amount and are not receiving SSI, special benefits, State

supplementary payments, or Medicaid and for whom the State determines that (1) the individual's ability to continue employment would be significantly inhibited without medical and social services; and (2) the person's earnings are not high enough to provide a reasonable equivalent of the cash and other benefits (SSI, State supplementary payments, Medicaid, and social services) that he or she would have in the absence of those earnings. Effective September 1, 1981, this provision authorizes \$6 million for September 1981 through September 1982, with total 3-year expenditures not to exceed \$18 million.

Trial Work Period for Disabled Widow(er)s. The trial work period, previously applicable only to disabled workers and adults disabled in childhood, is extended to disabled widows and widowers under DI. This change will allow these beneficiaries an opportunity to attempt to work and become self-sufficient and is effective for individuals whose disability has not been determined to have ceased before the 6th month after enactment.

Continuing Benefits in VR Plans. Special DI and SSI benefits (and, therefore, vocational rehabilitation services) will continue after medical recovery for persons in approved VR programs if (1) the medical recovery was not anticipated and (2) the continuance of such benefits will increase the likelihood that the persons will go off the benefit rolls permanently. This change is designed to allow many of those people who recover (unexpectedly) in the middle of a rehabilitation program to complete that program and is effective 6 months after enactment.

Improving DI and SSI Program Administration

Performance Standards for State Disability Determination Services (DDS). The Secretary is authorized to establish, through regulations, performance standards and procedures for the State disability determination process, with emphasis on performance criteria, fiscal control procedures, and other standards designed to assure equity and uniformity in State agency disability determinations. States may continue to provide disability determination services in compliance with the newly prescribed standards or turn the administration over to the Federal Government. In the event of unsatisfactory State performance, the Secretary could take over the administration of the State determination process. This provision is effective with the 12th month following the month of enactment.

The Secretary is required to develop a contingency plan for the assumption of the disability determination process and, in that plan, to give employment preference to State employees capable of performing duties in disability determination processes, excluding only employees filling the positions of DDS administrator

and deputy administrator. The report must be submitted to the Congress by July 1, 1980.

Periodic Review of Disability Determinations. A review is required at least once every 3 years of the status of disabled beneficiaries whose disabilities may not be permanent. Where a finding is made that an individual's disability is permanent, review of the beneficiary's condition may be made at such times as the Secretary considers appropriate. This provision reflects a congressional concern that too little has been done to assure that DI and SSI benefits are not being paid to persons who have medically recovered from their disability. The change is effective January 1, 1982.

Federal Review of State Agency Determinations. A Federal review is required of State disability allowance and continuation determinations on a preeffectuation basis, in order to assure greater uniformity and consistency of the decisions made by various adjudicators within a State agency and of decisions made by the various States. A review of 15 percent of such DI determinations is required in fiscal year 1981, increasing to 35 percent in fiscal year 1982, and 65 percent in fiscal year 1983 and thereafter. In compliance with congressional intent, the preeffectuation review requirement will also be applied to SSI disability determinations, although the law does not set forth a specific schedule for SSI reviews. In addition, the Secretary is to report to the Congress by January 1982 on the potential effects of the requirement for the 65-percent review for fiscal year 1983.

This provision also authorizes the Secretary to reverse a State agency decision to deny a DI claim. Thus, it is not possible for SSA to reverse all State agency decisions in both the DI and SSI programs.

Review of Administrative Law Judge Decisions. The Secretary is required to institute a program of own-motion review of disability decisions rendered by ALJ's and submit a report on the progress of this program to the Congress by January 1, 1982. The report will focus on the uniformity and accuracy of ALJ decisions and the standards employed in making those decisions. The new provision is designed to move toward greater review of ALJ decisions.

Closed Evidentiary Record. The introduction of new evidence is prohibited in OASDI and SSI claims after a decision on the claim is made at the hearings level, in order to stabilize the record on a claim prior to Appeals Council or Federal Court review.

This provision is intended to limit the so-called "floating application" process whereby a claimant, usually an applicant for disability benefits, continues to introduce new evidence while the appealed claim is being reviewed. This provision is effective for applicants filed in the month after the month of enactment.

Limitation on Court Remands. This provision permits OASDI cases to be remanded from courts on the

Secretary's motion only for "good cause" shown, and on court's own motion only if there is new and material evidence that was not previously submitted and there is "good cause" for not having submitted evidence. (This provision also would apply for SSI cases since the provision of title II that is amended is referenced in title XVI.) This provision is effective upon enactment.

Payment for Existing Medical Evidence. The new law provides that any non-Federal provider of medical services that supplies medical evidence required and requested for making a determination of disability in the DI program will be reimbursed for the reasonable costs of providing such evidence. This provision parallels existing authority in the SSI program and is intended to aid in obtaining better and more complete medical information needed to adjudicate disability cases. The change is effective 6 months after enactment.

Information to Accompany DI and SSI Disability Decisions. A notice to a claimant regarding the denial of a disability claim must be expressed in understandable language and must include a discussion of the specific evidence and reason for denial of the claim. This provision is intended to strengthen the adjudicatory process by requiring a written formulation of the reasons for the decision, as well as to provide claimants with a better understanding of the reason for denial. The change is effective 13 months after enactment.

Payment for Certain Travel Expenses. Permanent authority is provided under the Social Security Act to make payments for certain travel expenses incident to medical examinations required by SSA in conjunction with a disability determination and for travel expenses incurred by OASDI and SSI applicants, their representatives, and witnesses in traveling to hearings and face-to-face reconsiderations. Similar authority had been provided annually under appropriation acts. Travel expenses for SSI applicants will be paid from general revenues. This provision is effective upon enactment.

Other Changes Affecting SSI Programs

Parental Deeming for SSI. The preceding law required that the income and resources of parents be deemed to children aged 18-20 who were students and who lived with their parents; no such deeming was required in the case of similarly situated children who were not students. Thus, by becoming a student, a child could lose part or all of his or her SSI payment. This differential treatment of children on the basis of student status has been criticized as counterproductive to goals of education and training for the handicapped.

The new provision deletes the deeming requirement so that all deeming of income and resources from parents to children will end when the children reach age 18. The amendment also provides that the benefit amount of current recipients, if it would otherwise be

reduced as a result of the new provision, will not be reduced. These changes are effective October 1, 1980.

Retroactive Title II Benefit Adjustment Due To SSI Benefits. Significant numbers of SSI claims also involve concurrent claims for OASDI benefits. If the OASDI check is delayed until after SSI benefit payments have begun, the beneficiary can receive full payment under both programs for the same months because the lump-sum retroactive OASDI payment is income for SSI purposes only for the calendar quarter in which it is received. The new law provides for offsetting retroactive OASDI benefits by the amount of SSI benefits already paid that would not have been paid had the social security benefits been paid on their regularly scheduled payment dates. This change is effective in the 13th month after enactment.

Aliens. Considerable criticism has been voiced over the fact that aliens could become entitled to SSI benefits within 30 days of their arrival in the United States despite pledges of financial support by sponsors who may have substantial income and resources. In addition, because reduced SSI benefits are payable to those living with and receiving support and maintenance from another person, an alien could receive SSI benefits despite the receipt of substantial support from his or her sponsor. In addition, courts have determined that a sponsor's affidavit of support is not legally binding. To address these concerns, the new law—

- provides that income and resources of sponsors be deemed to aliens for 3 years after entry;
- requires aliens to obtain their sponsors' cooperation in documenting income and resources;
- excludes refugees, those granted political asylum, and those who become blind or disabled after entry from the deeming requirement; and
- holds aliens and sponsors jointly liable for any overpayment during the 3-year period resulting from incorrect information furnished SSA, unless good cause exists.

These changes are effective with respect to applications filed on and after October 1, 1980.

Income in Sheltered Workshops. Under prior law, some income received through participation in a sheltered workshop was treated for SSI purposes as unearned income. Therefore, remuneration received was subject to a less liberal income disregard than that applied to earned income. The new law provides that all remuneration received in a sheltered workshop is considered as earned income and is therefore subject to the earned income disregards.

The intent was to encourage the participation of SSI recipients in vocational rehabilitation programs by extending the work-incentive features of the earned income disregard to income received in sheltered workshop training programs. These changes are effective for remuneration received after September 30, 1980.

Summary of Provisions Affecting AFDC and CSE

Work Incentive Program. The amendments authorize the Department of Labor to require those AFDC recipients who are required to register with the WIN program to participate in up to 8 weeks of job search activities a year through WIN. The new law also strengthens the AFDC work requirements by eliminating the 60-day counselling period before assistance can be terminated for recipients who refuse to participate in WIN and by authorizing the Secretaries of Labor and Health and Human Services to establish a fixed sanction period during which an individual who refuses to participate remains ineligible for AFDC. These changes are effective October 1, 1980, except for the provisions relating to sanctions for nonparticipation, which are effective upon enactment.

AFDC and CSE Management Information Systems. A number of recent studies have concluded that computerized management information systems for AFDC and CSE programs foster better management of these programs. The new law provides for increasing to 90 percent the Federal matching costs of developing and implementing such systems, effective July 1, 1981.

Wage Information for CSE Program. To improve the capacity of the State child support enforcement agencies to acquire accurate wage data, the new law authorizes and requires SSA to disclose wage and self-employment information directly to State and local child support enforcement agencies. Previously this information could be obtained only from the Internal Revenue Service. The new law also requires States to disclose wage information from unemployment compensation records to CSE agencies for the same purpose. The provisions are effective July 1, 1980.

Disclosure of AFDC Information. Prior law provided that State AFDC plans include safeguards against disclosure of AFDC recipient information to legislative bodies or their agents. Although regulations of the Department of Health and Human Services allow State audit agencies performing normal audit functions to be exempted from this restriction, several States did not honor the exemption. The new law eliminates the disclosure prohibition for such agencies. The amendment makes similar changes with regard to audits under title XX, social services. These changes are effective upon enactment.

Child Support Duties by Court Personnel. The new law provides Federal matching funds for expenditures by courts (exclusive of judges' salaries) in performing child support enforcement activities; the Federal Government will pay 75 percent of expenditures over and above 1978 levels. The new law is expected to encourage States to concentrate more court personnel on child support enforcement cases, help to alleviate the existing

backlogs, and lead to increased collections. The provision is effective for expenditures beginning July 1, 1980.

IRS and Collections of Child Support for Non-AFDC Families. The new law strengthens the child support enforcement powers of the States by extending to the States the authority to request the Internal Revenue Service collection of delinquent child support payments for non-AFDC families. This change is effective July 1, 1980.

Child Support Reporting and Matching Procedures. Prior law required State child support agencies to submit full reports of collections and disbursements and to return the Federal share of collections for AFDC families to the Federal Government. Some States were delinquent in providing reports requested by the Secretary. Other States that reported promptly failed to return the Federal share of collections. The new legislation will promote more efficient processes in State reporting by denying advances of Federal matching for CSE administrative costs to States that do not report effective with the calendar quarter beginning July 1, 1980. It will also simplify the return of the Federal portion of collections by reducing AFDC quarterly advances of funding to States by the amount of the Federal share, as estimated for States failing to report, effective January 1, 1981.

Other Changes Affecting SSA Programs

Secretary's Report on OASDI and SSI. The Secretary is required to make a full report to the Congress on the effects of the OASDI and SSI disability provisions of P.L. 96-265, with emphasis on work incentives, implementation and operational problems, and cost and caseload impact. The report is due by January 1, 1985.

Social Security Contributions for State and Local Employment. The new law requires that deposits of social security contributions for State and local covered employment be made within 30 days after the end of each month effective with contributions for wages paid on or after July 1, 1980. Prior to the enactment of P.L. 96-265, States were required to make deposits only once each quarter. These social security requirements are much more liberal than for private employers and resulted in a significant loss of interest income to the social security trust funds. The Department of Health and Human Services had published regulations that would have required deposits on a more frequent basis than P.L. 96-265, but P.L. 96-265 was passed before the regulations were to take effect and superseded them.

Study of Time Limits for Decisions on Benefit Claims. The Secretary is required to report to the Congress by July 1, 1980, on appropriate time limits within which a decision should be made in initial, reconsideration, hearing, and Appeals Council cases under OASDI.

Demonstration Projects. The Secretary is authorized

to conduct experiments and demonstrations to test the effectiveness of various alternatives on encouraging disabled beneficiaries to return to work. Such projects could include a study of the effect of lengthening the trial work period; altering the 24-month waiting period for Medicare coverage; altering the way in which the disability program is administered; earlier referral of beneficiaries for vocational rehabilitation; and greater use of private contractors, employers, and others to develop, perform, or otherwise stimulate new forms of rehabilitation. The Secretary is also directed to undertake a project to ascertain the feasibility of treating alcoholics and drug addicts to prevent the onset of irreversible medical conditions that may result in permanent disability.

These demonstration projects and experiments are expected to provide information that can be used to improve the operations of the DI, SSI, and Medicare programs as they relate to the disabled and to ensure that these programs are administered in the most efficient and effective way possible. An interim report on the projects must be sent to Congress by January 1, 1983, and a final report is due 5 years after enactment.

Terminally Ill. Funds are authorized to be used by SSA to participate in a project to study the impact on the terminally ill of provisions of the disability programs

administered by the Social Security Administration.

Medicare Supplemental Health Insurance (Medi-Gap) Certification. The Secretary is required to establish a voluntary certification program for Medicare supplemental policies. This certification program will apply to policies sold in States (1) that fail to establish and implement standards that meet or exceed those contained in the National Association of Insurance Commissioners (NAIC) model regulations and (2) whose requirements concerning the loss-ratio are not at least those of P.L. 96-265. Final regulations to announce certification procedures were required to be issued by October 1, 1980, with issuance of seals of certification to begin July 1, 1982.

A panel chaired by the Secretary of the Department of Health and Human Services, and consisting of four State insurance commissioners, will be appointed by the President to determine which States have programs that meet the NAIC standards and the loss-ratio requirements. This provision is effective July 1982 in those States that do not meet standards and is designed to alleviate the highly publicized abuses in the sale of some private health insurance policies to supplement Medicare coverage by encouraging States to implement regulatory insurance programs that would be beneficial to the public.

96TH CONGRESS
1ST SESSION

H. R. 2054

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 1979

Mr. PICKLE (for himself, Mr. ULLMAN, Mr. ARCHER, and Mr. CONABLE) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, with the following table of contents, may be
4 cited as the "Disability Insurance Amendments of 1979".

TABLE OF CONTENTS

- Sec. 1. Short title.
- Sec. 2. Limitation on total family benefits in disability cases.
- Sec. 3. Reduction in number of drop-out years for younger disabled workers.
- Sec. 4. Work incentive—SGA demonstration project.

- Sec. 5. Extraordinary work expenses due to severe disability.
 Sec. 6. Provision of trial work period for disabled widows and widowers; extension of entitlement to disability insurance and related benefits.
 Sec. 7. Elimination of requirement that months in medicare waiting period be consecutive.
 Sec. 8. Disability determinations under State agreements; Federal review of State agency allowances.
 Sec. 9. Information to accompany Secretary's decisions as to claimant's rights.
 Sec. 10. Disability determination demonstration project.
 Sec. 11. Limitation on court remands.
 Sec. 12. Time limitations for decisions on benefit claims.
 Sec. 13. Vocational rehabilitation services for disabled individuals.
 Sec. 14. Continued payment of benefits to individuals under vocational rehabilitation plans.
 Sec. 15. Payment for existing medical evidence.
 Sec. 16. Payment of certain travel expenses.
 Sec. 17. Periodic review of disability determinations.

1 **LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY**

2 **CASES**

3 **SEC. 2. (a) Section 203(a) of the Social Security Act is**
 4 **amended—**

5 (1) by striking out “except as provided by para-
 6 graph (3)” in paragraph (1) (in the matter preceding
 7 subparagraph (A)) and inserting in lieu thereof “except
 8 as provided by paragraphs (3) and (6)”;

9 (2) by redesignating paragraphs (6), (7), and (8) as
 10 paragraphs (7), (8), and (9), respectively; and

11 (3) by inserting after paragraph (5) the following
 12 new paragraph:

13 “(6) Notwithstanding any of the preceding provisions of
 14 this subsection (but subject to section 215(i)(2)(A)(ii)), the
 15 total monthly benefits to which beneficiaries may be entitled
 16 under sections 202 and 223 for any month on the basis of the
 17 wages and self-employment income of an individual entitled

1 to disability insurance benefits (whether or not such total
2 benefits are otherwise subject to reduction under this subsec-
3 tion but in lieu of any reduction under this subsection which
4 would otherwise be applicable) shall be reduced (before the
5 application of section 224) to the smaller of—

6 “(A) 75 percent of such individual’s average in-
7 dexed monthly earnings (or 100 percent of his primary
8 insurance amount, if larger), or

9 “(B) 150 percent of such individual’s primary in-
10 surance amount.”.

11 (b)(1) Section 203(a)(2)(D) of such Act is amended by
12 striking out “paragraph (7)” and inserting in lieu thereof
13 “paragraph (8)”.

14 (2) Section 203(a)(8) of such Act, as redesignated by
15 subsection (a)(2) of this section, is amended by striking out
16 “paragraph (6)” and inserting in lieu thereof “paragraph
17 (7)”.

18 (3) Section 215(i)(2)(A)(ii)(III) of such Act is amended
19 by striking out “section 203(a) (6) and (7)” and inserting in
20 lieu thereof “section 203(a) (7) and (8)”.

21 (c) The amendments made by this section shall apply
22 only with respect to monthly benefits payable on the basis of
23 the wages and self-employment income of an individual
24 whose initial entitlement to disability insurance benefits (with

1 respect to the period of disability involved) begins on or after
2 January 1, 1980.

3 REDUCTION IN NUMBER OF DROPOUT YEARS FOR
4 YOUNGER DISABLED WORKERS

5 SEC. 3. (a) Section 215(b)(2)(A) of the Social Security
6 Act is amended by striking out "except that" and all that
7 follows and inserting in lieu thereof the following: "except
8 that—

9 “(i) in the case of an individual becoming eligible
10 for disability insurance benefits prior to the year in
11 which he attains age 45, the number of such elapsed
12 years (subject to clause (ii))—

13 “(I) shall be reduced only by four if such in-
14 dividual becomes eligible for such benefits in or
15 after the year in which he attains age 40,

16 “(II) shall be reduced only by three if such
17 individual becomes eligible for such benefits in or
18 after the year in which he attains age 36 but
19 before the year in which he attains age 40,

20 “(III) shall be reduced only by two if such
21 individual becomes eligible for such benefits in or
22 after the year in which he attains age 32 but
23 before the year in which he attains age 36,

24 “(IV) shall be reduced only by one if such
25 individual becomes eligible for such benefits in or

1 after the year in which he attains age 28 but
2 before the year in which he attains age 32, and
3 “(V) shall not be reduced if such individual
4 becomes eligible for such benefits before the year
5 in which he attains age 28;

6 and this clause shall continue to apply for purposes of
7 determining such individual’s primary insurance
8 amount after his death or his attainment of age 65
9 unless prior to the month in which he dies or attains
10 such age there occurs a period of at least twelve con-
11 secutive months for which he was not entitled to a dis-
12 ability insurance benefit based on the same disability;

13 “(ii) If an individual described in clause (i) is de-
14 termined in accordance with regulations of the Secre-
15 tary to have been responsible for providing (and to
16 have provided) the principal care of a child (of such in-
17 dividual or his or her spouse), under the age of 6,
18 throughout more than six full months in any calendar
19 year which is included in such individual’s elapsed
20 years but which is not disregarded pursuant to the pre-
21 ceding provisions of this subparagraph and subpara-
22 graph (B) (in determining such individual’s benefit com-
23 putation years) by reason of the reduction in the
24 number of such individual’s elapsed years under clause
25 (i), the number by which such elapsed years are re-

1 duced under this subparagraph pursuant to clause (i)
2 shall be increased by one (up to a combined total not
3 exceeding 5) for each such calendar year; except that
4 (I) no calendar year shall be disregarded by reason of
5 this clause (in determining such individual's benefit
6 computation years) unless the individual provided such
7 care throughout more than six full months in such
8 year, (II) the particular calendar years to be disregard-
9 ed (in determining such benefit computation years)
10 shall be those years for which the total of such individ-
11 ual's wages and self-employment income, after adjust-
12 ment under paragraph (3), is the smallest, and (III)
13 this clause shall apply only to the extent that its appli-
14 cation would result in a higher primary insurance
15 amount; and

16 “(iii) the number of an individual's benefit compu-
17 tation years shall in no case be less than two.”.

18 (b) The amendments made by this section shall apply
19 only with respect to monthly benefits payable on the basis of
20 the wages and self-employment income of an individual
21 whose initial entitlement to disability insurance benefits (with
22 respect to the period of disability involved) begins on or after
23 January 1, 1980.

1 WORK INCENTIVE—SGA DEMONSTRATION PROJECT

2 SEC. 4. (a) The Commissioner of Social Security shall
3 develop and carry out experiments and demonstration pro-
4 jects designed to determine the relative advantages and dis-
5 advantages of various alternative methods of treating the
6 work activity of disabled beneficiaries under the old-age, sur-
7 vivors, and disability insurance program, including such
8 methods as a reduction in benefits based on earnings, de-
9 signed to encourage the return to work of disabled beneficia-
10 ries to the end that savings will accrue to the Trust Funds.

11 (b) The experiments and demonstration projects devel-
12 oped under subsection (a) shall be of sufficient scope and shall
13 be carried out on a wide enough scale to permit a thorough
14 evaluaton of the alternative methods under consideration
15 while giving assurance that the results derived from the ex-
16 periments and projects will obtain generally in the operation
17 of the disability insurance program without committing such
18 program to the adoption of any prospective system either lo-
19 cally or nationally.

20 (c) In the case of any experiment or demonstration proj-
21 ect under subsection (a), the Secretary may waive compliance
22 with the benefit requirements of titles II and XVIII of the
23 Social Security Act insofar as necessary for a thorough eval-
24 uation of the alternative methods under consideration. No
25 such experiment or project shall be actually placed in oper-

1 ation unless at least ninety days prior thereto a written
2 report, prepared for purposes of notification and information
3 only and containing a full and complete description thereof,
4 has been transmitted by the Commissioner of Social Security
5 to the Committee on Ways and Means of the House of Rep-
6 resentatives and to the Committee on Finance of the Senate.
7 Periodic reports on the progress of such experiments or dem-
8 onstrations shall be submitted by the Commissioner to such
9 committees. When appropriate, such reports shall include de-
10 tailed recommendations for changes in administration or law,
11 or both, to carry out the objectives stated in subsection (a).

12 (d) The Commissioner of Social Security shall submit to
13 the Congress no later than January 1, 1983, a final report on
14 the experiments and demonstration projects carried out under
15 this section together with any related data and materials
16 which he may consider appropriate.

17 (e) Section 201 of the Social Security Act is amended by
18 adding at the end thereof the following new subsection:

19 "(j) Expenditures made for experiments and demonstra-
20 tion projects under section 4 of the Disability Insurance
21 Amendments of 1979 shall be made from the Federal Dis-
22 ability Insurance Trust Fund and the Federal Old-Age and
23 Survivors Trust Fund, as determined appropriate by the Sec-
24 retary."

1 lieu thereof “, or, in the case of an individual entitled to
2 widow’s or widower’s insurance benefits under section 202
3 (e) or (f) who became entitled to such benefits prior to attain-
4 ing age 60, with the month in which such individual becomes
5 so entitled.”.

6 (3) The amendments made by this subsection shall apply
7 with respect to individuals whose disability has not been de-
8 termined to have ceased prior to the date of enactment of this
9 Act.

10 (b)(1)(A). Section 223(a)(1) of such Act is amended by
11 striking out the period at the end of the first sentence and
12 inserting in lieu thereof “or, if later (and subject to subsection
13 (e)), the fifteenth month following the end of such individual’s
14 trial work period determined by application of section
15 222(c)(4)(A).”.

16 (B) Section 202(d)(1)(G) of such Act is amended by—

17 (i) by redesignating clauses (i) and (ii) as clauses
18 (I) and (II), respectively,

19 (ii) by inserting “the later of (i)” immediately
20 before “the third month”, and

21 (iii) by striking out “or (if later)” and inserting in
22 lieu thereof the following: “(or, if later, and subject to
23 section 223(e), the fifteenth month following the end of
24 such individual’s trial work period determined by appli-
25 cation of section 222(c)(4)(A)), or (ii)”.

1 (C) Section 202(e)(1) of such Act is amended by striking
2 out the period at the end and inserting in lieu thereof the
3 following: “or, if later (and subject to section 223(e)), the
4 fifteenth month following the end of such individual’s trial
5 work period determined by application of section
6 222(c)(4)(A).”.

7 (D) Section 202(f)(1) of such Act is amended by striking
8 out the period at the end and inserting in lieu thereof the
9 following: “or, if later (and subject to section 223(e)), the
10 fifteenth month following the end of such individual’s trial
11 work period determined by application of section
12 222(c)(4)(A).”.

13 (2) Section 223 of such Act is amended by adding at the
14 end thereof the following new subsection:

15 “(e) No benefit shall be payable under subsection (d), (e),
16 or (f) of section 202 or under subsection (a)(1) to an individual
17 for any month in which he engages in substantial gainful ac-
18 tivity during the 12-month period which begins with the
19 fourth month following the end of his trial work period deter-
20 mined by application of section 222(c)(4)(A).”

21 (3) Section 226(b) of such Act is amended—

22 (A) by striking out “ending with the month” in
23 the matter following paragraph (2) and inserting in lieu
24 thereof “ending (subject to the last sentence of this
25 subsection) with the month;” and

1 (B) by adding at the end thereof the following
2 new sentence: "For purposes of this subsection, an in-
3 dividual who has had a period of trial work which
4 ended as provided in section 222(c)(4)(A), and whose
5 entitlement to benefits or whose status as a qualified
6 railroad retirement beneficiary as described in para-
7 graph (2) has subsequently terminated, shall be deemed
8 to be entitled to such benefits or to occupy such status
9 (notwithstanding the termination of such entitlement or
10 status) for the period of consecutive months throughout
11 all of which the physical or mental impairment, on
12 which such entitlement or status was based, continues,
13 but not in excess of 24 such months".

14 (4) The amendments made by this subsection shall apply
15 with respect to individuals whose disability or blindness
16 (whichever may be applicable) has not been determined to
17 have ceased prior to the date of the enactment of this Act.

18 ELIMINATION OF REQUIREMENT THAT MONTHS IN
19 MEDICARE WAITING PERIOD BE CONSECUTIVE

20 SEC. 7. (a)(1)(A) Section 226(b)(2) of the Social Security
21 Act is amended by striking out "consecutive" in clauses (A)
22 and (B).

23 (B) Section 226(b) of such Act is further amended by
24 striking out "consecutive" in the matter following paragraph
25 (2).

1 (2) Section 1811 of such Act is amended by striking out
2 “consecutive”.

3 (3) Section 1837(g)(1) of such Act is amended by strik-
4 ing out “consecutive”.

5 (4) Section 7(d)(2)(ii) of the Railroad Retirement Act of
6 1974 is amended by striking out “consecutive” each place it
7 appears.

8 (b) Section 226 of such Act is amended by redesignating
9 subsection (f) as subsection (g), and by inserting after subsec-
10 tion (e) the following new subsection:

11 “(f) For purposes of subsection (b) (and for purposes of
12 section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the
13 Railroad Retirement Act of 1974), the 24 months for which
14 an individual has to have been entitled to specified monthly
15 benefits on the basis of disability in order to become entitled
16 to hospital insurance benefits on such basis effective with any
17 particular month (or to be deemed to have enrolled in the
18 supplementary medical insurance program, on the basis of
19 such entitlement, by reason of section 1837(f), where such
20 individual had been entitled to specified monthly benefits of
21 the same type during a previous period which terminated—

22 “(1) more than 60 months before that particular
23 month in any case where such monthly benefits were
24 of the type specified in clause (A)(i) or (B) of subsection
25 (b), or

1 “(2) more than 84 months before that particular
2 month in any case where such monthly benefits were
3 of the type specified in clause (A)(ii) or (A)(iii) of such
4 subsection,
5 shall not include any month which occurred during such pre-
6 vious period.”.

7 (c) The amendments made by this section shall apply
8 with respect to hospital insurance or supplementary medical
9 insurance benefits for months after the month in which this
10 Act is enacted.

11 DISABILITY DETERMINATIONS UNDER STATE AGREE-
12 MENTS; FEDERAL REVIEW OF STATE AGENCY
13 ALLOWANCES

14 SEC. 8. (a)(1) Section 221(a) of the Social Security Act
15 is amended to read as follows:

16 “(a) In the case of any individual, the determination of
17 whether or not he is under a disability (as defined in section
18 216(i) or 223(d)) and of the day such disability began, and the
19 determination of the day on which such disability ceases,
20 shall be made (in accordance with regulations of the Secre-
21 tary) either by the Secretary or, at the discretion of the Sec-
22 retary, by a State agency pursuant to an agreement entered
23 into under subsection (b). Except as provided in subsections
24 (c) and (d), any such determination shall be the determination
25 of the Secretary for purposes of this title.”.

1 (2) Section 221(b) of such Act is amended to read as
2 follows:

3 “(b) The Secretary may enter into an agreement with
4 any State under which an appropriate State agency or agen-
5 cies, determined by the Secretary to have the capability of
6 effectively and efficiently making determinations of disability,
7 will make the determinations referred to in subsection (a)
8 with respect to all individuals or specified classes of individ-
9 uals within the State as designated in the agreement by the
10 Secretary: Agreements entered into under this subsection
11 shall contain such terms and conditions as the Secretary may
12 prescribe to assure the effective and uniform administration
13 of this section throughout the United States.”.

14 (3) Section 221(c) of such Act is amended to read as
15 follows:

16 “(c)(1) The Secretary (in accordance with paragraph (2))
17 shall review determinations, made by State agencies pursu-
18 ant to agreements under this section, that individuals are
19 under disabilities (as defined in section 216(i) or 223(d)). As a
20 result of any such review, the Secretary may determine that
21 an individual is not under a disability (as so defined) or that
22 such individual’s disability began on a day later than that
23 determined by such agency, or that such disability ceased on
24 a day earlier than that determined by such agency. The Sec-
25 retary’s review of any determination under the preceding

1 sentence shall be made before any action is taken to imple-
2 ment such determination and before any benefits are paid on
3 the basis thereof.

4 “(2) In carrying out the provisions of paragraph (1) with
5 respect to the review of determinations, made by State agen-
6 cies pursuant to agreements under this section, that individ-
7 uals are under disabilities (as defined in section 216(i) or
8 223(d)), the Secretary shall review—

9 “(A) at least 30 percent of all such determinations
10 made by State agencies in the fiscal year 1980,

11 “(B) at least 60 percent of all such determinations
12 made by State agencies in the fiscal year 1981, and

13 “(C) at least 80 percent of all such determinations
14 made by State agencies in any fiscal year after the
15 fiscal year 1981.”

16 (4) The first sentence of section 221(e) of such Act is
17 amended (A) by striking out “as may be mutually agreed
18 upon” and inserting in lieu thereof “as determined by the
19 Secretary”, and (B) by inserting “actual” before “cost”.

20 (5) Section 221 of such Act is further amended by
21 adding at the end thereof the following new subsection:

22 “(h) An agreement between the Secretary and a State
23 entered into under subsection (b) may be—

1 discussion of the pertinent law and regulation, (2) a list of the
2 evidence of record and a summary of the evidence, and (3)
3 the Secretary's determination and the reason or reasons upon
4 which it is based. The statement of the case shall not include
5 matters the disclosure of which (as indicated by the source of
6 the information involved) would be harmful to the claimant,
7 but if there is any such matter the claimant shall be informed
8 of its existence, and it may be disclosed to the claimant's
9 representative unless the latter's relationship with the claim-
10 ant is such that disclosure would be as harmful as if made to
11 the claimant."

12 (b) The amendment made by subsection (a) shall apply
13 with respect to decisions made on and after the first day of
14 the second month following the month in which this Act is
15 enacted.

16 **DISABILITY DETERMINATION DEMONSTRATION PROJECT**

17 **SEC. 10.** (a) The Commissioner of Social Security shall
18 develop and carry out a demonstration project designed to
19 determine the feasibility of simplifying and strengthening the
20 initial disability determination process under title II of the
21 Social Security Act by giving every applicant for a disability
22 by determination under that title an opportunity, prior to the
23 issuance of an initial decision denying his application for such
24 determination, establishing a date for the onset of his disabil-
25 ity which is later than the date claimed in the application, or

1 otherwise serving as the basis for an award less favorable
2 than the one sought, for a personal conference with the
3 person or persons who are participating or will participate in
4 the making of such determination and the rendering of such
5 decision.

6 (b) The demonstration project developed under subsec-
7 tion (a) shall be carried out on a wide enough scale (whether
8 conducted on a limited basis in all States or on a more gener-
9 al basis in selected States) to permit an effective considera-
10 tion of the feasibility and value of such personal conferences
11 prior to initial decision while giving assurance that the re-
12 sults derived from the project will obtain generally in the
13 operation of the disability insurance program without com-
14 mitting such program to the adoption of any prospective
15 system either locally or nationally.

16 (c) The demonstration project under subsection (a) shall
17 include appropriate provision for—

18 (1) adequate written notice to each applicant for a
19 disability determination of the time and place of the
20 conference and of the issues to be considered;

21 (2) review by the applicant of all evidence of
22 record which is being or will be taken into account in
23 making the determination;

24 (3) opportunity for the applicant to present his
25 views and testimony, to submit documentary evidence,

1 and to indicate the sources of any additional evidence;
2 and

3 (4) such other matters as may make the confer-
4 ence useful to the applicant and encourage his
5 participation.

6 (d) In the case of the demonstration project under sub-
7 section (a), the Secretary may waive compliance with the
8 requirements imposed by titles II and XVIII of the Social
9 Security Act (and regulations thereunder) insofar as neces-
10 sary for a thorough evaluation of the matters under consider-
11 ation. Such project shall not be actually placed in operation
12 unless at least ninety days prior thereto a written report,
13 prepared for purposes of notification and information only and
14 containing a full and complete description thereof, has been
15 transmitted by the Commissioner of Social Security to the
16 Committee on Ways and Means of the House of Representa-
17 tives and to the Committee on Finance of the Senate. Period-
18 ic reports on the progress of the project shall be submitted by
19 the Commissioner to such committees. When appropriate,
20 such reports shall include detailed recommendations for
21 changes in administration or law, or both, to carry out the
22 objectives stated in subsection (a).

23 (e) The Commissioner of Social Security shall submit to
24 the Congress no later than January 1, 1983, a final report on
25 the demonstration project carried out under this section to-

1 gether with any related data and materials which he may
2 consider appropriate.

3 (f) Section 201(j) of the Social Security Act (as added by
4 section 4(e) of this Act) is amended by inserting before the
5 period at the end thereof the following: “; and expenditures
6 made for the demonstration project under section 10 of such
7 amendments shall be made from the Federal Disability Insur-
8 ance Trust Fund”.

9 **LIMITATION ON COURT REMANDS**

10 **SEC. 11.** The sixth sentence of section 205(g) of the
11 Social Security Act is amended by striking out all that pre-
12 cedes “and the Secretary shall” and inserting in lieu thereof
13 the following: “The court may, on motion of the Secretary
14 made for good cause shown before he files his answer,
15 remand the case to the Secretary for further action by the
16 Secretary, and it may at any time order additional evidence
17 to be taken before the Secretary, but only upon a showing
18 that there is new evidence which is material and that there is
19 good cause for the failure to incorporate such evidence into
20 the record in a prior proceeding;”.

21 **TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS**

22 **SEC. 12.** Section 205(b) of the Social Security Act is
23 amended by inserting “(1)” after “(b)”; by striking out “(1)”,
24 “(2)”, and “(3)” in the second sentence (as added by section
25 9(a) of this Act) and inserting in lieu thereof “(A)”, “(B)” and

1 “(C)”, respectively, and by adding at the end thereof the fol-
2 lowing new paragraph:

3 “(2) The Secretary shall submit to the Congress, no
4 later than January 1, 1980, a report recommending the es-
5 tablishment of appropriate time limitations governing deci-
6 sions on benefit claims. Such report shall specifically
7 recommend—

8 “(A) the maximum period of time (after applica-
9 tion for a payment under this title is filed) within
10 which the initial decision of the Secretary as to the
11 rights of such individual should be made;

12 “(B) the maximum period of time (after applica-
13 tion for reconsideration of any decision described in
14 subparagraph (A) is filed) within which a decision of
15 the Secretary on such reconsideration should be made;

16 “(C) the maximum period of time (after a request
17 for a hearing with respect to any decision described in
18 subparagraph (A) is filed) within which a decision of
19 the Secretary upon such hearing (whether affirming,
20 modifying, or reversing such decision) should be made;
21 and

22 “(D) the maximum period of time (after a request
23 for review by the Appeals Council with respect to any
24 decision described in subparagraph (A) is made) within
25 which the decision of the Secretary upon such review

1 (whether affirming, modifying, or reversing such deci-
2 sion) should be made.

3 In determining the time limitations to be recommended, the
4 Secretary shall take into account both the need for expedi-
5 tious processing of claims for benefits and the need to assure
6 that all such claims will be thoroughly considered and accu-
7 rately determined.”.

8 VOCATIONAL REHABILITATION SERVICES FOR DISABLED
9 INDIVIDUALS

10 SEC. 13. (a) Section 222(d) of the Social Security Act is
11 amended to read as follows:

12 “Costs of Rehabilitation Services From Trust Funds

13 “(d)(1) For the purpose of making vocational rehabilita-
14 tion services more readily available to disabled individuals
15 who are—

16 “(A) entitled to disability insurance benefits under
17 section 223,

18 “(B) entitled to child’s insurance benefits under
19 section 202(d) after having attained age 18 (and are
20 under a disability),

21 “(C) entitled to widow’s insurance benefits under
22 section 202(e) prior to attaining age 60, or

23 “(D) entitled to widower’s insurance benefits
24 under section 202(f) prior to attaining age 60,

1 to the end that savings will accrue to the Federal Disability
2 Insurance Trust Fund as a result of rehabilitating such indi-
3 viduals into substantial gainful activity, there are authorized
4 to be transferred from the Federal Old-Age and Survivors
5 Insurance Trust Fund and the Federal Disability Insurance
6 Trust Fund each fiscal year such sums as may be necessary
7 to enable the Secretary to reimburse—

8 “(i) the general fund in the Treasury of the
9 United States for the Federal share, and

10 “(ii) the State for twice the State share,
11 of the reasonable and necessary costs of vocational rehabilita-
12 tion services furnished such individuals (including services
13 during their waiting periods), under a State plan for vocation-
14 al rehabilitation services approved under title I of the Reha-
15 bilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in
16 the cessation of such individuals' disability (as demonstrated
17 by their performance of substantial gainful activity which
18 lasts for a continuous period of 12 months, or which results
19 in their employment for a continuous period of 12 months in
20 a sheltered workshop meeting the requirements applicable to
21 a nonprofit rehabilitation facility under paragraphs (8) and
22 (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and
23 (10)(L)). The determination that the vocational rehabilitation
24 services contributed to the successful return of such individ-
25 uals to substantial gainful activity or their employment in

1 sheltered workshops, and the determination of the amount of
2 costs to be reimbursed under this subsection, shall be made
3 by the Commissioner of Social Security in accordance with
4 criteria formulated by him.

5 “(2) Payments under this subsection shall be made in
6 advance or by way of reimbursement, with necessary adjust-
7 ments for overpayments and underpayments.

8 “(3) Money paid from the Trust Funds under this sub-
9 section for the reimbursement of the costs of providing serv-
10 ices to individuals who are entitled to benefits under section
11 223 (including services during their waiting periods), or who
12 are entitled to benefits under section 202(d) on the basis of
13 the wages and self-employment income of such individuals,
14 shall be charged to the Federal Disability Insurance Trust
15 Fund, and all other money paid out from the Trust Funds
16 under this subsection shall be charged to the Federal Old-
17 Age and Survivors Insurance Trust Fund. The Secretary
18 shall determine according to such methods and procedures as
19 he may deem appropriate—

20 “(A) the total amount to be reimbursed for the
21 cost of services under this subsection, and

22 “(B) subject to the provisions of the preceding
23 sentence, the amount which should be charged to each
24 of the Trust Funds.

1 “(4) For the purposes of this subsection the term ‘voca-
2 tional rehabilitation services’ shall have the meaning assigned
3 it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701
4 et seq.), except that such services may be limited in type,
5 scope, or amount in accordance with regulations of the Sec-
6 retary designed to achieve the purpose of this subsection.

7 “(5) The Secretary is authorized and directed to study
8 alternative methods of providing and financing the costs of
9 vocational rehabilitation services to disabled beneficiaries
10 under this title to the end that maximum savings will result
11 to the Trust Funds. On or before January 1, 1980, the Sec-
12 retary shall transmit to the President and the Congress a
13 report which shall contain his findings and any conclusions
14 and recommendations he may have.”.

15 (b) The amendment made by subsection (a) shall apply
16 with respect to fiscal years beginning after September 30,
17 1980.

18 CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS
19 UNDER VOCATIONAL REHABILITATION PLANS

20 SEC. 14. Section 225 of the Social Security Act is
21 amended by inserting “(a)” after “SEC. 225.”, and by adding
22 at the end thereof the following new subsection:

23 “(b) Notwithstanding any other provision of this title,
24 payment to an individual of benefits based on disability (as
25 described in the first sentence of subsection (a)) shall not be

1 terminated or suspended because the physical or mental im-
2 pairment on which the individual's entitlement to such bene-
3 fits is based has or may have ceased if—

4 “(1) such individual is participating in an ap-
5 proved vocational rehabilitation program under a State
6 plan approved under title I of the Rehabilitation Act of
7 1973, and

8 “(2) the Commissioner of Social Security deter-
9 mines that the completion of such program, or its con-
10 tinuation for a specified period of time, will increase
11 the likelihood that such individual may (following his
12 participation in such program) be permanently removed
13 from the disability benefit rolls.”.

14 PAYMENT FOR EXISTING MEDICAL EVIDENCE

15 SEC. 15. (a) Section 223(d)(5) of the Social Security Act
16 is amended by adding at the end thereof the following new
17 sentence: “Any non-Federal hospital, clinic, laboratory, or
18 other provider of medical services, or physician not in the
19 employ of the Federal Government, which supplies medical
20 evidence required by the Secretary under this paragraph
21 shall be entitled to payment from the Secretary for the rea-
22 sonable cost of providing such evidence.”.

23 (b) Section 1614(a)(3) of such Act is amended by adding
24 at the end thereof the following new subparagraph:

1 “(F) Any non-Federal hospital, clinic, laboratory, or
2 other provider of medical services, or physician not in the
3 employ of the Federal Government, which supplies medical
4 evidence required by the Secretary under this paragraph
5 shall be entitled to payment from the Secretary for the rea-
6 sonable cost of providing such evidence.”.

7 PAYMENT OF CERTAIN TRAVEL EXPENSES

8 SEC. 16. Section 201 of the Social Security Act (as
9 amended by section 4(e) of this Act) is amended by adding at
10 the end thereof the following new subsection:

11 “(k) There are authorized to be made available for ex-
12 penditure, out of any or all of the Trust Funds, such amounts
13 as are required to pay travel expenses, either on an actual
14 cost or commuted basis, to individuals for travel incident to
15 medical examinations requested by the Secretary in connec-
16 tion with disability determinations under section 221, and to
17 parties, their representatives, and all reasonably necessary
18 witnesses for travel within the United States (as defined in
19 section 210(i)) to attend reconsideration interviews and pro-
20 ceedings before administrative law judges under title II, part
21 B of title XI, title XVI, and title XVIII.”.

22 PERIODIC REVIEW OF DISABILITY DETERMINATIONS

23 SEC. 17. Section 221 of the Social Security Act (as
24 amended by section 8(a)(5) of this Act) is amended by adding
25 at the end thereof the following new subsection:

1 “(i) In any case where an individual is determined to be
2 under a disability, unless a finding has been made that such
3 disability is permanent, the case shall be reviewed by the
4 applicable State agency or the Secretary (as may be appro-
5 priate), for purposes of continuing eligibility, at least once
6 every three years. Reviews of cases under the preceding sen-
7 tence shall be in addition to, and shall not be considered as a
8 substitute for, any other reviews which are required or pro-
9 vided for under or in the administration of this title.”.



96TH CONGRESS
1ST SESSION

H. R. 2854

To amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 13, 1979

Mr. PICKLE (for himself and Mr. ARCHER) (by request) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Social Security Act to target expenditures for disability insurance benefits in a manner more specifically directed to achieve the purposes of the program and to remove certain disincentives for disabled beneficiaries to engage in gainful activity, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act, together with the following table of contents,
4 may be cited as the "Disability Insurance Reform Act of
5 1979".

TABLE OF CONTENTS

TITLE I—ENTITLEMENT AND BENEFIT AMOUNT

- Sec. 101. Reduction of family maximum benefit with respect to an individual entitled to a disability insurance benefit.
- Sec. 102. Reduced dropout years for younger disabled workers.

TITLE II—ELIMINATION OF DISINCENTIVES TO ENGAGE IN
SUBSTANTIAL GAINFUL ACTIVITY

- Sec. 201. Elimination of requirement that months in medicare waiting period be consecutive.
- Sec. 202. Provision of trial work period for disabled widows and widowers.
- Sec. 203. Extension of entitlement to disability insurance and related benefits.
- Sec. 204. Deductions from earnings for determining substantial gainful activity and amount of supplemental security income benefits.
- Sec. 205. Termination of deeming when child attains age eighteen.
- Sec. 206. Report to Congress.

TITLE III—ADMINISTRATIVE IMPROVEMENTS

- Sec. 301. State option to make disability determinations.
- Sec. 302. Limitation on prospective effect of application.
- Sec. 303. Research and demonstration projects pertaining to disability insurance, old-age and survivors insurance, supplemental security income, and medicare.
- Sec. 304. Effective dates.

TITLE IV—JUDICIAL REVIEW

- Sec. 401. Judicial review of disability and other determinations under titles II and XVI.

1 TITLE I—ENTITLEMENT AND BENEFIT AMOUNT

2 REDUCTION OF FAMILY MAXIMUM BENEFIT WITH RE-

3 SPECT TO AN INDIVIDUAL ENTITLED TO A DISABIL-

4 ITY INSURANCE BENEFIT

5 SEC. 101. (1) Section 203(a)(2) of the Social Security

6 Act is amended by adding after subparagraph (D) the follow-

7 ing new subparagraph:

8 “(E) In the case of an individual described in paragraph

9 (1) who attains age 62 after 1978 and becomes entitled to a

1 disability insurance benefit after August, 1979 based on eligi-
2 bility for that benefit (as defined in sections 215(a)(3)(B) and
3 (a)(2)(A)) after 1978, the total monthly benefits to which
4 beneficiaries are entitled under section 202 or 223 for a
5 month on the basis of the wages and self-employment income
6 of such disabled individual, prior to any increases resulting
7 from the application of paragraph (2)(A)(ii)(III) of section
8 215(i), shall be further reduced (prior to rounding under para-
9 graph (1)) as necessary so as not to exceed 80 percent of that
10 individual's average indexed monthly earnings (as used or
11 would be used to determine his primary insurance amount),
12 except that this subparagraph shall not apply so as to reduce
13 the monthly benefit (i) of such individual or (ii) to which bene-
14 ficiaries are entitled, on the basis of the wages and self-em-
15 ployment income of such individual, for any month following
16 the month preceding the month in which the individual
17 died.”.

18 (2) Section 203(a)(1) of the Social Security Act is
19 amended, in the matter preceding subparagraph (A), by in-
20 serting “subject to paragraph (2)(E) and” after “such individ-
21 ual shall,”.

22 (3) Section 203(a)(6) of that Act is amended by (A) in-
23 serting “the lower of (i)” after “reduced to”, and (B) insert-
24 ing before the period at the end thereof the following: ”, or
25 (ii) an amount equal to the sum of the maximum amounts of

1 benefits payable on the basis of the wages and self-employ-
2 ment income of all such insured individuals.”

3 **REDUCED DROPOUT YEARS FOR YOUNGER DISABLED**

4 **WORKERS**

5 **SEC. 102.** (a) Section 215(b)(2)(A) of the Social Secu-
6 rity Act is amended to read as follows:

7 “(2)(A) The number of an individual’s benefit computa-
8 tion years equals the number of elapsed years reduced—

9 “(i) in the case of an individual entitled to old-age
10 insurance benefits (except by reason of his entitlement
11 to disability insurance benefits for the month preceding
12 the month in which he attained the age of 65) or who
13 died, by 5 years, and

14 “(ii) in the case of an individual entitled to disabil-
15 ity insurance benefits, by the number of years equal to
16 one-fifth of such individual’s elapsed years (disregard-
17 ing any resulting fractional part of a year), but not
18 more than five years

19 except that the number of an individual’s benefit computation
20 years may not be less than two.”

21 (b) Section 223(a)(2) of the Act is amended by inserting
22 “and section 215(b)(2)(A)(ii)” after “section 202(q)” in the
23 first sentence.

24 (c) The amendments made by this section shall be appli-
25 cable to monthly benefits with respect to individuals who

1 became eligible therefor, as defined in paragraphs (2)(A) and
2 ~~(3)(B)~~ of section 215(a) of the Act, after 1978 and are enti-
3 tled to benefits for any month after August 1978.

4 TITLE II—ELIMINATION OF DISINCENTIVES TO
5 ENGAGE IN SUBSTANTIAL GAINFUL ACTIVITIES

6 ELIMINATION OF REQUIREMENT THAT MONTHS IN

7 MEDICARE WAITING PERIOD BE CONSECUTIVE

8 SEC. 201. (a)(1)(A) Section 226(b)(2) of the Social Secu-
9 rity Act is amended by striking out “consecutive” in clauses
10 (A) and (B).

11 (B) Section 226(b) of such Act is further amended by
12 striking out “consecutive” in the matter following paragraph
13 (2).

14 (2) Section 1811 of such Act is amended by striking out
15 “consecutive”.

16 (3) Section 1837(g)(1) of such Act is amended by strik-
17 ing out “consecutive”.

18 (4) Section 7(d)(2)(ii) of the Railroad Retirement Act of
19 1974 is amended by striking out “consecutive” each place it
20 appears.

21 (b) Section 226 of such Act is amended by redesignating
22 subsection (f) as subsection (g), and by inserting after subsec-
23 tion (e) the following subsection:

24 “(f) For purposes of subsection (b) (and for purposes of
25 section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the

1 Railroad Retirement Act of 1974), the 24 months for which
2 an individual has to have been entitled to specified monthly
3 benefits on the basis of disability in order to become entitled
4 to hospital insurance benefits on such basis effective with any
5 particular month (or to be deemed to have enrolled in the
6 supplementary medical insurance program, on the basis of
7 such entitlement, by reason of section 1837(f)), where such
8 individual had been entitled to specified monthly benefits of
9 the same type during a previous period which terminated—

10 “(1) more than 60 months before that particular
11 month in any case where such monthly benefits were
12 of the type specified in clause (2) (A)(i) or (B) of sub-
13 section (b), or

14 “(2) more than 84 months before that particular
15 month in any case where such monthly benefits were
16 of the type specified in clause (2) (A)(ii) or (A)(iii) of
17 such subsection,

18 shall not include any month which occurred during such pre-
19 vious period.”.

20 (c) The amendments made by this section shall apply
21 with respect to hospital insurance or supplementary medical
22 insurance benefits for months after the month in which this
23 Act is enacted.

1 (2) Section 202(d)(1)(G) of the Act is amended by—

2 (A) redesignating clauses (i) and (ii) as clauses (I)
3 and (II), respectively,

4 (B) inserting “the later of (i)” immediately before
5 “the third month”, and

6 (C) striking out “or (if later)” and inserting in lieu
7 thereof: “(or, if later, and subject to section 223(e), the
8 fifteenth month following the end of such individual’s
9 trial work period determined by application of section
10 222(c)(4)(A)), or (ii)”.

11 (3) Section 202(e)(1) of the Act is amended by striking
12 out the period at the end and inserting in lieu thereof: “or, if
13 later (and subject to section 223(e)), the fifteenth month fol-
14 lowing the end of such individual’s trial work period deter-
15 mined by application of section 222(c)(4)(A).”.

16 (4) Section 202(f)(1) of the Act is amended by striking
17 out the period at the end and inserting in lieu thereof: “or, if
18 later (and subject to section 223(e)), the fifteenth month fol-
19 lowing the end of such individual’s trial work period deter-
20 mined by application of section 222(c)(4)(A).”.

21 (b) Section 223 of the Act is amended by adding at the
22 end thereof the following new subsection:

23 “(e) No benefit shall be payable under subsection (d), (e),
24 or (f) of section 202 or under subsection (a)(1) to an individual
25 for any month in which he engages in substantial gainful ac-

1 tivity during the twelve-month period which begins with the
2 fourth month following the end of his trial work period deter-
3 mined by application of section 222(c)(4)(A).”.

4 (c) Section 226(b) of the Act is amended—

5 (1) by striking out “ending with the month” in
6 the matter following paragraph (2) and inserting in lieu
7 thereof “ending (subject to the last sentence of this
8 subsection) with the month”; and

9 (2) by adding at the end thereof the following new
10 sentence: “For purposes of this subsection, an individu-
11 al who has had a period of trial work which ended as
12 provided in section 222(c)(4)(A), and whose entitlement
13 to benefits or whose status as a qualified railroad re-
14 tirement beneficiary as described in paragraph (2) has
15 subsequently terminated, shall be deemed to be entitled
16 to such benefits or to occupy such status (notwith-
17 standing the termination of such entitlement or status)
18 for the period of consecutive months throughout all of
19 which the physical or mental impairment, on which
20 such entitlement or status was based, continues, but
21 not in excess of 24 such months”.

22 (d)(1)(A) Section 1614(a)(3) of the Act is amended by
23 adding at the end thereof the following new subparagraph:

24 “(F) For purposes of this title, an individual whose trial
25 work period has ended by application of paragraph (4)(D)(i)

1 shall, nonetheless be considered to be disabled until (i) the
2 fifteenth month following the month with which his trial work
3 period ended, or (ii) the month in which his disability ceases
4 (as determined without regard to subparagraph (4)(D)),
5 whichever is earlier.”.

6 (B) Such section is further amended by striking out, in
7 subparagraph (D) thereof, “paragraph (4)” and inserting
8 “subparagraph (F) or paragraph (4)” in lieu thereof.

9 (2) Section 1611(e) of the Act is amended by adding at
10 the end thereof the following new paragraph:

11 “(4) No benefit shall be payable under this title with
12 respect to an eligible individual or his eligible spouse who is
13 an aged, blind, or disabled individual solely by application of
14 section 1614(a)(3)(F).”.

15 (e) The penultimate sentence of section 1902(a) is
16 amended by—

17 (1) striking out “any individual who” and insert-
18 ing “; (I) any individual who” in lieu thereof, and

19 (2) striking out the period at the end of such sen-
20 tence and inserting in lieu thereof the following: “, (II)
21 any individual who received either supplemental secu-
22 rity income benefits under title XVI or State supple-
23 mentary payments on the basis of disability but whose
24 benefits or payments were terminated by reason of the
25 applicability to him of section 1614(a)(4)(D)(i) (or be-

1 cause of the amount of his earned income not excluded
2 pursuant to section 1612(b)), shall continue to be treat-
3 ed as if he were receiving such benefits or payments
4 until the earlier of the thirty-sixth month following the
5 last month for which such individual received such
6 benefits or payments or the month following the month
7 that his disability ceases (as determined without regard
8 to section 1614(a)(3)(D)), and (III) any individual who
9 received either supplemental security income benefits
10 under title XVI or State supplementary payments on
11 the basis of blindness but whose benefits or payments
12 were terminated because of the amount of his earned
13 income not excluded pursuant to section 1612(b), shall
14 continue to be treated as if he were receiving such
15 benefits or payments until the earlier of the thirty-sixth
16 month following the last month for which such individ-
17 ual received such benefits or payments or the month
18 following the month that his blindness ceases.”.

19 (f) The amendments made by this section shall apply
20 with respect to individuals whose disability or blindness
21 (whichever may be applicable) has not been determined to
22 have ceased prior to the date of the enactment of this Act.

1 DEDUCTIONS FROM EARNINGS FOR DETERMINING SUB-
2 STANTIAL GAINFUL ACTIVITY AND AMOUNT OF SUP-
3 PLEMENTAL SECURITY INCOME BENEFITS

4 SEC. 204. (a) Section 223(d)(4) of the Social Security
5 Act is amended by inserting the following new sentences im-
6 mediately after the first sentence thereof: "In applying such
7 criteria, there shall in any event be excluded from the earn-
8 ings of an individual engaged in gainful activity the cost in-
9 curred by him for attendant care or other services or items
10 necessary, because of his impairment, for him to engage in
11 such activity and without regard to whether they are also
12 needed to enable him to carry out his normal daily functions
13 (or, if any such care, services, or items were furnished with-
14 out cost to the individual, such amount with respect thereto
15 as the Secretary may prescribe). The Secretary shall specify
16 in regulations the types of care, services, and items that may
17 be considered as necessary to enable a disabled individual to
18 engage in gainful activity, and the amount of earnings to be
19 excluded pursuant to the preceding sentence shall be subject
20 to such limits as the Secretary may by regulation prescribe.
21 In the case of an individual to whom the preceding sentence
22 applies for any month who, for the same month, receives
23 supplemental security income benefits under title XVI, the
24 amounts of earnings excluded under the preceding sentence

1 shall equal the amount excluded under section 1614(a)(3)(D)
2 for such month.”.

3 (b)(1) Section 1612(b)(4)(A) of the Act (pertaining to ex-
4 clusions from the earned income of the blind) is amended by
5 striking out clause (ii) down through the comma and inserting
6 in lieu thereof “(ii) an amount equal to costs incurred by the
7 individual for attendant care or other services or items neces-
8 sary, because of his blindness, for him to engage in gainful
9 activity, without regard to whether they are also needed to
10 enable him to carry out his normal daily functions, and any
11 other expenses reasonably attributable to the earning of any
12 income and (iii)”.

13 (2) Section 1612(b)(4)(B) of the Act is amended by strik-
14 ing out “and (ii)” and inserting in lieu thereof the following:
15 “(ii) an amount of earned income equal to the cost incurred
16 by the individual for attendant care or other services or items
17 necessary, because of his impairment, for him to engage in
18 gainful activity and without regard to whether they are also
19 needed to enable him to carry out his normal daily functions,
20 and (iii)”.

21 (3) Section 1612(b) is further amended by adding at the
22 end thereof the following new sentences: “The Secretary
23 shall specify in regulations the types of care, services, and
24 items that may be considered as necessary to enable a blind
25 or disabled individual to engage in gainful activity, and the

1 amount of earned income that may be excluded pursuant to
2 paragraph (4)(A)(ii) or (4)(B)(ii), shall be subject to such limits
3 as the Secretary may by regulation prescribe. For purposes
4 of determining the amount to be excluded under such para-
5 graphs, the Secretary shall determine the usual amount of
6 such expenses, if any, with respect to a disabled or blind
7 individual, and such amounts shall be applicable to the month
8 for which they are determined and all subsequent months
9 until the determination is revised upon the showing of a sig-
10 nificant change in the amount of such expenses.”.

11 (c) Section 1614(a)(3)(D) of the Act is amended by in-
12 serting, immediately after the first sentence thereof, the fol-
13 lowing new sentence: “In applying such criteria, there shall
14 in any event be excluded from the earnings of an individual
15 engaged in gainful activity the amount excluded from his
16 earned income under section 1612(b)(4)(B)(ii) for the cost of
17 attendant care or other services or items necessary because
18 of his impairment, for him to engage in such activity and
19 without regard to whether they are also needed to enable him
20 to carry out his normal daily functions (or, if any such care,
21 services, or items were furnished without cost to the individ-
22 ual, such amount with respect thereto as the Secretary may
23 prescribe).”.

24 (d) The amendments made by this section shall be appli-
25 cable with respect to determinations of eligibility for or

1 amount of benefits for months after the third month following
2 enactment of this Act.

3 **TERMINATION OF DEEMING WHEN CHILD ATTAINS AGE 18**

4 **SEC. 205.** (a) Section 1614(f)(2) of the Social Security
5 Act is amended by striking out "under age 21" and inserting
6 in lieu thereof "under age 18".

7 (b) The amendment made by this section shall be effec-
8 tive beginning with the second quarter beginning after this
9 Act is enacted.

10 **REPORT TO CONGRESS**

11 **SEC. 206.** The Secretary of Health, Education, and
12 Welfare shall review the operation of the amendments made
13 by this title, and, not later than the close of the sixty-sixth
14 month following the month in which they became effective,
15 shall submit to the Congress a report thereon, including the
16 data necessary to assess the effectiveness of such amend-
17 ments in encouraging disabled individuals to return to sub-
18 stantial gainful activity.

19 **TITLE III—ADMINISTRATIVE IMPROVEMENTS**

20 **STATE OPTION TO MAKE DISABILITY DETERMINATIONS**

21 **SEC. 301.** (a) Section 221(a) of the Social Security Act
22 is redesignated as section 221(a)(1) and the first sentence
23 thereof is amended by striking out all after "such disability
24 ceases," and inserting in lieu thereof "shall be made by an
25 agency of each State that notifies the Secretary in writing

1 that it wishes to make such disability determinations com-
2 mencing with such month as the Secretary and the State
3 agree upon, but only if (A) the Secretary has not found,
4 under subsection (b)(1) that the State agency substantially
5 failed to make disability determinations in accordance with
6 the applicable provisions of this section or rules issued there-
7 under, or (B) the State has not notified the Secretary, under
8 subsection (b)(2), that it does not wish to make such determi-
9 nations. If the Secretary once makes the finding described in
10 clause (A) of the preceding sentence, or the State gives the
11 notice referred to in clause (B) of such sentence, the Secre-
12 tary may thereafter determine whether (and, if so, beginning
13 with which month and under what conditions) the State may
14 make again disability determinations under this paragraph.”.

15 (b) Section 221(a) of the Act is further amended by
16 adding after and below paragraph (1), the following new
17 paragraph:

18 “(2) The disability determinations described in para-
19 graph (1) made by a State agency shall be made in accord-
20 ance with the pertinent provisions of this title and the stand-
21 ards and criteria contained in regulations or other written
22 guidelines of the Secretary pertaining to matters such as dis-
23 ability determinations, and the class or classes of individuals
24 with respect to which a State may make disability determina-
25 tions (if it does not wish to do so with respect to all individ-

1 uals in the State) and the conditions under which it may
2 choose not to make all such determinations. In addition, the
3 Secretary shall promulgate regulations specifying, in such
4 detail as he deems appropriate, performance standards and
5 administrative requirements and procedures to be followed in
6 performing the disability determination function in order to
7 assure effective and uniform administration of the disability
8 insurance program throughout the United States. The regula-
9 tions may, for example, specify matters such as—

10 “(A) the administrative structure and the relation-
11 ship between various units of the State agency respon-
12 sible for disability determinations,

13 “(B) the physical location of and relationship
14 among agency staff units, and other individuals or or-
15 ganizations performing tasks for the State agency, and
16 standards for the availability to applicants and benefi-
17 ciaries of facilities for making disability determinations,

18 “(C) State agency performance criteria, including
19 the rate of accuracy of decisions, the time periods
20 within which determinations must be made, the proce-
21 dures for and the scope of review by the Secretary,
22 and, as he finds appropriate, by the State, of its per-
23 formance in individual cases and in classes of cases,
24 and rules governing access of appropriate Federal offi-

1 cials to State offices and to State records relating to its
2 administration of the disability determination function,

3 “(D) fiscal control procedures that the State
4 agency may be required to adopt,

5 “(E) the submission of reports and other data, in
6 such form and at such time as the Secretary may re-
7 quire, concerning the State agency’s activities relating
8 to the disability determination process, and

9 “(F) any other rules designed to facilitate, or con-
10 trol, or assure the equity and uniformity of the State’s
11 disability determinations.”.

12 (c)(1) Section 221(b) of the Act is amended to read as
13 follows:

14 “(b)(1) If the Secretary finds, after notice and opportuni-
15 ty for a hearing, that a State agency is substantially failing to
16 make disability determinations in a manner consistent with
17 his regulations and other written guidelines, the Secretary
18 shall, not earlier than 180 days following his finding, make
19 the disability determinations referred to in subsection (a)(1).

20 “(2) If a State, having notified the Secretary of its
21 intent to make disability determinations under subsection
22 (a)(1), no longer wishes to make such determinations, it shall
23 notify the Secretary in writing of that fact, and, if an agency
24 of the State is making disability determinations at the time
25 such notice is given, it shall continue to do so for not less

1 than 180 days. Thereafter, the Secretary shall make the dis-
2 ability determinations referred to in subsection (a)(1).”.

3 (d) Section 221(c) of the Act is amended to read as
4 follows:

5 “(c) The Secretary may on his own motion review a
6 disability determination referred to in subsection (a)(1) made
7 by a State agency, and, as a result of such review, may de-
8 termine that an individual is or is not under a disability (as
9 defined in section 216(i) or 223(d)), or that such disability
10 began or ceased on a day earlier or later than that deter-
11 mined by such agency.”.

12 (e) Section 221(d) of the Act is amended by striking out
13 “(a)” and inserting “(a), (b)” in lieu thereof.

14 (f) Section 221(e) of the Act is amended, in the first
15 sentence, by—

16 (1) striking out “which has an agreement with the
17 Secretary” and inserting in lieu thereof “which is
18 making disability determinations under subsection
19 (a)(1)”,

20 (2) striking out “as may be mutually agreed
21 upon” and inserting “as determined by the Secretary”
22 in lieu thereof, and

23 (3) striking out “carrying out the agreement
24 under this section” and inserting in lieu thereof

1 “making disability determinations under subsection
2 (a)(1)”.

3 (g) Section 221(g) of the Act is amended by—

4 (1) striking out “has no agreement under subsec-
5 tion (b)” and inserting “does not undertake to perform
6 disability determinations under subsection (a)(1), or
7 which has been found by the Secretary to have sub-
8 stantially failed to make disability determinations in a
9 manner consistent with his regulations and guidelines”,
10 and

11 (2) striking out “not included in an agreement
12 under subsection (b)” and inserting in lieu thereof “for
13 whom no State undertakes to make disability determi-
14 nations”.

15 LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

16 SEC. 302. (a) Section 202(j)(2) of the Social Security
17 Act is amended to read as follows:

18 “(2) An application for any monthly benefits under this
19 section filed before the first month in which the applicant
20 satisfies the requirements for such benefits shall be deemed a
21 valid application (and shall be deemed to have been filed in
22 such first month) only if the applicant satisfies the require-
23 ments for such benefits before the Secretary makes a final
24 decision on the application and no request under section
25 205(b) for notice and opportunity for a hearing thereon is

1 gether with any related data and materials which he may
2 consider appropriate.

3 (f) Section 201(j) of the Social Security Act (as added by
4 section 4(e) of this Act) is amended by inserting before the
5 period at the end thereof the following: “; and expenditures
6 made for the demonstration project under section 10 of such
7 amendments shall be made from the Federal Disability Insur-
8 ance Trust Fund”.

9 **LIMITATION ON COURT REMANDS**

10 **SEC. 11.** The sixth sentence of section 205(g) of the
11 Social Security Act is amended by striking out all that pre-
12 cedes “and the Secretary shall” and inserting in lieu thereof
13 the following: “The court may, on motion of the Secretary
14 made for good cause shown before he files his answer,
15 remand the case to the Secretary for further action by the
16 Secretary, and it may at any time order additional evidence
17 to be taken before the Secretary, but only upon a showing
18 that there is new evidence which is material and that there is
19 good cause for the failure to incorporate such evidence into
20 the record in a prior proceeding;”.

21 **TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS**

22 **SEC. 12.** Section 205(b) of the Social Security Act is
23 amended by inserting “(1)” after “(b)”, by striking out “(1)”,
24 “(2)”, and “(3)” in the second sentence (as added by section
25 9(a) of this Act) and inserting in lieu thereof “(A)”, “(B)” and

1 “(C)”, respectively, and by adding at the end thereof the fol-
2 lowing new paragraph:

3 “(2) The Secretary shall submit to the Congress, no
4 later than January 1, 1980, a report recommending the es-
5 tablishment of appropriate time limitations governing deci-
6 sions on benefit claims. Such report shall specifically
7 recommend—

8 “(A) the maximum period of time (after applica-
9 tion for a payment under this title is filed) within
10 which the initial decision of the Secretary as to the
11 rights of such individual should be made;

12 “(B) the maximum period of time (after applica-
13 tion for reconsideration of any decision described in
14 subparagraph (A) is filed) within which a decision of
15 the Secretary on such reconsideration should be made;

16 “(C) the maximum period of time (after a request
17 for a hearing with respect to any decision described in
18 subparagraph (A) is filed) within which a decision of
19 the Secretary upon such hearing (whether affirming,
20 modifying, or reversing such decision) should be made;
21 and

22 “(D) the maximum period of time (after a request
23 for review by the Appeals Council with respect to any
24 decision described in subparagraph (A) is made) within
25 which the decision of the Secretary upon such review

1 been incurred without regard to such project, shall be met by
2 the Secretary from amounts made available to him for this
3 purpose, as authorized by applicable appropriation Acts, from
4 the Federal Old-Age and Survivors Insurance Trust Fund,
5 the Federal Disability Insurance Trust Fund, the Federal
6 Hospital Insurance Trust Fund, and the Federal Supplemen-
7 tary Medical Insurance Trust Fund, and from the amounts
8 appropriated from the general revenues of the Treasury to
9 carry out any such title. The costs of any such project shall
10 be allocated among each of such Trust Funds and each such
11 appropriation in a manner determined by the Secretary,
12 taking into consideration the programs (or types of benefit) to
13 which the project (or part of a project) is most closely related
14 or is intended to benefit. If, in order to carry out a project
15 under this section, the Secretary requests a State to make
16 supplementary payments (or makes them himself pursuant to
17 an agreement under section 1616), or to provide medical as-
18 sistance under its plan approved under title XIX, to individ-
19 uals who are not eligible therefor, or in amounts or under
20 circumstances under which the State does not make pay-
21 ments under such section or provide medical assistance under
22 its State plan, the Secretary shall reimburse such State for
23 the non-Federal share of such payments or such assistance
24 from amounts appropriated to carry out title XVI or XIX, as
25 may be appropriate.”.

1 to the end that savings will accrue to the Federal Disability
2 Insurance Trust Fund as a result of rehabilitating such indi-
3 viduals into substantial gainful activity, there are authorized
4 to be transferred from the Federal Old-Age and Survivors
5 Insurance Trust Fund and the Federal Disability Insurance
6 Trust Fund each fiscal year such sums as may be necessary
7 to enable the Secretary to reimburse—

8 “(i) the general fund in the Treasury of the
9 United States for the Federal share, and

10 “(ii) the State for twice the State share,
11 of the reasonable and necessary costs of vocational rehabilita-
12 tion services furnished such individuals (including services
13 during their waiting periods), under a State plan for vocation-
14 al rehabilitation services approved under title I of the Reha-
15 bilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in
16 the cessation of such individuals' disability (as demonstrated
17 by their performance of substantial gainful activity which
18 lasts for a continuous period of 12 months, or which results
19 in their employment for a continuous period of 12 months in
20 a sheltered workshop meeting the requirements applicable to
21 a nonprofit rehabilitation facility under paragraphs (8) and
22 (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and
23 (10)(L)). The determination that the vocational rehabilitation
24 services contributed to the successful return of such individ-
25 uals to substantial gainful activity or their employment in

1 (1) striking out the third sentence,

2 (2) striking out, in the fourth sentence, “, upon
3 the pleadings and a transcript of the record,” and “,
4 with or without remanding the case for a rehearing”,

5 (3)(A) striking out, in the fifth sentence, “, if sup-
6 ported by substantial evidence,”, and

7 (B) striking out “shall be conclusive” in such sen-
8 tence and inserting in lieu thereof “shall be conclusive
9 and not subject to review by any court”,

10 (4) striking out, in the fifth sentence, “conformity
11 with such regulations and”, and

12 (5) striking out, in the sixth sentence—

13 (A) “and may, at any time, on good cause
14 shown, order additional evidence to be taken
15 before the Secretary,”,

16 (B) “and after hearing such additional evi-
17 dence if so ordered,” in the sixth sentence, and

18 (C) “, and a transcript of the additional
19 record and testimony upon which his action in
20 modifying or affirming was based”.

21 (b)(1) Title XVIII of the Social Security Act is amended
22 by adding at the end thereof the following new section:

23 “JUDICIAL REVIEW

24 “SEC. 1882. Any individual, after any final decision of
25 the Secretary made after a hearing to which he was a party,

1 “(4) For the purposes of this subsection the term ‘voca-
2 tional rehabilitation services’ shall have the meaning assigned
3 it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701
4 et seq.), except that such services may be limited in type,
5 scope, or amount in accordance with regulations of the Sec-
6 retary designed to achieve the purpose of this subsection.

7 “(5) The Secretary is authorized and directed to study
8 alternative methods of providing and financing the costs of
9 vocational rehabilitation services to disabled beneficiaries
10 under this title to the end that maximum savings will result
11 to the Trust Funds. On or before January 1, 1980, the Sec-
12 retary shall transmit to the President and the Congress a
13 report which shall contain his findings and any conclusions
14 and recommendations he may have.”.

15 (b) The amendment made by subsection (a) shall apply
16 with respect to fiscal years beginning after September 30,
17 1980.

18 CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS

19 UNDER VOCATIONAL REHABILITATION PLANS

20 SEC. 14. Section 225 of the Social Security Act is
21 amended by inserting “(a)” after “SEC. 225.”, and by adding
22 at the end thereof the following new subsection:

23 “(b) Notwithstanding any other provision of this title,
24 payment to an individual of benefits based on disability (as
25 described in the first sentence of subsection (a)) shall not be

1 tary made before he files his answer, remand the case to the
2 Secretary for further action by the Secretary, and may, at
3 any time, on good cause shown, order additional evidence to
4 be taken before the Secretary, and the Secretary shall, after
5 the case is remanded, and after hearing such additional evi-
6 dence if so ordered, modify or affirm his findings of fact or his
7 decision, or both, and shall file with the court any such addi-
8 tional and modified findings of fact and decision, and a tran-
9 script of the additional record and testimony upon which his
10 action in modifying or affirming was based. Such additional
11 or modified findings of fact and decision shall be reviewable
12 only to the extent provided for review of the original findings
13 of fact and decision. The judgment of the court shall be final
14 except that it shall be subject to review in the same manner
15 as a judgment in other civil actions. Any action instituted in
16 accordance with this subsection shall survive notwithstanding
17 any change in the person occupying the office of Secretary or
18 any vacancy in such office.”.

19 (2) The following sections of the Act are amended by
20 striking out “section 205(g)” and inserting in lieu thereof
21 “section 1882”:

- 22 (A) section 1159(b);
23 (B) section 1160(b)(4);
24 (C) section 1862(d)(3); and
25 (D) section 1869 (b)(1) and (c).

1 (c) The amendments made by subsection (a) shall apply
2 to decisions with respect to applications filed after the date of
3 enactment of this Act; the amendments made by subsection
4 (b) shall become effective upon enactment.

○

96th Congress }
1st Session }

COMMITTEE PRINT

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SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

PROPOSED
DISABILITY INSURANCE AMENDMENTS
OF 1979 (H.R. 3236)

A BILL SUBMITTED TO THE FULL COMMITTEE ON WAYS AND
MEANS BY THE SUBCOMMITTEE ON SOCIAL SECURITY IN THE
FIRST SESSION OF THE 96TH CONGRESS



APRIL 2, 1979

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LETTER OF TRANSMITTAL

SUBCOMMITTEE ON SOCIAL SECURITY,
COMMITTEE ON WAYS AND MEANS,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., April 2, 1979.

HON. AL ULLMAN,
*Chairman, Committee on Ways and Means, U.S. House of Representatives;
Washington, D.C.*

DEAR MR. CHAIRMAN: I transmit, herewith, a copy of H.R. 3236, a bill which was reported unanimously by the Social Security Subcommittee on March 28, 1979, to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program.

In the committee report on the Social Security Amendments of 1977, the Social Security Subcommittee was directed to develop legislation designed to reduce the cost of the disability insurance program and bring it under more effective administrative control. H.R. 3236 closely follows H.R. 14084, 95th Congress, which the Subcommittee approved last fall but which the full committee was unable to take up because of the press of other legislation.

The subcommittee bill contains a number of interrelated provisions, the net effect of which would eliminate the long-range deficit in the disability insurance program trust fund and provide short-term benefit savings which would amount to about \$1.2 to \$1.4 billion a year by 1984.

The bill's provisions are fully described in the accompanying "Purpose and Rationale of H.R. 3236" and section-by-section analysis.

I urge that the Committee on Ways and Means give prompt consideration to the subcommittee's bill.

Sincerely,

J. J. PICKLE,
Chairman, Social Security Subcommittee.

(iii)

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DISABILITY INSURANCE AMENDMENTS OF 1979

PURPOSE AND RATIONALE

Work incentives

Recent actuarial studies in both the public and private sector have indicated that high replacement rates (the ratio of benefits to previous earnings) have constituted a major disincentive to disabled people in attempting rehabilitation or generally returning to the work force. A recent analysis by the social security actuaries has indicated

The average replacement ratio of newly entitled disabled workers with median earnings and who have qualifying dependents increased from about 60 percent in 1967 to over 90 percent in 1976, an increase of about 50 percent. During this time the gross recovery rate decreased to only one-half of what it was in 1967. High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits. ("Experience of Disabled-Worker Benefits Under OASDI, 1972-74," actuarial study No. 73, June 1978.)

John H. Miller, probably the most knowledgeable disability actuary in the private sector, points to the role of high replacement rates in recent adverse social security disability experience:

The evidence is clear that liberal disability benefits induce both an increase in the number of cases approved and the prolongation of disability. From a social and humanistic point of view, we are presented with a dilemma, namely, how we can provide adequate benefits to those unfortunate individuals who become and remain truly disabled, without removing or greatly reducing the incentive to overcome the disability.

Secretary Califano testified before our subcommittee in February of this year:

Benefits in approximately 6 percent of all cases actually exceed the disabled person's previous net earnings; and approximately 16 percent of beneficiaries receive benefits that are more than 80 percent of their average predisability net earnings.

The primary mechanism in the subcommittee bill to provide replacement rates which better support incentives to work is the limitation on family benefits. When it is combined with the other work incentive aspects of the bill it is hoped that beneficiary motivation will be more positive towards vocational rehabilitation and return to the labor market.

A number of elements underlie the philosophy of the subcommittee's limitation:

(1) It is designed primarily to strengthen work incentives for disabled beneficiaries.

(2) It is temporary and a transition in the sense that when the social security benefit structure and formula are examined in a comprehensive way in the near future, other approaches might be found preferable for the long term, such as a separate disability benefit formula, a revised family maximum for all or individual programs (disability, retirement, survivors), or non-wage-related dependents' benefits.

(3) Although it assumes that a few more families would have to supplement their benefits through AFDC than do families under social security disability at the present time, the proposal is not designed to take "welfare" out of social security.

Specifically, section 2 of the subcommittee bill would limit total DI family benefits to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary benefits (PIA). No family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only for entitlements on or after January 1, 1980.

The limit on benefits would affect only 30 percent of newly disabled workers; 70 percent of people coming on the rolls do not have eligible dependents and, thus, would not be affected by a cap on family benefits. It is estimated that 123,000 families and 358,000 beneficiaries would be affected by the cap in the first year.

A number of other interrelated provisions in the subcommittee bill are designed to eliminate work disincentives.

1. To reduce the disparity in disability benefits between young and older workers, section 3 of the bill would vary dropout years by age for disability entitlements after 1979. There would be no dropout years allowed for workers under age 27 and the number of dropout years would gradually rise to 5 (which is existing law) for workers age 47 and over. However, if a worker provided principal care for a child under age 6 for more than 6 months in any calendar year, the number of dropout years would be increased by 1 for each year but to not more than 5. This latter provision would not be effective until January 1981.

2. Section 6 of the subcommittee bill in effect extends the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period, the individual would not receive benefits if he finds he must return to the disability rolls. The present trial work period of 9 months seems to be an insufficient work incentive for work attempts.

3. Section 6 of the subcommittee bill also provides a trial work period for disabled widows and widowers. There appears to be no justification for the lack of applicability of trial work for these categories of beneficiaries.

4. The subcommittee bill eliminates two work disincentive provisions which relate to the medicare program:

(a) Under section 6, medicare coverage would be extended for 24 months after a benefit termination for work after the trial

work period; in effect this would extend medicare eligibility for an additional 36 months over existing law.

(b) The medicare second 24-month waiting period would be eliminated under section 7.

5. To further stimulate work efforts for severely disabled individuals, under section 5 of the bill there would be excluded from earnings used in determining ability to engage in substantial gainful activity (SGA) the costs to the worker of any extraordinary work expenses necessitated by a severe impairment. Also authority to waive benefit requirements of title II and title XVIII would be authorized under section 4 so that demonstration projects could be carried out to ascertain alternative methods of treating work activity to stimulate a return to gainful employment by disability beneficiaries. Research findings in this area are urgently needed for enlightened policy determinations.

Program accountability and uniformity of administration

The subcommittee concern in this area is not only one of cost control but also one of trying to effectuate more uniformity of administration so that beneficiaries, regardless of their place of residence, will be treated on an equal basis as to this Federal benefit. The subcommittee bill attempts to strengthen the Federal-State adjudicative structure and reinstitute more Federal review of State decisionmaking.

Regarding the State agencies which determine disability, section 8 of the subcommittee bill would eliminate the current system of administration which relies on the negotiation of Federal-State agreements. The bill would replace this mechanism with the grant of regulatory authority to the Secretary of Health, Education, and Welfare to establish procedures and performance standards for the State disability determination programs. The regulations might specify, for example, administrative structure, the physical location of and relationship among agency staff units, performance criteria, fiscal control procedures, and other rules applicable to State agencies and designed to assure equity and uniformity in State agency disability determinations. States would have the option of administering the program in compliance with these standards or turning over administration to the Federal Government. States which decide to administer the program must comply with standards set by the Secretary subject to termination by the Secretary if the State substantially fails to comply with the regulations and written guidelines.

As to increased Federal review of State agency decisions, budget pressure in 1971-72 to reduce Federal staffing forced the Social Security Administration to take administrative steps which were tantamount to an amendment of the statutory scheme of the disability insurance program. Social Security moved in rapid steps from what had been about an 80 percent review of the State agencies disability allowances prior to their making awards—preadjudicative—to a sample review involving only 5 percent of State cases after the awards were made—postadjudicative.

The social security actuaries have reported: "We believe that these changes in review procedures have contributed to higher incidence rates since 1972."

The subcommittee bill returns to the situation existing prior to 1972 as to the review of allowances. The requirement in section 8 of the

bill for increased Federal review on a preadjudicative basis is phased in over a 3-year period, beginning in fiscal 1980, so that there can be an orderly increase in the highly trained staff necessary to carry out this purpose.

The subcommittee is also concerned by the lack of followup on the medical condition and the possible work activity of individuals who have been on the rolls for years. Section 17 of the bill provides, therefore, that unless the adjudicator in the State agency makes a finding that the individual is under a disability which is permanent, there will be a review of the status of disabled beneficiaries at least once every 3 years. The subcommittee bill emphasizes that all existing reviews of eligibility under the law are to be continued and expanded where necessary.

Rehabilitation expenditures and program effectiveness

In recent years the cost effectiveness of the provisions which authorize vocational rehabilitation (VR) expenditures out of the disability trust fund have been questioned. Under existing law, an amount equal to 1.5 percent of disability insurance expenditures is potentially available for vocational rehabilitation expenditures. This is called the beneficiary rehabilitation program (BRP). However, in 1976 the GAO reported that previous estimates of benefit savings because of rehabilitation services were not being realized and suggested that the administration should freeze funding of the program. This has been done for the last couple of years, although some increase in funding has been made available for increases in the cost-of-living.

The subcommittee bill contains a provision aimed at providing a more permanent solution to this problem. In terms of simplification and better administration, section 13 of the bill would consolidate the VR funding sources for the seriously disabled in the regular VR program. Under existing law the VR agency and counselor may have three potential funding sources for disabled beneficiaries and the required bookkeeping and juggling of differing program rationales has led to confusion in administration. The approach in the subcommittee bill also seems appropriate inasmuch as the Congress, following the recommendation of the VR administrators, may place the regular VR program in a new Department of Education.

Section 13 of the bill also replaces the BRP program with a much more limited program of disability trust fund contributions for vocational rehabilitation expenditures. It authorizes bonus Federal matching of State regular VR expenditures for those individuals where the rehabilitation results in their continuous engaging in substantial gainful activity (SGA) for a 12-month period. Under the subcommittee bill, the effective date is fiscal year 1981 to provide for an orderly transition and for adjustment of the authorization of appropriation for the regular VR program which is within the jurisdiction of the Committee on Education and Labor.

The subcommittee bill recognizes that some persons on the disability rolls will only be able to work in sheltered workshop situations at a wage rate which would not be sufficient to terminate their benefits. Under this bill, there would be bonus matching for their rehabilitation expenses, but it would be subject to a requirement that they receive wages for the 12-month period after the "rehabilitation" phase of their sheltered workshop experience had been concluded.

Section 14 of the subcommittee bill also provides that no beneficiary be terminated due to medical recovery if the beneficiary is participating in an approved VR program which the Social Security-Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability benefit rolls.

Appeals procedure

The subcommittee bill provides a number of provisions which make the disability adjudication and appeals process more effective and equitable:

1. Section 9 of the bill would provide the claimant with a more detailed explanation and rationale for the decision and a written summary of the evidence. The lack of specificity of the disability denial notice has been a source of claimant complaint for years.

2. Section 15 of the bill would authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in social security disability claims as is done for SSI disability claims.

3. Section 16 of the bill would place in permanent law authority for payment of claimant's travel expenses resulting from participation in various phases of the adjudication process.

4. Section 11 of the bill provides that the Secretary's authority to remand a court case to the ALJ be discretionary with the court upon a showing of good cause by the Secretary. The Secretary has absolute authority under existing law and this may have led to laxity in appeals council review. The subcommittee bill also requires that the court may remand only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding. Under existing law the court itself, or on motion of the claimant, has discretionary authority "for good cause" to remand the case back to the ALJ. It would appear that although many of these court remands are justified some remands are undertaken because the judge disagrees with the outcome of the case which may be sustainable under the "substantial evidence rule."

5. Section 10 would limit the prospective effect of applications (the so-called floating application) and allow for a more orderly administrative process and closing of the record. Present law provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. One consequence of this provision is that the claimant is afforded a continuing opportunity to establish eligibility, including doing so through the introduction of evidence of a new or worsened condition, until all levels of administrative review have been exhausted; i.e., until there is a final decision. The amendment made by this section would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative ALJ hearing, but would not affect remand authority to remedy an insufficiently documented case or other defect.

6. Section 13 of the bill also requires the Secretary of HEW to submit a report to Congress no later than January 1, 1980, recommending appropriate time limits for the various levels of adjudication. The Federal courts have imposed such limits at the hearing level and numerous bills have been introduced to set such limits at various levels of adjudication.

The bill requires the Secretary in recommending the limits to give adequate consideration to both speed and quality of adjudication. This would force the administration in program and budget planning to take a harder look at these sometimes conflicting objectives. Congress could then evaluate the recommendations for consistency with the elements it wishes to emphasize and take further action next year.

[H.R. 2236, 96th Cong., 1st sess.]

A BILL To amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, with the following table of contents, may be cited as the "Disability Insurance Amendments of 1979".

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- Sec. 17. Periodic review of disability determinations.

LIMITATION ON TOTAL FAMILY BENEFITS IN DISABILITY CASES

SEC. 2. (a) Section 203(a) of the Social Security Act is amended—

(1) by striking out "except as provided by paragraph (3)" in paragraph (1) (in the matter preceding subparagraph (A)) and inserting in lieu thereof "except as provided by paragraphs (3) and (6)";

(2) by redesignating paragraphs (6), (7), and (8) as paragraphs (7), (8), and (9), respectively; and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) Notwithstanding any of the preceding provisions of this subsection (but subject to section 215(i)(2)(A)(ii)), the total monthly benefits to which beneficiaries may be entitled under sections 202 and 223 for any month on the basis of the wages and self-employment income of an individual entitled

to disability insurance benefits (whether or not such total benefits are otherwise subject to reduction under this subsection but in lieu of any reduction under this subsection which would otherwise be applicable) shall be reduced (before the application of section 224) to the smaller of—

“(A) 80 percent of such individual’s average indexed monthly earnings (or 100 percent of his primary insurance amount, if larger), or

“(B) 150 percent of such individual’s primary insurance amount.”

(b)(1) Section 203(a)(2)(D) of such Act is amended by striking out “paragraph (7)” and inserting in lieu thereof “paragraph (8)”.

(2) Section 203(a)(8) of such Act, as redesignated by subsection (a)(2) of this section, is amended by striking out “paragraph (6)” and inserting in lieu thereof “paragraph (7)”.

(3) Section 215(i)(2)(A)(ii)(III) of such Act is amended by striking out “section 203(a)(6) and (7)” and inserting in lieu thereof “section 203(a)(7) and (8)”.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial eligibility for benefits (determined under sections 215(a)(3)(B) and 215(a)(2)(A) of the Social Security Act, as applied for this purpose) begins after 1978, and whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins after 1979.

**REDUCTION IN NUMBER OF DROPOUT YEARS FOR YOUNGER
DISABLED WORKERS**

SEC. 3. (a) Section 215(b)(2)(A) of the Social Security Act is amended to read as follows:

“(2)(A) The number of an individual’s benefit computation years equals the number of elapsed years reduced—

“(i) in the case of an individual who is entitled to old-age insurance benefits or who has died (except as provided in the second sentence of this subparagraph), by 5 years, and

“(ii) in the case of an individual who is entitled to disability insurance benefits, by the number of years equal to one-fifth of such individual’s elapsed years (disregarding any resulting fractional part of a year), but not by more than 5 years.

Clause (ii), once applicable with respect to any individual, shall continue to apply for purposes of determining such individual’s primary insurance amount after his death or attainment of age 65 or any subsequent eligibility for disability insurance benefits unless prior to the month in which he dies, attains such age, or becomes so eligible there occurs a period of at least 12 consecutive months for which he was not entitled to a disability insurance benefit. If an individual described in clause (ii) is determined in accordance with regula-

tions of the Secretary to have been responsible for providing (and to have provided) the principal care of a child (of such individual or his or her spouse) under the age of 6 throughout more than 6 full months in any calendar year which is included in such individual's elapsed years, but which is not disregarded pursuant to clause (ii) or to subparagraph (B) (in determining such individual's benefit computation years) by reason of the reduction in the number of such individual's elapsed years under clause (ii), the number by which such elapsed years are reduced under this subparagraph pursuant to clause (ii) shall be increased by one (up to a combined total not exceeding 5) for each such calendar year; except that (I) no calendar year shall be disregarded by reason of this sentence (in determining such individual's benefit computation years) unless the individual provided such care throughout more than 6 full months in such year, (II) the particular calendar years to be disregarded under this sentence (in determining such benefit computation years) shall be those years (not otherwise disregarded under clause (ii)) for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the smallest, and (III) this sentence shall apply only to the extent that its application would result in a higher primary insurance amount. The number of an individual's benefit computation years as determined under this subparagraph shall in no case be less than 2."

(b) Section 223(a)(2) of such Act is amended by inserting "and section 215(b)(2)(A)(ii)" after "section 202(q)" in the first sentence.

(c) The amendments made by this section shall apply only with respect to monthly benefits payable on the basis of the wages and self-employment income of an individual whose initial entitlement to disability insurance benefits (with respect to the period of disability involved) begins on or after January 1, 1980; except that the third sentence of section 215(b)(2)(A) of the Social Security Act (as added by such amendments) shall apply only with respect to monthly benefits payable for months after December 1980.

WORK INCENTIVE—SGA DEMONSTRATION PROJECT

SEC. 4. (a) The Commissioner of Social Security shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of treating the work activity of disabled beneficiaries under the old-age, survivors, and disability insurance program, including such methods as a reduction in benefits based on earnings, designed to encourage the return to work of disabled beneficiaries to the end that savings will accrue to the Trust Funds.

(b) The experiments and demonstration projects developed under subsection (a) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods under consideration while

giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the disability insurance program without committing such program to the adoption of any prospective system either locally or nationally.

(c) In the case of any experiment or demonstration project under subsection (a), the Secretary may waive compliance with the benefit requirements of titles II and XVIII of the Social Security Act insofar as is necessary for a thorough evaluation of the alternative methods under consideration. No such experiment or project shall be actually placed in operation unless at least ninety days prior thereto a written report, prepared for purposes of notification and information only and containing a full and complete description thereof, has been transmitted by the Commissioner of Social Security to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. Periodic reports on the progress of such experiments and demonstration projects shall be submitted by the Commissioner to such committees. When appropriate, such reports shall include detailed recommendations for changes in administration or law, or both, to carry out the objectives stated in subsection (a).

(d) The Commissioner of Social Security shall submit to the Congress no later than January 1, 1983, a final report on the experiments and demonstration projects carried out under this section together with any related data and materials which he may consider appropriate.

(e) Section 201 of the Social Security Act is amended by adding at the end thereof the following new subsection:

“(j) Expenditures made for experiments and demonstration projects under section 4 of the Disability Insurance Amendments of 1979 shall be made from the Federal Disability Insurance Trust Fund and the Federal Old-Age and Survivors Insurance Trust Fund, as determined appropriate by the Secretary.”

**EXTRAORDINARY WORK EXPENSES DUE TO SEVERE
DISABILITY**

SEC. 5. Section 223(d)(4) of the Social Security Act is amended by inserting after the third sentence the following new sentence: “In determining whether an individual is able to engage in substantial gainful activity by reason of his earnings, where his disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, there shall be excluded from such earnings an amount equal to the cost (to the individual) of any attendant care services, medical devices, equipment, prostheses, and similar items and services (not including routine drugs or routine medical services unless such drugs or services are necessary for the control of the disabling condition) which are necessary for that purpose, whether or not such assistance is also needed to enable him to carry out his normal daily functions.”

PROVISION OF TRIAL WORK PERIOD FOR DISABLED WIDOWS
AND WIDOWERS; EXTENSION OF ENTITLEMENT TO DISABIL-
ITY INSURANCE AND RELATED BENEFITS

SEC. 6. (a)(1) Section 222(c)(1) of the Social Security Act is amended by striking out "section 223 or 202(d)" and inserting in lieu thereof "section 223, 202(d), 202(e), or 202(f)".

(2) Section 222(c)(3) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof ", or, in the case of an individual entitled to widow's or widower's insurance benefits under section 202 (e) or (f) who became entitled to such benefits prior to attaining age 60, with the month in which such individual becomes so entitled."

(3) The amendments made by this subsection shall apply with respect to individuals whose disability has not been determined to have ceased prior to the date of the enactment of this Act.

(b)(1)(A) Section 223(a)(1) of such Act is amended by striking out the period at the end of the first sentence and inserting in lieu thereof "or, if later (and subject to subsection (e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)."

(B) Section 202(d)(1)(G) of such Act is amended by—

(i) by redesignating clauses (i) and (ii) as clauses (I) and (II), respectively,

(ii) by inserting "the later of (i)" immediately before "the third month", and

(iii) by striking out "or (if later)" and inserting in lieu thereof the following: "(or, if later, and subject to section 223(e), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A), or (ii)".

(C) Section 202(e)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)."

(D) Section 202(f)(1) of such Act is amended by striking out the period at the end and inserting in lieu thereof the following: "or, if later (and subject to section 223(e)), the fifteenth month following the end of such individual's trial work period determined by application of section 222(c)(4)(A)."

(2) Section 223 of such Act is amended by adding at the end thereof the following new subsection:

"(e) No benefit shall be payable under subsection (d), (e), or (f) of section 202 or under subsection (a)(1) to an individual for any month after the third month in which he engages in substantial gainful activity during the 15-month

period following the end of his trial work period determined by application of section 222(c)(4)(A).”.

(3) Section 226(b) of such Act is amended—

(3) Section 226(b) of such Act is amended—

(A) by striking out “ending with the month” in the matter following paragraph (2) and inserting in lieu thereof “ending (subject to the last sentence of this subsection) with the month” and

(B) by adding at the end thereof the following new sentence: “For purposes of this subsection, an individual who has had a period of trial work which ended as provided in section 222(c)(4)(A), and whose entitlement to benefits or status as a qualified railroad retirement beneficiary as described in paragraph (2) has subsequently terminated, shall be deemed to be entitled to such benefits or to occupy such status (notwithstanding the termination of such entitlement or status) for the period of consecutive months throughout all of which the physical or mental impairment, on which such entitlement or status was based, continues, but not in excess of 24 such months.”.

(4) The amendments made by this subsection shall apply with respect to individuals whose disability or blindness (whichever may be applicable) has not been determined to have ceased prior to the date of the enactment of this Act.

ELIMINATION OF REQUIREMENT THAT MONTHS IN MEDICARE WAITING PERIOD BE CONSECUTIVE

SEC. 7. (a)(1)(A) Section 226(b)(2) of the Social Security Act is amended by striking out “consecutive” in clauses (A) and (B).

(B) Section 226(b) of such Act is further amended by striking out “consecutive” in the matter following paragraph (2).

(2) Section 1811 of such Act is amended by striking out “consecutive”.

(3) Section 1837(g)(1) of such Act is amended by striking out “consecutive”.

(4) Section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 is amended by striking out “consecutive” each place it appears.

(b) Section 226 of the Social Security Act is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

“(f) For purposes of subsection (b) (and for purposes of section 1837(g)(1) of this Act and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974), the 24 months for which an individual has to have been entitled to specified monthly benefits on the basis of disability in order to become entitled to hospital insurance benefits on such basis effective with any particular month (or to be deemed to have enrolled in the supplementary medical insurance program, on the basis of

such entitlement, by reason of section 1837(f)), where such individual had been entitled to specified monthly benefits of the same type during a previous period which terminated—

“(1) more than 60 months before that particular month in any case where such monthly benefits were of the type specified in clause (A)(i) or (B) of subsection (b)(2), or

“(2) more than 84 months before that particular month in any case where such monthly benefits were of the type in clause (A)(ii) or (A)(iii) of such subsection, shall not include any month which occurred during such previous period.”

(c) The amendments made by this section shall apply with respect to hospital insurance or supplementary medical insurance benefits for months after the month in which this Act is enacted.

**DISABILITY DETERMINATIONS; FEDERAL REVIEW OF
STATE AGENCY ALLOWANCES**

SEC. 8. (a) Section 221(a) of the Social Security Act is amended to read as follows:

“(a)(1) In the case of an individual, the determination of whether or not he is under a disability (as defined in section 216(i) or 223(d)) and of the day such disability began, and the determination of the day on which such disability ceases, shall be made by a State agency in any State that notifies the Secretary in writing that it wishes to make such disability determinations commencing with such month as the Secretary and the State agree upon, but only if (A) the Secretary has not found, under subsection (b)(1), that the State agency has substantially failed to make disability determinations in accordance with the applicable provisions of this section or rules issued thereunder, and (B) the State has not notified the Secretary, under subsection (b)(2), that it does not wish to make such determinations. If the Secretary once makes the finding described in clause (A) of the preceding sentence, or the State gives the notice referred to in clause (B) of such sentence, the Secretary may thereafter determine whether (and, if so, beginning with which month and under what conditions) the State may make again disability determinations under this paragraph.

“(2) The disability determinations described in paragraph (1) made by a State agency shall be made in accordance with the pertinent provisions of this title and the standards and criteria contained in regulations or other written guidelines of the Secretary pertaining to matters such as disability determinations, the class or classes of individuals with respect to which a State may make disability determinations (if it does not wish to do so with respect to all individuals in the State), and the conditions under which it may choose not to make all such determinations. In addition, the Secretary shall promulgate regulations specifying, in such detail as he deems

appropriate, performance standards and administrative requirements and procedures to be followed in performing the disability determination function in order to assure effective and uniform administration of the disability insurance program throughout the United States. The regulations may, for example, specify matters such as—

“(A) the administrative structure and the relationship between various units of the State agency responsible for disability determinations,

“(B) the physical location of and relationship among agency staff units, and other individuals or organizations performing tasks for the State agency, and standards for the availability to applicants and beneficiaries of facilities for making disability determinations,

“(C) State agency performance criteria, including the rate of accuracy of decisions, the time periods within which determinations must be made, the procedures for and the scope of review by the Secretary, and, as he finds appropriate, by the State, of its performance in individual cases and in classes of cases, and rules governing access of appropriate Federal officials to State Offices and to State records relating to its administration of the disability determination function,

“(D) fiscal control procedures that the State agency may be required to adopt,

“(E) the submission of reports and other data, in such form and at such time as the Secretary may require, concerning the State agency’s activities relating to the disability determination process, and

“(F) any other rules designed to facilitate, or control, or assure the equity and uniformity of the State’s disability determinations.”

(b) Section 221(b) of such Act is amended to read as follows:

“(b)(1) If the Secretary finds, after notice and opportunity for a hearing, that a State agency is substantially failing to make disability determinations in a manner consistent with his regulations and other written guidelines, the Secretary shall, not earlier than 180 days following his finding, make the disability determinations referred to in subsection (a)(1).

“(2) If a State, having notified the Secretary of its intent to make disability determinations under subsection (a)(1); no longer wishes to make such determinations, it shall notify the Secretary in writing of that fact, and, if an agency of the State is making disability determinations at the time such notice is given, it shall continue to do so for not less than 180 days. Thereafter, the Secretary shall make the disability determinations referred to in subsection (a)(1).”

(c) Section 221(c) of such Act is amended to read as follows:

“(c)(1) The Secretary (in accordance with paragraph (2)) shall review determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as

defined in section 216(i) or 223(d)). As a result of any such review, the Secretary may determine that an individual is not under a disability (as so defined) or that such individual's disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency. Any review by the Secretary of a State agency determination under the preceding provisions of this paragraph shall be made before any action is taken to implement such determination and before any benefits are paid on the basis thereof.

"(2) In carrying out the provisions of paragraph (1) with respect to the review of determinations, made by State agencies pursuant to this section, that individuals are under disabilities (as defined in section 216(i) or 223(d)), the Secretary shall review—

"(A) at least 30 percent of all such determinations made by State agencies in the fiscal year 1980,

"(B) at least 60 percent of all such determinations made by State agencies in the fiscal year 1981, and

"(C) at least 80 percent of all such determinations made by State agencies in any fiscal year after the fiscal year 1981."

(d) Section 221(d) of such Act is amended by striking out "(a)" and inserting in lieu thereof "(a), (b)".

(e) The first sentence of section 221(e) of such Act is amended—

(1) by striking out "which has an agreement with the Secretary" and inserting in lieu thereof "which is making disability determinations under subsection (a)(1)",

(2) by striking out "as may be mutually agreed upon" and inserting in lieu thereof "as determined by the Secretary", and

(3) by striking out "carrying out the agreement under this section" and inserting in lieu thereof "making disability determinations under subsection (a)(1)".

(f) Section 221(g) of such Act is amended—

(1) by striking out "has no agreement under subsection (b)" and inserting in lieu thereof "does not undertake to perform disability determinations under subsection (a)(1), or which has been found by the Secretary to have substantially failed to make disability determinations in a manner consistent with his regulations and guidelines", and

(2) by striking out "not included in an agreement under subsection (b)" and inserting in lieu thereof "for whom no State undertakes to make disability determinations".

(g) The amendments made by this section shall be effective beginning with the twelfth month following the month in which this Act is enacted. Any State that, on the effective date of the amendments made by this section, has in effect an

agreement with the Secretary of Health, Education, and Welfare under section 221(a) of the Social Security Act (as in effect prior to such amendments) will be deemed to have given to the Secretary the notice specified in section 221(a)(1) of such Act as amended by this section, in lieu of continuing such agreement in effect after the effective date of such amendments. Thereafter, a State may notify the Secretary in writing that it no longer wishes to make disability determinations, effective not less than 180 days after it is given.

INFORMATION TO ACCOMPANY SECRETARY'S DECISIONS AS TO
CLAIMANT'S RIGHTS

SEC. 9. (a) Section 205(b) of the Social Security Act is amended by inserting after the first sentence the following new sentences: "Any such decision by the Secretary shall contain a statement of the case setting forth (1) a citation and discussion of the pertinent law and regulation, (2) a list of the evidence of record and a summary of the evidence, and (3) the Secretary's determination and the reason or reasons upon which it is based. The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant shall be informed of its existence, and it may be disclosed to the claimant's representative unless the latter's relationship with the claimant is such that disclosure would be as harmful as if made to the claimant."

(b) The amendment made by subsection (a) shall apply with respect to decisions made on and after the first day of the second month following the month in which this Act is enacted.

LIMITATION ON PROSPECTIVE EFFECT OF APPLICATION

SEC. 10. (a) Section 202(j)(2) of the Social Security Act is amended to read as follows:

"(2) An application for any monthly benefits under this section filed before the first month in which the applicant satisfies the requirements for such benefits shall be deemed a valid application (and shall be deemed to have been filed in such first month) only if the applicant satisfies the requirements for such benefits before the Secretary makes a final decision on the application and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary)."

(b) Section 216(i)(2)(G) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed on such first day)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made or, if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(c) Section 223(b) of such Act is amended—

(1) by inserting "(and shall be deemed to have been filed in such first month)" immediately after "shall be deemed a valid application" in the first sentence,

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof "and no request under section 205(b) for notice and opportunity for a hearing thereon is made, or if such a request is made, before a decision based upon the evidence adduced at the hearing is made (regardless of whether such decision becomes the final decision of the Secretary).", and

(3) by striking out the second sentence.

(d) The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

LIMITATION ON COURT REMANDS

SEC. 11. The sixth sentence of section 205(g) of the Social Security Act is amended by striking out all that precedes "and the Secretary shall" and inserting in lieu thereof the following: "The court may, on motion of the Secretary made for good cause shown before he files his answer, remand the case to the Secretary for further action by the Secretary, and it may at any time order additional evidence to be taken before the Secretary, 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;"

TIME LIMITATIONS FOR DECISIONS ON BENEFIT CLAIMS

SEC. 12. The Secretary of Health, Education, and Welfare shall submit to the Congress, no later than January 1, 1980, a report recommending the establishment of appropriate time limitations governing decisions on claims for benefits under title II of the Social Security Act. Such report shall specifically recommend—

(1) the maximum period of time (after application for a payment under such title is filed) within which the initial decision of the Secretary as to the rights of the applicant should be made;

(2) the maximum period of time (after application for reconsideration of any decision described in paragraph

(1) is filed) within which a decision of the Secretary on such reconsideration should be made;

(3) the maximum period of time (after a request for a hearing with respect to any decision described in paragraph (1) is filed) within which a decision of the Secretary upon such hearing (whether affirming, modifying, or reversing such decision) should be made; and

(4) the maximum period of time (after a request for review by the Appeals Council with respect to any decision described in paragraph (1) is made) within which the decision of the Secretary upon such review (whether affirming, modifying, or reversing such decision) should be made.

In determining the time limitations to be recommended, the Secretary shall take into account both the need for expeditious processing of claims for benefits and the need to assure that all such claims will be thoroughly considered and accurately determined.

VOCATIONAL REHABILITATION SERVICES FOR DISABLED
INDIVIDUALS

SEC. 13. (a) Section 222(d) of the Social Security Act is amended to read as follows:

“Costs of Rehabilitation Services From Trust Funds

“(d)(1) For the purpose of making vocational rehabilitation services more readily available to disabled individuals who are—

“(A) entitled to disability insurance benefits under section 223,

“(B) entitled to child’s insurance benefits under section 202(d) after having attained age 18 (and are under a disability),

“(C) entitled to widow’s insurance benefits under section 202(e) prior to attaining age 60, or

“(D) entitled to widower’s insurance benefits under section 202(f) prior to attaining age 60,

to the end that savings will accrue to the Trust Funds as a result of rehabilitating such individuals into substantial gainful activity, there are authorized to be transferred from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund each fiscal year such sums as may be necessary to enable the Secretary to reimburse—

“(i) the general fund in the Treasury of the United States for the Federal share and

“(ii) the State for twice the State share,

of the reasonable and necessary costs of vocational rehabilitation services furnished such individuals (including services during their waiting periods), under a State plan for vocational rehabilitation services approved under title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), which result in

their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for a continuous period of 12 months in a sheltered workshop meeting the requirements applicable to a nonprofit rehabilitation facility under paragraphs (8) and (10)(L) of section 7 of such Act (29 U.S.C. 706 (8) and (10)(L)). The determination that the vocational rehabilitation services contributed to the successful return of such individuals to substantial gainful activity or their employment in sheltered workshops, and the determination of the amount of costs to be reimbursed under this subsection, shall be made by the Commissioner of Social Security in accordance with criteria formulated by him.

“(2) Payments under this subsection shall be made in advance or by way of reimbursement, with necessary adjustments for overpayments and underpayments.

“(3) Money paid from the Trust Funds under this subsection for the reimbursement of the costs of providing services to individuals who are entitled to benefits under section 223 (including services during their waiting periods), or who are entitled to benefits under section 202(d) on the basis of the wages and self-employment income of such individuals, shall be charged to the Federal Disability Insurance Trust Fund, and all other money paid from the Trust Funds under this subsection shall be charged to the Federal Old-Age and Survivors Insurance Trust Fund. The Secretary shall determine according to such methods and procedures as he may deem appropriate—

“(A) the total amount to be reimbursed for the cost of services under this subsection, and

“(B) subject to the provisions of the preceding sentence, the amount which should be charged to each of the Trust Funds.

“(4) For the purposes of this subsection the term ‘vocational rehabilitation services’ shall have the meaning assigned it in title I of the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), except that such services may be limited in type, scope, or amount in accordance with regulations of the Secretary designed to achieve the purpose of this subsection.

“(5) The Secretary is authorized and directed to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries under this title to the end that maximum savings will result to the Trust Funds. On or before January 1, 1980, the Secretary shall transmit to the President and the Congress a report which shall contain his findings and any conclusions and recommendations he may have.”

(b) The amendment made by subsection (a) shall apply with respect to fiscal years beginning after September 30, 1980.

CONTINUED PAYMENT OF BENEFITS TO INDIVIDUALS UNDER
VOCATIONAL REHABILITATION PLANS

SEC. 14. (a) Section 225 of the Social Security Act is amended by inserting "(a)" after "SEC. 225.", and by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of this title, payment to an individual of benefits based on disability (as described in the first sentence of subsection (a)) shall not be terminated or suspended because the physical or mental impairment on which the individual's entitlement to such benefits is based has or may have ceased if—

"(1) such individual is participating in an approved vocational rehabilitation program under a State plan approved under title I of the Rehabilitation Act of 1973, and

"(2) the Commissioner of Social Security determines that the completion of such program, or its continuation for a specified period of time, will increase the likelihood that such individual may (following his participation in such program) be permanently removed from the disability benefit rolls."

(b) Section 225(a) of such Act (as designated under subsection (a) of this section) is amended by striking out "this section" each place it appears and inserting in lieu thereof "this subsection".

PAYMENT FOR EXISTING MEDICAL EVIDENCE

SEC. 15. (a) Section 223(d)(5) of the Social Security Act is amended by adding at the end thereof the following new sentence: "Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence."

(b) The amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of this Act.

PAYMENT OF CERTAIN TRAVEL EXPENSES

SEC. 16. Section 201 of the Social Security Act (as amended by section 4(e) of this Act) is amended by adding at the end thereof the following new subsection:

"(k) There are authorized to be made available for expenditure, out of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund (as determined appropriate by the Secretary), such

amounts as are required to pay travel expenses, either on an actual cost or commuted basis, to individuals for travel incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to parties, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges with respect to such determinations. The amount available under the preceding sentence for payment for air travel by any person shall not exceed the coach fare for air travel between the points involved unless the use of first-class accommodations is required (as determined under regulations of the Secretary) because of such person's health condition or the unavailability of alternative accommodations; and the amount available for payment for other travel by any person shall not exceed the cost of travel (between the points involved) by the most economical and expeditious means of transportation appropriate to such person's health condition, as specified in such regulations."

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 17. Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(h) In any case where an individual is or has been determined to be under a disability, unless a finding is or has been made that such disability is permanent, the case shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the preceding sentence shall be in addition to, and shall not be considered as a substitute for, any other reviews which are required or provided for under or in the administration of this title."

SECTION-BY-SECTION ANALYSIS AND COMPARISON WITH EXISTING LAW

Short title

Section 1 provides the short title and table of contents of the Disability Insurance Amendments of 1979.

Limitation on total family benefits in disability cases

Section 2(a)(1) of the bill amends section 203(a)(1) of the Social Security Act (as in effect after December 1978) by adding a reference to a new paragraph (6), which would limit family disability benefits.

Section 2(a)(2) of the bill provides that paragraphs (6), (7), and (8) of section 203(a) of the act are redesignated as paragraphs (7), (8), and (9), respectively.

Section 2(a)(3) of the bill adds a new paragraph (6) to section 203(a) of the act, which provides that family benefits based on the earnings of a disabled worker (and before the application of the worker's compensation offset) are limited to the smaller of 80 percent of the worker's average indexed monthly earnings (but not less than the worker's primary insurance amount) or 150 percent of the worker's primary insurance amount. The limit will apply to the original family benefit and will be subject to automatic cost-of-living adjustments.

Section 2(b)(1) of the bill amends section 203(a)(2)(D) of the act to refer to redesignated paragraph (8).

Section 2(b)(2) of the bill amends section 203(a)(7) of the act (203(a)(8) after redesignation) to refer to redesignated paragraph (7).

Section 2(b)(3) of the bill amends section 215(i)(2)(a)(ii)(III) of the act to refer to redesignated paragraphs (7) and (8) of section 203(a).

Section 2(c) of the bill provides that the amendments made by section 2 of the act will apply with respect to initial eligibility for benefits after 1978 and initial entitlement to disability benefits beginning after 1979.

Reduction in number of dropout years for younger disabled workers

Section 3(a) of the bill amends section 215(b)(2)(A) of the Social Security Act (as in effect after December 1978) to reduce the number of years that can be dropped from a worker's benefit computation years for a worker who becomes disabled before reaching age 47.

1. The revised clause (i) of section 215(b)(2)(A) provides that the number of years that can be dropped in an old-age or death case will be 5 as under present law, unless the worker was entitled to a disability benefit for the month before he reached age 65.

2. The new clause (ii) provides that the number of years that can be dropped in a disability case cannot exceed one-fifth of the individual's elapsed years—years after 1951 or age 21, if later, and up to the year of onset of disability. Any resulting fraction of a year will be disregarded.

The limit on the number of dropout years will continue to apply in determining the worker's primary insurance amount at the worker's death, subsequent disability, or when he reaches age 65, unless he is

not entitled to disability insurance benefits for at least 12 months before he becomes eligible again for disability benefits, reaches age 65, or dies.

Section 215(b)(2)(A) is also revised to provide for additional dropout years for certain people affected by the reduction in dropout years described above. Under this provision, where regular dropout years are limited to less than 5 by reason of clause (ii), 1 year not otherwise dropped could be dropped for each year in which the worker is responsible for providing, and provides, the principal care of his or her child (or the spouse's child) under the age of 6 for at least 6 full months. (The total number of regular and child care dropout years cannot exceed 5.)

As under present law, section 215(b)(2)(A) provides that the number of an individual's benefit computation years shall be no less than 2.

Section 3(b) of the bill amends section 223(a)(2) of the act to add a reference to new section 215(b)(2)(A)(ii).

Section 3(c) of the bill provides that the amendments made by sections 3(a) and 3(b) of the act, except for the amendment providing for child-care dropout years, would apply with respect to initial entitlements to disability benefits beginning on or after January 1, 1980. The amendment made by section 3(a) dealing with child-care dropout years would be effective for monthly benefits payable for months after 1980.

Work incentive—substantial gainful activity demonstration project.

Section 4(a) of the bill directs the Commissioner of Social Security to develop and carry out experiments and demonstration projects to determine the relative advantages and disadvantages of alternative methods of treating work activity of social security disability beneficiaries including a reduction in benefits based on earnings, with the objective of encouraging disabled beneficiaries to return to work.

Section 4(b) provides that these projects be of sufficient scope to permit a thorough evaluation of the alternative methods under consideration without committing the disability insurance program to the adoption of any prospective system under consideration.

Section 4(c) provides that the Secretary may waive compliance with the benefit requirements of titles II and XVIII to the extent necessary to effectively carry out such projects; however, no such experiment or project can be implemented until 90 days after notification by the Commissioner of Social Security to the House Committee on Ways and Means and the Senate Committee on Finance. Periodic reports on the progress of such experiments or demonstration projects, including recommendations for changes in law or administration, shall be submitted to the committees.

Section 4(d) specifies that the Commissioner of Social Security shall submit to the Congress, no later than January 1, 1983, a final report on the experiments and demonstration projects, including appropriate related data and materials.

Section 4(e) adds to section 201 of the Social Security Act a new subsection (j) to provide that expenditures made for experiments and demonstration projects will be made from the Federal disability insurance and Federal old-age and survivors trust funds.

Extraordinary work expenses due to severe disability

Section 5 of the bill amends section 223(d)(4) of the Social Security Act to provide that, where an individual's disability is sufficiently severe to result in a functional limitation requiring assistance in order for him to work, an amount equal to the cost to him of necessary attendant care services, medical devices, equipment, or prostheses, and similar items and services (not including routine drugs and routine medical care and services unless such drugs are necessary for the control of the disabling condition), whether or not such assistance is also needed for his normal daily functions, shall be excluded from his earnings in determining whether he is able to engage in substantial gainful activity by reason of his earnings.

Provision of trial work period for disabled widows; extension of entitlement to disability insurance benefits and related benefits

Section 6(a) of the bill amends sections 222(c)(1) and (3) of the act to provide a trial work period to disabled widows and widowers in the same manner as provided for disabled workers. These amendments shall apply to those whose disability has not ceased prior to enactment.

Section 6(b)(1) of the bill amends sections 223(a)(1), 202(d)(1)(G), 202(e)(1), and 202(f)(1) of the Social Security Act to extend an individual's status as a disabled individual for 12 months after the month in which disability benefits are terminated if that termination occurred only because of the individual's having engaged in substantial gainful activity (and not because he has medically recovered). Subsection (b)(2) adds a new subsection (e) to section 223 to provide that no benefits would be payable during this 12-month period as long as the individual is engaging in substantial gainful activity. The effect of this amendment will be to allow an individual to return to benefit status without going through the process of reestablishing the fact that he is disabled. Subsection (b)(3) extends medicare coverage for beneficiaries who have completed a period of trial work, but who have not medically recovered, through the benefit suspension period provided in subsections (b)(1) and (b)(2) and for 24 months afterward, or, if earlier, until the person medically recovers. Subsection (b)(4) provides that these amendments apply to those whose disability has not been determined to have ceased prior to enactment.

Elimination of requirement that months in medicare waiting period be consecutive

Section 7(a) amends sections 226(b), 1811, and 1837(g)(1) of the Social Security Act, and section 7(d)(2)(ii) of the Railroad Retirement Act of 1974 by striking out the word "consecutive" wherever it appears, thereby modifying the medicare 24-month waiting period requirement so that these months need not be consecutive.

Section 7(b) further amends section 226 by adding a new subsection, which provides that, for an individual who is reentitled to the same type of monthly disability benefits, the 24-month waiting period may not include any month in a previous period of disability, if (1) the individual is reentitled as a disabled worker and the previous period of disability terminated more than 60 months before reentitlement; or (2) the individual is reentitled as an adult disabled since childhood,

or as a disabled widow or widower, and the previous period of disability terminated more than 84 months before reentitlement.

Section 7(c) provides that these amendments apply to medicare protection for months after the month of enactment.

Disability determinations; Federal review of State agency allowances

Section 8(a) of the bill amends section 221(a) of the Social Security Act to provide that disability determinations shall be made by State agencies in States that provide a written notice (rather than State agreements, as under present law) to the Secretary stating that they wish to make such determinations, unless the State has previously been found to have substantially failed to make determinations in accordance with the law and the Secretary's regulations, or unless the State has previously declined to administer under this section, in which case the Secretary may determine when and if the State may again make disability determinations. Section 8(a) further provides that disability determinations shall be made (or not made for specified classes of claimants) in accordance with regulations or other written guidelines issued by the Secretary. The Secretary is required to promulgate regulations specifying performance standards and administrative procedures to assure effective and uniform administration, and may issue regulations on State agency administrative structure, and other administrative areas (examples are given in the bill, pp. 15-16).

Section 8(b) of the bill amends section 221(b) of the Social Security Act to provide for notice to a State and opportunity for a hearing if the Secretary determines that the State is substantially failing to make determinations in a manner consistent with the regulations and other written guidelines. If the Secretary makes such a determination, he thereafter will take over the making of the disability determinations in that State not earlier than the expiration of 180 days. If the State no longer wishes to participate in the program it must notify the Secretary but shall continue to make determinations for not less than 180 days after notification.

Section 8(c) of the bill amends section 221(c) of the Social Security Act to provide (1) that the Secretary shall (rather than "may on his own motion") review State agency determinations that a person is under a disability; (2) that such review shall be made before a determination is implemented and benefits are paid; and (3) that the requirement that the Secretary review such determinations (per (1) above) will be met if he reviews at least 30 percent in fiscal year 1980, 60 percent in fiscal year 1981, and 80 percent in fiscal year 1982 and thereafter.

Sections 8 (d), (e) and (f) make conforming changes in the statutory language.

Section 8(g) provides that the amendments made by this section shall be effective 12 months after the month of enactment. Any State that has an agreement with the Secretary already in effect on the effective date will be deemed to have given the notice of participation specified in these amendments. Thereafter, States must give 180 days notice of desire to cease making disability determinations.

Information to accompany Secretary's decisions as to claimant's rights

Section 9(a) of the bill amends section 205(b) of the Social Security Act to require that any decision by the Secretary shall contain a statement of the case setting forth (1) a list of the pertinent law and regulations, (2) a list and summary of the evidence of record, and (3) the Secretary's determination and the reason(s) upon which it is based. The statement of the case shall not include matters the disclosure of which (as indicated by the source of the information involved) would be harmful to the claimant, but if there is any such matter the claimant will be informed of its existence, and the claimant's representative will be given this confidential information unless such disclosure would be harmful as if made to the claimant.

Section 9(b) provides that this amendment will be effective with respect to decisions made on and after the first day of the second month following the month of enactment.

Limitation on prospective effect of application

Section 10 would amend section 202(j)(2) of the Social Security Act (with parallel amendments to sections 216(i)(2)(G) and 223(b)) to shorten the prospective effect of an application for benefits under title II. In present law, section 202(j)(2) provides that if an applicant satisfies the requirements for benefits at any time before a final decision of the Secretary is made, the application is deemed to be filed in the first month for which the requirements are met. The amendment made by this section would allow the issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative hearing, but would not affect administrative or judicial remand authority to remedy an insufficiently documented case or other defect. The amendments made by this section shall apply to applications filed after the month in which this Act is enacted.

Limitation on court remands

Section 11 of the bill amends section 205(g) of the Social Security Act to provide that the court may, on motion of the Secretary made for good cause shown, remand a case to the Secretary for further action, and that the court may order new and material evidence to be taken before the Secretary if there was good cause for such evidence not having been submitted previously.

Time limitations for decisions on benefit claims

Section 12 of the bill provides that the Secretary shall submit to the Congress, no later than January 1, 1980, a report recommending the establishment of time limits on decisions on benefit claims. This report shall specifically recommend the maximum periods of time within which (a) initial, (b) reconsideration, (c) hearing, and (d) appeals council decisions should be made, taking into consideration both the need expeditious processing of claims and the need for thorough consideration and accurate determinations of such claims.

Vocational rehabilitation services for disabled individuals

Section 13 of the bill amends section 222(d) of the Social Security Act to change the provisions authorizing reimbursement from the

social security trust funds for the costs of rehabilitation services provided disabled individuals entitled to benefits on the basis of disability.

Section 13(a) of the bill substitutes a revised section 222(d) of the Social Security Act. Paragraph (1) of the revised section 222(d) authorizes the transfer of sums from the trust funds to enable the Secretary to reimburse the general fund of the U.S. Treasury for the Federal share and the State for twice the State share of the reasonable and necessary costs of vocational rehabilitation services furnished under a State plan approved under title I of the Rehabilitation Act of 1973 to disabled individuals entitled to benefits on the basis of disability which results in performance of substantial gainful activity for a continuous period of 12 months, or which results in their employment for a continuous period of 12 months in a sheltered workshop. The Commissioner of Social Security will establish criteria to determine: (1) When the vocational rehabilitation service contributed to successful return to SGA or employment in sheltered workshops and (2) the amount of the costs to be reimbursed. (Under present law, the Secretary is authorized to pay the costs of vocational rehabilitation services for such disabled beneficiaries but the total amount available for this purpose may not exceed 1.5 percent of the total cash benefits paid to disabled workers, disabled widows, disabled widowers, and disabled adult children in the preceding fiscal year.)

The existing paragraph (2) of section 222(d) (relating to requirements for State plans providing rehabilitation services) is eliminated from the revised section.

The existing paragraph (3) of section 222(d) (relating to agreements between the Secretary and public or private agencies for rehabilitation services in States which do not have a plan) is eliminated from the revised section.

The existing paragraph (4) of section 222(b) (relating to arrangements for making payments under this section) is redesignated as paragraph (2) and is amended to provide that payments from the trust funds shall be made in advance (rather than "may be made in installments and in advance") or by way of reimbursement, with necessary adjustments for overpayments and underpayment.

The existing paragraph (5) of section 222(d) (relating to the Secretary's authority to establish methods and procedures for determining the total amount to be reimbursed for the cost of the services, and the amounts to be charged to the individual trust funds) is redesignated as paragraph (3) without any substantive change.

The existing paragraph (6) of section 222(d) (relating to the meaning of the term "vocational rehabilitation services") is redesignated as paragraph (4) and is amended to state that the term "vocational rehabilitation services" would have the meaning assigned to it in title I of the Rehabilitation Act of 1973 (rather than "in the Vocational Rehabilitation Act"), except that such services may be limited in type, scope, or amount in accordance with regulations designed by the Secretary to achieve the purpose of this subsection.

Section 13(a) of the bill also adds a new paragraph (5) to section 222(d) of the Social Security Act to authorize and direct the Secretary to study alternative methods of providing and financing the costs of vocational rehabilitation services to disabled beneficiaries in order to realize maximum savings to the trust funds, and, on or before January

1, 1980, to transmit a report to the President and the Congress containing findings, conclusions, and any recommendations.

Section 13(b) of the bill provides that the amendment made by subsection (a) would apply with respect to fiscal years beginning after September 30, 1980.

Continued payment of benefits to individuals under vocational rehabilitation plans

Section 14 of the bill adds to section 225 of the Social Security Act a new subsection (b) to provide that benefits based on disability will not be terminated or suspended because the physical or mental impairment on which such entitlement is based has (or may have) ceased if such beneficiary is participating in an approved vocational rehabilitation program, and the Commissioner of Social Security determines that the completion of such program (or its continuation for a specified period of time) will increase the likelihood that the beneficiary may be permanently removed from the benefit rolls.

Payment for existing medical evidence

Section 15(a) of the bill amends section 223(d)(5) of the Social Security Act to provide that any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required by the Secretary for making determinations of disability, shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

Section 15(b) provides that the amendment made by subsection (a) shall apply with respect to evidence supplied on or after the date of the enactment of the act.

Payment of certain travel expenses

Section 16 of the bill adds to section 201 a new subsection (k) to the Social Security Act to authorize payments from the trust funds, to individuals to cover travel expenses incident to medical examinations requested by the Secretary in connection with disability determinations under section 221, and to applicants, their representatives, and all reasonably necessary witnesses for travel within the United States (as defined in section 210(i)) to attend reconsideration interviews and proceedings before administrative law judges under title II of the Social Security Act. The new subsection (k) would provide that payments for air travel shall not exceed coach fare, unless first class accommodations are required due to the health condition of the individual or the unavailability of alternative accommodations. Payments for other means of travel could not exceed the most economical and expeditious arrangements appropriate to such person's health.

Periodic review of disability determinations

Section 17 of the bill amends section 221 of the Social Security Act by adding a requirement that, unless a finding has been made that an individual's disability is permanent, the case will be reviewed by either the State agency or the Secretary, for purposes of continuing eligibility, at least once every 3 years. Reviews of cases under the provision shall not be considered as an addition to, and shall not be considered a substitute for, any other reviews of cases in the administration of the disability program.

ESTIMATED REDUCTION IN OSADI EXPENDITURES, BY PROVISION

[Dollar amounts in millions]

Provision ¹	Estimated reduction in OASDI expenditures in fiscal years 1980-84 ²					Estimated reduction in long-range OASDI expenditures as percent of taxable payroll ³
	1980	1981	1982	1983	1984	
1. Limitation on total family benefits for disabled-worker families (sec. 2): Benefit payments.....	\$38	\$145	\$261	\$389	\$521	0.12
2. Reduction in number of drop-out years for younger disabled workers (sec. 3):						
Benefit payments.....	10	37	72	108	148	
Administrative costs.....	(4)	-1	-1	-1	-1	
Total.....	10	36	71	107	147	.04
3. Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 5): Benefit payments.....	-1	-2	-5	-9	-13	-.01
4. Federal review of State agency allowances (sec. 8):						
Benefit payments.....	10	30	110	175	250	
Administrative costs ⁴	-8	-12	-15	-16	-17	
Total.....	2	18	95	159	233	.08
5. More detailed notices specifying reasons for denial of disability claims (sec. 9): Administrative costs.....	-28	-37	-39	-40	-42	(⁵)
6. Limit trust fund payments for costs of vocational rehabilitation services to only such services that result in a cessation of disability, as demonstrated by a return to work (sec. 13): Trust fund payments.....		78	85	93	102	.01
7. Payment for existing medical evidence and certain travel expenses (sec. 15 and 16): Administrative costs ⁷	-20	-21	-22	-23	-24	(⁵)
8. Periodic review of disability determinations (sec. 17):						
Total benefit payments.....	5	30	70	109	168	
For determinations made after enactment.....				10	20	
For determinations made before enactment.....	5	30	70	99	148	
Administrative costs ⁸	-31	-40	-42	-43	-45	
Total.....	-26	-10	28	66	123	.03
Benefit payments.....	62	240	508	772	1,074	
Payments for costs of vocational rehabilitation services.....		78	85	93	102	
Administrative costs.....	-87	-111	-119	-123	-129	
Total net reduction in OASDI trust fund expenditures.....	-25	207	474	742	1,047	.25

¹ The estimates shown for each provision take account of the provisions that precede it in the table.
² Estimates are based on the assumptions underlying the President's 1980 budget.
³ Estimates are based on the intermediate assumptions in the 1978 trustees report and represent 75-yr average reduction. The estimated reduction in long-range average expenditures represents the total net change in both benefits and administrative expenses.
⁴ Additional administrative expenses are less than \$500,000.
⁵ Additional funds will be required in fiscal year 1979 to establish the administrative framework for implementation of these proposals effective January 1980.
⁶ Less than 0.005 percent.
⁷ Additional expenditures for the payment of certain travel expenses amount to less than \$1,000,000 in each year.

Note: The above estimates are based on assumed enactment of H.R. 3236 in September 1979.

Source: Social Security Administration, Mar. 30, 1979.

SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES

SUMMARY OF TESTIMONY ON DISABILITY
INSURANCE LEGISLATION

INCLUDING BRIEF SUMMARIES OF H.R. 2054 (CHAIRMAN PICKLE), H.R. 2854 (ADMINISTRATION BILL), AND H.R. 3236, (THE DISABILITY INSURANCE AMENDMENTS OF 1979, AS REPORTED BY THE COMMITTEE ON WAYS AND MEANS)



AUGUST 1, 1979

NOTE.—This document has been printed for informational purposes only.
It has not been considered or approved by the subcommittee.

Prepared by the staff of the Subcommittee on Social Security

U.S. GOVERNMENT PRINTING OFFICE

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SUMMARY OF TESTIMONY ON DISABILITY INSURANCE LEGISLATION

Introduction

This document is a summary of testimony presented to the Social Security Subcommittee of the Committee on Ways and Means at hearings held on February 21, 22, and 28 and on March 1, 5, 9, and 16, 1979, on proposed disability insurance legislation. Three bills relating to the testimony are also summarized in this paper. H.R. 2054, Chairman Pickle's bill, and H.R. 2854, the Administration bill were referred to specifically in the testimony. The bill, H.R. 3236, which was ultimately reported out of the Subcommittee on Social Security and the full Ways and Means Committee in March 1979 incorporates provisions from both H.R. 2054 and H.R. 2854. Notes identifying sections of the bill applicable to the topics covered in testimony appear throughout this summary. This summary has been prepared by Julie Shapiro, Congressional Intern, Brown University. The Subcommittee expresses its sincere thanks to Ms. Shapiro for this highly competent piece of work.

Brief summaries of all three bills follow.

Summary of H.R. 2054—The Pickle Bill

SEC. 2. Sets a cap prospectively on family benefits for disabled workers at the smaller of (1) 75 percent of AIME or 100 percent of PIA, if larger, or (2) 150 percent of PIA.¹

SEC. 3. Sets up a graduated number of dropout years according to the following schedule:

Age:	Number of dropout years
Under 28.....	0
28 to 31.....	1
32 to 35.....	2
36 to 39.....	3
40 to 44.....	4
Over 44.....	5

This section also provides for one additional dropout year for each year in which the worker provided principal care for a child under 6 years of age. In no case may the total number of dropout years exceed 5, and in no case may the number of years on which benefit computation is based be less than 2.

SEC. 4. Authorizes the Secretary to conduct experiments and demonstration projects in the disability program including such alternatives as reduction in benefits based on earnings. The Social Security Commissioner must report periodically to the House Ways and Means and Senate Finance Committees on the progress of such

¹ PIA—Primary Insurance Amount, worker's basic benefit; AIME—Average Indexed Monthly Earnings from which PIA is derived.

experiments, and must submit a final report to Congress no later than January 1, 1983.

SEC. 5. Allows the deduction of the cost to the individual of attendant care and extraordinary work expenses from earnings before determining whether the claimant is engaging in SGA.

SEC. 6. Extends eligibility for a trial work period to disabled widows and widowers and extends the trial work period for 1 year beyond the current length with suspension rather than termination of benefits for earnings over SGA. This section also extends medicare coverage for 24 months beyond the extended trial work period.

SEC. 7. Eliminates the requirement that waiting period months for medicare be consecutive if resumption of benefit status occurs within 5 years of previous disability.

SEC. 8. The Secretary of HEW may require, under Federal-State agreement, standards for the States to follow in determining disability. The Secretary is required to review State agency allowances (30 percent by 1980, 60 percent by 1981, 80 percent a year after 1981). Administration of the disability program may be terminated either by the State or by the Secretary if the State does not comply with this agreement.

SEC. 9. Provides for detailed decision notices to be sent to claimants identifying the applicable law and regulation governing the decision, the evidence on which the decision was based, and the Secretary's reasoning in deciding the case.

SEC. 10. Provides for a demonstration project calling for face-to-face conferences between the disability determiner and the applicant prior to initial denial of the application.

SEC. 11. Limits the Secretary's absolute discretion for court remand and restricts remands to cases where there is new evidence and good cause shown for failure to incorporate such evidence into the record of a prior proceeding.

SEC. 12. Directs the Secretary to make a report by January 1, 1980, recommending time limits on various stages of the disability determination process.

SEC. 13. Terminates the trust fund rehabilitation program in fiscal year 1981 and authorizes trust funds to reimburse the Federal Treasury for the Federal share and the States for twice the States' share of cost for rehabilitation which results in cessation of an individual's disability (SGA for 12 months or work in a sheltered workshop for 12 months).

SEC. 14. Benefit payments to an individual shall not be terminated during the individual's participation in a vocational rehabilitation program.

SEC. 15. Authorizes payment for certain medical evidence necessary in disability determination as is now done for SSL.

SEC. 16. Authorizes payment of some travel expenses for an applicant for medical examinations requested by the Secretary and travel expenses of witnesses to attend proceedings.

SEC. 17. Disability cases will be reviewed once every 3 years unless a finding of permanent disability has been made.

Summary of H.R. 2854—The Administration Bill

SEC. 101. Sets a cap prospectively on family benefits for disabled workers of 80 percent of AIME, or 100 percent of PIA, if larger.

SEC. 102. Sets up a graduated number of dropout years in computing benefits according to the following schedule:

Age:	Number of dropout years
Under 27.....	0
27 to 31.....	1
32 to 36.....	2
37 to 41.....	3
42 to 46.....	4
47 and over.....	5

There is no provision for additional dropout years for child care as in the Pickle bill.

SEC. 201. Eliminates the requirement that months in the medicare waiting period be consecutive if disability occurs within 5 years of previous disability.

SEC. 202. Extends eligibility for trial work period to disabled widows and widowers.

SEC. 203. Extends the length of the trial work period for an additional year with suspension rather than termination of benefits for earnings over SGA.

SEC. 204. Provides for deduction of attendant care and extraordinary work expenses paid by the individual and other costs not borne by the disabled claimant as the Secretary may prescribe before determining whether the claimant is engaging in SGA.

SEC. 205. SSI related provision.

SEC. 206. Directs the Secretary to review the operation of the provisions in this bill related to work incentives and report to Congress within 5½ years of the effective date.

SEC. 301. Gives the Secretary regulatory authority to set guidelines for administration of the disability program. States may turn over the determination process voluntarily to the Federal Government or the Federal Government can assume control if the State's performance does not comply with the regulatory provisions.

SEC. 302. Allows issuance of regulations to foreclose the introduction of new evidence with respect to a previously filled application after the decision is made at the administrative ALJ hearing.

SEC. 303. The Secretary may waive requirements of titles II, XVI, or XVIII to conduct demonstration projects relating to those areas.

SEC. 401. Provides for detailed decision notices for applicants and prohibits judicial review of anything other than constitutional, statutory, or regulation interpretation issues.

Summary of H.R. 3236—Disability Insurance Amendments of 1979

SEC. 2. Sets a cap prospectively on family benefits for disabled workers at the smaller of (1) 80 percent of AIME or 100 percent of PIA, if larger, or (2) 150 percent of PIA.

SEC. 3. The number of dropout years should equal one-fifth of the elapsed years disregarding any fractional part of a year. An extra dropout year is given for each year in which the claimant provided principal

care for a child age 6 or under. No fewer than 2 years can be used as a base for computing benefits, and no more than 5 years may be dropped.

SEC. 4. Provides for SGA demonstration projects including an experiment of reducing benefits based on earnings. The Secretary must submit periodic progress reports and must make a final report to Congress by January 1, 1983.

SEC. 5. Allows the deduction from earnings of costs to the individual of attendant care and extraordinary work expenses before determining the ability of the individual to engage in SGA.

SEC. 6. Extends eligibility for a trial work period to disabled widows and widowers and extends the trial period for 1 year beyond the current length with suspension rather than termination of benefits for earnings over SGA. This section also extends medicare coverage 24 months beyond the newly extended trial work period, for a total of 36 months beyond the current length.

SEC. 7. Eliminates the requirement that months in the medicare waiting period be consecutive, if resumption of benefit status occurs within 5 years of previous disability.

SEC. 8. Gives the Secretary of HEW regulatory authority to set guidelines for administration of the disability program. States may turn over the determination process voluntarily to the Federal Government or the Federal Government can assume control if the State's performance does not comply with regulatory provisions. The Secretary must review State agency allowances (15 percent in 1980, 35 percent in 1981, and 65 percent a year after 1981). The Secretary must submit a report by January 1, 1980, discussing the way the Federal Government would take over State administration of the disability program.

SEC. 9. Provides for detailed decision notices to be sent to claimants identifying the law applicable to the case and the evidence on which the decision was based.

SEC. 10. Allows issuance of regulations to foreclose the introduction of new evidence with respect to a previously filed application after the decision is made at the administrative ALJ hearing.

SEC. 11. Limits the Secretary's absolute discretion for court remand and restricts remands to cases where there is new evidence and good cause shown for failure to incorporate such evidence into the record of a prior proceeding.

SEC. 12. Directs the Secretary to recommend time limits for the stages in the disability determination process by January 1, 1980.

SEC. 13. Terminates the trust fund rehabilitation program in fiscal year 1981 and authorizes reimbursement to the Federal Treasury for the Federal share and to States for twice the States' share of costs of vocational rehabilitation which results in an individual engaging in SGA for 12 months or working in a sheltered workshop for 12 months.

SEC. 14. Disability payments should not cease while a beneficiary is in a rehabilitation program.

SEC. 15. Authorizes payment for certain medical evidence necessary in disability determination, as is done for SSI.

SEC. 16. Authorizes payment for some travel expenses incurred in the evidence gathering and hearings process.

SEC. 17. Unless a disability claim has been determined to be permanent, the claim shall be reviewed once every 3 years.

Summary of Testimony on Disability Insurance Legislation

[NOTE.—Numbers in parentheses refer to page numbers in oral testimony, except those numbers with an asterisk (*) which refer to page numbers in written testimony. Listings of witnesses and citations appear below the items to which they refer.]

I. BENEFIT STRUCTURE

A. Cap on family benefits (sec. 2, H.R. 2054; sec. 101, H.R. 2854; sec. 2, H.R. 3236)

Support some type of cap on family benefits.

Joseph A. Califano, Jr., Secretary of HEW (36); Robert J. Myers (8, 12*); Health Insurance Association of America and American Council on Life Insurance (93, 101*); National Association of Manufacturers (106); William K. Harvey (182); Wilbur J. Cohen (407); Representative Sam Gibbons (483*)

Specific comments:

1. Benefits in 6 percent of the disability cases exceed the worker's previous net earnings; 16 percent get more than 80 percent of AIME.

Joseph A. Califano, Jr. (36)

2. If benefits are very high relative to predisability earnings, they serve as an incentive not to go back to work.

Representative Gibbons (483*); Health Insurance Association of America and American Council on Life Insurance (93); Joseph A. Califano, Jr. (36)

3. The DI program is an insurance program; low income beneficiaries can get SSI.

Joseph A. Califano, Jr. (36); Health Insurance Association of America and American Council on Life Insurance (93-94)

4. The cap should also take into account workers' compensation.

Health Insurance Association of America and American Council on Life Insurance (93)

5. Consideration should be given to replacement rates used for other public and private insurance programs.

Representative Gibbons (483*)

6. The cap proposed in H.R. 2054 has merit in principle, but overlooks the fact that individuals receive wages from fringe benefits causing real wages to be about 120 percent of actual gross wages. Thus, the cap should be set at 95 percent of cash wages.

Wilbur J. Cohen (407)

Oppose cap on family benefits.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association

(133-34); Paralyzed Veterans of America (146); Elizabeth M. Boggs, National Association for Retarded Persons (194); Representative Coelho (221); AFL-CIO (423); Merton C. Bernstein (476*, 479); Elizabeth Wickenden, Study Group on Social Security for Families, Children, and Youth (448); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (486*)

Specific comments:

1. Low income workers will be hit hardest by the cap.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (130, 133-34, 137*); AFL-CIO (423*); Elizabeth Wickenden (448); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (487*)

2. A cap on benefits is not a proper work incentive.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (131); Elizabeth M. Boggs, National Association for Retarded Persons (194); American Coalition of Citizens with Disabilities, Inc. (444); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (487*)

3. The cap would create financial hardship for the most severely disabled beneficiaries and their families.

Paralyzed Veterans of America (146); Elizabeth M. Boggs, National Association for Retarded Persons (194); Representative Tony Coelho (220); Elizabeth Wickenden (448); AFL-CIO (430)

4. The cap is especially hard on minorities because minorities have past histories of disproportionately low earnings.

Elizabeth Wickenden (448); AFL-CIO (423*)

5. The committee should further study the proposed cap.

American Coalition of Citizens with Disabilities (446); AFL-CIO (430)

6. Only 6 percent of the beneficiaries receive more money in benefits than while they were working, but this measure may penalize the other 94 percent.

Representative Coelho (221)

7. SSI benefits should not be offered as a substitute for DI.

International Union, United Auto, Aerospace, and Agricultural Implement Workers—UAW (487*); Elizabeth Wickenden (449)

If there is a cap on family benefits, the cap should be set at—

1. Less than 80 percent of AIME.

Representative Gibbons (483*)

2. 80 percent of AIME.

Joseph A. Califano, Jr. (37, 73*)

3. 90 percent of AIME or 150 percent of PIA. A cap of 80 percent has no effect on the highest paid workers, but sharply cuts the benefits for the lowest paid.

Robert J. Myers (8, 9)

4. 70-75 percent of AIME or 125-135 percent of PIA.

Health Insurance Association of America and American Council on Life Insurance (93)

5. 90 percent of AIME.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (130, 137*)

6. 95 percent of AIME to account for fringe benefits. The AIME should be based on the highest 5 consecutive years of earnings indexed and adjusted for prices.

Wilbur J. Cohen (407)

B. Level and nature of substantial gainful activity (SGA) (sec. 4, H.R. 2054; sec. 4, H.R. 3236)

1. Social security benefits should be continued for the blind without regard to earnings level.

National Federation of the Blind (127)

2. The SGA concept should be removed for severely disabled individuals.

Paralyzed Veterans of America (147)

3. Work incentive income earned in training programs should be excluded before comparing an individual's income to SGA level.

Council of State Administrators of Vocational Rehabilitation (165*, 173)

4. Earnings in sheltered employment should count towards SGA, perhaps at $\frac{1}{2}$ value.

Elizabeth Boggs, National Association for Retarded Persons (193)

5. The combination of income tax rates and benefit reduction rates on earnings in excess of SGA for disabled beneficiaries who have not medically recovered should not exceed 100 percent.

National Association of Rehabilitation Facilities (453)

6. The SGA level should be periodically updated.

Control Data Corp. (436); Representative Coelho (221)

Would favor a gradual reduction in benefits as earnings increase.

Paralyzed Veterans of America (145); Representative Coelho (219); Council of State Administrators of Vocational Rehabilitation (164*, 172); Elizabeth Boggs, National Association for Retarded Persons (196*); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (131); Health Insurance Association of America and American Council on Life Insurance (92); AFL-CIO (422); American Coalition of Citizens With Disabilities (442); National Multiple Sclerosis Society (502); National Association of Rehabilitation Facilities (459*)

Specific comments:

1. Such a proposal could include a ceiling on benefits.

Council of State Administrators of Vocational Rehabilitation (176, 164*)

2. There is a precedent for such a system in the retirement test.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (131)

3. Propose a \$1 reduction in benefits for every \$2 earned.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (131); Council of State Administrators of Vocational Rehabilitation (164*, 172); Elizabeth M. Boggs, National Association for Retarded Persons (196*); AFL-CIO (422); American Coalition of Citizens with Disabilities, Inc. (492*); National Multiple Sclerosis Society (502*)

4. Benefits should be reduced in the same proportion as the earnings from trial work bear to the disabled claimant's earnings during the last calendar year of substantial full time work or AIME, if larger.

Health Insurance Association of America, American Council on Life Insurance (92)

C. Dropout years (sec. 3, H.R. 2054; sec. 102, H.R. 2854; sec. 3, H.R. 3236)

Support a reduction of dropout years for younger workers.

Joseph A. Califano, Jr. (37, 47*); Health Insurance Association of America and American Council of Life Insurance (103*); National Association of Manufacturers (106); American United Life Insurance Co. (108); Council of State Administrators of Vocational Rehabilitation (165*, 173); Representative Gibbons (482*)

Specific comments:

1. All workers should be able to disregard the same proportion of their work histories. Younger workers get higher benefits relative to prior earnings under the current system.

Joseph A. Califano, Jr. (47*, 37); Council of State Administrators of Vocational Rehabilitation (165*)

2. The younger worker is the primary candidate for rehabilitation; he should be encouraged to seek rehabilitation and return to work.

Council of State Administrators of Vocational Rehabilitation (165*)

Oppose reduction of dropout years.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (134); Paralyzed Veterans of America (146); Elizabeth M. Boggs, National Association for Retarded Persons (195); Wilbur J. Cohen (407); AFL-CIO (421); International Union, United Auto, Aerospace, and Agriculture Implement Workers of America—UAW (486-487*); Representative Claude Pepper (504*); Elizabeth Wickenden (448)

Specific comments:

1. A reduction in dropout years would be unfair to younger workers because earnings are usually lower in the early years of work.

Wilbur J. Cohen (407); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (134); AFL-CIO (421); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (487*)

2. Younger disabled beneficiaries are usually more severely disabled than other workers.

Paralyzed Veterans of America (146)

3. Younger disabled workers have lower benefits than older workers because they do not reflect rising wage levels.

Elizabeth M. Boggs, National Association for Retarded Persons (195)

4. A reduction in dropout years is especially hard on women and minorities.

Elizabeth Wickenden (448)

5. Younger workers pay more heavily for future social security benefits than older people did in past years.

Representative Pepper (504*)

6. More dropout years should be gradually added to the benefit formula until benefits will eventually be based on the 5 years of the worker's highest earnings.

AFL-CIO (423*)

Support additional dropout year from each year in which the worker provided principal care for a child age 6 or younger. (sec. 3, H.R. 2054; sec. 3, H.R. 3236)

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (140*); Elizabeth M. Boggs, National Association for Retarded Persons (196*)

Oppose granting an additional dropout year for each year in which the worker provided principal care for a child age 6 or younger.

Joseph A. Califano, Jr. (76*)

Additional proposals:

1. Propose recognition of principal care of a disabled child or adult, regardless of age.

Elizabeth M. Boggs, National Association for Retarded Persons (196*)

2. Propose more dropout years for all workers. Workers should drop half their years or at least one drop for every 5 years of coverage.

Wilbur J. Cohen (407)

II. WORK INCENTIVES

A. *Trial work period* (sec. 6, H.R. 2054; sec. 203, H.R. 2854; sec. 6, H.R. 3236)

Support extension of the trial work period.

Joseph A. Califano, Jr. (38,48*); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., District of Columbia Neighborhood Legal Services Program, National Senior Citizens Law Center (109); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (131, 140*); Paralyzed Veterans of America (146, 150*); National Easter Seal Society (431); Representative

Coelho (219); Howard Dalton (187-188); Wilbur J. Cohen (416); National Association of Rehabilitation Facilities (459*); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*); Elizabeth M. Boggs, National Association for Retarded Persons (196*)

Specific comments:

1. Trial work period should be extended---

(a) To 1 year suspended after cash benefits end.

Joseph A. Califano, Jr. (38,48*)

(b) To 5 years after cash benefits end.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (132)

(c) To 18 months.

National Easter Seal Society (431)

(d) Until amount of earnings equals the amount of benefit payments.

Control Data Corporation (436)

(e) With a gradual reduction in benefits during the 12 months of suspension rather than complete termination.

Paralyzed Veterans of America (146)

2. Definitions of trial work:

(a) Unless a month of earnings is one of 2 or 3 consecutive months, it should not be counted as a trial month.

Control Data Corp. (437)

(b) The earnings level which constitutes a trial work month (now \$75) should be raised to SGA level (now \$280).

Control Data Corp. (437)

(c) Any month in which a disabled recipient earns less than SGA level should not be counted as a trial work month.

National Association of Rehabilitation Facilities (459*)

3. Propose elimination of the trial work period, gradually reducing benefits as earnings increase until benefits equal zero.

Paralyzed Veterans of America (150*); Representative Coelho (219); Council of State Administrators of Vocational Rehabilitation (164*, 172)

Support extension of entitlement to a trial work period to disabled widows and widowers (sec. 6, H.R. 2054; sec. 202, H.R. 2854; sec. 6, H.R. 3236).

Joseph A. Califano, Jr. (38); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (109); American Foundation for the Blind, Inc., Affiliated Leadership League of and for the Blind of America, American Council of the Blind, Blinded Veterans Association (132, 140*); Elizabeth M. Boggs, National Association for Retarded Persons (196*); Representative Coelho (220); AFL-CIO (422); National Easter Seal Society (431)

B. Medicare

Support extension of medicare coverage (sec. 6, H.R. 2054; sec. 203, H.R. 2854; sec. 6, H.R. 3236).

Joseph A. Califano, Jr. (38, 48*); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (109); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (132, 140*); National Federation of the Blind (127); Paralyzed Veterans of America (147, 149*); Council of State Administrators of Vocational Rehabilitation (165*, 173); Elizabeth M. Boggs, National Association of Retarded Persons (196*); Representative Coelho (220); Wilbur J. Cohen (407); National Easter Seal Society (432); Control Data Corp. (436); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*); National Multiple Sclerosis Society (502*)

Specific comments:

1. Medicare benefits should be—

(a) Extended to 3 years after cash benefits end.

Joseph A. Califano, Jr. (38); National Easter Seal Society (432); National Multiple Sclerosis Society (502*); Elizabeth M. Boggs, National Association for Retarded Persons (196*)

(b) Continued indefinitely for the catastrophically disabled beneficiaries.

Paralyzed Veterans of America (147, 149*); Council of State Administrators of Vocational Rehabilitation (123); Representative Coelho (220); Wilbur J. Cohen (407); Control Data Corp. (436)

(c) Extended until retirement for any disabled person who leaves the rolls to go to work.

Wilbur J. Cohen (407)

(d) Retained under a cost sharing program for any disabled beneficiary who has not medically recovered when earnings exceed SGA. Medicaid coverage should be similarly extended.

National Association of Rehabilitation Facilities (453)

2. Medicaid should be extended as well as medicare for 3 years after cash benefits end.

Joseph A. Califano, Jr. (38); Elizabeth M. Boggs, National Association for Retarded Persons (196*)

Support elimination of the second waiting period for medicare. (Sec. 7, H.R. 2054; sec. 201, H.R. 2854; sec. 7, H.R. 3236)

Joseph A. Califano, Jr. (38); Health Insurance Association of America and American Council on Life Insurance (94); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (109); Paralyzed Veterans of America (147, 149*); National Federation of the Blind (127); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (132, 140*); Council of State Administrators of Vocational Rehabilitation (165*, 173); Elizabeth M. Boggs, National Association for Retarded Persons (193); Illinois Chapter,

Congress of Organizations of the Physically Handicapped (208*); Representative Coelho (220); Wilbur J. Cohen (416); AFL-CIO (427*); National Easter Seal Society (432); Control Data Corp. (436); American Coalition of Citizens with Disabilities, Inc. (441); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America--UAW (488*); National Multiple Sclerosis Society (502*)

Specific comments:

1. Waiting period creates special hardships for severely disabled workers since they are often ineligible for health insurance covering preexisting disability under private plans.

Paralyzed Veterans of America (149*)

2. Medicare eligibility should be coordinated with the resumption of disability benefits rather than beginning 2 years later.

Control Data Corp. (436); National Association of Rehabilitation Facilities (452)

3. Medicare eligibility should begin with the date of onset of the disability.

Council of State Administrators of Vocational Rehabilitation (165*,173); Wilbur J. Cohen (407)

4. The first medicare waiting period should also be reduced or eliminated.

Paralyzed Veterans of America (145); Council of State Administrators of Vocational Rehabilitation (165*); Elizabeth M. Boggs, National Association for Retarded Persons (200*); AFL-CIO (422)

5. Unpaid medical bills 2 months prior to disability should be covered under Medicare.

Council of State Administrators of Vocational Rehabilitation (165*,173)

6. The cost of attendant services that would permit a disabled person to work should be covered under medicare.

Congress of Organizations of the Physically Handicapped, Illinois Chapter (208*)

Support the deduction of extraordinary impairment related work expenses including the cost of attendant care from a worker's earnings before determining eligibility for disability benefits (sec. 5, H.R. 2054; sec. 204, H.R. 2854; sec. 5, H.R. 3236).

Joseph A. Califano, Jr. (38,43*); Health Insurance Association of America, American Council on Life Insurance (94,104); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (109); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (141*); Council of State Administrators of Vocational Rehabilitation (165*,172); Elizabeth M. Boggs, National Association for Retarded Persons (196*); Representative Coelho (220); National Easter Seal Society (432); American Coalition of Citizens with Disabilities, Inc. (441); National Association of Rehabilitation Facilities (459*); National Multiple Sclerosis Society (502*); Paralyzed Veterans of America (147)

Specific comments:

1. Impairment related work expenses not paid by the worker should be deducted as well as those paid by the individual.

Joseph A. Califano, Jr. (74*)

2. Drugs needed for control of the disability should also be deducted.

Representative Coelho (220)

Propose an aid and attendant allowance for the spouse of a severely disabled person.

Paralyzed Veterans of America (150*); National Easter Seal Society (432)

III. ACCOUNTABILITY, ADMINISTRATION, AND APPEALS PROCESS

A. *Regulatory authority to set standards for State disability determination agencies (sec. 8, H.R. 2054; sec. 8, H.R. 3236; sec. 301, H.R. 2854)*

Supports the option of the Federal Government to take over State administration of disability determination if the State requests it or does an inadequate job in administering the program.

Joseph A. Califano, Jr. (41); National Easter Seal Society (432); Health Insurance Association of America, American Council on Life Insurance (104*)

Federal control should be strengthened through administrative regulations for greater management effectiveness.

Joseph A. Califano, Jr. (41)

Oppose granting regulatory authority to the Federal government to set standards for state disability determination agencies.

Council of State Administrators of Vocational Rehabilitation (163*, 166-167*, 174)

Specific comments:

1. It is unfair for states to be held accountable for quality when they have no opportunities for state input in management and administration.

Council of State Administrators of Vocational Rehabilitation (166*)

2. The Secretary of HEW could change the State/Federal relationship without input from Congress, by issuing administrative regulations.

Council of State Administrators of Vocational Rehabilitation (167*, 174)

3. A mixed system of State and Federal disability determination units is likely to be the most disruptive and least conducive to consistency and uniformity. Complete federalization of the process is preferable to the proposed mixture of State and Federal administration.

Council of State Administrators of Vocational Rehabilitation (166*)

4. Legislation rather than administrative regulation is necessary to provide for federal takeover of state administration.

National Association of Disability Examiners (158)

5. Concerned with the retention of state employees in the event of a federal takeover of state administration.

National Association of Disability Examiners (157)

Support federalization of the disability determination process.

Robert J. Myers (29); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*); AFL-CIO (422, 425); National Association of Disability Examiners (155, 160)

Specific comments:

1. Federalization would promote more uniform standards between states.

Robert J. Myers (29); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*)

2. Federalization would provide better control over disability determination.

Robert J. Myers (29)

3. The determination of disability is too often based on persistence or residence.

International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*)

4. Favors experiments to determine whether stronger federal supervision or complete federalization can bring consistency, uniformity, and accuracy to the process and reduce appeals.

Health Insurance Association of America and American Council on Life Insurance (103*)

B. Federal review of State agency allowances (sec. 8, H.R. 2054; sec. 8, H.R. 3236; sec. 301, H.R. 2854)

Supports Federal review of State agency allowances.

Robert J. Myers (29); Joseph A. Califano, Jr. (41, 50*); Health Insurance Association of America, American Council on Life Insurance (94); Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Center (113); National Easter Seal Society (432)

Specific comment:

1. The federal government should review denials as well as grants. If review is only one-way, determiners will have an incentive to deny disability designation in all uncertain cases.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (113)

Oppose Federal review of State agency allowances.

Council of State Administrators of Vocational Rehabilitation (163*, 172, 174, 184*)

C. Periodic review of cases (sec. 17, H.R. 2054; sec. 17, H.R. 3236)

Supports periodic review of disability cases.

Robert J. Myers (19); Joseph A. Califano, Jr. (54); Health Insurance Association of America and American Council on Life Insurance (104*); National Association of Manufacturers (106); National Easter Seal Society (432)

D. Limits on judicial review (sec. 401, H.R. 2854)

Supports limiting court appellate review to statutory, constitutional, and regulation interpretation issues only.

Joseph A. Califano, Jr. (50*, 83*); Stanford Ross (239)

Specific comments:

1. The cost to the Government of defending social security disability decisions is substantial. Disability cases are a substantial burden on Federal district courts.

Joseph A. Califano, Jr. (79*); Stanford Ross (239)

2. The responsibility for accurate factual determination should be placed at the administrative level.

Joseph A. Califano, Jr. (50*); Stanford Ross (239)

3. Judicial review of facts is unnecessary in a system that provides four administrative stages of decision and a full hearing before an ALJ.

Joseph A. Califano, Jr. (79*)

Oppose limiting court review to statutory, constitutional, and regulation interpretation issues.

Hon. Justine Wise Polier (450-451*); Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (110); Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (134-135); Wilbur J. Cohen (407); Elizabeth Wickenden (448)

Specific comments:

1. Many records that come to the court are inadequate; prohibiting appeal of the facts may perpetuate the inadequacies.

Elizabeth Wickenden (458*); Justine Wise Polier (450*)

2. Adjudicators will decide more carefully if they know they are subject to review by independent court.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (111)

3. More than 45 percent of the cases fail to win judicial approval and are reversed or remanded.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (111)

4. More than 150 new judges were added to the Federal courts, increasing the number of available judges by 25 percent.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (111)

E. Judicial remands

Supports limits on judicial remands (sec.11, H.R. 2054; sec. 11, H.R. 3236).

Administrative Law Center, Legal Aid Bureau, Baltimore Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (112)

F. Adversary process

Supports exploring the use of SSA personnel to present and defend the Government's case in a hearing before an ALJ.

Joseph A. Califano, Jr. (50*); Council of State Administrators of Vocational Rehabilitation (183*); Stanford Ross (239-240); Judge Howard Grossman (260);

1. Such a process will protect government interests and permit ALJs to serve in a more purely judicial role.

Joseph A. Califano, Jr. (50*); Stanford Ross (239-240)

Oppose adversary proceedings.

Specific comments:

1. Adversary proceedings would be costly and too formal. If adversary proceedings are held, the claimant must be provided with legal representation equal to the government's representation.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (110)

2. The proposal for adversary hearings has merit, but it may be both costly and time consuming and should be subjected to further study.

Richard Krodel (492*)

G. *Face to face meetings (sec. 10, H.R. 2054)*

Support providing for face to face determination sessions on reconsideration of disability claims, either as administrative action or as a demonstration project.

Joseph A. Califano, Jr. (41, 50*); Robert J. Myers (19); Stanford Ross (239); Judge Howard Grossman (259); Council of State Administrators of Vocational Rehabilitation (183*); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (488*)

Supports demonstration projects providing for face to face determination sessions as proposed in H.R. 2054.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (113)

Specific comments (pro and con):

1. Face to face sessions will lead to more accurate decisions earlier in the determination process and fewer cases reaching the hearings level.

Stanford Ross (239)

2. Face to face sessions may cause undue delay in the determination process.

Affiliated Leadership League of and for the Blind of America, American Council of the Blind, American Association of Workers for the Blind, American Foundation for the Blind, Inc., Blinded Veterans Association (135)

3. Face to face conferences would add administrative and fiscal burdens without significant improvement in quality. Such sessions should be conducted as pure demonstration with no commitment for wider adoption.

Council of State Administrators of Vocational Rehabilitation (167*)

H. Detailed decision notices (sec. 9, H.R. 2054; sec. 401, H.R. 2854; sec. 9, H.R. 3236)

Support the issuance of detailed decision notices on disability claims.

Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (113); Representative Coelho (220); National Easter Seal Society (432); Judge Howard Grossman (259)

1. A number of claimants appeal adverse decisions because they do not understand them.

Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (113)

2. Although detailed decision notices are important, they may cause problems. Doctors may be reluctant to assist DDS if information is released to the claimant. In addition, the increased paperwork may cause delays and induce litigation.

Council of State Administrators of Vocational Rehabilitation (167)

I. Time limits (sec. 12, H.R. 2054; sec. 12, H.R. 3236)

1. Support various provisions to expedite claims processing and increase the reliability of and equity in disability determination.

Elizabeth M. Boggs, National Association for Retarded Persons (196*)

2. Social security claimants who have contributed regularly to social security insurance should receive final decisions within a fixed time period as in other benefit programs.

Representative Seiberling (506*)

3. Opposed to time limits on disability determination because time limits could create statutory rights with respect to processing time. The Secretary of HEW should set performance guidelines instead.

Council of State Administrators of Vocational Rehabilitation (116*, 174)

4. Now is not the time to study the delay problem further. An outstanding court order directed the Secretary to draft rules setting time limits and HEW should move quickly to comply.

Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (114, 119-120*)

J. Payment for medical evidence of record (sec. 15, H.R. 2054; sec. 15, H.R. 3236)

Support provision included in the bills.

Administrative Law Center, Legal Aid Bureau, Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (114, 121*); Health Insurance Association of America and American Council of Life Insurance (104*); National Easter Seal Society (432)

K. Payment for travel expenses in disability determination (sec. 16, H.R. 2054; sec. 16, H.R. 3236)

Support payment for some travel expenses.

Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (114); National Easter Seal Society (432)

IV. REHABILITATION

A. Reimbursement (sec. 13, H.R. 2054; sec. 13, H.R. 3236)

Support Federal bonus payment to States from trust funds for rehabilitation on a performance/success reimbursement system.

Representative Coelho (220); Elizabeth Boggs, National Association of Retarded Persons (196*)

Oppose the bonus reimbursement system.

Council of State Administrators of Vocational Rehabilitation (171)

1. A bonus reimbursement system may discourage rehabilitation because States would lose fixed sums in return for the uncertainty of being reimbursed at a future date.

Council of State Administrators of Vocational Rehabilitation (171)

2. Any reform of the beneficiary rehabilitation programs should include recognition of all savings to the trust funds including indirect costs regardless of the beneficiary's earnings, in order to account for savings to the Federal Treasury.

Council of State Administrators of Vocational Rehabilitation (171)

Supports system in which 50 percent of the state's allocation of trust fund vocational rehabilitation expenditures is based on relative success in rehabilitation and 50 percent is on a per capita basis as is currently being done under regulation.

Joseph A. Califano, Jr. (40)

Supports the objective of integrating the beneficiary rehabilitation program into the ongoing program of vocational rehabilitation carried out by the State vocational rehabilitation agencies with the following specific comments:

1. It is unclear in the bill whether payments authorized for reimbursement are in addition to those authorized under title I of the Rehabilitation Act.

2. It is not clear in the bill how much money will be available for bonuses.

3. The result-oriented thrust may have the effect of discouraging rehabilitation of the most severely disabled; instead, states should be reimbursed for costs in all cases and should receive bonuses in successful rehabilitation cases, or States should have a maximum failure rate.

National Association of Rehabilitation Facilities (454-455)

B. Disability payments during rehabilitation

Disability payments should not be canceled during rehabilitation.

Representative Coelho (220); Administrative Law Center, Legal Aid Bureau, Inc., Baltimore, Md., D.C. Neighborhood Legal Services Program, National Senior Citizens Law Center (109); Council of State Administrators of Vocational Rehabilitation (164)

C. Other comments on rehabilitation

1. There should be no reward to States for placing an individual in a sheltered workshop.

National Federation of the Blind (126)

2. Allocations should be made to States from trust funds based on 100 percent performances measured as successful rehabilitation at SGA.

Council of State Administrators of Vocational Rehabilitation (171)

3. A person who obtains disability benefits, accepts rehabilitation, and is unable to get a job because of factors unrelated to his disability should not be eligible for continued coverage.

Paralyzed Veterans of America (151)

V. OTHER

A. *Timing—effective date*

1. The bill should become effective no sooner than 12 months after the first full month after presidential approval.

Wilbur J. Cohen (408)

2. Wants to delay action on the bill until the National Commission on Social Security report is released.

Wilbur J. Cohen (415); AFL-CIO (421)

3. The bill should move forward as quickly as possible.

American Coalition of Citizens with Disabilities (446)

B. *Organization*

1. Social Security should be taken out of HEW and be made a separate Commission.

Wilbur J. Cohen (409)

2. The social security trust funds should be excluded from the unified budget.

Wilbur J. Cohen (410)

3. More social security personnel should be hired, and salaries should be raised.

Wilbur J. Cohen (408)

4. Administrative law judges should be eliminated and an SSA review board should be established.

Lorraine Cronin, Thorold S. Funk, and William K. Harvey, speaking as individuals (181)

5. An SSA review board should be established in place of the Appeals Council.

Stanford Ross (238-239, 79-80*)

6. There is a lack of coordination in SSA; conflicting instructions are given from various functional departments. The regional offices should be eliminated and a central office should get the authority and responsibility of State management.

Council of State Administrators of Vocational Rehabilitation (168*)

C. *Definition of disability*

1. The benefit structure should be split into two parts: one less restrictive for beneficiaries whose disabilities are total and permanent, and the other for temporarily disabled beneficiaries, based on the assumption that the beneficiary will return to work. The second type

should only get benefits for 2 years. If rehabilitation is refused, no awards should be given for Type 2 beneficiaries.

Paralyzed Veterans of America (149*)

2. Favor an occupational definition of disability under which workers older than age 50 could receive benefits if unable to handle their usual occupation.

AFL-CIO (425)

3. Support determination of the expected length of disability with the periodic review.

Health Insurance Association of America and American Council on Life Insurance (94,104*); National Association of Manufacturers (106); International Union, United Auto, Aerospace, and Agricultural Implement Workers of America—UAW (487*)

4. Supports awarding grants with fixed duration; a fixed term of benefits provides stronger motivation for rehabilitation.

Judge Howard Grossman (258)

5. Eliminate the substantial recent current work test of 20 out of 40 quarters.

AFL-CIO (422)



Issues Related to
Social Security Act
Disability Programs

Prepared by the Staff of the

COMMITTEE ON FINANCE
UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*



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I. Background of Social Security Disability Programs

A. INTRODUCTION

The Social Security Administration is charged with the administration of two national disability programs: the disability insurance program (DI) and the supplemental security income program (SSI). The disability insurance program provides benefits in amounts related to a disabled worker's former wage levels in covered employment. Funding is provided through the social security payroll tax, a portion of which is allocated to a separate disability insurance trust fund. The SSI program provides cash assistance benefits to the needy blind and disabled, many of whom do not have recent attachment to the labor force. The benefit amount is based on the amount of other income available to the individual. Unlike DI benefits, the SSI benefits are funded through appropriations from general revenues.

B. DISABILITY INSURANCE

The disability insurance (DI) program established by title II of the Social Security Act provides monthly benefits averaging \$320 to some 2.9 million disabled workers. Benefits are also payable under the program to approximately 2 million dependent spouses and children of these disabled workers. For a disabled-worker *family*, monthly benefits average \$639. The maximum benefit which could be paid to a worker who becomes disabled in 1979 is \$552 for a disabled worker alone or \$967 for a disabled worker family.

Although the original Social Security Act of 1935 did not include provision for a disability insurance program, there was early concern with the problem of loss of earnings due to disability. In the 1940's the Social Security Board in its annual reports generally supported the addition of some kind of disability program to the social security system. The 1948 Report of the Advisory Council on Social Security to the Finance Committee recommended the establishment of a disability program. The report further specified that coverage should be provided only in the case of disabilities which were medically demonstrable by objective tests, and that there should be a 6-month waiting period. The report envisaged requiring substantial and recent attachment to the social security system as a basis for qualifying for benefits. Disabled beneficiaries would be transferred to the retirement system upon reaching age 65, and they would be protected from reductions in their retirement benefits by eliminating periods of disability in computing the amount of the retirement benefit.

The Congress had various proposals for a disability program under its active consideration in the next few years. Finally, in the Social Security Amendments of 1954, the Congress included a provision for a disability "freeze" which would allow disabled workers to protect their ultimate retirement benefits against the effects of non-earning years, becoming effective in July 1955. The amendments provided

that the determination of who was disabled would be made by State agencies under contract with the Federal Government. It was expected that the agency used would ordinarily be the State vocational rehabilitation agency.

The 1956 amendments established the Disability Insurance Trust Fund and provided for the payment of benefits to disabled workers (but not to their dependents) starting in July 1957. Benefits were limited to workers aged 50 or over who had recent and substantial attachment to the social security program. The disability had to be severe enough to prevent the individual from engaging in any substantial employment and to be of "long-continued and indefinite duration." For eligible individuals, benefits were payable only after a full 6-month waiting period. (If an individual became disabled on January 15, the waiting period would be February through July. The first check, for the month of August, would be payable at the beginning of September.)

The disability benefit formula was essentially the same as the formula for retirement benefits, under which the benefit amount is determined according to the worker's lifetime average earnings (excluding in this case years of disability in computing the average). Since the benefits were at this time limited to workers age 50 or over, their general wage-histories could be expected to be comparable to retired workers. For this reason, there was no compelling reason to develop a new method of determining benefits.

The 1956 amendments also provided for the payment of benefits to disabled children age 18 and over who were dependents of retired workers or survivors of deceased workers (provided that the disability began before the child reached age 18).

The Secretary of Health, Education, and Welfare was given the authority to reverse cases that had been *allowed* by the State agencies which made the original determinations. The basic purpose of this provision was to protect the trust fund from being forced to pay benefits in cases that should not have been allowed in the first instance, and to promote more uniform administration of the program among the States.

Subsequent amendments added provisions for benefits to dependent spouses and children of disabled workers (1958) and eased the requirements related to prior work under social security (1958 and 1960). Also in 1960, the limitation of benefits to workers aged 50 or over was eliminated. The lowering of the age of eligibility had a significant impact on how the benefit computation formula operated. Since benefits are based on lifetime average earnings (excluding years of disability), benefits for workers who became disabled at a young age would be based on a very small number of years of earnings (as few as 2). This can lead to quite different results from the situation of a retired worker whose earnings are averaged over a relatively large number of years. However, no change in the disability benefit formula was made.

Certain provisions in the 1960 amendments were aimed at encouraging beneficiaries to return to employment. They provided for a nine-month period of "trial work," during which the disabled individual could have earnings without having his benefits terminated. They also eliminated the 6-month waiting period for benefits if a worker applied for disability a second time after failing in his attempt to return to work.

In 1965, the definition requiring that a disability be of "long-continued and indefinite duration" was changed to permit benefits for disabilities expected to last at least 12 months. Benefits for disabled widows were added in 1967. In 1972, the 6-month waiting period (established in 1956) was reduced to 5 months.

As the program grew, the Congress began expressing considerable concern over the increased allocations to the disability trust fund which had been required to meet actuarial deficiencies. The Finance Committee, in its report on the 1967 Social Security Amendments, commented:

The committee recognizes and shares the concern expressed by the Committee on Ways and Means regarding the way this disability definition has been interpreted by the courts and the effects their interpretations have had and might have in the future on the administration of the disability program by the Social Security Administration. * * * The studies of the Committee on Ways and Means indicate that over the past few years the rising cost of the disability insurance program is related, along with other factors, to the way in which the definition of disability has been interpreted. The committee therefore includes in its bill more precise guidelines that are to be used in determining the degree of disability which must exist in order to qualify for disability insurance benefits.

The 1967 amendments were intended to emphasize the role of medical factors in the determination of disability. Since the beginning of the program, the Social Security Administration had been operating under guidelines that allowed consideration of certain vocational factors. However, these were being interpreted in varying ways, and there was believed to be a need to write into the law additional language which would define vocational factors in such a way that they could be interpreted and applied on a more uniform basis. The new language specified that an individual could be determined to be disabled only if his impairments were of such severity that he "is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work."

The committee report discussed this provision further:

The original provision was designed to provide disability insurance benefits to workers who are so severely disabled that they are unable to engage in any substantial gainful activity. The bill would provide that such an individual would be disabled only if it is shown that he has a severe medically determinable physical or mental impairment or impairments; that if, despite his impairment or impairments, an individual still can do his previous work, he is not under a disability; and that if, considering the severity of his impairment together with his age, education, and experience, he has the ability to engage in some other type of substantial gainful work that exists in the national economy even though he can no longer do his previous work, he also is not under a disability regardless of whether or not such work exists in the general area in which he lives or whether he would be hired to do such work. It is not intended, however, that a type of job which exists only in very limited numbers or in relatively few geographic locations would be considered as existing in the national economy. While such factors as whether the work he could do exists in his local area, or whether there are job openings, or whether he would or would not actually be hired may be pertinent in relation to other forms of protection, they may not be used as a basis for finding an individual to be disabled under this definition. It is, and has been, the intent of the statute to provide a definition of disability which can be applied with uniformity and consistency throughout the Nation, without regard to where a particular individual may reside, to local hiring practices or employer preferences, or to the state of the local or national economy.

Over the years, several amendments were adopted easing certain requirements of the disability program in the case of blind individuals. The level of earnings above which an individual is considered not disabled is substantially higher for blind persons than for those with other disabilities. No recency of employment test is applied in determining eligibility for the blind. For blind persons age 55 or over, eligibility is based on their ability to work at their usual occupation rather than on their ability to work at any job.

C. SUPPLEMENTAL SECURITY INCOME

The Social Security Act as originally written in 1935 did not provide for disability protection under either the insurance (trust fund) title or under the public assistance titles. (A public assistance program limited to the needy blind was, however, a part of the 1935 act.) In 1950 a public assistance program for the "totally and permanently disabled" was added to the Social Security Act. Under the public assistance programs for the blind and disabled, basic eligibility standards and assistance levels were determined by each State, and program administration was carried out by the States (or by local governments under overall State supervision). State expenditures for the program were funded by the States with Federal matching from general revenue appropriations according to formulas specified in the Federal statute.

In 1972, Congress repealed the public assistance programs for the blind and disabled (along with the similar program for the aged) and established a new federally administered program called Supplemental Security Income (SSI). Under the new program (which became effective at the start of 1974), a basic Federal income support level is established for each aged, blind, and disabled person. Eligibility is determined and benefits are paid by the Social Security Administration. States may supplement the basic Federal income support levels, and these State supplementary benefits may be administered either by the States or by the Social Security Administration on behalf of the States.

At the present time, the SSI program provides a monthly minimum Federal income support level of \$208.20 for a disabled individual and \$312.30 for a disabled couple. These amounts are increased automatically for cost of living changes. State supplementation levels vary widely from State to State and within States according to different living arrangements of recipients. (See table 1.)

The disability part of the SSI program follows generally the definition and administrative processes applicable to the disability insurance program. To be eligible, an individual must be sufficiently disabled to permit a finding that he will be unable to engage in any substantial work activity for at least a period of 1 year from the time he became disabled.

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Alabama (State).....	\$208.20	\$312.30
Alaska (State).....	335.00	502.00
Arizona (State).....	208.20	312.30
Arkansas (None).....	208.20	312.30
California (Federal).....	356.00	660.00
Colorado (State).....	221.00	442.00
Connecticut (State).....	297.00	372.00
Delaware (Federal).....	208.20	312.30
District of Columbia (Federal).....	223.20	342.30
Florida (State).....	208.20	312.30
Georgia (State).....	208.20	312.30
Hawaii (Federal).....	223.40	336.50
Idaho (State).....	262.00	373.00
Illinois (State).....	208.20	312.30
Indiana (State).....	208.20	312.30
Iowa (Federal).....	208.20	312.20
Kansas (None).....	208.20	312.30
Kentucky (State).....	208.20	312.30
Louisiana (None).....	208.20	312.30
Maine (Federal).....	218.20	327.30
Maryland (State).....	208.20	312.30
Massachusetts (Federal).....	324.45	494.30
Michigan (Federal).....	242.29	363.44
Minnesota (State).....	242.00	358.00
Mississippi (None).....	208.20	312.30
Missouri (State).....	208.20	312.30
Montana (Federal).....	208.20	312.30
Nebraska (State).....	295.00	406.00
Nevada (Federal).....	208.20	312.30
New Hampshire (State).....	237.00	332.00
New Jersey (Federal).....	231.00	324.00
New Mexico (State).....	208.20	312.30
New York (Federal).....	271.41	391.78
North Carolina (State).....	208.20	312.30
North Dakota (State).....	208.20	312.30

TABLE 1.—INCOME GUARANTEE LEVEL FOR DISABLED PERSONS IN INDEPENDENT LIVING ARRANGEMENTS—Continued

State (administration of optional supplement)	Monthly income guarantee level	
	Individual	Couple
Ohio (None).....	\$208.20	\$312.30
Oklahoma (State).....	287.20	470.30
Oregon (State).....	220.20	322.30
Pennsylvania (Federal).....	240.60	361.00
Rhode Island (Federal).....	244.99	381.73
South Carolina (State).....	208.20	312.30
South Dakota (State).....	223.20	327.30
Tennessee (None).....	208.20	312.30
Texas (None).....	208.20	312.30
Utah (State).....	218.20	332.30
Vermont (Federal).....	247.00	² 384.00
Virginia (State).....	208.20	312.30
Washington (Federal).....	253.30	² 361.40
West Virginia (None).....	208.20	312.30
Wisconsin (Federal).....	294.40	451.50
Wyoming (State).....	228.20	352.30

¹ State supplements in some cases but budgets each case individually regardless of living arrangements.

² State has two optional supplementation levels. This represents the higher amount payable to recipients in the State.

Note: "None" indicates no optional State supplementation. Where optional supplementation is indicated but the Federal levels of \$208.20 and \$312.30 are shown, the State optional supplementation does not apply in the case of individuals or couples in independent living arrangements. Mandatory supplementation may apply for certain individuals who were previously on State programs in effect prior to January 1974. Optional State supplementation may also apply for other living arrangements.

Source: HEW (data as of Oct. 1, 1979).

II. The Definition of Disability

A. WHAT THE LAW REQUIRES

The Social Security Act definition requires that in order to qualify for disability benefits an individual must be unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment that has lasted, or is expected to last, at least 12 months, or is expected to result in death. The determination must be made on the basis of medically acceptable clinical and laboratory diagnostic techniques.

As indicated in the earlier discussion of the legislative development of the disability insurance program, the definition of disability has been somewhat modified and clarified over the years, the most recent major amendments being those in 1967 which, as described earlier, attempted to emphasize the role of medical factors by defining strictly in the law when and how vocational factors were to be applied. The 1972 amendments which established the supplemental security income program provided for the use of this same definition.

The definition in title II of the Social Security Act reads as follows:

SEC. 223 * * *

(d)(1) The term "disability" means—

(A) inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months; or

(B) in the case of an individual who has attained the age of 55 and is blind (within the meaning of "blindness" as defined in section 216(i)(1)), inability by reason of such blindness to engage in substantial gainful activity requiring skills or abilities comparable to those of any gainful activity in which he has previously engaged with some regularity and over a substantial period of time.

(2) For purposes of paragraph (1)(A)—

(A) an individual (except a widow, surviving divorced wife, or widower for purposes of section 202 (e) or (f)) shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the pre-

ceding sentence (with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(B) A widow, surviving divorced wife, or widower shall not be determined to be under a disability (for purposes of section 202 (e) or (f)), unless his or her physical or mental impairment or impairments are of a level of severity which under regulations prescribed by the Secretary is deemed to be sufficient to preclude an individual from engaging in any gainful activity.

(3) For purposes of this subsection, a "physical or mental impairment" is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(4) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. No individual who is blind shall be regarded as having demonstrated an ability to engage in substantial gainful activity on the basis of earnings that do not exceed the exempt amount under section 203(f)(8) which is applicable to individuals described in subparagraph (D) thereof. Notwithstanding the provisions of paragraph (2), an individual whose services or earnings meet such criteria shall, except for purposes of section 222(c), be found not to be disabled.

(5) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require.

The title XVI definition reads as follows:

SEC. 1614. (a) * * *

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months (or, in the case of a child under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

(B) For purposes of subparagraph (A), an individual shall be determined to be under a disability only if his physical or mental impairment or impairments are of such severity that he is not only unable to do his previous work but cannot, considering his age, education, and work experience, engage in any other kind of substantial gainful work which exists in the national economy, regardless of whether such work exists in the immediate area in which he lives, or whether a specific job vacancy exists for him, or whether he would be hired if he applied for work. For purposes of the preceding sentence

(with respect to any individual), "work which exists in the national economy" means work which exists in significant numbers either in the region where such individual lives or in several regions of the country.

(C) For purposes of this paragraph, a physical or mental impairment is an impairment that results from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.

(D) The Secretary shall by regulations prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. Notwithstanding the provisions of subparagraph (B), an individual whose services or earnings meet such criteria, except for purposes of paragraph (4), shall be found not to be disabled.

Essentially, the only differences in the laws are (1) under the SSI program the test of substantial gainful activity applies only to the "disabled." There is a separate definition of "blindness" to which the test of SGA does not apply; (2) the SSI program has no provision relating to eligibility of widows or widowers; (3) the SSI program has no requirement stipulating that the individual must furnish evidence of disability as required by the Secretary (in fact, the Secretary exercises authority to purchase needed medical evidence for SSI applicants); and (4) the SSI program provides for disability benefits for children under age 18. (The disability insurance program does not exclude children. However, eligibility requires at least a 1½-year work history.)

Thus, persons applying for benefits must generally meet the same definition of disability under both programs. Furthermore, the SSI statute specifically provides for following the same administrative procedures as are used for the title II program.

B. THE DETERMINATION PROCESS

The social security definition of disability is considered to be a strict definition, which only the most severely disabled can meet. However, the statute is not specific in describing how the definition is to be applied in individual cases. The State agencies are directed in how the definition is to be applied by detailed Federal regulations. These regulations were recently amended, effective February 26, 1979, to include specific rules on the application of the vocational factors which had been provided in statute in 1967, but for which the Social Security Administration had prior to this year issued only administrative guides.

The determination of disability may be based on medical considerations alone, or on medical considerations and vocational factors. In making the determination, the disability adjudicator is required to look at all the pertinent facts of a particular case, and must follow a sequential evaluation process. Current work activity, severity of impairment, and vocational factors are assessed in that order. The regulations set out the steps, and state that when a determination can be made at any step, evaluation under a subsequent step is unnecessary.

(1) The first question to be asked is whether the individual is currently engaging in substantial gainful activity (SGA). Under present administrative practice, if an individual is actually earning more than \$280 per month he is considered to be engaging in substantial gainful activity. Earnings below \$180 a month are generally regarded as not constituting SGA. Earnings between these two amounts must be evaluated. If it is determined that the individual is actually engaging in SGA, a finding is made that the individual is not disabled, without any consideration of either medical or vocational factors.

(2) If an individual is not actually engaging in SGA, the second step is to look at whether the individual has a severe impairment. Under the regulations, if an individual is found not to have any impairment which significantly limits his physical or mental capacity to perform basic work-related functions, a finding must be made that there is not a severe impairment and that the individual is not disabled. Vocational factors are not to be considered in such cases.

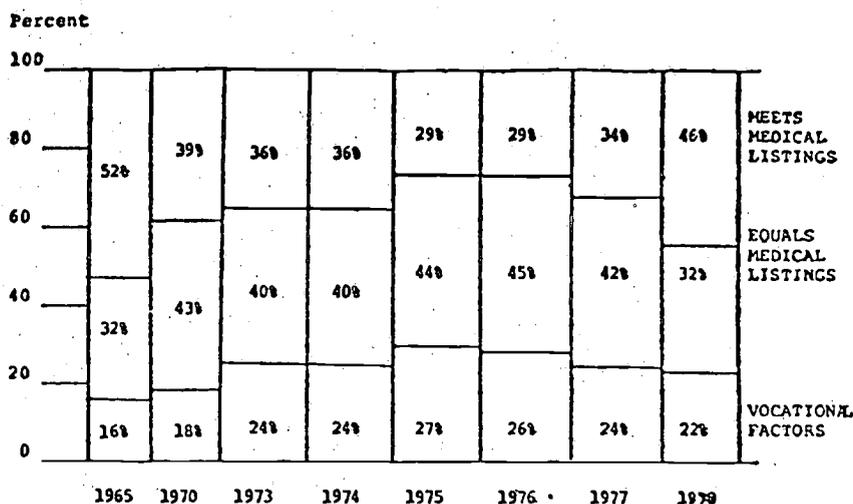
(3) If the individual is found to have a severe impairment, the next step is to determine whether the impairment meets or equals the medical listings which have been developed by the Social Security Administration for use in determining whether a condition constitutes a disability. If the impairment meets the duration requirement and is included in the medical listings, or is determined to be medically the equivalent of a listed impairment, a finding of disability must be made without consideration of vocational factors.

(4) In cases where a finding of "disability" or "no disability" cannot be made based on the substantial gainful activity test or on medical considerations alone, but the individual does have a severe impairment, the individual's residual functional capacity and the physical and mental demands of his past relevant work must be evaluated. If the impairment does not prevent the individual from meeting the demands of past relevant work, there must be a finding that the individual is not disabled.

(5) The final step is consideration of whether the individual's impairment prevents other work. If the individual cannot perform any past relevant work because of a severe impairment, but he is able to meet the physical and mental demands of a significant number of jobs (in one or more occupations) in the national economy, and the individual has the vocational capabilities (considering age, education and prior work experience) to make an adjustment to work different from that which he has performed in the past, it must be determined that the individual is not disabled. If these conditions are not met, there must be a determination of disability.

The basis for disability allowances has undergone change over the years. As the accompanying chart shows, in 1965 only 16 percent of title II disabled worker allowances involved consideration of vocational factors. This increased to 27 percent in 1975. However, in the succeeding years the trend has reversed, and in 1978 only 22 percent of allowances involved vocational factors. These figures appear to be consistent with a generally perceived trend in the last few years toward greater reliance on medical evidence in determining allowances and denials.

Basis for disability allowances, fiscal years 1965, 1970, and 1973-78



It is important, however, to look beyond the national statistics and to examine what individual States are doing in order to understand how complex and variable the determination process is. For example, although on a national basis about 22 percent of disabled worker allowances involved vocational factors, in California about 35 percent of allowances involved vocational factors, while in New Jersey only 14 percent involved vocational factors. This kind of variation among States also persists in the other categories of allowances—meeting and equaling the medical listings. The State reporting the highest percentage of cases as *meeting* the medical listings was North Dakota—68 percent. The lowest State was New Jersey—26 percent. The variation reported by States for the category of *equaling* the listings was even greater. New Jersey reported that 60 percent of its allowances were on the basis of equaling the listings; Michigan reported only 7 percent of allowances were made on this basis.

With respect to initial State agency denials, in fiscal year 1978 21 percent of disabled worker denials were on the basis of inadequate duration of the impairment, 32 percent on the basis of lack of severity (“slight impairment”), 25 percent on the basis of ability to perform usual work, 15 percent on the basis of ability to perform other work, 0.5 percent on the basis of engaging in substantial gainful activity, and 6 percent on the basis of failure to cooperate or follow required procedures. These percentages have also undergone change in recent years. Perhaps most startling are the figures for denials on the basis of slight impairment—up from about 8 percent in 1975 to 32 percent in 1978 and increasing to 36 percent in the last 6 months of calendar year 1978. This change appears to have resulted from the efforts by the Social Security Administration to give the States more detailed guidance in determining (under the sequential process described above) whether an individual has a “severe impairment,” or whether his case should be denied without further analysis because his impairment does not meet the required degree of severity—i.e., is a “slight impairment.” The States now have available to them lists of impairments which, when occurring alone, or in combination with other

impairments, are automatically considered slight. These impairments would not necessarily have been routinely considered slight in past years. (This development is discussed more fully in the section "Explanations Given for Changes in the Growth Pattern.")

State agency statistics reveal, however, that States are apparently still interpreting regulations and guidelines in varying ways. Although the percentage of cases denied on the basis of "slight impairment" nationwide stands at 32 percent, the percentage for individual States ranges from a high of 54 percent in Michigan to a low of 10 percent in Delaware for fiscal year 1978. The table below shows the variation among the States in the reasons for denial.

TABLE 2.—INITIAL STATE AGENCY TITLE II DETERMINATIONS, DISABLED WORKER CLAIMS, BY BASIS FOR DENIAL, FISCAL YEAR 1978

[In percent]

	Duration	Slight impairment	Able to perform usual work	Able to perform other work	Engaging in SGA	Failure to—			Other codes	Fiscal year 1978 total denials
						Cooperate	Appear for exam	Follow treatment		
All regions.....	21	32	25	15	0	4	2	0	1	509,626
REGION I										
Total.....	25	26	28	14	0	5	1	0	1	24,318
Connecticut.....	33	33	13	12	1	6	1	.....	1	5,956
Maine.....	22	16	37	20	0	4	0	.....	1	2,385
Massachusetts.....	22	26	30	12	0	6	2	0	1	11,604
New Hampshire.....	25	20	37	11	0	5	1	0	1	1,459
Rhode Island.....	18	24	35	17	0	3	1	0	1	1,837
Vermont.....	20	15	42	22	0	0	0	.....	1	1,077
REGION II										
Total.....	14	43	20	14	0	5	2	0	1	68,515
New Jersey.....	18	48	18	6	1	6	2	0	1	14,234
New York.....	16	34	23	17	0	6	3	0	1	42,744
Puerto Rico.....	4	66	13	14	0	1	1	0	0	11,488
Virgin Islands.....	18	33	16	10	6	2	6	.....	8	49

REGION III										
Total.....	12	20	40	21	0	3	2	0	1	49,712
Delaware.....	20	10	43	21	1	3	2		1	949
District of Columbia.....	9	31	29	16	0	8	6		1	1,870
Maryland.....	10	23	40	20	0	4	2		1	8,730
Pennsylvania.....	12	16	42	24	0	3	2	0	1	22,620
Virginia.....	12	28	35	18	0	3	2	0	1	10,397
West Virginia.....	14	13	44	21	1	4	2		1	5,146
REGION IV										
Total.....	23	36	22	13	0	3	2	0	1	106,988
Alabama.....	27	34	20	14	0	2	2	0	1	11,965
Florida.....	21	22	34	16	0	4	2	0	1	24,546
Georgia.....	23	43	16	12	0	2	2	0	1	16,732
Kentucky.....	28	39	16	12	0	2	1		1	9,511
Mississippi.....	20	39	25	10	0	3	2	0	0	8,137
North Carolina.....	26	48	13	8	0	2	2		1	14,567
South Carolina.....	23	34	27	10	0	3	1	0	1	8,513
Tennessee.....	18	37	20	18	0	2	3		1	13,017
REGION V										
Total.....	20	46	14	11	1	5	2	0	1	93,854
Illinois.....	25	53	4	6	0	9	2	0	1	27,024
Indiana.....	25	41	18	8	1	4	2	0	1	10,218
Michigan.....	17	54	9	12	0	6	1	0	1	23,128
Minnesota.....	26	21	32	17	1	2	1		0	5,607
Ohio.....	15	48	19	13	1	3	1	0	1	20,428
Wisconsin.....	17	18	40	22	1	1	1		0	7,449

TABLE 2.—INITIAL STATE AGENCY TITLE II DETERMINATIONS, DISABLED WORKER CLAIMS, BY BASIS FOR DENIAL, FISCAL YEAR 1978—Continued

[In percent]

	Duration	Slight impairment	Able to perform usual work	Able to perform other work	Engaging in SGA	Failure to—			Other codes	Fiscal year 1978 total denials
						Cooperate	Appear for exam	Follow treatment		
REGION VI										
Total.....	32	21	28	13	0	4	2	0	1	56,372
Arkansas.....	28	27	21	19	0	3	2		1	7,371
Louisiana.....	30	19	30	16	0	3	2	0	0	12,263
New Mexico.....	31	23	19	18	1	5	1	0	1	3,084
Oklahoma.....	21	14	46	14	0	1	2		1	6,879
Texas.....	38	21	25	9	0	5	1		1	26,775
REGION VII										
Total.....	23	27	26	17	1	3	2	0	1	20,359
Iowa.....	26	13	30	24	1	4	1		1	4,238
Kansas.....	23	25	31	12	1	3	3	0	1	3,334
Missouri.....	21	35	23	14	0	3	2	0	1	10,698
Nebraska.....	23	25	26	21	2	2	2		1	2,089

REGION VIII										
Total.....	25	27	26	14	1	3	2	0	1	10,315
Colorado.....	29	30	17	14	1	4	4	0	1	4,658
Montana.....	21	19	35	18	1	3	2	0	1	1,652
North Dakota.....	18	33	33	11	2	1	0	.....	1	977
South Dakota.....	17	26	39	13	1	0	2	0	1	1,039
Utah.....	24	16	37	17	0	4	2	.....	1	1,331
Wyoming.....	29	41	16	8	0	4	1	.....	1	658
REGION IX										
Total.....	22	21	30	18	0	4	2	0	1	63,016
Arizona.....	23	34	29	9	0	3	1	.....	1	4,780
California.....	22	20	31	20	0	4	2	0	1	54,922
Guam.....	20	52	12	5	.....	5	5	.....	2	60
Hawaii.....	28	23	28	14	0	3	2	.....	1	1,478
Nevada.....	37	39	6	5	1	10	1	.....	2	1,776
REGION X										
Total.....	19	15	42	18	0	4	1	.....	1	16,177
Alaska.....	18	33	19	22	1	5	2	.....	0	557
Idaho.....	37	23	16	14	1	6	2	.....	1	1,677
Oregon.....	14	12	45	23	0	3	1	.....	1	5,993
Washington.....	18	14	46	15	0	5	1	.....	1	7,950

Source: Data provided by the Social Security Administration.

C. MEANING OF SUBSTANTIAL GAINFUL ACTIVITY (SGA)

At the heart of the disability definition is the test—"Is the individual able to engage in any substantial gainful activity?" If the answer is in the affirmative, the individual cannot be determined to be disabled. The term "substantial gainful activity" is not defined in the statute. Rather, the Secretary of Health, Education, and Welfare is required by regulations to prescribe the criteria for determining when services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity. These criteria have been expressed in regulations in the form of dollar amounts of earnings above which an individual would be presumed to be engaged in substantial gainful activity, and therefore not disabled for purposes of the social security definition. As the Acting Commissioner of Social Security, Don Wortman, stated to the Subcommittee on Public Assistance of the Finance Committee in testimony in September 1978, "* * * the levels at which the SGA is set is a fundamental part of the definition of who is, or who is not, disabled for purposes of these programs." Mr. Wortman further observed that "At earnings of \$500 or more a month, the concept of 'substantial gainful activity' as one test of disability becomes almost meaningless as a means of distinguishing the disabled from the nondisabled. In a society in which many nondisabled people earn only that much or less, it would be difficult to determine whether low earnings are a result of an impairment or of economic and social factors unrelated to physical or mental impairments."

The SGA level was \$100 a month in 1958, increased to \$125 in 1966, \$140 in 1968, \$200 in 1974, \$230 in 1976, \$240 in 1977, \$260 in 1978, and \$280 a month in 1979. At the present time the administration is proposing to provide by regulation for automatic increases in the future which would be made on the basis of the rate of the increase in average taxable wages reported for the first calendar quarter of each year.

There have been proposals to increase substantially the amount to be used in establishing substantial gainful activity, on the grounds that the current level acts as a work disincentive. However, in response to a question posed by the Public Assistance Subcommittee at the hearing referred to earlier, the Social Security Administration responded that "raising the SGA level does not appear to give disabled beneficiaries an incentive to work * * *. The earnings of most disabled beneficiaries are considerably below the SGA level and * * * studies show no appreciable increases in earnings as the SGA earnings levels have increased."

Subsequent to the comment by the Department a special study, "Effect of Substantial Gainful Activity Level on Disabled Beneficiary Work Patterns," appeared in the March 1979 Social Security Bulletin. The research findings reported in the study show that increases in the substantial gainful activity level in 1966, 1968 and 1974 were not

followed by incremental increases in beneficiary earnings. The authors of the study draw the following implications from their findings:

The SGA level serves as the administrative measure of work productivity. In conjunction with the medical severity criteria, it controls eligibility for the program. *Raising the SGA level would increase program costs by enlarging the size of the eligible population and by reducing the number of persons whose benefits could be terminated. The program-flow analysis suggests that the key to controlling program growth is in the allowance process and the eligibility criteria. (Emphasis added.)*

Much less control over terminations is possible. Recovery for work is sharply limited by the original eligibility requirements—that is, severe and chronic illness that drastically affects earning capacity. Benefit terminations caused by recovery, either medical recovery or sustained employment above the SGA level, are minuscule compared with the number of beneficiaries coming on the rolls. There seems to be some room for improvement in the recovery rates of working beneficiaries. Any expectation of substantially reducing the program's size by means of work incentives, however, is placed in sobering perspective by the very low rate of benefit terminations for recovery among those who had sustained work while still beneficiaries.

It has been proposed that the SGA level be increased substantially for SSI, the needs-tested program, but not for title II disability insurance. The Social Security Administration has commented on some of the problems which this kind of proposal raises:

Because SGA is an integral part of the definition of disability in both social security and SSI statutes, substantial differences in the meaning of SGA between the two programs obviously would create a multitude of problems.

The public's understanding of SGA would be seriously affected if there were substantial differences in SGA between the social security and SSI programs. This would be particularly true where a person files claims for both benefits simultaneously and is found disabled under one program but not under the other.

(Hearing before the Subcommittee on Public Assistance of the Committee on Finance on H.R. 10848 and H.R. 12972 "Supplemental Security Income Disability Program," September 1978, p. 82.)

D. MEDICAL CRITERIA USED IN DETERMINING DISABILITY

Ever since the beginning of the disability insurance program in 1955, the Social Security Administration has had a list of medical impairments with sets of signs, symptoms and laboratory findings

which, if present in a person applying for disability benefits, are sufficient to justify a finding that he or she is disabled, unless there is evidence to the contrary. These criteria are known as the listing of impairments.

The listing includes medical conditions frequently found in people who file for disability benefits. It describes, for each of the 13 major body systems, impairments that are severe enough to prevent a person from engaging in substantial gainful activity and which may be expected to result in death or which have lasted or can be expected to last for a continuous period of not less than 12 months.

Effective March 27, 1979, the Social Security Administration issued new regulations updating the earlier listing which had been issued in 1968 and had in recent years been criticized as in serious need of review. Since 1968 the only new medical regulations issued by SSA were those needed to implement the childhood disability provisions of the SSI program. These were effective in March 1977.

Some of the criticisms that had been leveled at the 1968 listing, and specifically pointed out by the General Accounting Office in reports in August 1976 and August 1978, included a lack of specificity, and a failure to take into consideration advances in medical technology. The GAO also commented that State agency officials complained that the listings were sometimes too time consuming or costly to implement. For example, certain criteria required laboratory tests which were no longer commonly used in the medical community or which required equipment which was not readily available.

The Social Security Administration spent several years updating the medical listing. In publishing the new listing in the Federal Register, SSA maintained that the revisions reflected advances in the medical treatment of some conditions and in the methods of evaluating certain impairments. Although it is still too early for the new listing to be evaluated, State agencies appear generally to believe that the up-dating will result in better and more reasonable findings, insofar as they will reflect—at least for a period of time—a more current state of medical diagnostic practices.

The table which follows indicates the general nature of the body systems which are covered by the medical listing. Interestingly, table 3 would also seem to show that there are rather significant differences in the basis for awards between the title II and title XVI programs. More than 30 percent of the awards to title II disabled workers in 1975 (the latest year for which comparable data are available) were made on the basis of diseases of the circulatory system (heart). Only about 21 percent of SSI adults were awarded benefits on this basis. For SSI adults, by far the largest category of awards was on the basis of mental disorders—nearly 31 percent, compared with 11 percent under title II. Table 3 also shows a significantly larger percentage of title II benefits awarded on the basis of diseases of the musculoskeletal system—about 19 percent under title II as compared with about 13 percent under title XVI.

TABLE 3.—COMPARISON OF TITLE II DISABLED WORKER AWARDS AND TITLE XVI BLIND AND DISABLED ADULT AWARDS, BY DIAGNOSTIC GROUP, 1975

[In percent]

Diagnostic group	Title II	Title XVI
Infective and parasitic diseases.....	1.3	1.6
Neoplasms (cancer).....	10.0	5.4
Endocrine, nutritional, and metabolic diseases.....	4.0	5.0
Mental disorders.....	11.2	¹ 30.7
Diseases of the nervous system and sense organs.....	6.8	10.0
Diseases of the circulatory system.....	30.2	20.7
Diseases of the respiratory system.....	6.6	4.7
Diseases of the digestive system.....	3.0	2.1
Diseases of the musculoskeletal system.....	18.7	12.7
Accidents, poisonings, and violence.....	5.4	3.9
Other.....	2.8	3.1
Total.....	100.0	100.0

¹ Includes mental retardation—13.1 percent.

Source: Data provided by the Social Security Administration.

III. The Disability Determination Process

A. GENERAL DESCRIPTION

The disability claims process is long and complex, if pursued through each possible level of appeal. It is identical for applicants of both title II and title XVI. Briefly, an applicant files his claim at a local social security office. The information taken at the social security office is sent on to a State disability agency, which determines on the basis of this and any new evidence it may require, whether the person meets the definition of disability. If the claim is denied, it is reconsidered by the State agency, upon request of the claimant. A claim which is denied at the reconsideration level may, upon appeal, receive a hearing by an administrative law judge. There is an additional level of administrative appeal to the Social Security Administration's Appeals Council. And, finally, if still dissatisfied a claimant may appeal the decision in a Federal district court. Thus, the question of whether an individual meets the definition of disability may go through five different steps, including four levels of appeal.

Other title II and title XVI claims (Old Age and Survivors Insurance and SSI claims on the basis of age) follow the same steps, excluding, of course, the State agency determination of disability. However, most claims that proceed through the appeals system involve the issue of disability. Therefore, whenever the claims and appeals process is criticized on the basis of quality of decisions, complexity of system, and length of process, it is ordinarily a disability case that is involved.

In recent years, of course, the system has had to handle a vastly larger caseload than was the case in the early years of the program. In 1962, for example, there were about 440,000 title II disabled worker applications received in social security district offices. In 1978, there were about 1.2 million title II cases, and more than 1 million title XVI disability and blindness applications. It is easy to understand that the system may have had difficulty in adjusting to a change of this magnitude.

The following description provides in somewhat greater detail how the process now works, the problems that have developed, and some recommendations for change.

DISABILITY ADJUDICATION PROCESS

[Calendar year 1978]

Level of decision	Number of decisions ¹	Allowances	Denials	Reversal rate
Initial decisions, total (including district office).	1,190,000	357,000	² 833,000	(70% denial rate) ²
Initial decisions made by State agencies.....	905,000	357,000	548,000	(61% denial rate)
Reconsiderations.....	228,600	45,600	183,000	20%.
ALJ hearings.....	87,800	44,800	43,000	51%.
Appeals council.....	21,600	900	20,700	4%.
Federal courts.....	4,900	³ 1,600	3,300	33%. ⁴

¹ Includes all title II disability decisions—disabled worker, disabled widow(er)s and adults disabled in childhood.

² Includes all denials, made both by Social Security district offices and State disability agencies. 285,000 of these denials are technical denials (involving primarily lack of insured status) and do not require a determination of disability by a State agency.

³ Includes 1,260 remands and 340 court allowances.

⁴ Includes remands from Federal courts.

Source: Data provided by the Social Security Administration.

B. THE ROLE OF THE DISTRICT OFFICE

If an individual wants to file a claim for disability under either the title II or title XVI program he must apply at his local social security district office. There are more than 1,300 district offices (including branch offices) throughout the United States, and they handle more than 6 million claims for benefits under the old-age, survivors and disability insurance and the supplemental security income programs each year. Overall, about 35 percent of the applications are filed by persons who claim to be disabled.

The manager of a district office has considerable latitude about how to organize the operations of his staff. Recently, however, SSA has required offices, unless they are too small to make this feasible, to develop specialists among their claims representatives to become expert in either the title II or title XVI program. In general, it is envisaged that persons applying for both programs would go first to a title II claims specialist, who would develop the information needed to process a title II claim, including the individual's insured status. If it appeared that the individual was also eligible for title XVI, he would be sent on next to a title XVI specialist, who would develop the income and resources information necessary to substantiate a title XVI application. In such cases, the information related to the disability aspects of the case would be taken by the title II specialist.

If the case were clearly identified as a title XVI case, it would be referred first to a title XVI claims specialist, who would develop both the income and resources information and the disability-related information needed to process the case.

The Social Security Administration does not intend that there be specialists designated to handle disability cases, although it is clear that in some offices, especially larger offices, there will be incentives to encourage individual claims representatives to specialize on an informal basis. Disability cases are generally significantly more complex than other cases, and it requires both skill and patience to conduct a disability interview sufficiently thorough to obtain the kinds of information necessary to develop the case. Because of the skill required, there have been recommendations by some that specialization of personnel within the district office should include specialization in disability. The Social Security Administration has not concurred with this proposal.

During the interview, it is the responsibility of the claims representative to obtain relevant medical and work history from the applicant and to see that the required forms are completed. The way in which this responsibility is handled varies from office to office, and with the circumstances of the individual. In some offices where it is believed that most applicants are capable of filling in the forms themselves, the claims representative may play a relatively passive role of reviewing briefly the form after it is completed. In other offices, the process involves a lengthy interview. In any case, the quality and completeness of the information that is obtained is extremely important in the further processing of the case. On the basis of the interview, the claims representative may determine that the individual is engaging in substantial gainful activity, in which case the individual will be denied without having his case considered further.

C. THE ROLE OF THE STATE AGENCY

1. THE FEDERAL-STATE RELATIONSHIP

Although both the DI and SSI programs are considered Federal programs and their benefits are financed at the Federal level, the crucial benefit eligibility decision is made not by a Federal agency, but by 54 State agencies. These State agencies operate under contract with the Social Security Administration, an arrangement which goes back to the original disability insurance amendments, the disability "freeze" amendments of 1954.

The Congress decided that the determination of eligibility for the disability freeze could most logically be performed by State vocational rehabilitation agencies, which would facilitate and insure referral of disabled individuals for vocational rehabilitation services. The relationship provided in the law was a contractual one, with State agencies being reimbursed for their administrative expenditures from the disability insurance trust fund.

When the legislation was amended in 1956 to authorize payment of disability benefits, the same Federal-State arrangement was maintained. At the same time the Secretary of Health, Education, and Welfare was given the authority to reverse the State agencies' determinations that workers were qualified for benefits, in order to protect the trust fund from excessive costs and to promote more uniform decisions throughout the country. The Secretary was not authorized by the statute to allow claims which the State agency denied or to broaden State agency allowances (e.g., by finding an earlier date of first eligibility).

This Federal-State arrangement is unique among government programs, and differs from Federal-State grant-in-aid programs in that there is no need for specific State implementing legislation. However, State laws and practices control most aspects of administration, and the personnel involved are State employees who are controlled by various departments of the State government. The State agencies make determinations of disability on the basis of standards and regulations provided by the Social Security Administration. The costs of making the determinations and other aspects of related operations are paid wholly from the disability trust fund in the case of the disability insurance program, and from general revenues in the case of the supplemental security income program. No State funds are involved.

According to HEW statistics, an estimated 9,571 non-Federal man-years were expended by State agencies in fiscal year 1979. About 2.3 million claims were processed, at an overall cost of about \$308 million. The major component of the cost was, of course, payroll costs, amounting to about \$165 million. Purchase of medical evidence in the form of consultative examinations cost the Federal Government an estimated \$84 million.

The question of the viability of the Federal-State contractual arrangement has been raised numerous times throughout the history of the program by various individuals and organizations that have studied the disability program. In an early study of the program, the Harrison Subcommittee of the House Ways and Means Committee heard conflicting testimony on whether the use of State vocational

rehabilitation agencies in making the basic disability determination should be continued or whether an alternative arrangement should be established.

In 1975 the Social Security Subcommittee of the House Ways and Means Committee conducted a survey of State disability determination services, posing the question of whether the agencies believed the original reasons for maintaining the relationship with State vocational rehabilitation agencies were still valid. The responses showed that 24 State agencies believed that the original reasons for having the State agencies under the vocational rehabilitation agencies were no longer valid, and 23 believed that they were still valid.

The issue of the Federal-State relationship has been explored by the General Accounting Office in recent studies, resulting in two reports: "The Social Security Administration Should Provide More Management and Leadership in Determining Who Is Eligible for Disability Benefits," dated August 17, 1976, and "A Plan for Improving the Disability Determination Process by Bringing It Under Complete Federal Management Should Be Developed," issued August 31, 1978.

In the 1978 report the GAO stated:

Under the existing Federal/State arrangement, the Social Security Administration cannot exercise direct managerial control of the activities of the State agencies. This circumstance, together with Social Security's failure to correct other weaknesses in the disability determination process, provides no assurance that a reasonable degree of uniformity and efficiency will be achieved in these ever-growing, very expensive programs.

The report points out that in the years 1967 to 1976, only 20,000 workers were reported as rehabilitated and terminated from the disability insurance rolls. During this time the disabled workers on the rolls increased by 1 million.

The report concludes that because very few beneficiaries have been rehabilitated and removed from the rolls as a result of efforts by State vocational rehabilitation agencies, the original reason for having the Federal-State relationship is no longer completely valid.

The GAO states in the 1978 report that it believes the present Federal-State relationship is an impediment to improving the administration of the programs because of (1) unanswered questions about the effectiveness and efficiency in the Federal-State relationship that have existed for almost 20 years; (2) questionable need for the process to be closely aligned with the State vocational rehabilitation activities; (3) inability of the principals to remedy contractual defects, such as clearly defining their responsibilities; and (4) need for the Social Security Administration to have more effective management and control over the disability programs.

The final conclusion of the GAO report is that "the Secretary of HEW should develop, for consideration by the Congress, a plan for strengthening the disability determination process by bringing it under complete Federal management so that the Social Security Administration can achieve the control needed to properly manage the disability programs."

In July 1977, prior to the issuance of the second GAO report, the Social Security Administration developed and submitted to the States a new contractual agreement which it hoped would strengthen the administrative role of the Social Security Administration and result in improved and more uniform State operations. At this time 21 States have signed the new agreement, with the others continuing to express concern about the increased Federal control which is part of the new agreement.

Some of the general areas of concern of the non-signing States include provisions which require the Secretary to issue standards and requirements for conformity, provide the Secretary with the right to access to State agency premises, give the Secretary the authority to establish position descriptions and be consulted about personnel standards, and require the Secretary's approval of the State agency facilities, location of offices, and organizational structure.

Thus, at the present time, the disability program is operating under two different State agreements. In addition, the States now have the power to terminate their agreements with the Social Security Administration, which holds out the possibility that the Federal Government—SSA—could find itself in the position of having to establish a new Federal organization to serve the disabled population should a State decide to withdraw from its contract. One State, Wisconsin, filed and then withdrew a termination notice last year.

One response to this situation is to propose that the disability determination process be completely federalized, with the Social Security Administration acting as the administering agency. As noted above, this was advocated in a 1978 report by the GAO. However, there is little consensus on this approach at the present time. Proponents of federalization argue that it would result in additional flexibility in allocation of resources and would have the effect of providing greater uniformity in the treatment of disability applications and in all other aspects of the program. On the other hand, critics of this approach point out that such a move would require adding substantially to the number of Federal employees (there are now about 9,500 State agency employees), at a time when there are significant pressures to contain the Federal bureaucracy. They also argue that there could be considerable disruption in claims processing, experienced personnel could be lost in the process, and costs of administration could ultimately be increased. Even with Federal administration, it is argued, there could still be significant variations if there were not an emphasis on greater specificity of rules and in the application of the rules.

The Ways and Means Committee Report on H.R. 3236, the proposed Disability Insurance Amendments of 1979, discusses the need for an alternative to the present Federal-State arrangement. The report states:

In the last several years, GAO and others have criticized the lack of uniformity and the quality of disability decisions made by the various State agencies. It must be recognized that, while the Federal-State determination system generally works reasonably well (many State agencies do an excellent job), significant improvements in Federal management and control over State performance are necessary to ensure uni-

form treatment of all claimants and to improve the quality of decision making under the Nation's largest Federal disability program.

As is described more fully in the section dealing with current legislative proposals, the Ways and Means bill, following the recommendation of the Administration, provides for the elimination of the current system of negotiated agreements between the Federal Government and the States. The bill would give the Secretary the authority to establish through regulations the procedures and performance standards for the State disability determination programs. The regulations might specify, for example, administrative structure, the physical location of and relationship among agency staff units, performance criteria, fiscal control procedures, and other rules applicable to State agencies which would be designed to assure equity and uniformity in State agency disability determinations.

As the report describes, States would have the option of administering the program in compliance with these standards or of turning over administration to the Federal Government. States that decide to administer the program must comply with standards set by the Secretary, subject to termination by the Secretary if the State substantially fails to comply with the regulations and written guidelines.

The report concludes:

Your committee believes that this new Federal administrative authority will both improve the quality of determinations and ensure that claimants throughout the Nation will be judged under the same uniform standards and procedures, while preserving the basic Federal-State structure.

2. FUNCTIONS OF THE STATE AGENCY

The role played by the State agencies in the disability determination process can be broken down into three very basic functions. Using criteria established by the Social Security Administration, (1) they make the initial determination as to whether an individual is disabled, (2) they reconsider initial decisions if the claimant believes he has been wrongfully denied, and (3) they conduct continuing disability investigations (CDI's) to determine whether individuals should remain on the disability rolls.

Initial Decisions.—The agency's initial decision as to whether an individual meets the criteria for disability is of crucial importance to the entire process. Although a significant percentage of those denied continue through the adjudication process by appeal, the vast majority of cases are determined at the initial decision level. This decision is made on the basis of a review of the individual's case file, which has been received from the district office. Ordinarily there is no personal interview with the applicant on the part of the State personnel who decide the claim. However, the agency frequently may contact the individual if further medical or vocational information is needed. If medical evidence is insufficient and can be obtained no other way, the agency may request that the individual undergo a consultative medical examination, which is paid for by the agency.

When all the evidence considered necessary to make a decision has been gathered, the case is determined by a State disability examiner, in consultation with a State agency physician and, if necessary, a

vocational specialist. The decision in all cases must be signed by the physician, although it has been claimed by the General Accounting Office, among others, that this is sometimes a purely formal requirement, and that there is sometimes little physician involvement in the decision.

Once the decision has been made as to whether the individual is disabled, and if he has been determined to meet other requirements for eligibility (such as insured status for DI, or the income and assets test for SSI), a letter is sent to the claimant informing him whether he has been found eligible for benefits. The form letter now being sent to claimants has been criticized as being seriously inadequate, in that it does not include the basis for the disability decision. This, according to critics, results in confusing the claimant, and sometimes encouraging him to ask for a reconsideration of his case unnecessarily simply because he does not understand the basis for denial. Both the SSI and DI bills which have passed the House this year (H.R. 3464 and H.R. 3236) have for this reason included a requirement that decision notices include in each case a statement setting forth a citation and discussion of the pertinent law and regulation, a list of the evidence of record and summary of the evidence, and the Secretary's determination and the reasons upon which it is based. On the other hand, questions have been raised concerning the amount of additional paperwork and administrative cost such a change might involve.

Reconsiderations.—Under the law, if a claimant who has been denied requests reconsideration of his case within 60 days of notification, the State agency must undertake a reconsideration of his case. This is performed by a reviewer who was not involved in the initial decision. The individual's case record is open to corrections or additions, and may be supplemented or updated to reflect the applicant's current condition.

In recent years there appears to be a strong trend toward the sustaining by the State agency of its own initial decision. Whether this is due to some of the administrative improvements and more precise guidelines that have been issued to direct State agency procedures is difficult to say for sure. It seems at least reasonable to suspect that the more detailed medical evidence which is now required, and the heavier reliance on purchase of consultative examinations, may be resulting in greater confidence in the initial decision by those who are assigned to reconsider a case. The State agency reversal rate for title II disabled worker reconsiderations dropped from about 33 percent in calendar year 1975 to about 18 percent in the first quarter of 1979. For title XVI, the percent of reversals dropped from about 27 percent in the last quarter of calendar year 1975 to 16 percent in the first quarter of 1979. (See tables 4 and 5.)

TABLE 4.—DISABLED WORKER RECONSIDERATIONS, FILING RATES¹ AND REVERSAL RATES ON INITIAL DENIALS

Calendar years	Total State and non-State					State agency decisions only				
	Reconsiderations					Reconsiderations				
	Total decisions		Reversals			Total decisions		Reversals		
	Initial denials	Number	Percent of denials ¹	Number	Percent of total	Initial denials	Number	Percent of denials ¹	Number	Percent of total
1973.....	562,053	156,933	27.9	59,371	37.8	375,219	155,960	41.6	58,813	37.7
1974.....	712,431	200,484	28.1	64,325	32.1	469,976	197,490	42.0	62,449	31.6
1975.....	744,554	222,237	29.8	72,948	32.8	498,836	218,570	43.8	70,947	32.5
1976.....	706,937	203,313	28.8	59,610	29.3	485,641	196,822	40.5	56,575	28.7
1977.....	804,796	240,292	29.9	51,881	21.6	537,766	237,438	44.2	50,408	21.2
1978.....	780,415	212,382	27.2	42,484	20.0	483,356	210,515	43.6	41,412	19.7
January to March 1979.....	211,844	61,553	29.1	10,974	17.8	140,219	61,075	43.5	10,717	17.5

¹ Filing rates are computed as the percent ratio of reconsideration determinations in a specified period to initial denials in the same period. The rates, therefore, are only approximate since some reconsiderations relate to denials made in an earlier period.

Source: Social Security Administration.

TABLE 5.—STATE REPORTED RECONSIDERATIONS, FILING RATES¹ AND REVERSAL RATES IN TITLE XVI DISABILITY AND BLINDNESS CLAIMS

Calendar years	Initial denials	Reconsideration determinations			
		Total affirmed and reversed		Reversals	
		Number	Percent of denials ¹	Number	Percent of denials
October to December 1975 . . . ²	126,619	42,900	33.9	11,380	26.5
1976	456,128	152,827	33.5	36,956	24.2
1977	484,987	162,207	33.4	31,791	19.6
1978	513,759	164,482	32.0	27,248	16.6
January to March 1979	138,552	45,984	33.2	7,319	15.9

¹ Filing rates are computed as the percent ratio of reconsideration determinations in a specified period to denials reported in the same period. The rates, therefore, are only approximate since some reconsiderations relate to denials made in an earlier period.

² Part of October is estimated since this type of data did not begin to be collected until the middle of October 1975.

Source: State Agency Operations Reports, Social Security Administration.

Continuing Disability Determinations.—The State agency not only has the function of deciding who comes on the disability rolls. It must also make determinations as to whether individuals stay on the rolls.

There is, however, no requirement for periodic redetermination of disability for all or even a sizable proportion of persons who are receiving disability benefits. The Social Security Claims Manual instructs State agencies on certain kinds of cases that are to be selected for investigation of continuing entitlement to disability benefits by means of a medical examination diary procedure. The agencies are cautioned that most allowed cases involve chronic, static, or progressive impairments subject to little or no medical improvement. In others, even though some improvement may be expected, "the likelihood of finding objective medical evidence of 'recovery' has been shown by case experience to be so remote as not to justify establishing a medical reexamination diary." In general, according to the claims manual, cases are to be "diaried" for medical reexamination only if the impairment is one of 13 specifically listed impairments. The diary categories include tuberculosis, functional psychotic disorders where onset occurred within the two preceding years, functional nonpsychotic disorders, active rheumatoid arthritis without deformity, cases in which corrective surgery is contemplated, obesity, fractures without severe functional loss or deformity, infections, peripheral neuropathies, sarcoidosis without severe organ damage, probability of progressive neoplastic disease but there is no definitive diagnosis, neoplastic disease which has been treated and incapacitating residuals exist but improvement of the residuals is probable, and epilepsy.

The high degree of selectivity used in selecting cases for medical reexamination is illustrated by the following statistics for title II. In 1977, there were about 2.7 million disabled workers in current pay status. The number of continuing disability investigations (CDIs) in that year for disabled workers was only about 165,000.

It is clear from the procedures followed and from program statistics that disabled individuals frequently remain on the disability rolls for extended periods without any reexamination of their medical condition. Unless there is a voluntary report of recovery or rehabilitation, or there is a report of work activity or earnings, an individual will generally continue indefinitely to receive benefits without any followup on his situation.

The Social Security Administration has recognized the issue raised by this failure to conduct reexaminations of persons who have been on the disability rolls for an extended period and is now conducting an ongoing sample study of DI and SSI disability cases which have never been subjected to a medical continuing disability investigation. The purposes of the study, according to SSA, are to gather information on changes that may be needed in the medical reexam criteria and to determine the extent to which disability beneficiaries may be erroneously on the rolls.

The House-passed disability insurance bill, H.R. 3236, provides that unless the disability adjudicator in the State agency makes a finding that the individual is under a disability which is permanent, there will be a review of the status of disabled beneficiaries at least once every three years. According to the committee report, this review is not intended to supplant the existing reviews of eligibility that are already being conducted such as the current "dairy" procedures. The finding of whether a condition is permanent, however, is not now a requirement of the claims process; consequently, there is little evidence to indicate the degree of change which would be brought about by the 3-year reexamination requirement of the House-passed bill. The determination that a condition is permanent is subject to a wide range of interpretation. Thus the number of new continuing disability investigations that actually would be brought about by the procedure is open to question.

3. THE WORKLOAD OF THE STATE AGENCY

Since 1970, the cost of State agency program administration has increased manyfold, from \$48.6 million in that year, to an estimated \$311 million in 1979. These funds have supported the activities of State agency employees who numbered only 2,600 in 1970, reached a high of 10.3 million in 1974 (the first year of implementation of the Supplemental Security Income program), and are estimated at about 9,600 in 1979.

Why this extraordinary growth? As far as costs are concerned, of course, inflation is a factor. But there is no question that in past years the State agencies have also been required to handle a vastly expanded workload. Recent statistics indicate that this growth may be leveling off. In 1970, for example, there were only about 600,000 title II initial disabled worker claims that were either allowed or denied by the State agencies. This number climbed to about 1 million in 1975, declining to about 845,000 in 1978. Beginning in 1974, the State agencies also were required to make disability determinations under the title XVI program. In 1978 these also numbered close to 800,000, showing a decline from earlier years.

The number of reconsideration determinations made by the State agencies has also risen over this same period of time. In 1970 there were only 91,000 reconsideration decisions involving disabled workers under title II. This grew to 237,000 in 1977, but also shows a recent decline, to 211,000 in 1978. The number of title XVI reconsideration determinations has grown steadily since the first year of that program, reaching a peak of about 165,000 in 1978.

These figures do not, of course, give the entire picture. The State agencies have additional, although considerably smaller, workloads to handle with respect to cases involving widows and children. In the early 1970's there was also a heavy workload of Black Lung determinations.

Statistics indicate clearly that the emphasis on handling cases that were coming on the rolls was not matched by an emphasis on examination of individuals already on the rolls. Continuing disability investigations of disabled workers, for example, actually declined between 1970 and 1974, although there has been some increase since the 1974 low point. In 1970 there were 163,000 disabled worker CDI determinations. This dropped to 123,000 in 1974, and stood at 165,000 in 1977.

4. PROCESSING TIMES AND THE QUALITY OF DECISIONS

Statistics would seem to indicate that as the State agencies were confronted with the very heavy workload increase in the first half of the 1970's, and particularly after the implementation of the SSI program, their response was to speed up the processing of cases. There is no question that in the minds of many administrators at both the Federal (SSA) and State agency levels the priority was to be speed. Significant backlogs were accumulating at various places and various stages of the claims process, and it was considered important to expedite the process. As is discussed more fully in other parts of this report, many feel that the result was a decline in the quality of decisions which were being made.

For title II, mean processing time for initial applications in the State agencies dropped from 42 days in December 1973 to 36 days in December 1975. For title XVI, mean processing time decreased from 44 days in December 1974 to 40 days in December 1975.

In the case of both programs, however, there has been a recent increase in State agency mean processing time. Most observers attribute this increase to a tightening up of the disability determination process by the State agencies in response to direct and indirect pressures from the Social Security Administration. It is perceived that there is a renewed emphasis emanating from SSA to improve the quality of decisions and to lower error rates. Thus, for title II, the State agency mean processing time has increased from 36 days in December 1975, to 45 days in November 1978. For title XVI, the mean processing time increased from 40 to 57 days for those same periods of time.

(Processing time appears to have been consistently shorter in the State agencies for title II cases than for title XVI. One explanation that has been given for this is that title II cases often have more complete and readily accessible medical documentation. There is less need to purchase new medical examinations and await necessary medical evidence.)

This increase in recent periods does not mean that the Social Security Administration has de-emphasized the desirability of speedy processing. On the contrary, it has set continually stricter processing goals which it uses to measure State agency performance. The goal in November 1978 for mean processing time for title II cases was 36 days. Using that measure, only four States met the goal, although several more were quite close. Sixteen States met the median processing goal of 33 days.

It is important to remember that national processing figures hide the very great discrepancies that exist among the States. For example, in November 1978 the New York State agency took (as a mean) 70 days to process a title II claim, while the Florida agency took only 29 days. In that same month the District of Columbia took nearly 87 days to process a title XVI case, New York took 80 days, and Maine took 35 days.

[See tables 6 and 7 for State-by-State data.]

TABLE 6.—STATE AGENCY INITIAL TITLE II CASE PROCESSING TIME, NOVEMBER 1978

	Cases	Percentage of cases completed by—				
		(Goal-36) Mean	(Goal-33) Median	30 days	60 days	90 days
United States	67,994	45.3	38	41.5	74.3	91.6
Boston	3,285	44.0	34	42.4	74.5	92.1
Connecticut	768	48.4	38	40.6	71.2	89.9
Maine	317	31.0	25	57.5	85.6	98.7
Massachusetts	1,580	43.5	36	41.5	73.8	92.8
New Hampshire	212	50.4	35	44.5	74.0	89.4
Rhode Island	275	42.0	36	40.9	80.2	93.0
Vermont	133	51.9	46	27.9	61.7	83.8
New York	9,243	62.6	53	26.9	57.7	79.9
New Jersey	2,058	47.3	38	39.5	71.5	89.0
New York	6,058	70.3	62	21.1	49.3	73.8
Puerto Rico	1,117	50.0	46	30.4	70.9	91.4
Philadelphia	7,739	51.4	42	37.4	64.8	84.3
Delaware	162	53.4	45	32.3	59.0	80.7
District of Columbia	169	66.5	49	34.4	58.1	81.4
Maryland	1,282	46.2	38	40.8	69.9	88.5
Pennsylvania	4,043	55.6	47	34.5	59.1	79.7
Virginia	1,370	45.1	37	42.7	74.7	91.9
West Virginia	713	45.5	37	38.9	72.0	89.6
Atlanta	13,840	38.0	30	51.1	83.2	95.8
Alabama	1,540	40.9	35	43.7	77.0	94.9
Florida	3,237	29.4	24	67.5	92.5	98.2
Georgia	1,949	38.1	30	50.3	84.2	96.5
Kentucky	1,284	43.3	39	47.9	78.7	94.3
Mississippi	1,007	47.5	42	37.1	70.8	92.3
North Carolina	2,006	36.3	29	51.7	85.7	97.0
South Carolina	1,228	42.2	38	41.4	75.1	92.7
Tennessee	1,589	40.4	35	43.6	82.5	95.4

TABLE 6.—STATE AGENCY INITIAL TITLE II CASE PROCESSING
TIME, NOVEMBER 1978—Continued

	Cases	(Goal-36) Mean	(Goal-33) Median	Percentage of cases completed by—		
				30 days	60 days	90 days
Chicago	19,168	44.7	39	36.7	75.4	93.3
Illinois	3,495	43.7	36	37.6	77.0	93.3
Indiana	1,450	54.6	43	31.2	66.2	86.5
Michigan	3,146	38.5	35	43.0	81.9	96.6
Minnesota	805	40.4	35	42.5	79.4	95.2
Ohio	3,152	49.9	45	29.8	68.2	91.5
Wisconsin	1,120	40.6	36	37.6	80.3	96.3
Dallas	6,505	44.0	37	41.5	76.1	94.2
Arkansas	838	36.3	28	54.6	85.7	97.4
Louisiana	1,275	36.6	29	51.9	82.8	95.8
New Mexico	283	40.4	36	46.9	83.3	98.1
Oklahoma	781	55.1	54	29.6	68.2	91.7
Texas	3,328	46.3	44	52.5	76.2	94.4
Kansas City	3,093	41.0	34	45.8	76.7	93.4
Iowa	700	47.3	39	39.0	71.4	90.6
Kansas	458	40.8	31	48.7	75.3	92.7
Missouri	1,558	38.2	32	48.6	79.9	94.7
Nebraska	377	40.9	34	42.1	74.9	94.8
Denver	1,308	39.6	35	45.2	76.8	93.6
Colorado	610	39.7	36	41.7	75.9	92.6
Montana	181	37.9	28	53.2	84.3	96.3
North Dakota	129	41.4	35	45.5	72.0	93.2
South Dakota	115	40.4	30	50.5	83.5	99.0
Utah	212	40.0	29	50.8	75.1	93.4
Wyoming	61	42.9	39	32.6	68.5	88.8
San Francisco	7,876	38.9	32	47.7	80.5	96.3
Arizona	598	46.4	45	32.7	73.0	93.4
California	6,976	37.9	31	49.3	81.4	96.8
Hawaii	152	48.8	38	39.9	73.1	88.5
Nevada	149	44.3	39	43.9	78.5	94.9
Seattle	1,937	37.3	30	50.9	80.7	95.1
Alaska	35	54.4	33	47.3	73.6	91.2
Idaho	203	35.0	30	45.9	76.0	97.0
Oregon	641	34.0	27	55.8	84.7	97.4
Washington	1,058	39.1	31	48.7	79.3	93.5

Source: Social Security Administration.

TABLE 7.—STATE AGENCY INITIAL SSI CASE PROCESSING TIME,¹ ALL CASES, NOVEMBER 1978

	Cases	Mean	Percentage of cases completed by—		
			30 days	60 days	90 days
United States.....	55,435	57.2	24.6	62.0	85.5
Boston.....	2,643	55.9	27.0	64.1	87.4
Connecticut.....	498	63.2	16.5	56.0	82.7
Maine.....	232	35.1	46.6	84.5	97.8
Massachusetts.....	1,475	57.3	27.9	63.6	87.3
New Hampshire.....	115	52.9	30.4	63.5	89.6
Rhode Island.....	200	53.8	20.0	65.5	90.0
Vermont.....	123	54.7	30.1	61.8	82.1
New York.....	7,693	76.3	12.7	40.3	69.3
New Jersey.....	1,530	61.6	21.9	55.9	81.8
New York.....	6,163	80.0	10.4	36.5	66.2
Philadelphia.....	5,789	66.8	21.2	51.4	76.5
Delaware.....	113	70.9	19.5	50.4	72.6
District of Columbia...	366	86.6	7.1	26.5	60.4
Maryland.....	918	60.2	25.6	58.0	83.1
Pennsylvania.....	2,778	72.7	19.5	46.2	70.9
Virginia.....	1,031	55.2	25.7	63.1	86.1
West Virginia.....	583	56.3	24.2	61.2	86.6
Atlanta.....	12,467	52.7	30.1	72.4	92.3
Alabama.....	1,578	49.6	29.8	68.2	90
Florida.....	2,538	45.5	32.1	77.5	93.8
Georgia.....	1,889	49.0	31.2	72.3	93.3
Kentucky.....	1,127	54.7	24.6	63.0	89.7
Mississippi.....	1,093	54.4	25.4	64.9	89.4
North Carolina.....	1,618	44.3	33.6	79.0	94.6
South Carolina.....	1,110	48.2	32.5	69.5	90.9
Tennessee.....	1,514	47.6	27.5	76.2	93.3
Chicago.....	8,751	56.8	21.6	64.5	87.4
Illinois.....	2,880	56.1	22.3	66.7	87.4
Indiana.....	788	67.8	18.1	54.4	76.8
Michigan.....	1,734	52.7	25.8	71.5	92.6
Minnesota.....	365	50.3	28.2	67.4	90.7
Ohio.....	2,214	59.2	18.6	57.9	85.0
Wisconsin.....	770	53.4	19.2	67.7	92.1

See footnote at end of table, p. 37.

TABLE 7.—STATE AGENCY INITIAL SSI CASE PROCESSING TIME,¹ ALL CASES, NOVEMBER 1978—Continued

	Cases	Mean	Percentage of cases completed by—		
			30 days	60 days	90 days
Dallas.....	6,695	52.5	28.2	64.0	88.5
Arkansas.....	749	41.8	38.7	80.0	95.5
Louisiana.....	1,873	47.0	32.0	73.9	92.7
New Mexico.....	350	52.7	26.3	63.4	88.0
Oklahoma.....	622	66.3	14.5	41.3	81.7
Texas.....	3,101	55.7	26.4	58.8	85.7
Kansas City.....	2,148	48.5	33.8	72.3	90.5
Iowa.....	417	53.5	28.8	67.1	87.1
Kansas.....	327	55.1	28.1	63.9	87.8
Missouri.....	1,197	44.4	37.3	77.1	93.0
Nebraska.....	207	52.3	32.9	67.6	87.4
Denver.....	976	51.0	28.8	69.2	88.9
Colorado.....	522	53.6	24.7	66.3	88.7
Montana.....	139	44.9	38.1	74.1	91.4
North Dakota.....	74	52.6	25.7	66.2	85.1
South Dakota.....	83	44.7	38.6	79.5	90.4
Utah.....	133	50.8	33.1	71.4	87.2
Wyoming.....	25	49.6	16.0	68.0	96.0
San Francisco.....	7,096	52.6	26.3	65.0	90.4
Arizona.....	341	57.2	14.7	60.1	88.3
California.....	6,481	52.2	27.3	65.4	90.7
Guam.....	16	49.3	18.8	62.5	93.8
Hawaii.....	122	59.2	12.3	58.2	86.1
Nevada.....	136	56.6	20.6	63.2	83.1
Seattle.....	1,177	56.4	28.3	66.4	87.0
Alaska.....	34	62.2	17.6	58.8	76.5
Idaho.....	157	47.9	29.9	70.1	93.6
Oregon.....	388	57.6	28.6	66.2	84.8
Washington.....	598	57.5	28.3	65.9	87.3

¹ Measures elapsed time from date of release to the DO through the date the disability decision is posted in the SSR.

Source: Social Security Administration.

Again using data for November 1978, it can be seen that nationally about 42 percent of title II cases were processed within 30 days, 74 percent within 60 days, and 92 percent within 90 days.

In addition to being criticized on the basis of processing times, State agencies have also been facing growing criticism in recent years for what many believe is inadequate quality in their decision-making. One of the major criticisms that has been made is that there is not uniformity of decisions and that different State agencies have been making decisions using different criteria. The assumption, thus, is that it is easier (or more difficult) to meet the disability definition depending on where you live.

As can be seen from the table that follows, State allowance rates vary substantially. In fiscal year 1978 initial disabled worker allowances ranged from 53.1 percent in New Jersey to 22.2 percent in Alabama.

TABLE 8.—INITIAL DISABLED WORKER ALLOWANCES AS PERCENT OF INITIAL DISABLED WORKER DETERMINATIONS—HIGH AND LOW STATES

Calendar Year 1976			
High third		Low third	
State:	Rate	State:	Rate
New Jersey	57.4	Alabama	35.4
Connecticut	54.8	New Mexico	35.7
Minnesota	54.2	Virginia	36.6
Pennsylvania	54.0	Arkansas	36.7
Rhode Island	53.9	Kentucky	37.4
Iowa	51.9	Wyoming	37.8
Ohio	51.7	Nevada	38.6
Wisconsin	51.5	Texas	38.6
Vermont	51.1	West Virginia	41.2
Nebraska	50.7	Puerto Rico	41.2
Kansas	49.8	New Hampshire	41.4
Utah	49.7	Mississippi	41.5
Indiana	49.4	Oregon	41.5
New York	49.2	Florida	41.7
South Dakota	49.1	Oklahoma	41.9
Maine	48.8	Illinois	42.1
Delaware	48.5	Louisiana	42.1

Calendar year 1977			
High third		Low third	
State:	Rate	State:	Rate
New Jersey	52.9	Alabama	26.2
Nebraska	50.9	New Mexico	26.3
New York	50.7	Maryland	29.9
Wisconsin	49.6	Michigan	31.8
Rhode Island	48.8	California	33.5
Kansas	48.2	Mississippi	33.5
Iowa	47.4	Louisiana	33.6
Utah	46.9	Washington	34.0
Ohio	45.9	Oregon	34.7
Vermont	45.8	Alaska	34.8
Massachusetts	45.3	Arkansas	34.9
Missouri	44.6	Oklahoma	35.2
Pennsylvania	44.0	Kentucky	35.8
Colorado	43.9	Hawaii	35.9
Maine	43.6	North Dakota	36.5
South Dakota	43.2	South Carolina	36.6
Connecticut	43.1	Illinois	36.8

Fiscal Year 1978			
High third		Low third	
State:	Rate	State:	Rate
New Jersey	53.1	Alabama	22.2
Nebraska	52.1	New Mexico	22.4
Kansas	49.0	Louisiana	30.6
Wisconsin	48.6	Connecticut	32.4
Utah	48.4	Maryland	32.6
Iowa	47.9	Alaska	32.7
Delaware	47.6	Mississippi	34.1
Colorado	47.5	Arkansas	34.3
Vermont	46.5	Puerto Rico	35.2
Ohio	46.0	New York	35.3
South Dakota	45.7	Washington	35.3
Missouri	45.3	Michigan	35.4
Massachusetts	44.0	California	35.4
Maine	43.9	Idaho	35.8
North Carolina	43.6	Oregon	35.8
Nevada	43.6	Tennessee	36.0
Montana	43.3	New Hampshire	36.8
		Wyoming	36.8

Source: Social Security Administration.

In this connection, it should be recalled that until 1972 the Social Security Administration reviewed a majority of State allowances before they were actually made, thus providing preadjudicative review in most cases. As the result of pressures to reduce costs and staff levels, as well as to meet the pressures of a growing workload, SSA moved to a sample review procedure which involved only 5 percent of allowances. Moreover, these reviews have been made on a post-adjudicative basis, that is, after the claimant has already been awarded his disability benefit.

Faced with mounting criticism of the decisionmaking process and rapidly growing disability rolls, SSA has in the last few years been trying to strengthen its quality review system. The quality assurance program now places the primary burden for quality of decisions at the State agency level. States must review a sample of their case-loads on an on-going basis, and the percentage of cases to be reviewed by them is set by the Social Security Administration. This "first-tier" review is supplemented by Federal "second-tier" and "third-tier" reviews which are aimed at producing a sample review system for both titles II and XVI that will produce greater uniformity of decision-making nationwide.

As part of the quality review process, SSA has established a system which it calls special postadjudicative review (SPAR) for both title II and title XVI cases. Using a sample of cases, SPAR measures State agency decisions on the basis of three categories of deficiencies: (1) clear decisional error, a case in which a clear error, within a limited group of review situations, exists, and, without further development, the reviewer can say that the decision made was incontrovertibly wrong; (2) other decisional error, a case in which a significant decisional deficiency clearly supported by the evidence, exists outside the limited review situations constituting clear decisional errors; and (3) documentation deficiency, a case in which a deficiency in medical documentation inhibits or prevents review of the decision.

While the new review system represents an improvement in the review process, an argument can be made that some of the SPAR measurement and review procedures used by SSA are faulty and need to be improved and that there are important kinds of errors that may not be recorded in the review system. One concern is that the small post-adjudicative sample review system now in use may not result in the high degree of uniformity of decisionmaking that should be maintained in a national program.

The following table shows that, using the limited SPAR measurement system, State agencies do, indeed, appear to vary significantly in their ability to meet SSA-established error rate goals. The table provides cumulative SPAR accuracy rates for the 12-month period October 1977-September 1978, by rank of State for title II only. (SSA has set 90 percent as par).

TABLE 9.—SOCIAL SECURITY CENTRAL OFFICE REVIEW OF
TITLE II INITIAL DISABILITY DETERMINATIONS, OCTOBER
1977 TO SEPTEMBER 1978

[Cumulative SPAR accuracy rates]

State Agency	Returns	Accuracy rate
National	2,997	88.5
Connecticut	28	95.6
Iowa	33	95.0
Alaska	15	94.5
Massachusetts	43	94.2
North Dakota	26	94.2
Rhode Island	43	94.2
Wyoming	16	93.8
Nebraska	41	93.7
Vermont	32	93.6
Oregon	42	93.5
Washington	37	93.5
Montana	29	93.2
Florida	42	93.1
Idaho	35	93.0
South Dakota	39	92.9
Minnesota	45	92.6
Maine	43	92.5
Michigan	68	92.4
Wisconsin	46	92.3
New Hampshire	58	92.1
Hawaii	45	92.0
Utah	51	91.7
Arizona	62	91.6
Nevada	43	91.5
North Carolina	48	91.5
District of Columbia	33	90.9
Maryland	76	90.8
Virginia	51	90.7
Kansas	59	90.5
New Mexico	52	90.5
Tennessee	48	90.5
Missouri	63	90.1
Arkansas	9	90.0
Delaware	40	89.5
West Virginia	58	89.2

See footnotes at end of table, p. 43.

TABLE 9.—SOCIAL SECURITY CENTRAL OFFICE REVIEW OF
TITLE II INITIAL DISABILITY DETERMINATIONS, OCTOBER
1977 TO SEPTEMBER 1978—Continued

[Cumulative SPAR accuracy rates]

State Agency ¹	Returns	Accuracy rate
South Carolina.....	55	89.1
Alabama.....	62	89.0
Colorado.....	62	88.9
Puerto Rico.....	96	88.1
Georgia.....	60	87.9
Kentucky.....	60	87.8
Ohio.....	77	87.5
Oklahoma.....	80	87.4
Texas.....	88	87.2
California.....	137	87.0
Mississippi.....	87	86.0
Illinois.....	79	85.2
New Jersey.....	107	85.2
Louisiana.....	97	85.1
Indiana.....	95	84.9
Pennsylvania.....	94	84.9
New York.....	162	83.1

¹ Ranked from high to low based on 12-month accuracy rates.

² Accuracy par for SPAR is 90.0 percent.

Source: Social Security Administration.

There has been growing pressure on SSA to move again toward increased Federal review of cases on a preadjudicative basis.

The House-passed bill, H. R. 3236, provides for what amounts to a gradual return to prior practice, requiring SSA to phase in a preadjudicative review system for title II cases equaling 15 percent in 1980, 35 percent in 1981, and 65 percent in 1982 and years thereafter. (H. R. 3464, the House-passed bill relating to SSI disability, does not include any similar review provision for SSI cases.)

Although increased Federal review may increase processing time as well as require a significant increase in Federal manpower, it is argued that the procedure will improve the quality and uniformity of decision-making and will also result in substantial long-term savings to the trust fund. SSA estimates that in 1984 the House provision will add \$17 million in administrative costs, decrease benefit payments by \$198 million, for a net savings of \$181 million (— .06 of payroll in long-range estimates).

In material submitted to the House Subcommittee on Social Security this last spring, it was stated by SSA that it intended to begin a 70 percent preadjudicative review in 1981, although it also indicated that this percentage might be modified based on experience. (In

October 9, 1979, testimony before the Committee on Finance, the Commissioner of Social Security recommended a modification to H.R. 3236 under which increased Federal review would be phased-in over a 5-year period, reaching a 65-percent level in 1985.)

D. DISABILITY HEARINGS

1. DESCRIPTION OF THE HEARING PROCESS

If an individual is dissatisfied with the reconsidered determination that has been made by the State agency, he may request a hearing. The request must be filed within 60 days of receipt of notice of the reconsideration determination.

The Office of Hearings and Appeals (OHA)—formerly known as the Bureau of Hearings and Appeals—within the Social Security Administration is responsible for holding disability hearings. Hearings are held by an administrative law judge who is assigned by OHA to handle the case. There are now approximately 650 ALJ's handling title II and XVI cases throughout the country. The hearing is generally a claimant's first face-to-face meeting with the individual who is deciding his claim. State agency decisions, as indicated earlier, are ordinarily made on the basis only of what is in the claimant's file. At a hearing, however, the individual may present his own case in person, or he may have someone to represent him. The procedure is nonadversarial, and the judge is free to take new evidence, and to call upon expert witnesses concerning the claimant's medical condition and his vocational capabilities.

The hearings held by the administrative law judges are subject to the Administrative Procedure Act of 1946. The Social Security Act with its provisions for hearings predates the APA. It has been argued in the past that social security hearings should be exempt from the APA. However, the Supreme Court commented in the 1971 case of *Richardson v. Perales*:

We need not decide whether the APA has general application to social security disability claims, for the social security administrative procedure does not vary from that prescribed by the APA. Indeed, the latter is modeled upon the Social Security Act.

The staff of the House Social Security Subcommittee, in a committee print entitled "Background Material on Social Security Hearings and Appeals," published September 17, 1975, noted:

Encouraged by the Supreme Court decision to avoid taking a position on whether the APA applies and other Supreme Court decisions in recent years which have given more weight to administrative ramifications of hearing requirements, some commentators have stated that the APA should not be applied to social security cases. These recent Supreme Court cases are somewhat at odds with earlier cases such as *Wong Yang Sung*. In that case Justice Jackson refused to accord weight to the argument that an APA hearing would cause the Government inconvenience and added expense, stating "of course it will, as it will to nearly every agency to which it is applied. But the power of the purse belongs to

Congress which has determined that the price for greater fairness is not too high." *Wong Yang Sung v. McGrath* (1950) 339 U.S. 33.

Others, who are not so certain that their position can be sustained on legal grounds, believe that wise public policy may call for the exemption of the growing number of social welfare cases from APA coverage. Opposed to this view are those who believe APA hearing safeguards are as necessary for adjudication of individual program rights as they are for corporations affected by regulatory agency action. (pp. 3 and 4.)

What does APA coverage mean and how does it affect the right to and nature of the hearing? The Social Security Subcommittee print points out that there is a large body of case law seeking to answer these questions. The Supreme Court has held in a series of cases that the due process clause of the Constitution protects an individual from final denial of a substantial benefit without opportunity for a hearing. (*Flemming v. Nestor*, 1960; *Goldberg v. Kelly*, 1960). Moreover, these cases and others have spelled out the procedural components of the hearings which must be present to meet due process requirements, including adequate notice, access to evidence, right to cross examination, and right to counsel and written finding and reasons for decision. Due process also requires that the person who takes evidence and makes the decision be impartial, that the trier of fact may not be prosecutor in the same matter, and that he may not have been involved in the matter previously as an agency staff person. These also are requirements of the APA. But the APA goes beyond this. It is in the area of the qualification of the hearing officer and his relationship to the agency adjudicating the claim that the APA imposes requirements which are unique.

Currently, an ALJ must have seven years of "qualifying experience," must consent to having confidential questionnaires sent to employers, supervisors, law partners, judges, co-counsel and opposing counsel in cases in which he has participated; must demonstrate writing ability by preparing a sample opinion, and must participate in an oral interview by a board composed of an official of the Civil Service Commission, a practicing attorney from the American Bar Association and an ALJ.

The APA was designed to insure the independence of the ALJ from the agency in which he operates by placing his pay, promotion, and tenure under the Civil Service Commission, rather than under the agency whose cases he decides.

2. HEARING ISSUES

For a number of years there have been serious complaints about the social security hearing process, primarily because of its slowness. More recently, there have also been complaints about the quality of decision-making.

The hearings workload has increased considerably since 1970. In that year, only about 43,000 hearing requests were received. Black Lung cases, as well as growing social security disability cases, swelled this number to about 104,000 by 1972. In 1977 there were about 194,000 requests, and in 1978, about 196,000. The number grew to

nearly 207,000 in the first three quarters of fiscal year 1979. As can be seen in the following table, the number of cases processed has increased steadily. The number of cases pending at the end of the year also generally showed increases over the time period, until fiscal year 1978, when the ALJ backlog of pending cases decreased significantly. Data for the first three quarters of fiscal year 1979, however, indicate that the number of pending cases is resuming its upward climb, reflecting the upsurge in the number of hearing requests. (According to the Office of Hearings and Appeals, ALJ productivity has remained steady in recent months, with an average of 27 case dispositions per month.)

TABLE 10.—REQUESTS FOR HEARINGS—RECEIPTS, PROCESSED, AND PENDING TOTAL CASES (END OF YEAR)

Fiscal years	Receipts	Processed	Pending
1970.....	42,573	38,480	13,747
1972.....	103,691	61,030	63,534
1974.....	121,504	80,783	77,233
1975.....	154,962	121,026	111,169
1976 (15 mo).....	203,106	229,359	84,916
1977.....	193,657	186,822	91,751
1978.....	196,428	215,445	74,747
1979 (to Sept. 1).....	206,686	193,464	87,969

Source: Social Security Administration.

Processing time for hearings does appear to have been improving in recent years. In material submitted to the House Social Security Subcommittee in hearings in February and March, 1979, SSA stated: "Within the limits of available resources to accommodate climbing caseloads, the Social Security Administration had to take vigorous steps to reduce the backlog of pending cases and to shorten overall processing time. Increasing emphasis was inevitably placed on ALJ productivity. This emphasis has dramatically improved the timeliness of the hearings and appeals process by: Cutting the processing time for an appeal in half, from an average of 316 days in 1975 to a current average of 157 days; reducing the average ALJ work backlog from a high of 12.7 months in 1974 to 4 months today." (p. 241.)

The reference above to increased emphasis on ALJ productivity raises a serious issue in itself. The Bureau of Hearings and Appeals undertook a number of efforts to "increase ALJ productivity," many of which proved to be highly controversial with the ALJs themselves. Such moves as establishing case processing goals and trying to influence staffing patterns in individual ALJ operations prompted charges

by many of the judges that their independence was being undermined and that such moves would or could affect adversely the quality of their decisions.

The ALJ decision-making process still remains highly individualized. The ALJs develop and decide cases in very different ways. They differ markedly in the way they use support staff. Some ALJs write their own decisions, while some delegate this function to a hearing assistant, or others to a staff attorney. Some ALJs play a major role in developing cases while others rely on support staff to do this. Some rely heavily on the use of medical consultative examinations, while some make less use of this possible source of additional evidence. ALJs also vary in the use they make of the expertise of vocational specialists.

Production rates for ALJs also vary considerably, as can be seen in the following table. About 14 percent of ALJs processed fewer than 250 cases a year in fiscal year 1978; 37 percent processed more than 350.

TABLE 11.—ALJ PRODUCTION RATES—FISCAL YEAR 1978¹

Total cases processed	Number of ALJ's	Percent of ALJ's
0 to 100 cases	2	0.3
101 to 200 cases	24	3.9
201 to 250 cases	59	9.6
251 to 300 cases	120	19.6
301 to 350 cases	180	29.4
351 cases and above	228	37.2
Total	613	100.0

¹Includes only those ALJ's who were on duty the entire fiscal year.

Source: Social Security Administration.

ALJs have frequently been criticized not only for their variations in productivity, but also for their variations in reversal rates. A person who requests a hearing may be assigned to what have been referred to as either "easy" or "hanging" judges. In the period January—March 1979, 33 percent of ALJs awarded claims to from zero to 46 percent of the disabled workers whose cases they decided, 46 percent of ALJs awarded claims to from 46 to 65 percent, and 21 percent of ALJs awarded claims to from 65 to 100 percent. Overall, the percentage of hearings that result in a reversal (an allowance of benefits) has been increasing. In fiscal year 1969 the title II disability reversal rate was 39 percent. It increased to 46 percent in 1973, and by 1978 had actually increased to more than half, or 52 percent of all cases. The SSI hearing reversal rate has increased from 42 percent in fiscal year 1975 to 47 percent in 1978. (See tables 12, 13, and 14.)

TABLE 12.—PROCESSING OF REQUESTS FOR HEARING:¹ TITLE II DISABILITY ONLY²

Fiscal year	Affirmed	Reversed	Dismissed	Total
1969.....	14,524	³ 11,035	2,389	27,948
1970.....	15,898	14,668	3,179	33,745
1971.....	18,528	17,187	3,827	39,542
1972.....	21,313	20,411	4,404	46,128
1973.....	24,740	25,653	5,509	55,902
1974.....	25,110	27,677	5,391	58,178
1975.....	27,657	32,911	6,449	67,017
1976.....	34,814	38,064	9,934	82,812
Transition quarter.....	11,727	12,400	3,423	27,550
1977.....	38,094	46,341	10,926	95,361
1978.....	39,852	⁴ 54,372	9,657	103,881

¹ Includes terminations.

² Does not include title II cases filed concurrently with title XVI.

³ 39 percent.

⁴ 52 percent.

Source: Social Security Administration.

TABLE 13.—PROCESSING OF REQUESTS FOR HEARING,¹ TITLE XVI DISABILITY AND BLIND

Fiscal year	Affirmed	Reversed	Dismissed	Total
1974 ²	53	33	35	121
1975.....	4,917	³ 5,218	2,193	12,328
1976.....	13,094	14,895	5,318	33,307
Transition quarter.....	3,779	3,922	1,395	9,096
1977.....	14,428	16,317	5,395	36,140
1978.....	18,460	⁴ 21,492	6,195	46,147

¹ Includes terminations.

² Includes title XVI cases filed concurrently with title II.

³ 42 percent.

⁴ 47 percent.

Source: Social Security Administration.

TABLE 14.—REQUESTS FOR HEARING,¹ CONCURRENT TITLE II/
TITLE XVI DISABILITY AND BLIND

Fiscal year	Affirmed	Reversed	Dismissed	Total
1975.....	3,099	² 4,334	1,027	8,460
1976.....	12,623	13,820	3,997	30,440
Transition quarter.....	4,705	4,964	1,367	11,036
1977.....	18,706	21,149	5,546	45,401
1978.....	22,195	³ 26,331	5,772	54,298

¹ Includes terminations.

² 51 percent.

³ 48 percent.

Source: Social Security Administration.

The cost of the hearing procedure to the individual in terms of time and energy expended may be very great. The cost to the system is also great, amounting to \$597 for each case brought to a hearing in fiscal year 1978. There is reason, therefore, for considering ways in which this step of the adjudicatory process can be improved.

One alternative would be eliminating the ALJ hearing altogether, relying instead on a stronger decisionmaking and hearing structure at the earlier stages of determination. The Administration, although agreeing that the ALJ hearing should be maintained, has stated that it intends to study administrative changes which will result in a face-to-face meeting between the claimant and the individual who decides his case at the reconsideration level. This step, it is hoped, will contribute toward a lowering of the number of cases which are appealed to the ALJ level. The Administration has also indicated that it would like to use Social Security Administration personnel to present and defend the Government's case in a hearing before an ALJ. This, according to the Administration, will ensure a better developed case and permit the ALJ to serve in a more purely judicial role. Critics of this approach cite its cost and the fact that if the Government is represented, then provision should be made in all cases for the claimant also to be provided with legal defense—with a considerable increase in costs.

The Social Security Administration has already conducted a study of using face-to-face interviews at the reconsideration level. The experiment began in 1975 and was called the Reconsideration Interview Study (RIS). It involved 16 State agencies and applied to about 30 percent of each State's reconsideration cases.

In an April 1977 staff report, "Current Legislative Issues in the Social Security Disability Insurance Program," prepared by David Koitz who at that time was with the Office of the HEW Assistant Secretary for Management and Budget, a number of questions are raised about this approach, and the question of possible increased costs is mentioned specifically (pp. 80-81).

The report states:

While on the surface, it may appear that the RIS procedure is a desirable improvement in handling contested decisions, it has some questionable features. The idea is to have the State agency make the reversal where it can so that the case does not have to go to a formal hearing. What we wind up with is better documentation of the case, but it is not clear as to whether or not we get a better decision. The disability examiner has been told to reverse the initial denial where he can—and if he cannot do it based on the documented evidence he has been given and telephone contacts he has made with the claimant, he is to bring the claimant in for a face-to-face discussion. The effect of the face-to-face interview is uncertain. Is the disability examiner really getting a better picture of the claimant's condition, or does he simply become more sympathetic with the claimant? Is he possibly intimidated by the confrontation? We do not know the answers.

What we do know, however, is that the RIS procedure results in a greater number of allowances—it costs more money. The study indicated that the overall allowance rate for the test group was 2 percent higher than the control group (in which normal reconsideration procedures were used). The following table shows what this means at each appellate level:

DI AND SSI ALLOWANCES

[Projected on fiscal year 1977 workloads]

	Control group		Test group	
	DI and concurrent	SSI	DI and concurrent	SSI
Initial	648,400	234,450	648,400	234,450
Reconsideration....	84,100	20,500	131,700	31,500
Hearing	57,200	11,500	26,200	5,300
Total	789,700	266,450	806,300	271,250

Increases: DI and concurrent—16,600 (+2 percent); SSI—4,800 (+1.8 percent).

With benefit payments under the DI program now approaching \$11 billion a year, if the RIS procedure were fully implemented, it would increase DI benefit costs by more than \$200 million a year in today's dollars—more than \$1 billion during its first 5 years. In the SSI program, today's cost would be about \$60 million a year.

Given the potential costs and the fact that while the RIS procedure generally renders a quicker decision on contested cases, we are not sure what the effect is on the quality of the decisions that are made, it seems questionable that full implementation of the procedure would be a desirable next step.

Responding to criticisms of the slowness of decisionmaking at this stage as well as at other stages of the process, and a growing number of Federal Court decisions mandating that an administrative decision be rendered within a specific time frame (frequently within a 90 day period) the House-passed bill includes a provision which requires the Secretary to submit to the Congress a report recommending the establishment of time limits on decisions on benefit claims. This report is to specifically recommend the maximum periods of time within which all administrative decisions should be made, taking into consideration both the need for expeditious processing of claims and the need for thorough consideration and accurate determinations of such claims. The report must deal with hearing decisions, as well as with initial, reconsideration and appeals council decisions.

There have also been other changes and recommendations for changes in the system. For example, it is suggested that a strong peer review system, and stronger training programs, could produce substantial improvements.

One study of the system, "The Social Security Administration Hearing System," prepared by the Center for Administrative Justice, October 1977, observes:

Our general conclusion . . . is that the more dramatic proposals for reform of the system are inadvisable, either because they are not directed at real problems, because they would be on balance dysfunctional or because their effects are unknown. While the problems that have been identified by others do in various degrees infect the BHA system, we do not find the problems to be so overwhelming that an entirely new system is required. Moreover, we are convinced that significant reforms of which we suggest a substantial number, must be very carefully analyzed before they are implemented. There are very few reforms that will improve all dimensions of the process at once. Every change requires a tradeoff among relevant values.

(Reprinted in "Disability Adjudication Structure," Committee Print of the House Subcommittee on Social Security, January 29, 1978, see p. 47.)

E. ROLE OF THE APPEALS COUNCIL AND THE DISTRICT COURT

1. APPEALS COUNCIL

If an individual is still dissatisfied with the disposition of his case after a hearing before or dismissal by an administrative law judge, he may request a review of his case by the Appeals Council of the Office of Hearings and Appeals. As with the request for a hearing, the request for a review by the Appeals Council must be made within 60 days of receipt of notice of the hearing determination.

The Appeals Council has fourteen members who handle cases according to their assigned geographic areas of the country. As are the reviews before the administrative law judge at the hearing level stage, the Appeals Council review is "de novo", whereunder any new evidence, not previously presented by the claimant, may be submitted for consideration along with the existing file. For the most part, these reviews are a "paper review" of the case, and thus do not involve a face-to-face presentation of the facts as is done at the hearing stage.

The existence of the Appeals Council is based on the following section of the Social Security Acts which states:

Sec. 221—

(c) The Secretary may on his own motion review a determination, made by a State agency pursuant to an agreement under this section, that an individual is under a disability (as defined in section 216(i) or 223(d)) and, as a result of such review, may determine that such individual is not under a disability (as so defined) or that such disability began on a day later than that determined by such agency, or that such disability ceased on a day earlier than that determined by such agency.

In the regulations, the function of the Appeals Council is further described as a review of the determination made at the hearing stage, either "on its [the Appeals Council] own motion or on request for review", where:

(1) There appears to be an abuse of discretion by the presiding officer; (2) There is an error of law; (3) The presiding officer's action, findings, or conclusions are not supported by substantial evidence; or (4) There is a broad policy or procedural issue which may affect the general public interest. * * * Where new and material evidence is submitted with the request for review, the entire record will be evaluated and review will be granted where the Appeals Council finds that the presiding officer's action, findings, or conclusion is contrary to the weight of the evidence currently of record. CFR § 404.947(a).

Presently, the cases reviewed by the Appeals Council are predominantly ones in which the claimant is seeking a reversal. The "own motion" review process that had traditionally been a major function of the Council, whereby cases not brought to the Council by a claimant were also subject to review, was for the most part abandoned in 1975 because of the pressure of a mounting caseload within the Bureau.

At the time this decision to down-grade own motion review was made, considerable concern was expressed over the effect this change might have on the quality of the decisionmaking process. This concern remains today. At the present time there is a quality control system in effect for administrative law judges. However, it is regarded by many as not sufficiently effective to assure uniform quality of decisions at the ALJ level, or to serve as a reliable mechanism to correct errors. As noted earlier, the ALJ operation is a highly independent one, and the wide variance in reversal rates would tend to support the conclusion that greater review of this step in the process may be needed.

The staff of the House Social Security Subcommittee commented in its "Survey and Issue Paper on the Social Security Administrative Law Judges," printed in 1975 that "The staff is also concerned with the failure of the Appeals Council to review ALJ's and hearing examiner allowances of benefits for possible error even though it realizes that recent actions in effectuating unreviewed decisions have been done with the idea of reducing processing time. . . . The staff

believes that the review of hearing officers decisions should be greatly expanded. . . ."

In concert with this recommendation, the Center for Administrative Justice concluded from its review (referred to earlier) that the own motion process should be reinstated. In its report the Center states:

* * * increased own-motion review of grants involves costs in the form of delay and uncertainty, even for claimants who are ultimately awarded benefits. Nevertheless, our conclusion is that these costs are worth bearing, at least in cases identified as likely to be error-prone. Moreover, if a class of cases in which benefits are granted by the ALJ can be identified as likely to have an unusually high incidence of errors, then the costs of own-motion review to the class of claimants who are subjected to delay and then granted benefits will be relatively modest because the class will be small.

A remand or reversal in an appealed case is also a clearly acceptable form of supervisory control over the ALJ (although some ALJs reject even this position). Memoranda or conferences with particular ALJs whose cases reveal problems may, however, be viewed as attempts to undermine the independence of the ALJ corps (pp. 119-120).

In his testimony before the Subcommittee on Social Security of the Committee on Ways and Means on March 9, 1979, Commissioner Ross announced that the Agency intended to establish a new Appeals Board which would encompass the own motion review function. He stated:

We will establish an SSA Review Board to review appeals by claimants, as the present Appeals Council does, and to review ALJ allowances on its own motion. It will ensure fair and consistent treatment for all claimants.

This new appeals body has not been formally announced in the Federal Register and the restoration of own motion review has not yet been put into effect.

With respect to own motion review, the Administration in its draft disability bill this year also proposed expanding the legislative authority of the Secretary to review denials as well as allowances.

In recent years the Appeals Council has adopted the practice that if additional evidence is required in a case, the Council will remand the case to the ALJ for receipt of additional evidence and rehearing. There has been growing consensus that it is desirable to remand cases back to the ALJs where the taking of additional evidence is required. In 1975 Social Security Commissioner James B. Cardwell testified at a Ways and Means Subcommittee hearing that SSA was considering "closing the record and having any Appeals Council review limited to the record established at the hearing; where the record was inadequate, the case would be remanded to the presiding officer."

The Administration's bill this year incorporated the proposal for closing the record at the ALJ level, thus eliminating the fourth *de novo* review at the Appeals Council level. The House bill also includes this provision.

2. FEDERAL COURT

Review of a case by the Appeals Council of the Office of Hearings and Appeals is the final recourse a claimant has within the administrative review process of the Social Security Administration if he is dissatisfied with the disposition of his case. However, increasingly reversal of the Agency's final decision is being pursued in a U.S. district court.

The number of appeals filed with Federal district courts has grown dramatically in the last decade. As is the situation of the workload of the Office of Hearings and Appeals, the vast majority of the court cases involve disability. Between 1955 and 1970, the number of disability appeals filed with Federal district courts totaled slightly under 10,000 cases for the entire period. Currently, there are approximately 15,000 DI and SSI-disability cases pending in the Federal court system. The following table shows the growth in the court case workload since 1970.

Fiscal year:	Court filings— All SSA programs ¹
1970.....	1,531
1975.....	5,052
1976.....	9,158
1977.....	9,114
1978.....	8,349

¹ Excludes cases currently remanded back to SSA by the courts. Approximately 5% of the cases are not related to disability. While filings appear to have declined in 1978, the number of cases pending continues to rise in 1979.

The volume of these cases in the courts and the continued growth of the backlog of cases pending have prompted proposals for establishment of a Disability Court as well as other proposals which would constrict the existing role of the Federal courts. Former Chairman of the Subcommittee on Social Security of the Ways and Means Committee, James Burke, proposed establishment of a Disability Court that would largely follow the pattern of the Tax Court in structure. Others, however, would address the ever-increasing activity of the courts by further restricting the court's function.

The statutory base underpinning the scope of judicial review of determinations made by the Agency is found in section 205(g) of the Social Security Act:

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 Secretary, with or without remanding the cause for a hearing. The findings of the Secretary as to any fact, *if supported by substantial evidence*, shall be conclusive, * * * (emphasis supplied)

In theory, the "substantial evidence rule" imposed on the courts contrasts the review at that level with those conducted within the administrative process of the Social Security Administration in which cases are reviewed "de novo." Complaints have long been made by the Social Security Administration and others that the courts have frequently by-passed the substantial evidence rule by substituting their judgment of the facts for those of Agency adjudicators. In 1960, the

Harrison Subcommittee of the Ways and Means Committee reviewed this complaint and took the following position in its report:

The jurisdiction of a court to review a determination of the Secretary is limited to a review of the record made before the Secretary. It is not a trial de novo but is limited to a consideration of the pleadings and the transcript of the proceedings at the hearing. The court has no power to hold a hearing and determine the merits of the claim because the statute makes it clear that the determination of claims is solely a function of the Secretary.

And as recently as 1977, the report of the Center for Administrative Justice raised concerns about the role of the Federal court, stating that in its review the Center could:

find little, if any, contribution to accuracy and consistency resulting from judicial review. Judicially imposed requirements have certainly added to the administrative costs of the system. Nevertheless, we are dissuaded from a recommendation of outright abolition of judicial review because of the contribution that review makes to the political legitimation of the system (p. XXIV).

Short of abolishing judicial review, proposals have emerged to further restrict the role of the courts. The Administration's bill proposes, as part of its overall sets of reforms to the administrative process for disability, to limit judicial review in disability cases to questions of constitutionality and statutory interpretation. Commissioner Ross in his testimony on March 9, 1979 before the Subcommittee on Social Security of the Ways and Means Committee stated:

If decisions are the product of the careful adjudicatory process I have described, claimants will be adequately protected by being able to take questions of law to the courts. In a system producing hundreds of thousands of decisions a year, it is essential to place responsibility for accurate factual determinations at the administrative level. This change will also have the desirable side effect of substantially reducing a major burden on the Federal courts—currently approaching 10,000 new OASDI and SSI cases a year, with a backlog of approximately 14,500 disability-related claims.

In addition to concern about the growth of the courts' workloads and adherence to the substantial evidence rule, concern has been expressed about the Secretary's authority, on his own motion, to remand a case back to an ALJ prior to filing his answer in a court case.

Some critics, including the Harrison subcommittee in 1960, have suggested that such absolute discretion gave the Secretary potential authority to remand cases back so that they could be strengthened to sustain court scrutiny. Others have suggested that such a device also may have the tendency to lead to laxity in appeals council review in that it will give them another look at the case if the claimant decides to go to court.

Similarly, under existing law the court itself, on its own motion or on motion of the claimant, has discretionary authority "for good

cause" to remand the case back to the ALJ. It would appear that, although many of these court remands are justified, some remands are undertaken because the judge disagrees with the outcome of the case even though he would have to sustain it under the "substantial evidence rule." Moreover, the number of these court remands seems to be increasing.

The House-passed bill, H.R. 3236, would eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. Instead, remand requested by the Secretary would be discretionary with the court, and only on motions of the Secretary where "good cause" was shown. The bill would continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but adds the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

IV. The Disability Benefit Formulas

Although the disability insurance program and the supplemental security income program share common definitions of disability and a common administrative structure, they utilize completely different methods of determining the amount of benefits payable. The disability insurance program is intended to be a wage-replacement system, and the benefit level for each individual is determined by applying a formula to the wages that he earned which were subject to social security taxes. The amount and source of other income available after disability is irrelevant to the determination of benefit amounts. (Earned income, however, may be relevant to the question of whether the individual continues to be disabled. Also, income in the form of workmen's compensation may cause a benefit reduction under a special provision intended to prevent duplication of benefits.)

The supplemental security income program provides benefits on an income guarantee basis under which the benefit payment is determined by subtracting the individual's other income from an income support amount which is established for all individuals in the same category. In practice, however, there are many different income support levels because of provisions for not counting certain types and amounts of income and differential rules for single individuals and couples and for different categories of recipients. These differences exist to some extent under the basic Federal program but to an even greater extent are present in the State supplementary programs.

A. SUPPLEMENTAL SECURITY INCOME

As of July 1979, the SSI program provides a basic Federal income support level of \$208.20 per month for a single individual and \$312.30 per month for a couple. These are the Federal benefit amounts which would be payable to an individual or couple receiving SSI if that individual (or couple) had no other income. In many States, somewhat higher total amounts are payable because of the addition of a supplementary payment in an amount determined and financed by the State. States may (and many do) set varying supplemental levels for SSI recipients according to category (aged, blind, disabled), living arrangements (independent, boarding home, etc.) and geographic area. The income support levels as of October 1, 1979 for individuals and couples in independent living arrangements are shown in table 1 which appears earlier in this document.

When the SSI program was enacted in 1972, the basic Federal income support levels were set at \$130 per month for a single individual and \$195 for a couple. Subsequent legislation increased these amounts and provided for automatic increases tied to the Consumer Price Index under the same formula as applies to social security benefits. (The income support levels are raised each July by the percentage increase of the CPI for the January-March quarter of the year in question over the CPI for the January-March quarter of the

preceding year.) States are required to make corresponding increases in the State income support levels. However, since this requirement could result in an increase in State costs because of caseload growth associated with the higher levels, States are considered to be in compliance if they continue the aggregate level of State spending which was in effect prior to the increase in Federal benefits.

The income support level applicable to a given individual represents the payment which would be made to him if he had no other income. If the individual does have other income, the payment is reduced but not on a strict dollar-for-dollar basis. The first \$20 per month of other income is simply not counted. Other income causes a dollar-for-dollar reduction if it is unearned income (such as social security or veterans compensation or rental income). Other income which results from the recipient's employment or self-employment ("earned income") is counted as follows: The first \$65 per month of such income is not counted at all. Benefits are then reduced by 50 percent of earnings above the \$20 and \$65 flat "disregard" amounts.

The following example illustrates how the actual benefit is determined:

Federal income support level.....	\$208. 20
State supplementary addition.....	¹ 50. 00
	<hr/>
Amount payable to individual with no other income.....	258. 20
	<hr/>
Other income:	
Social security.....	150. 00
Earnings.....	100. 00
	<hr/>
Gross other income.....	250. 00
	<hr/>
Disregards:	
\$20 of any income.....	20. 00
\$65 earned income.....	65. 00
50 percent of earnings above \$65.....	17. 50
	<hr/>
Total not counted.....	102. 50
Total "countable" income.....	147. 50
	<hr/>
Actual benefit payable.....	110. 70

¹ Hypothetical amount; actual State supplements vary widely from State to State.

In the example above, the SSI program in effect supports the income of the particular individual described at a level of \$360.70 as compared with the \$258.20 income support level for an individual with no other income. Even higher levels are possible up to the "breakeven" point which is the amount of income at which the benefit level is reduced exactly to zero. Breakeven points vary from individual to individual because of the differences which exist in the basic income support levels and because the reductions from the basic income support level vary according to the particular combination of earned and unearned income. In the case of an individual who would be eligible for \$258.20 if he had no other income (as in the example above), the breakeven point (if all income was "earned" income) would be \$601.40 or about \$7,200 per year.

These provisions for determining benefit amount and counting or not counting other income are common to all three categories of SSI recipients: aged, blind, and disabled. Since eligibility for SSI disability requires a sufficiently severe disability to indicate inability to

Although the same general rules apply to determining benefits for disabled individuals and their dependents as to determining benefits for retired workers and their dependents, the application of these rules leads to somewhat different results. In general, benefit levels are apt to be higher for disabled workers because of the smaller number of years over which earnings must be averaged. This is particularly true for younger disabled workers for whom as few as two years may be used in determining the average earnings to which the benefit formula will be applied. For example, in the case of a worker who is disabled at age 29, the number of years used to determine his benefit is equal to the 7 years between the year in which he reached age 21 and the year in which he became disabled less the 5 drop-out years. His benefit is based on his earnings in those two years in which he had his highest earnings.

Because earnings levels in the economy tend to increase from year to year, the advantage to the younger disabled worker of having his earnings averaged over a very few high years is magnified since the older worker is forced to include years when earnings levels were lower. Prior to the 1977 amendments, this problem was particularly severe since earnings were averaged at their actual values. The 1977 amendments lessened but did not eliminate this advantage by providing for the indexing of earnings to compensate for the impact of changing wage levels in the economy. Younger workers continue to have a substantial advantage both because statutory increases in the amount of annual earnings subject to social security have been much greater in recent years than in earlier years and because individual wage patterns differ widely from average wage patterns. As a result, an individual whose benefits are based on the average of his earnings over his two, three, or four highest years of earnings is likely to have a significantly higher benefit than an older worker who must average his highest ten or twenty or more years of earnings.

The benefits payable to disabled workers cover a broad range from a minimum of \$122 monthly to a maximum (for a worker who became disabled in 1978) of about \$730. The average benefit for all disabled workers in June 1979 was \$320 per month. The average total family payment for disabled workers with dependents was \$639 per month.

The benefit amounts payable under the social security disability insurance program have increased very greatly over the past decade. In part, these increases simply reflect the percentage increases in social security benefit levels resulting from legislation and from the automatic cost-of-living increase provisions instituted by the 1972 amendments. Wage growth in the economy also contributes to increased benefits since social security benefit amounts are determined by applying the benefit formula to an individual's average wages under social security. As indicated above, the impact of wage growth over the past several years has tended to be reflected in disability benefit increases more than in retirement benefit increases. The rate of growth in disability benefits as compared to retirement benefits is shown in the table below.

While it is possible to draw a general conclusion that increased benefit levels appear to have contributed to the rapid growth of the program, there is no simple rule of thumb for determining the optimum benefit level which balances the desire for reasonable adequacy against the desire to maintain a reasonable incentive for continued employment or rehabilitation. Examination of this problem, however, has resulted in considerable analysis of the relationship between the initial benefit level and prior earnings on the theory that benefits should not replace so large a percentage of predisability earnings as to make the receipt of benefits from a financial standpoint nearly as desirable as, or even more desirable than the continuation of employment. Again there is no sure rule as to what level of benefits mark the dividing line above which the receipt of benefits becomes more attractive financially than continued employment. Clearly, this line falls somewhere below a level of 100 percent of prior earnings. However, the judgment of just how far below is complicated by several factors. Disability benefits are tax-free and are also free of various other costs an individual would probably incur in working. The availability of medicare for those who have been on the disability rolls for at least two years is also a factor in weighing the relative advantages of working or not working.

Another problem is the determination of an appropriate base against which to measure the concept of predisability earnings. The simplest and most frequently used base is the average indexed earnings on which benefits are based (a period of earning consisting of from 2 years for the youngest disabled workers to 23 years for the oldest disabled workers).

However, other periods of earnings are sometimes used, such as the 5 or 10 year period immediately preceding the year in which the disabling condition occurred or, as another illustration, the highest 3 or highest 5 years of earnings within an earnings record. The choice of the period of earnings to be used to determine how much of an individual's previous earnings are replaced by disability benefits is significant because different indicators of earnings replacement will result from using different approaches of measuring predisability earnings.

The following table, which is based on a sample of approximately 10,000 DI awards made in 1976, shows the replacement rates resulting from those awards under two illustrative approaches of measuring replacement rates. The first approach encompasses the period of earnings used to compute average indexed monthly earnings (AIME) as the base to which benefits are compared. The second approach uses the highest-five years of indexed earnings during the 10-year period immediately preceding the onset of the disabling condition.

TABLE 16.—DI REPLACEMENT RATES COMPUTED FROM 2 DIFFERENT MEASURES OF PREDISABILITY EARNINGS

Replacement rates ² (1979 PIA) levels	Awards at each level of earnings replacement ¹			
	Using AIME		Using high 5 years of indexed earnings in last 10	
	Number of cases	Percent of total	Number of cases	Percent of total
Under 30 percent.....	0	0	268	3
30 to 39 percent.....	79	1	2,930	31
40 to 49 percent.....	3,669	38	2,168	23
50 to 59 percent.....	1,456	15	1,184	12
60 to 69 percent.....	947	10	1,353	14
70 to 79 percent.....	1,215	13	771	8
80 to 89 percent.....	1,477	15	526	5
90 to 99 percent.....	181	2	148	2
100 percent and over.....	561	6	237	2
Total sample.....	9,585	100	9,585	100
Average replacement rate (percent).....	58		49	

¹ These awards include both individual and family benefits where applicable. The actual awards were made before a "decoupled" system was put into effect. However, the awards were recomputed for sample purposes as if a decoupled system existed to give some sense of the longer-range direction of DI replacement rates.

² Represents replacement of gross earnings.

As table 16 shows, the average replacement rate of the awards in the sample is higher when the longer period of earnings, AIME, is used. Similarly, the percentage of awards with relatively high replacement rates is greater when AIME is used.

Nonetheless, both approaches to measuring replacement—i.e., either long or recent periods of a worker's earnings history—show that there are a substantial number of DI awards which by themselves result in replacement rates in excess of predisability earnings. Using 80 percent of gross predisability earnings as a proxy for predisability disposable earnings, approximately 23 percent of the awards in the sample were above that level using AIME as the base period for measurement, and approximately 10 percent of the awards in the sample were above that level using the high-5 years of indexed earnings during the 10-year period prior to the onset of disability as the base period for measurement. Approximately two-thirds of these cases involved the payment of dependents benefits in addition to those of the worker.

The following tables show the prevalence of high replacement rates; using as a measure of that situation, the payment of benefits repre-

senting replacement of 80 percent of AIME or of the high-5 years of indexed earnings in the 10-year period immediately prior to onset for DI awards to (1) individuals alone (disabled workers without families) and to (2) disabled workers with eligible dependents:

TABLE 17.—PERCENTAGE DISTRIBUTION OF AWARDS TO DISABLED WORKERS WITHOUT DEPENDENTS WHICH RESULT IN REPLACEMENT RATES OF 80 PERCENT OR MORE, BY PIA LEVEL¹

[In percent]

Primary insurance amount (1979 levels)	Using as base period for measurement—	
	AIME	High-5 years in last 10
Minimum PIA.....	39	44
\$122 to \$150.....	17	10
\$150 to \$200.....	44	23
\$200 to \$250.....	0	12
\$250 to \$300.....	0	5
\$300 to \$350.....	0	5
Total.....	100	² 100

TABLE 18.—PERCENTAGE DISTRIBUTION OF AWARDS TO DISABLED WORKERS WITH DEPENDENTS WHICH RESULT IN REPLACEMENT RATES OF 80 PERCENT OR MORE, BY PIA LEVEL¹

[In percent]

Primary insurance amount (1979 levels)	Using as base period for measurement— ¹	
	AIME	High-5 years in last 10
Minimum PIA.....	3	4
\$122 to \$150.....	2	3
\$150 to \$200.....	16	18
\$200 to \$250.....	20	19
\$250 to \$300.....	23	24
\$300 to \$350.....	23	24
\$350 to \$400.....	12	8
Total.....	100	100

¹ Represents replacement of gross earnings.

² Column does not add due to rounding.

Note: The PIA should not be confused with the actual monthly benefit amount received by the worker and his family. In many instances, the actual monthly benefit amount is substantially higher. It is used here simply to show the incidence of high replacement rates within the relative scale of benefits.

As the preceding two tables show, high replacement rates for workers with no dependents tend to exist at the lower (and more heavily weighted) end of the benefits spectrum. For workers with dependents, the incidence of high replacement rates is more evenly spread among all benefit classes.

The SSA sample also shows that DI awards made to younger workers tend to result in higher replacement rates than those of older disabled workers, which reflects the effect of the shorter averaging period used to determine the younger workers' benefits. The following tables show the distribution of replacement rates by the ages of the disabled workers in the sample.

TABLE 19.—DISTRIBUTION OF DI REPLACEMENT RATES BY AGE GROUP OF DISABLED WORKERS

	Total		Replacement rate brackets using high-5 years of earnings in last 10 as base period for measurement ¹ (percent)									Average replacement rate (percent)
	Number of cases	Percent	Under 30	30 to 39	40 to 49	50 to 59	60 to 69	70 to 79	80 to 89	90 to 99	100 and over	
Age at onset:												
Under 20.....	64	100	0	0	3	20	11	14	23	6	22	72
20 to 24.....	574	100	0	2	23	21	17	10	15	2	9	60
25 to 29.....	698	100	0	4	31	19	12	9	19	2	4	59
30 to 34.....	652	100	0	16	25	11	14	21	11	1	1	57
35 to 39.....	714	100	0	17	16	9	25	19	8	3	3	59
40 to 44.....	889	100	2	24	19	12	24	10	5	2	3	54
45 to 49.....	1,232	100	5	30	20	13	18	6	3	2	2	49
50 to 54.....	1,699	100	4	37	23	12	13	5	2	1	2	47
55 to 59.....	1,965	100	4	44	25	10	9	4	2	1	1	44
60 to 64.....	1,098	100	5	53	22	11	6	2	1	1	1	41
Total.....	9,585											49

¹ Based on 1979 P1A levels.

Note: 9,585 cases in sample, including workers both with and without dependents.

	Total		Replacement rate brackets using AIME as base period for measurement ¹ (percent)									Average replacement rate (percent)
	Number of cases	Percent	Under 30	30 to 39	40 to 49	50 to 59	60 to 69	70 to 79	80 to 89	90 to 99	100 and over	
Age at onset:												
Under 20.....	64	100	0	0	3	20	10	14	23	6	22	72
20 to 24.....	574	100	0	2	23	21	17	10	15	2	9	60
25 to 29.....	698	100	0	4	31	19	12	9	19	2	4	59
30 to 34.....	652	100	0	4	26	13	11	13	26	3	4	63
35 to 39.....	714	100	0	1	22	10	9	17	28	4	9	68
40 to 44.....	889	100	0	0	24	14	8	19	24	3	8	66
45 to 49.....	1,232	100	0	0	31	15	9	17	18	3	8	62
50 to 54.....	1,699	100	0	0	40	16	9	14	13	2	6	57
55 to 59.....	1,965	100	0	0	52	16	9	10	8	1	4	52
60 to 64.....	1,098	100	0	0	64	12	9	6	5	1	2	49
Total.....	9,565											58

¹ Based on 1979 P1A levels.

Note: 9,585 cases in sample, including workers both with and without dependents.

While it is difficult to measure the aggregate effect high earnings replacement has had in either attracting disabled workers who are still engaged in employment to apply for DI benefits, or in discouraging DI beneficiaries with the potential to return to productive employment from attempting to do so, the percentage of awards in the sample where earnings replacement is high is of significant enough concern if only brought up within the context of whether or not a program which has as its principal purpose the replacement of lost earnings should ever provide benefits which completely supplant predisability earnings.

In his report to the Committee on Ways and Means in 1976, John Miller, a consulting actuary to the committee, stated that:

disability income dollars are, in general, much more valuable and have much more purchasing power than earned dollars. The DI benefits are fully tax exempt, as are insured benefits except for employer provided benefits in excess of \$100 per week. For a worker with a spouse and a child, paying an average State income tax, 50 percent of salary in the form of disability benefits may well equal 65 percent or more of gross earnings after tax. In addition, the disabled individual is relieved of many expenses incidental to employment such as travel, lunches, special clothing, union or professional dues and the like.

It is a cause for deep concern that gross ratios of 0.600 or more apply to all young childless workers at median or lower salaries and to nearly all workers with a spouse and minor child for earnings up to the earnings base. In other words, all workers entitled to maximum family benefits are overinsured except older workers whose earnings approach the earnings base, middle-aged workers who earn not more than the earnings base, and young workers except those earning substantially more than the earnings base.

Although these excessive replacement ratios have not been in effect long enough to have been fully reflected in the disability experience, overly liberal benefits may have played some part in the 47 percent increase, between 1968 and 1974, in the average rate of becoming disabled. Other than the indexing provisions, statutory changes during this period could have had no great effect. There is no evidence that the health of the nation has deteriorated. Rising unemployment has clearly been a factor, but the increasing attractiveness of the benefits must also be an important influence.

(U.S. Congress, House, Subcommittee on Social Security of the Committee on Ways and Means, *Report of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance*, 94th Congress, 2d Session, 1976.)

It is also important to note that it is not correct to assume that a typical disabled worker family is dependent entirely or almost entirely on social security benefits. The following table prepared by the Congressional Budget Office shows the various other sources of income of disabled beneficiaries with children:

TABLE 20.—FAMILY INCOME FROM VARIOUS SOURCES IN 1975 AND OTHER CHARACTERISTICS OF DISABLED MALE SOCIAL SECURITY BENEFICIARIES WITH DEPENDENT CHILDREN¹

Source of family income	Own benefit less than \$3,000			Own benefit \$3,000 or more		
	Percent with income from source	Average income from source for—		Percent with income from source	Average income from source for—	
		Those with such income	Average recipient		Those with such income	Average recipient
Social security.....	100.0	\$2,584	\$2,584	100.0	\$5,356	\$5,356
SSI.....	27.0	1,111	300	10.3	882	91
Public assistance.....	29.2	1,753	512	13.8	1,727	238
Veterans' benefits.....	17.2	1,945	335	21.4	3,374	722
Workmen's compensation.....	8.3	4,170	346	7.3	2,358	172
Property income.....	23.8	480	114	34.3	1,038	356
Public or private pension.....	11.1	3,035	337	19.3	3,705	715
Earnings.....	73.4	6,168	4,527	66.7	5,897	3,921
Other.....	5.2	1,172	61	10.8	1,846	199
Total family income.....			9,380			11,947
Food stamps.....	34.5			20.6		
Average years of school completed by disabled worker.....	8			10		

¹ Refers to men 21 to 62 yr of age in March 1976, who reported a disability limiting work activity and receipt of social security benefits in 1975.

Source: Based on *Survey of Income and Education*, U.S. Bureau of the Census.

The situation where social security DI benefits are the sole source of income to a disabled worker and his family may be the case in individual instances, but on the average disabled worker families tend to have other sources of income in significant amounts. Disabled workers in families with children derive on average only about 40 percent of their total cash income from social security benefits. The combined impact of high social security disability insurance replacement rates and substantial other sources of family income is to insulate disabled worker families, as a group, from any major reduction in income as a result of their disability. The following table shows an analysis of this result by the Congressional Budget Office indicating that very few worker families have more than a 10 percent reduction in disposable income as a result of disability.

TABLE 21.—ANNUAL DISPOSABLE INCOME OF DISABLED WORKER BENEFICIARY FAMILIES BEFORE AND AFTER DISABILITY, BY SEX OF DISABLED WORKER (PROJECTED TO 1980)

	Percent- age distri- bution of DI families	Predis- ability disposable income ¹	Postdis- ability disposable income ²	Ratio: Post- disability disposable income to predis- ability disposable income
Families where spouse has earnings:				
Men.....	37	\$14,493	\$15,407	1.06
Under 40.....	6	13,035	14,141	1.08
40 to 54.....	19	15,112	15,936	1.05
55 to 64.....	12	14,386	15,148	1.05
Women.....	17	17,196	18,509	1.08
Under 40.....	7	17,151	18,768	1.09
40 to 54.....	7	18,147	19,400	1.07
55 to 64.....	3	(³)	(³)	(³)
Families where spouse does not have earnings:				
Men.....	37	10,822	10,293	.95
Under 40.....	6	9,768	10,392	1.06
40 to 54.....	20	11,221	10,427	.93
55 to 64.....	11	10,938	10,049	.92
Women.....	9	6,938	7,260	1.05
Under 40.....	2	(³)	(³)	(³)
40 to 54.....	5	6,493	6,650	1.02
55 to 64.....	2	(³)	(³)	(³)
Total.....	100			

¹ Includes estimated earnings of worker and spouse, property income and transfer payments. Taxable income adjusted for estimated taxes and 6 percent of earned income is deducted for work expenses.

² Includes estimated earnings of spouse, property income, social security benefits and transfer payment. Taxable income is adjusted for taxes and 6 percent of earned income is deducted for work expenses.

³ Sample size too small for reliable estimate.

Source: Estimates based on matched tape of CPS, social security records and longitudinal earnings records.

It should also be observed, however, from some of the previous tables that while DI benefits frequently result in relatively high replacement rates, there are numerous situations where the earnings replacement resulting from DI benefits is low. As the CBO analysis suggests, this does not mean necessarily that once the disabled worker joins the benefit rolls his income is cut substantially from what it was while he was working, but only that the DI benefit by itself frequently results in only modest replacement of a disabled worker's predisability earnings. Using AIME as the base against which earnings replacement is measured, 39 percent of the awards in the SSA sample resulted in replacement rates of less than 50 percent. Using the high-5 in the last 10, 56 percent of the awards resulted in replacement rates of less than 50 percent.

As might be expected, this situation was most prevalent in the higher benefit brackets. However, when using recent earnings as the base for measurement (i.e. high-5 in last 10) a substantial number of awards resulting in low replacement rates were shown to be in the lower benefit brackets. The following table shows the distribution of awards resulting in replacement rates of 50 percent or less by the PIA level of the workers involved.

TABLE 22.—AWARDS RESULTING IN DI REPLACEMENT RATES OF 50 PERCENT OR LESS, BY PIA LEVEL

[In percent]

Primary insurance amount (1979 levels)	Using as base period for measurement—	
	AIME	High-5 years in last 10
Minimum PIA	0	1
\$122 to \$150	0	1
\$150 to \$200	0	9
\$200 to \$250	0	12
\$250 to \$300	6	13
\$300 to \$350	25	15
\$350 to \$400	25	17
\$400 to \$450	44	31
\$450 to \$500	(¹)	(¹)
Total	100	² 100

¹ Less than 0.5 percent.

² Column does not add due to rounding.

Note: The PIA should not be confused with the actual monthly benefit amount received by the worker and his family. In many instances, the actual monthly benefit amount is substantially higher. It is used here simply to show the incidence of low replacement rates within the relative scale of benefits. Derived from samples of 9,585 cases, including workers both with and without dependents.

V. Rehabilitation of the Disabled

A. CRITERIA FOR SELECTION FOR VOCATIONAL REHABILITATION

As noted earlier, the fact that State vocational rehabilitation agencies could provide access to the kinds of services the disabled would need in order to be rehabilitated was a basic consideration in Congress' decision that disability determinations should be conducted by units of the State vocational rehabilitation services. The 1965 social security amendments gave the Department of Health, Education, and Welfare the authority to use certain social security trust funds to reimburse State vocational rehabilitation agencies for the cost of services provided to disability insurance beneficiaries. The amendments required the Secretary of HEW to develop criteria for selecting individuals to receive rehabilitation services under the beneficiary rehabilitation program. The criteria were to be based on the savings which would accrue to the trust funds as a result of rehabilitating the maximum number of individuals into productive activity. If the State rehabilitation agency certifies that a beneficiary meets these criteria, the cost of the rehabilitation services is borne by the trust funds.

The Department has developed four criteria for selecting beneficiaries to receive services financed from the trust fund. These are:

1. The disabling physical or mental impairment is not so rapidly progressive as to outrun the effect of vocational rehabilitation services or to preclude restoration of the beneficiary to productive activity.
2. The disability without the services planned is expected to remain at a level of severity resulting in the continuing payment of disability benefits.
3. A reasonable expectation exists that providing such services will result in restoring the individual to productive activity.
4. The predictable period of productive work is long enough that the benefits which would be saved and the contributions which would be paid to the trust funds from future earnings would offset the costs of planned services.

The title XVI legislation enacted in 1972 authorized the referral of blind and disabled recipients under the SSI program for rehabilitation services provided by State vocational rehabilitation programs. The legislation also authorized the use of general revenues to reimburse the State agencies for the cost of services provided to SSI recipients. Both the House and Senate reports on the SSI legislation state:

Many blind and disabled individuals want to work and, if the opportunity for rehabilitation for suitable work were available to them they could become self-supporting.

In developing the SSI-vocational rehabilitation program, the Department of HEW followed the pattern of the disability beneficiary rehabilitation program for title II beneficiaries. Regulations implementing the program state that its purpose is:

- * * * to enable the maximum number of recipients to increase their employment capacity to the extent that
- * * * full-time employment, part-time employment, or

self-employment wherein the nature of the work activity performed, the earnings received, or both, or the capacity to engage in such employment or self-employment, can reasonably be expected to result in termination of eligibility for supplemental security income payments, or at least a substantial reduction of such payments * * *.

In keeping with this statement of purpose, the SSI program uses the same four criteria for selecting individuals to receive reimbursed services as are used for selecting individuals under the DI program.

Beneficiaries under both programs who do not meet these criteria are, of course, eligible to be considered for services under the basic State vocational rehabilitation program.

B. ADMINISTRATION OF THE PROGRAM

After the 1965 amendments, the Department of HEW divided responsibility for managing the beneficiary rehabilitation program between the Social Security Administration and the Rehabilitation Services Administration (RSA). The 1966 program memorandum of responsibilities gives SSA the responsibility for developing basic program policies, overall program planning and evaluation, recommending legislative changes, and requesting the funds to operate the program. The Rehabilitation Services Administration is assigned the responsibility of providing direction and guidance to the State rehabilitation agencies, promulgating regulations, and developing funding requests. Both agencies are jointly responsible for establishing performance standards, reviewing program information, and making on-site reviews of State rehabilitation agencies. Responsibilities for the SSI-vocational rehabilitation program have generally followed the same lines as those agreed upon for the beneficiary rehabilitation program.

The General Accounting Office has criticized the two agencies for failing to coordinate their activities and thus provide for stronger program management. In its June 6, 1979 report, "Rehabilitating Blind and Disabled Supplemental Security Income Recipients: Federal Role Needs Assessing," the GAO says:

Although RSA and SSA share responsibility for administering the SSI-VR program, the two agencies have not coordinated their management objectives and, as a result, have not developed an appropriate information system needed for successful program management. (p. 9)

C. KIND OF SERVICES PROVIDED

After an individual is selected to receive services, the State vocational rehabilitation agency develops an individual plan which includes counseling, restoration, training and placement services necessary to attain the goal of the plan. The goal for DI and SSI beneficiaries is competitive employment. However, under the broader basic State rehabilitation program the goal may be homemaking, sheltered employment, or unpaid family work.

DI and SSI recipients are eligible for the same range of services available to other vocational rehabilitation clients.

The most frequent type of handicaps reported by DI beneficiaries who receive vocational rehabilitation services are orthopedic handicaps. Forty-five percent of DI clients report this type of handicap. Thirteen percent report mental illness, and 11 percent report visual impairment. SSI recipients who receive services report 25 percent orthopedic handicaps, 23 percent mental retardation, and 17 percent mental illness.

According to data in the fiscal year 1978 "Annual Report to the President and the Congress on Federal Activities Related to the Administration of the Rehabilitation Act of 1973, as amended," both DI and SSI clients require a longer period of rehabilitation than the average rehabilitation client. Both DI and SSI recipients are reported as requiring 19 to 24 months of rehabilitation services to meet their vocational objectives. This compares with 13 to 18 months required for the average rehabilitation client.

The annual report referred to above makes a number of other observations about DI and SSI beneficiaries. It observes that because DI beneficiaries generally have a recent work history and were employed prior to the onset of disability, they require on the average less training and maintenance services than do SSI recipients. Restorative services are used more frequently by DI beneficiaries than by SSI beneficiaries. The reason given for this is that DI beneficiaries generally suffer illness or injury a short time prior to being accepted for vocational rehabilitation services and thus are in greater need of the surgical and therapeutic services available in the vocational rehabilitation program. Because their handicaps often began during childhood, it is alleged, SSI recipients are more likely to have received restorative services prior to entry into the vocational rehabilitation program. SSI recipients generally require more training and more personal and vocational adjustment services than DI beneficiaries because they often do not have a history of work, and because a larger proportion are mentally retarded.

The 1978 report indicates that the average monthly earnings of all clients rehabilitated range from \$320 to \$390 at the time of rehabilitation closure. DI beneficiaries have earnings that are generally comparable to this average. This is not true for SSI recipients, who report lower earnings—\$240 to \$316 a month.

D. PROGRAM EFFECTIVENESS

In 1965 the Congress was assured by the Department of HEW that the money spent on rehabilitation services would result in savings to the disability insurance trust fund. The allocation of trust funds was based on an amount necessary to pay for the cost of vocational rehabilitation services, with a maximum not to exceed a fixed percentage of the prior year's total disability payments. The limit was originally set at 1 percent. Given reassurance in 1972 by the Department that the trust fund was in fact realizing savings due to the money being spent on rehabilitation, the Congress increased the authorization for use of trust fund money to 1.25 percent for fiscal year 1973 and to 1.5 percent for 1974 and years thereafter. The 1972 SSI legislation also authorized use of general revenues to fund rehabilitation services for SSI recipients.

Funding for both DI and SSI beneficiaries is set at 100 percent Federal funding. Under the basic vocational rehabilitation program, there is 80 percent Federal funding. States must make up the remainder.

In recent years the degree of the cost effectiveness of the vocational rehabilitation expenditures in behalf of disabled beneficiaries has been questioned. In 1970 the Department reported a savings of \$1.60 for every \$1 spent. In 1972 HEW issued a report to the Finance Committee which claimed that the program was saving \$1.93 for every \$1 spent. In June 1974 HEW reported savings of \$2.50 for every \$1 spent. However, a study done by SSA's Office of Research and Statistics raised some questions about the cost/benefit data that had been developed and about the effectiveness of the expenditures made. The report covered the period from 1967 to 1974. In summary, it showed that about 40 percent of the persons who were "rehabilitated" with trust fund money actually left the benefit rolls, and about 10 percent returned after relapses. It further showed that the benefit-cost ratio had consistently exceeded 1.00 during the first eight years of the program. However, the study raised some doubt about the program's most recent experience.¹

The growth in the number of rehabilitated beneficiaries in recent years, however, is not comparable with the growth in the amount available for reimbursement from the trust funds. Further, the actual number of disabled beneficiaries leaving the social security rolls because of more medical improvement or return to substantial gainful activity has not risen in recent years, in spite of the trust fund program and liberalization of the social security definition of disability to include more conditions likely to improve in time.

It also showed an apparent decline in benefit-cost ratios which began in 1970:

	Ratio of savings to expenditures	
	In year	Cumulative through year
1966		
1967	0.43	0.41
1968	1.73	1.20
1969	3.80	2.19
1970	3.72	2.65
1971	3.03	2.74
1972	2.75	2.74
1973	1.65	2.49

¹(Ralph Treitel, "Effect of Financing Disabled Beneficiary Rehabilitation," *Social Security Bulletin*, November, 1975.)

Similarly, a report by the GAO in 1976 criticized the way the earlier estimates submitted to the Congress by HEW had been developed, and maintained that its study showed a much lower cost-benefit ratio, with a saving of \$1.15 for each \$1 spent. The report states:

GAO believes the savings HEW attributed to the program were considerably overstated; that the program was operating close to the break-even point, and that there could be a downward trend in the savings computation.

Elaborating on its criticism of the beneficiary rehabilitation program, the GAO commented further:

Also, the program's resources have been directed, in part, toward serving temporarily disabled beneficiaries who did not meet eligibility criteria. These beneficiaries might have met the less stringent criteria of the basic State vocational rehabilitation program for which the Federal share of costs is 80 percent. As a result, some potentially eligible beneficiaries may not have had the opportunity to receive vocational rehabilitation services.

A more fundamental concern, however, than the size of the cost/benefit ratio is one raised in a 1976 Ways and Means staff document. It pointed out the relatively small number of DI disabled workers who had been terminated from the benefit roll in aggregate as the result of rehabilitation services. The report states:

Although the amount of trust funds available for beneficiary rehabilitation has increased from about \$15 million in 1967 to almost \$100 million in 1976, the bottom line—terminations due to rehabilitation—has been disappointing. Cumulatively over these 9 years, only 20,000 disabled workers who have been rehabilitated have been terminated from the rolls. This was during a period of time when the number of disabled workers on the rolls was increasing from 1.5 to 2.5 million.

In its June 1979 report on the SSI vocational rehabilitation program the GAO also commented on the cost effectiveness of that program, showing even more negative findings than it had reported for DI in 1976. The 1979 report showed that in 13 of the 14 State rehabilitation agencies included in the GAO review, the Federal funds spent on the SSI-VR program for the first 2½ years "greatly exceeded the savings in SSI payments for the cases reported to SSA as rehabilitations during that period."

Statistics appearing in the 1978 "Annual Report on Federal Activities Related to the Administration of the Rehabilitation Act of 1973, as amended," referred to earlier, also raise questions about the effectiveness of the vocational rehabilitation program in bringing about benefit terminations in DI and SSI.

The following chart shows the numbers of DI and SSI recipients who were reported in various service categories during fiscal year 1978 (and whose services were funded under titles II and XVI). Because individuals may remain in one category for longer than 1 year, this presentation cannot be viewed as a progression of the same individual through the service system. For example, individuals are

served for approximately 2 years, and at least 1 year must elapse from rehabilitation to termination. Persons may be terminated for a considerable period of time before re-entering the rolls as recidivists. However, the chart can provide an indication of the relative numbers of individuals who are progressing through the rehabilitation system and achieving economic independence.

	Served ¹	Rehabilitated ²	SGA rehabilitations ³		DI and SSI		
			Per- cent	Number	Termi- nations ⁴	Recidi- vists ⁵	Other ⁶
DI.....	94,979	12,268	83.0	10,182	6,363	669	378
SSI.....	55,218	6,994	80.5	5,630	1,049	1,314	457
Total vocational rehabilitation program.....	1,167,991	294,396	NA	NA	NA	NA	NA

¹ "Served" refers to persons participating in a vocational rehabilitation program.

² "Rehabilitated" means that the employment objective has been met and maintained for 2 months and that the rehabilitation file was closed.

³ "SGA rehabilitations" designates persons rehabilitated who achieved earnings at the time of rehabilitation equal to the level of "substantial gainful activity." This SGA level is the amount which disqualifies an individual from further benefits payments under DI and SSI. Currently, substantial gainful activity is determined to be earnings of \$280 per month.

⁴ "Terminations" refers to persons who cease receiving DI and SSI benefits following rehabilitation.

⁵ "Recidivists" are the individuals who were terminated from the benefit rolls during fiscal year 1978 or before and then reentered benefit status during fiscal year 1978.

⁶ "Other" refers to rehabilitated persons who terminated benefits during fiscal year 1978 for reasons not related to rehabilitation. Such reasons might include death, retirement, or other reasons not related to medical recovery or earnings.

Although 10,182 DI beneficiaries were rehabilitated with earnings at the level of substantial gainful activity, only 62 percent of that number were terminated from the benefit rolls. This indicates that 38 percent of the beneficiaries who might have been expected to terminate benefits did not. Benefits are terminated 3 months after the end of the 9-month trial work period if substantial gainful activity is maintained. It appears, therefore, that many DI beneficiaries did not maintain earnings for a sufficient period of time to terminate benefits. During fiscal year 1978, the number of persons who reentered the benefit rolls due to employment failure was 11 percent of the number who terminated.

Only 19 percent of the number of SSI recipients who were rehabilitated at the level of substantial gainful activity successfully terminated benefits. In addition, the number of recidivists exceeded the number of SSI recipients terminated. (Some of the recidivists were terminated prior to fiscal year 1978 which accounts for the fact that recidivists exceeded terminations.)

Table 23 shows total funding for vocational rehabilitation programs on a State-by-State basis for fiscal year 1978.

TABLE 23.—FEDERAL OUTLAYS FOR VOCATIONAL
REHABILITATION, BY STATE, FISCAL YEAR 1978

[In millions of dollars]

State	Basic State grant program (sec. 110)	Disability insurance (DI) trust fund program	Supple- mental security income (SSI)	Innovation and expansion (sec. 120)
Alabama.....	18,545	2,396	1,252	304
Alaska.....	2,009	183	137	50
Arizona.....	8,677	956	540	187
Arkansas.....	10,729	1,681	795	133
California.....	58,429	11,150	9,037	1,641
Colorado.....	8,441	909	577	216
Connecticut.....	7,189	999	354	240
Delaware.....	2,035	257	170	51
District of Columbia.....	5,560	242	316	55
Florida.....	29,514	4,181	1,652	647
Georgia.....	21,551	2,930	1,327	414
Hawaii.....	2,367	237	146	66
Idaho.....	3,427	433	350	69
Illinois.....	27,983	3,216	1,854	863
Indiana.....	14,567	1,802	473	351
Iowa.....	9,216	889	325	30
Kansas.....	7,376	655	382	121
Kentucky.....	16,234	2,008	637	263
Louisiana.....	18,516	1,776	968	319
Maine.....	4,400	396	162	4
Maryland.....	11,736	1,400	963	347
Massachusetts.....	18,573	2,025	1,971	490
Michigan.....	26,270	3,691	2,165	709
Minnesota.....	13,629	1,431	917	335
Mississippi.....	13,730	1,761	1,131	200
Missouri.....	16,999	1,868	627	369
Montana.....	2,957	324	204	58
Nebraska.....	5,121	559	355	120
Nevada.....	2,037	289	159	50
New Hampshire.....	3,283	329	113	63
New Jersey.....	18,376	2,677	1,286	567
New Mexico.....	5,786	554	401	98
New York.....	48,880	8,382	3,695	1,544
North Carolina.....	25,062	2,812	1,430	422
North Dakota.....	2,472	221	247	55

TABLE 23.—FEDERAL OUTLAYS FOR VOCATIONAL REHABILITATION, BY STATE, FISCAL YEAR 1978—Continued

[In millions of dollars]

State	Basic State grant program (sec. 110)	Disability insurance (DI) trust fund program	Supplemental security income (SSI)	Innovation and expansion (sec. 120)
Ohio.....	36,284	4,759	1,944	833
Oklahoma.....	11,812	1,194	664	210
Oregon.....	8,308	1,247	645	174
Pennsylvania.....	40,921	6,433	2,640	940
Rhode Island.....	3,299	428	236	72
South Carolina.....	14,245	1,458	580	129
South Dakota.....	2,868	237	137	53
Tennessee.....	19,395	2,194	858	324
Texas.....	47,898	5,171	2,387	1,045
Utah.....	5,695	280	157	93
Vermont.....	2,176	240	149	54
Virginia.....	17,927	2,433	1,196	424
Washington.....	11,079	1,802	2,022	274
West Virginia.....	8,747	1,271	354	154
Wisconsin.....	17,196	1,900	657	357
Wyoming.....	2,000	160	125	50
Guam.....	742	15	0	50
Puerto Rico.....	17,000	1,000	0	229
Trust territories.....	400	0	0	50
Virgin Islands.....	557	30	0	35
Grand total.....	760,225	97,871	51,869	17,001

Source: Department of Health, Education, and Welfare.

E. REQUIREMENT TO ACCEPT REHABILITATION SERVICES

Both titles II and XVI include provisions that beneficiaries who refuse rehabilitation services without good cause shall have their benefits withheld. As the programs are operated, it is the responsibility of the rehabilitation agency to report a refusal of services to the appropriate social security district office for followup action. If the refusal persists, there is supposed to be a finding of whether there was "good cause" for refusal, a determination which is made by disability examiners in the regional offices.

This requirement has been enforced very infrequently. In its May 1976 report the GAO stated that it had been told by SSA officials that nationally only one beneficiary's benefits were being withheld at that time. In January 1977 SSA began a new computerized VR information system, one purpose of which was to identify title II and title XVI beneficiaries who refuse to cooperate with vocational rehabilitation.

Nationally in 1977 there were over 20,000 reports of refusal to cooperate made by VR to SSA. The majority of these involved a re-referral to VR following a district office interview with the claimant. As an example of how the requirement actually resulted in penalties, during 1977 80 individuals were found not to have "good cause" and their benefits were either put in suspense status (title XVI) or deduction status (title II).

F. PROGRAM OF SERVICES FOR CHILDREN

When the supplemental security income program was first enacted it included a provision requiring the Secretary of HEW to make provision for referral of all disabled individuals "to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act." The provision for vocational rehabilitation services was basically designed for adults who could be expected to enter or reenter the work force. Because of its general inappropriateness for disabled children, there was in the early years of the SSI program virtually no use of this provision for referral of children to services in any State.

The Congress amended the law in 1976 to provide for a 3-year special services program designed to meet the needs of children for referral to agencies where they could have access to services appropriate to their needs. In its justification of the new legislation, the Finance Committee stated in its report:

The committee believes that there are substantial arguments to support the establishment of a formal referral procedure. Many disabled children have conditions which can be improved through proper medical and rehabilitative services, especially if the conditions are treated early in life. The referral of children who have been determined to be disabled could thus be of very great immediate and long-term benefit to the children and families who receive appropriate services. In addition, the procedure could be expected to result in long-range savings for the SSI program, in that some children, at least, would have their conditions satisfactorily treated and would move off the disability rolls instead of receiving payments for their entire lifetime. The referral of disabled children by the Social Security Administration would also serve as a casefinding tool for community agencies serving disabled children and assist them in focusing their services in behalf of these children. Many communities have the capability to help disabled and handicapped children, but are not always able to identify those with the greatest need. (Rept. 94-1265, pp. 25-26)

As enacted, the law requires the referral by the Social Security Administration of children under age 16 to the State agency which administers the State crippled children's services program, or to another agency which the Governor determines is capable of administering the State plan in a more efficient and effective manner than the crippled children's agency.

State plans must be approved by the Secretary of HEW under regulations that (1) assure appropriate counseling for disabled children and their families, (2) provide for the establishment of an individual service plan for children and prompt referral to appropriate medical, education and social services, (3) provide for monitoring to assure adherence to each individual service plan, and (4) provide for disabled children age 6 and under and for children who have never attended public school and who require preparation to take advantage of public educational services of medical, social, developmental, and rehabilitative services in cases where such services reasonably promise to enhance the child's ability to benefit from subsequent education or training, or otherwise to enhance his opportunities for self-sufficiency or self-support as an adult.

State plans must provide for an identifiable unit within the administering agency to be responsible for the administration of the plan. Plans also have to provide for coordination with other agencies serving disabled children.

The law authorized \$30 million for each of fiscal years 1977, 1978, and 1979. The funds are distributed on the basis of the proportion of children under age 7 in each State.

Final regulations for the services program were not published in the Federal Register until April 18, 1979. However, the program did get underway in most States prior to that time, operating under interim guidelines. At the present time, all except one State (Wisconsin) has had its plan approved by the Secretary. According to HEW, about \$10 million was claimed by the States for use in this program in fiscal year 1978. About \$20 million is expected to be spent in 1979.

Unless there is extending legislation, the program will terminate September 30, 1979. On September 27, 1979 the committee approved an amendment to H.R. 3434 providing for a 3-year extension of the program.

The following table shows the State allocation of funds for the program for fiscal year 1979.

TABLE 24.—ALLOCATIONS OF FUNDS UNDER THE SERVICES PROGRAM FOR SSI DISABLED CHILDREN, BY STATE, FISCAL YEAR 1979

States	Children under age 7	Allotment of funds
Total.....	22,097,899	\$30,000,000
Region I:		
Connecticut.....	263,513	357,600
Maine.....	108,017	146,700
Massachusetts.....	505,574	686,400
New Hampshire.....	82,078	111,300
Rhode Island.....	83,666	113,700
Vermont.....	48,860	66,300
Region II:		
New Jersey.....	665,208	903,000
New York.....	1,680,483	2,281,500
Region III:		
Delaware.....	59,474	80,700
District of Columbia.....	89,742	121,800
Maryland.....	372,822	506,100
Pennsylvania.....	1,078,254	1,463,700
Virginia.....	497,034	674,700
West Virginia.....	193,286	262,500
Region IV:		
Alabama.....	407,836	553,800
Florida.....	775,176	1,052,400
Georgia.....	580,813	788,400
Kentucky.....	381,137	517,500
Mississippi.....	301,948	409,800
North Carolina.....	588,036	798,300
South Carolina.....	330,843	449,100
Tennessee.....	448,621	609,000
Region V:		
Illinois.....	1,175,494	1,596,000
Indiana.....	577,305	783,600
Michigan.....	964,638	1,309,500
Minnesota.....	390,302	529,800
Ohio.....	1,118,524	1,518,600
Wisconsin.....	450,263	611,400

TABLE 24.—ALLOCATIONS OF FUNDS UNDER THE SERVICES PROGRAM FOR SSI DISABLED CHILDREN, BY STATE, FISCAL YEAR 1979—Continued

States	Children under age 7	Allotment of funds
Region VI:		
Arkansas.....	234,588	\$318,600
Louisiana.....	461,961	627,300
New Mexico.....	145,238	197,100
Oklahoma.....	290,258	394,200
Texas.....	1,495,750	2,030,700
Region VII:		
Iowa.....	281,729	382,500
Kansas.....	226,223	307,200
Missouri.....	482,037	654,300
Nebraska.....	162,243	220,200
Region VIII:		
Colorado.....	278,709	378,300
Montana.....	81,820	111,000
North Dakota.....	70,333	95,400
South Dakota.....	75,169	102,000
Utah.....	203,411	276,300
Wyoming.....	44,170	60,000
Region IX:		
Arizona.....	275,313	373,800
California.....	2,160,909	2,933,700
Hawaii.....	106,665	144,900
Nevada.....	64,170	87,000
Region X:		
Alaska.....	52,188	70,800
Idaho.....	105,318	143,100
Oregon.....	230,926	313,500
Washington.....	349,824	474,900

Source: Department of Health, Education, and Welfare.

VI. Financing Disability Insurance

A. HISTORY OF UNDERFINANCING

Underfinancing of disability insurance has been a phenomenon of the program almost since its inception. The 1961 and 1962 Board of Trustees of the social security programs reported a long-range actuarial deficiency for DI of 0.06 percent of taxable payroll. Although slightly beyond the acceptable margin of variation for long-range estimates, this level was considered at that time as being close to actuarial balance. However, in 1962 annual deficits began to appear. Expenditures exceeded revenues by \$69 million in that year and rose to a difference of nearly \$440 million in 1965. The 1963, 1964 and 1965 reports of the trustees showed a long-range deficit of 0.14 percent of taxable payroll. The 1964 report suggested that the DI Trust Fund would be exhausted by 1971. In all three reports—1963 through 1965—the trustees recommended that a higher allocation of the overall tax be given to the DI program.

Congress enacted a higher allocation to DI in 1965. While an annual deficit did not reappear in the program until 1975, the trustees continued to show long range actuarial shortfalls for the program in the intervening period. For instance, less than two years after the higher allocation had been enacted, the trustees in their report in February 1967 showed once again a long-range actuarial deficit of 0.15 percent of taxable payroll. Congress, again in 1967, provided a higher tax allocation to the program.

Since that time Congress has repeatedly addressed projections of higher costs of the program by increasing its tax allocation. A 1974 report of the staff of the Ways and Means Committee commented on this traditional approach to the financing shortfalls as follows:

In the past, actuarial deficiencies have been eliminated by increased allocation of payroll tax receipts to the disability insurance system. Higher allocations were effectuated in 1965, 1967, and, to a smaller degree, in the two social security bills which were enacted in 1972. The last such action was taken in Public Law 93-233 which was approved on December 31, 1973. The 1974 trustees' report suggests reallocation of income among the three trust funds (OASI, DI, and HI) as a possible solution to the short-range financing problems of the social security program. The staff recommends that no further action of this nature be taken—which, to some degree, avoids facing the problems in the disability insurance program—until the committee receives an adequate explanation of the adverse experience which is taking place in the system.

The long-range actuarial deficit of nearly 3 percent of payroll in the social security program announced in the trustees' report is a clear indication that the practice of increasing the allocation of funds to the disability insurance

TABLE 25.—ESTIMATED OPERATIONS OF THE DI TRUST FUND DURING CALENDAR YEARS 1977-87 UNDER PRESENT AND PRIOR LAW

[Dollar amounts in billions]

Calendar year:	Income		Outgo		Net increase in funds		Funds at end of year		Funds at beginning of year as a percentage of outgo during year	
	Prior law	Present law (1977 amendments)	Prior law	Present law (1977 amendments)	Prior law	Present law (1977 amendments)	Prior law	Present law (1977 amendments)	Prior law	Present law (1977 amendments)
1977.....	\$9.6	\$9.6	\$12.0	\$12.0	-\$2.4	-\$2.4	\$3.3	\$3.3	48	48
1978.....	10.9	13.8	13.6	13.7	-2.8	.2	.5	3.5	24	24
1979 ¹	11.8	15.7	15.3	15.3	-3.5	.4	-3.0	3.9	3	23
1980 ¹	12.8	17.6	17.4	17.1	-4.6	.5	-7.6	4.4	(²)	23
1981 ¹	14.6	21.1	19.5	19.0	-4.9	2.1	-12.5	6.5	(²)	23
1982 ¹	15.5	23.0	21.7	20.9	-6.2	2.1	-18.7	8.6	(²)	31
1983 ¹	16.2	24.7	24.1	22.9	-8.0	1.8	-26.6	10.4	(²)	38
1984 ¹	16.8	26.5	26.8	25.2	-10.0	1.3	-36.6	11.6	(²)	41
1985 ¹	17.3	32.1	29.8	27.7	-12.4	4.5	-49.1	16.1	(²)	42
1986 ¹	19.3	34.9	33.0	30.3	-13.6	4.6	-62.7	20.8	(²)	53
1987 ¹	20.0	37.4	36.4	33.1	-16.4	4.3	-79.1	25.1	(²)	63

¹ Because it is estimated that the DI trust fund would have been exhausted in 1979 under prior law, the figures for 1979-87 under prior law are theoretical.

² Fund exhausted in 1979.

Note: The above estimates are based on the intermediate set of assumptions shown in the 1977 trustees report.

TABLE 26.—TAX RATES FOR THE SOCIAL SECURITY TRUST FUNDS

[In percent]

Calendar year	Prior law					Present law (1977 amendments)				
	OASI ¹	DI ²	OASDI	HI ³	Total	OASI ¹	DI ²	OASDI	HI ³	Total
EMPLOYERS AND EMPLOYEES, EACH										
1977	4.375	0.575	4.95	0.90	5.85	4.375	0.575	4.95	0.90	5.85
1978	4.350	.600	4.95	1.10	6.05	4.275	.775	5.05	1.00	6.05
1979-80	4.350	.600	4.95	1.10	6.05	4.330	.750	5.08	1.05	6.13
1981	4.300	.650	4.95	1.35	6.30	4.525	.825	5.35	1.30	6.65
1982-84	4.300	.650	4.95	1.35	6.30	4.575	.825	5.40	1.30	6.70
1985	4.300	.650	4.95	1.35	6.30	4.750	.950	5.70	1.35	7.05
1986-89	4.250	.700	4.95	1.50	6.45	4.750	.950	5.70	1.45	7.15
1990-2010	4.250	.700	4.95	1.50	6.45	5.100	1.100	6.20	1.45	7.65
2011 and later	5.100	.850	5.95	1.50	7.45	5.100	1.100	6.20	1.45	7.65
SELF-EMPLOYED PERSONS										
1977	6.185	0.815	7.0	0.90	7.9	6.1850	0.8150	7.0	0.90	7.9
1978	6.150	.850	7.0	1.10	8.1	6.0100	1.0900	7.1	1.00	8.1
1979-80	6.150	.850	7.0	1.10	8.1	6.0100	1.0400	7.05	1.05	8.1
1981	6.080	.920	7.0	1.35	8.35	6.7625	1.2375	8.00	1.30	9.3
1982-84	6.080	.920	7.0	1.35	8.35	6.8125	1.2375	8.05	1.30	9.35
1985	6.080	.920	7.0	1.35	8.35	7.1250	1.4250	8.55	1.35	9.90
1986-89	6.010	.990	7.0	1.5	8.5	7.1250	1.4250	8.55	1.45	10.00
1990-2010	6.010	.990	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75
2011 and later	6.000	1.000	7.0	1.5	8.5	7.6500	1.6500	9.30	1.45	10.75

¹ Old-age and survivors insurance.
² Disability insurance.
³ Hospital insurance (part A of medicare).

Source: Social Security Administration.

B. RECENT TRUSTEES' FORECASTS—1978 AND 1979

The 1978 trustees' report issued just six months after enactment of the 1977 Amendments showed a substantial improvement in the long-range financial condition of the DI program. Although still projecting a long-range deficiency, the report showed an actuarial imbalance for DI of only 0.14 percent of taxable payroll in contrast to the imbalance of 0.38 percent of taxable payroll estimated in December, 1977.

The 1978 report states:

Large decreases in the estimated cost of the disability insurance program in both the medium-range and long-range were due to changes in assumptions regarding disability incidences and terminations. Both incidence and termination rates have been changed to reflect more recent experience. In addition, lower incidence rates are projected due to the decreased attractiveness of disability benefits, because of the generally lower benefits available under the new decoupled benefit calculation procedure.

The more recent experience referred to showed that DI awards had dropped off slightly in 1976 and 1977, from the high of nearly 600,000 awards to disabled-workers made in 1975, and that termination rates had increased. Nonetheless, recognizing the propensity of past trustees to underestimate the costs of the program, the 1978 trustees' report continued to forecast a substantial upward trend in the size of the program. The report states:

Although the disability award rate during 1977 remained level as compared with 1976, a generally upward trend in incidence rates, as experienced over the past decade, was assumed to continue. Age-sex specific incidence rates were assumed to increase over the period 1978-97 to a level about 25 percent higher than that estimated for 1977, and to remain at that level thereafter.

The 1979 trustees' report issued in April 1979 once again showed improvement, under the report's central set of economic and demographic assumptions, in the long-range financial condition of the program over the prior year's forecast. For the first time since 1970, the trustees projected a long-range actuarial surplus for DI, amounting to .21 percent of taxable payroll. As did the 1978 forecast, the current report attributes the improvement in the long-range condition of the program to recent experience more favorable to the program. Awards to disabled workers dropped from a level of about 569,000 in 1977 to 457,000 in 1978.

However, while forecasting a considerably lower rate of growth, the trustees again were reluctant to project a long-term leveling off of the program. The report states:

Although disability awards declined by over 20 percent in 1978, age-sex specific incidence rates were assumed to increase over the period 1979-1998 to about 10 percent higher than the average for 1977-1978, and to remain constant thereafter. This represents a gradual return to 1976-1977 experience.

... this reduction in the incidence of disability was not anticipated and its causes are not very clear, so it is uncertain whether the trend will continue in the future. Thus, the higher DI trust fund levels projected in this report (as compared to last year's report) are contingent on the realization of the lower incidence rates assumed in this year's report.

Under these assumptions the DI benefit roll is projected to rise from a level of about 4.9 million beneficiaries in 1979 to 7.8 million in the year 2000.

C. UNFAVORABLE RECENT ECONOMIC FORECASTS

Reports of the trustees in recent years have made projections of the financial soundness of the social security programs using three different sets of economic and demographic assumptions. These assumptions, referred to as optimistic, intermediate and pessimistic, are intended to give a picture of the financial condition of the program under a range of potential circumstances which could arise in the future. Traditionally for purposes of a general discussion of the financial condition of the programs and for pricing proposed legislative and policy changes, the intermediate or, as they sometimes are referred to, the central set of assumptions are used.

While the current forecasts under the optimistic and central sets of assumptions show that both the OASI and DI programs are adequately financed in the short run, the pessimistic assumptions show that at least the OASI program could run into financial difficulty beginning as soon as 1983 or 1984. Reserves in the OASI trust fund would fall to an extremely low level by the end of 1983. DI reserves appear to be adequate even under these conditions. The trustees caution—

that although a positive balance is projected for the OASI trust fund at the end of each year through 1983, under the pessimistic assumptions, the assets at the end of 1983 would not be large enough to cover the entire amount of benefits that are payable at the beginning of the following month. This kind of cash-flow problem becomes imminent if, at any time, the trust fund falls to less than about 9 percent of the following 12 months of disbursements. Under the pessimistic assumptions, the OASI trust fund would begin to experience cash-flow difficulties early in 1983. The cash-flow problems would arise because almost all of the benefits for a given month are payable, generally, on the third day of the following month, while contribution income is received more or less uniformly throughout the month, on a daily basis. For example, the benefits for December 1983—estimated to be about \$12½ billion under alternative III (the pessimistic assumption)—are payable on January 3, 1984, before any significant amount of income can be added to the fund's estimated assets of \$8.3 billion on December 31, 1983 . . .

They point out further that a "severe or prolonged economic downturn" could lead to this pessimistic forecast for the program.

While the trustees' report is only a few months old, recent economic forecasts of the Administration, the Congressional Budget Committees, and a number of other forecasters indicate that the economy

is not moving in line with the central set of trustees' report assumptions. Generally, these forecasts are now more pessimistic and indicate that a recession has begun coupled with a continuing high rate of inflation. For social security, this means higher than anticipated outgo, with increases in revenues which do not keep pace with the additional outgo.

1. *Administration "midsession" forecast:*

The Administration's recent economic forecast, which accompanied its "midsession" report to the Congress on the budget, indicates a higher rate of inflation and higher unemployment than reflected in both its January budget submittal and the trustees' report intermediate assumptions.

This forecast falls between the trustees' intermediate assumptions and the pessimistic ones, but closer to the pessimistic ones. OASI reserve balances fall to 10 percent of one year's outgo by 1984 under the midsession assumptions, as compared to 5 percent under the trustees' pessimistic assumptions.

Either level is considered to be too low for cash-flow purposes. Balances in the DI trust fund, on the other hand, are more than adequate under both economic scenarios.

TABLE 27.—OASDI TRUST FUND RESERVES BALANCES

[As a percent of 1 year's outgo]

	Trustees' intermediate		Trustees' pessimistic		Midsession	
	OASI	DI	OASI	DI	OASI	DI
1979.....	30	29	30	29	29	29
1980.....	24	35	23	34	23	33
1981.....	19	42	16	39	17	40
1982.....	17	60	12	53	13	55
1983.....	18	81	8	68	12	73
1984.....	18	101	5	83	10	91

Source: Social Security Administration.

2. *CBO economic update and tentative House and Senate Budget Committee forecasts:*

The Congressional Budget Office also prepared a midyear economic update for 1979 and 1980, indicating an even more pessimistic trend than the Administration's forecast, not only through 1980, but for a number of subsequent years as well.

In a July 31, 1979 letter to the committee, the director of CBO states that estimates prepared by CBO for the House and Senate Budget Committees show that under their respective assumptions, the balance in the OASI trust fund would fall between 5.4 percent of fiscal year 1984 outgo (House version) and 7.7 percent of fiscal year 1984 outgo (Senate version). Once again, both would represent precariously low OASI trust fund reserve levels. The DI trust fund would have fiscal year 1984 reserves in the range of 55 percent to 60 percent of outgo.

3. *Cautionary notes by the Trustees and Director of CBO:*

Because of the possibility that economic conditions might move in the direction of that pessimistic forecast, in their 1979 report the trustees recommended that—

... no reduction be made in the scheduled revenues of Old Age and Survivors Insurance and Disability Insurance trust funds without making provisions for offsetting reductions in expenditures or alternative financing arrangements," and that "it might be advisable to examine the need for flexibility to reallocate funds between the two trust funds in the short term.

The Director of CBO similarly suggested that "steps may have to be taken to ensure the solvency of the OASI trust fund," a number of which might alter the financing of DI.

The following four tables compare these adverse economic forecasts and show the impact they would have on the OASI and DI programs:

TABLE 28.—COMPARISON OF ECONOMIC ASSUMPTIONS OF THE SENATE BUDGET COMMITTEE, HOUSE BUDGET COMMITTEE, ADMINISTRATION'S MID-SESSION PATH, AND THE 1979 TRUSTEES' PESSIMISTIC PATH FOR CALENDAR YEARS 1979-1984

	1979	1980	1981	1982	1983	1984
Unemployment rate (average for year):						
Senate Budget Committee.....	6.2	7.3	7.0	6.3	5.7	5.3
House Budget Committee.....	6.2	7.3	7.1	6.9	6.6	6.3
Trustees' pessimistic path.....	6.3	8.2	7.4	6.9	6.4	6.0
Administration's mid-session path.....	6.1	6.8	6.5	6.1	5.8	5.6
Percentage growth in real GNP:						
Senate Budget Committee.....	1.8	1.0	3.8	5.3	4.3	3.9
House Budget Committee.....	1.8	1.0	3.5	4.0	4.0	4.0
Trustees' pessimistic path.....	2.3	-1.1	5.4	4.1	4.0	3.7
Administration's mid-session path.....	1.7	1.0	3.4	3.7	3.5	3.5
Percentage growth in CPI:						
Senate Budget Committee.....	10.6	9.3	8.4	7.6	7.5	7.5
House Budget Committee.....	10.6	9.3	8.6	7.8	7.1	6.8
Trustees' pessimistic path.....	10.3	8.9	7.3	6.3	6.0	6.0
Administration's mid-session path.....	10.7	8.6	7.5	6.6	6.2	5.6
June social security benefit increase:						
Senate Budget Committee.....	9.9	10.3	8.8	7.7	7.5	7.4
House Budget Committee.....	9.9	10.3	8.9	8.1	7.3	6.5
Trustees' pessimistic path.....	9.8	9.8	7.9	6.5	6.0	6.0
Administration's mid-session path.....	9.9	9.7	8.2	6.7	6.4	5.8

Source: CBO.

TABLE 29.—COMPARISON OF COMBINED OASDI OUTLAYS,
BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END
OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS
AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee as- sumptions.....	104.5	120.1	138.3	157.4	173.6	191.3
House Budget Committee as- sumptions.....	104.5	120.1	138.3	157.6	174.4	192.0
Administration's estimates:						
Trustees' pessimistic assump- tions.....	104.1	118.9	135.0	150.8	165.7	181.4
Administration's mid-session estimate.....	104.4	118.9	134.6	150.1	165.1	180.7
INCOME						
CBO estimates:						
Senate Budget Committee as- sumptions.....	102.0	116.8	133.8	156.7	177.4	199.1
House Budget Committee as- sumptions.....	102.0	116.8	133.8	156.0	174.7	194.5
Administration's estimates:						
Trustees' pessimistic assump- tions.....	102.5	116.4	133.1	151.8	167.3	183.2
Administration's mid-session estimate.....	101.8	117.8	134.2	154.0	170.6	187.2
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee as- sumptions.....	32.9	29.7	25.3	24.6	28.3	36.2
House Budget Committee as- sumptions.....	32.9	29.7	25.1	23.5	23.8	26.2
Administration's estimates:						
Trustees' pessimistic assump- tions.....	33.8	31.4	29.4	30.5	32.0	33.9
Administration's mid-session estimate.....	32.8	31.7	31.3	35.2	40.8	47.4
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PER- CENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee as- sumptions.....	33.9	27.4	21.5	16.1	14.2	14.8
House Budget Committee as- sumptions.....	33.9	27.4	21.5	15.9	13.5	12.4
Administration's estimates:						
Trustees' pessimistic assump- tions.....	34.0	28.4	23.3	19.5	18.4	17.6
Administration's mid-session estimate.....	33.9	27.6	23.6	20.9	21.3	22.6

Source: CBO.

TABLE 30.—COMPARISON OF OLD AGE AND SURVIVORS INSURANCE OUTLAYS, BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	90.5	104.0	119.8	135.5	149.7	164.8
House Budget Committee assumptions.....	90.5	104.0	119.8	135.7	150.4	165.3
Administration's estimates:						
Trustees' pessimistic assumptions.....	90.1	103.1	117.3	131.2	144.2	157.7
Administration's mid-session estimate.....	90.3	103.2	116.9	130.5	143.7	157.3
INCOME						
CBO estimates:						
Senate Budget Committee assumptions.....	86.7	99.4	113.1	132.2	149.6	167.7
House Budget Committee assumptions.....	86.7	99.4	113.1	131.7	147.3	163.8
Administration's estimates:						
Trustees' pessimistic assumptions.....	87.2	99.1	112.5	128.0	140.8	153.9
Administration's mid-session estimate.....	86.6	100.3	113.5	129.8	143.6	157.3
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee assumptions.....	27.2	22.7	16.1	12.8	12.7	15.7
House Budget Committee Assumptions.....	27.2	22.7	16.0	12.0	8.9	7.4
Administration's estimates:						
Trustees' pessimistic assumptions.....	28.1	24.2	19.4	16.2	12.8	9.0
Administration's mid-session estimate.....	27.2	24.4	20.9	20.2	20.2	20.2
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PERCENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	34.3	26.2	18.9	11.9	8.6	7.7
House Budget Committee assumptions.....	34.3	26.2	18.9	11.8	8.0	5.4
Administration's estimates:						
Trustees' pessimistic assumptions.....	34.4	27.3	20.6	14.8	11.2	8.1
Administration's mid-session estimate.....	34.3	26.4	20.9	16.0	14.1	12.8

Source: CBO.

TABLE 31.—COMPARISON OF DISABILITY INSURANCE (DI) OUTLAYS, BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	14.0	16.1	18.5	21.9	23.9	26.5
House Budget Committee assumptions.....	14.0	16.1	18.5	21.9	24.0	26.7
Administration's estimates:						
Trustees' pessimistic assumptions.....	14.0	15.8	17.7	19.6	21.5	23.7
Administration's mid-session estimate.....	14.0	15.8	17.7	19.5	21.4	23.4
INCOME						
CBO estimates:						
Senate Budget Committee assumptions.....	15.3	17.4	20.7	24.5	27.8	31.4
House Budget Committee assumptions.....	15.3	17.4	20.7	24.3	27.4	30.7
Administration's estimates:						
Trustees' pessimistic assumptions.....	15.3	17.3	20.6	23.8	26.5	29.3
Administration's mid-session estimate.....	15.2	17.5	20.8	24.2	27.0	29.9
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee assumptions.....	5.7	7.0	9.2	11.8	15.6	20.5
House Budget Committee assumptions.....	5.7	7.0	9.1	11.5	14.9	18.8
Administration's estimates:						
Trustees' pessimistic assumptions.....	5.7	7.2	10.0	14.3	19.2	24.9
Administration's mid-session estimate.....	5.5	7.3	10.4	15.0	20.6	27.1
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PERCENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	31.4	35.4	37.8	42.0	49.4	58.9
House Budget Committee assumptions.....	31.4	35.4	37.8	41.6	47.9	55.8
Administration's estimates:						
Trustees' pessimistic assumptions.....	31.4	36.1	40.7	51.0	66.5	81.0
Administration's mid-session estimate.....	31.4	34.8	41.2	53.3	70.0	88.0

Source: CBO.

VII. Costs and Caseloads of the Disability Programs

A. DEVELOPMENT OF THE PROGRAMS

As table 32 shows, the Nation's basic cash disability programs have changed dramatically in the last decade both in benefit cost and in caseload. As can also be seen, there has been a major impact on administrative costs, and on the number of individuals employed by the State disability agencies to make disability determinations. Costs of cash benefits grew from about \$3.7 billion in 1970, to nearly \$18 billion in 1979.

Nor do these figures tell the whole story. There are also major benefit expenditures for disabled persons under the medicare and medicaid programs. Since July 1, 1973, persons who are entitled to disability benefits under the Social Security Act for at least 24 consecutive months become eligible to apply for medicare part A (hospital insurance) benefits beginning with the 25th month of entitlement and also to enroll in the part B (supplementary medical insurance) program. According to estimates for fiscal year 1979, about 700,000 persons will receive reimbursed services under part A during the year at a cost of \$2.4 billion. About 1.7 million persons will receive reimbursed services under part B at a cost of \$1.4 billion. With respect to the medicaid program, for which most SSI recipients are automatically eligible, statistics for fiscal year 1976 show that about 2.7 million disabled recipients received \$3.5 billion in benefits (about 25 percent of total medicaid payments).

TABLE 32.—SOCIAL SECURITY DISABILITY PROGRAMS

Fiscal year	Beneficiaries (millions) (December each year)		Benefits paid (billions)		Total (millions)	State agency program administration	
	Title II	Title XVI	DI trust fund	SSI federally admin- istered		Cost	Employees (thou- sands)
1970.....	2.7	1.0	\$2.8	¹ \$0.9	\$3.7	\$48.6	2.6
1971.....	2.9	1.1	3.4	² 1.1	4.5	63.4	3.2
1972.....	3.3	1.2	4.0	² 1.3	5.3	68.2	4.4
1973.....	3.6	1.4	5.2	² 1.5	6.7	80.4	6.3
1974.....	3.9	1.7	6.2	² 1.8	8.0	146.8	10.3
1975.....	4.4	2.0	7.6	3.0	10.6	206.8	10.1
1976.....	4.6	2.1	9.2	3.4	12.6	228.3	9.3
1977.....	4.9	2.2	11.1	3.7	14.8	254.2	9.4
1978.....	4.9	2.2	12.3	4.1	16.4	278.0	9.6
1979 (est.)....	4.9	2.3	13.6	4.3	17.9	311.0	9.6

¹ The SSI program began Jan. 1, 1974. Numbers for prior years represent the number of blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled.

² Combined Federal and State expenditures for benefits paid to blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled. Figure for fiscal year 1974 combines the expenditures under both programs.

1. DISABILITY INSURANCE

The disability insurance program has grown in caseload size and costs well beyond what was originally estimated. In part, the growth of the program reflects legislative changes which have expanded coverage and benefits. Much of the growth, however, must be ascribed to other causes such as *de facto* liberalizations as a result of court decisions, weaknesses in administration, and greater than anticipated incentives to become or remain dependent upon benefits.

At the time the disability insurance program was enacted in 1956, its long-range cost was estimated to be 0.42 percent of taxable payroll. The "high cost" short-range estimate indicated that benefit outlays would reach a level of \$1.3 billion by 1975. Under the 1979 social security trustees' report, the long-range cost of the program is now estimated to be 1.92 percent of taxable payroll. Benefit payments for 1975 totalled \$7.6 billion, and benefit payments for 1979 are expected to total approximately \$14 billion. (Note: at present payroll levels, 1 percent of taxable payroll is roughly \$10 billion.)

Table 34 shows the changes in the estimated costs of the program over the years since it was first enacted. Many of the cost increases in the earlier years are attributable to changes in the law broadening eligibility. The last major change of this type was enacted in 1967. The reductions in long-range costs after 1977 are partly a result of the new benefit computation for all social security benefits adopted in the 1977 amendments and of the increase in the tax base under those amendments. (An increased tax base has the effect of "lowering" the cost of the program as a percent of taxable payroll even if the actual costs of the program in absolute terms remain unchanged.) The 1978 reduction in long-range costs reflects an actuarial assumption based on a somewhat lower award rate in the past year or two.

There are now about 2.9 million disabled workers receiving DI benefits, increased from 1.9 million in 1969. This represents a 107 percent increase over a 10-year period during which there was no major legislative expansion of eligibility requirements. Currently, in addition to the disabled workers who are receiving benefits, there are benefits being paid to about 2 million dependents of disabled workers. (See table 33 for the number of benefits by type of beneficiary in each State.)

TABLE 33.—OASDHI CASH BENEFITS

[Number of monthly benefits in current-payment status, by type of beneficiary and by State, at end of June 1978]

State ¹	Total	Retired workers ²	Disabled workers ³	Wives and husbands ⁴ of—		Children ⁵ of—			Widowed mothers and fathers ⁶	Widows and widowers ⁷	Parents ⁷	Persons with special age-72 benefits
				Retired workers	Disabled workers	Retired workers	Deceased workers	Disabled workers				
Total.....	34,067,797	17,923,874	2,857,843	2,941,839	491,352	662,080	2,799,492	1,511,543	569,192	4,147,505	17,742	145,335
Alabama.....	615,337	274,014	58,610	56,372	11,818	17,653	64,874	34,148	13,920	81,862	621	1,439
Alaska.....	18,973	7,953	1,460	993	273	852	4,442	1,064	709	1,197	12	18
Arizona.....	375,863	205,227	31,718	34,565	5,853	7,655	31,573	16,820	6,115	35,153	176	1,007
Arkansas.....	427,365	203,305	44,164	42,801	9,050	10,761	31,575	26,131	6,407	51,154	239	1,778
California.....	3,065,496	1,676,896	291,546	247,490	40,284	56,856	234,812	131,659	44,108	326,720	938	14,187
Colorado.....	314,998	166,690	24,174	30,118	4,121	5,141	28,189	12,452	5,375	37,101	82	1,555
Connecticut.....	455,115	273,258	30,771	32,221	4,014	6,487	32,473	12,942	6,616	53,556	167	2,610
Delaware.....	81,633	43,585	6,739	5,878	976	1,407	7,947	3,363	1,570	9,845	28	295
District of Columbia.....	89,042	48,408	8,055	4,805	613	1,667	10,433	2,830	1,881	9,721	59	569
Florida.....	1,859,607	1,105,027	139,670	173,156	22,313	26,887	107,859	61,862	22,077	194,028	573	6,155
Georgia.....	734,200	333,080	86,296	50,561	14,425	14,782	82,945	47,340	16,575	84,546	592	3,058
Hawaii.....	102,953	54,853	6,693	9,208	1,057	7,376	9,257	3,603	1,941	8,435	74	450
Idaho.....	122,864	67,814	9,030	12,164	1,568	2,385	10,021	4,642	1,735	13,021	26	458
Illinois.....	1,594,772	882,122	110,622	129,298	15,499	25,355	139,771	51,956	26,935	204,439	794	7,981
Indiana.....	793,795	426,509	61,593	67,373	10,131	12,870	65,291	32,869	12,678	101,339	283	2,859
Iowa.....	482,046	269,754	27,744	53,951	4,500	7,066	30,083	12,689	5,768	66,672	95	3,724
Kansas.....	366,151	209,108	20,521	38,963	3,080	5,382	23,401	9,496	4,217	49,136	87	2,757
Kentucky.....	582,470	262,455	55,570	58,591	14,035	13,225	50,362	37,302	11,297	77,431	363	1,838
Louisiana.....	568,944	227,680	59,362	53,274	14,464	13,880	62,845	43,534	13,841	77,027	325	2,712
Maine.....	190,877	105,734	14,885	15,715	2,876	3,213	13,495	8,688	2,755	22,710	74	732
Maryland.....	502,251	268,189	39,037	37,204	5,235	8,335	50,496	16,751	9,892	64,085	289	2,738
Massachusetts.....	894,721	528,358	115,561	63,847	9,467	12,044	63,335	28,620	13,700	109,162	320	4,287
Michigan.....	1,316,999	667,692	115,690	114,284	19,429	23,699	117,797	61,222	23,187	169,098	556	4,345
Minnesota.....	599,767	340,603	32,643	63,557	5,343	11,831	41,844	16,289	7,895	75,429	131	4,202
Mississippi.....	417,726	181,735	43,425	35,832	8,631	14,472	45,368	28,885	9,002	48,832	364	1,180
Missouri.....	840,158	457,278	65,438	76,923	11,152	13,909	60,773	33,639	11,918	105,298	259	3,571
Montana.....	114,225	60,251	8,611	10,767	1,540	2,363	10,278	4,650	1,788	13,317	41	619
Nebraska.....	248,112	142,411	12,859	27,299	2,008	3,520	16,462	6,147	2,964	32,359	57	2,026
Nevada.....	80,587	44,780	7,971	5,098	1,111	1,307	8,114	3,424	1,493	7,051	18	220
New Hampshire.....	133,503	81,090	8,989	9,428	1,411	1,913	9,528	4,427	1,882	14,117	26	692

New Jersey.....	1,116,429	627,594	93,755	78,410	13,376	15,344	85,425	42,111	18,497	137,070	558	4,289
New Mexico.....	162,882	73,812	14,447	15,353	3,852	4,818	18,611	11,435	3,995	15,852	149	558
New York.....	2,837,044	1,601,350	236,823	198,014	35,983	46,717	210,467	114,856	43,061	335,158	1,338	13,277
North Carolina.....	846,938	415,521	87,409	62,786	13,831	16,444	87,935	41,897	17,737	99,671	682	3,025
North Dakota.....	101,517	54,513	4,969	13,089	973	2,471	7,349	2,679	1,380	13,402	30	662
Ohio.....	1,580,052	793,524	134,786	146,346	23,286	25,074	130,707	70,437	26,771	222,000	591	6,530
Oklahoma.....	469,551	241,873	39,869	48,363	7,184	7,823	33,242	21,079	6,486	61,554	193	1,885
Oregon.....	389,256	227,210	30,931	33,187	4,830	6,228	25,963	13,696	4,591	41,054	84	1,482
Pennsylvania.....	1,989,240	1,070,588	160,558	174,289	25,502	27,480	140,850	66,767	31,690	281,770	1,038	8,708
Rhode Island.....	161,951	97,091	13,417	9,966	1,844	1,954	10,394	5,634	2,242	18,559	57	793
South Carolina.....	422,000	192,561	48,465	26,739	7,934	8,724	52,560	25,054	11,057	47,034	388	1,484
South Dakota.....	116,565	63,407	6,338	13,657	1,145	2,336	8,473	3,133	1,576	15,596	20	884
Tennessee.....	705,111	334,846	71,994	64,274	13,399	15,229	61,416	38,972	13,002	88,461	564	2,954
Texas.....	1,739,311	848,716	134,944	177,315	26,361	39,727	165,883	79,416	34,676	224,657	1,051	6,565
Utah.....	138,238	75,558	8,924	13,545	1,626	2,762	13,353	4,904	2,306	14,841	29	390
Vermont.....	77,860	42,723	6,066	6,542	1,127	1,283	5,716	3,385	1,169	9,416	29	404
Virginia.....	680,538	335,210	63,051	54,531	11,611	13,149	66,608	33,115	13,675	85,646	514	3,428
Washington.....	547,495	312,086	42,665	46,898	6,399	9,118	39,991	19,718	6,669	61,383	130	2,438
West Virginia.....	354,773	146,469	39,348	35,212	10,495	8,748	28,559	25,126	6,933	52,349	286	1,248
Wisconsin.....	740,366	419,655	47,866	70,331	7,870	13,330	51,121	24,814	9,609	91,589	167	4,014
Wyoming.....	47,410	26,629	2,798	4,333	411	842	4,545	1,348	775	5,484	18	227
Other areas												
American Samoa.....	2,036	349	100	184	56	391	545	228	127	51	5	0
Guam.....	2,654	679	160	221	46	248	825	191	182	97	5	0
Puerto Rico.....	536,205	164,746	73,426	48,757	22,976	38,898	49,468	93,705	10,943	32,229	1,037	20
Virgin Islands.....	6,851	2,990	433	532	77	520	1,280	364	232	409	14	0
Abroad.....	304,974	138,315	8,854	37,228	2,881	18,122	32,543	8,029	9,569	48,329	1,096	8

1 Beneficiary by State of residence.
 2 Aged 62 and over.
 3 Under age 65.
 4 Includes wife beneficiaries aged 62 and over, nondivorced and divorced, and those under age 65 with entitled children in their care.
 5 Includes disabled persons aged 18 and over whose disability began before age 22 and entitled full-time students aged 18 to 21.

6 Includes surviving divorced mothers and fathers with entitled children in their care.
 7 Aged 60 and over for widows, widowers, and surviving divorced wives, and aged 62 and over for parents. Also includes disabled widows, widowers, and surviving divorced wives aged 50 to 59.

Source: Social Security Bulletin, March 1979/vol. 42, No. 3.

TABLE 34.—GROWTH IN ESTIMATED COST OF DI PROGRAM

Year of estimate	Estimated cost		
	Long-range (as percent of payroll)	Short-range ¹ (millions)	1980 projection (millions)
1956.....	0.42	\$379	(²)
1958.....	.49	492	\$1,380
1960.....	.56	864	1,550
1965.....	.67	1,827	2,211
1967.....	.95	2,068	3,351
1973.....	1.54	6,295	NA
1975.....	2.97	9,640	NA
1976.....	3.51	12,715	16,197
1977.....	3.68	14,822	16,817
1978.....	2.26	16,532	16,532
1979.....	1.92	17,212	15,600

¹ Short-range represents intermediate estimate of cost for second year after the year of estimate.

² No 1980 projection made; 1975 costs were projected to be \$949,000,000.

NA—not available.

Source: Estimates prepared by the Office of the Actuary of the Social Security Administration in connection with legislation (1956-67) or as a part of annual trustees' reports (1973-79). Short-range costs shown in this table are benefit payments only.

The following table shows the number of awards by calendar year over the last decade. The number of disabled worker awards in the last 5 years has been about 2.7 million. Through the 1968-78 period the annual number of awards rose from an average of about 340,000 for 1968-70 to a peak of 592,000 in 1975. Following 1975, there was no longer a steady upward trend. Instead, the number of awards in 1976-77 was about 5 percent lower than in 1975. The 1978 decrease was even sharper, to a level about 23 percent below that of 1975.

TABLE 35.—DISABLED-WORKER BENEFIT AWARDS, 1968-78

Calendar year:	Number of awards	Awards per 1,000 insured workers
1968.....	323,514	4.8
1969.....	344,741	4.9
1970.....	350,384	4.8
1971.....	415,897	5.6
1972.....	456,562	6.0
1973.....	491,955	6.3
1974.....	535,977	6.7
1975.....	592,049	7.1
1976.....	551,740	6.5
1977.....	569,035	6.6
1978.....	457,451	5.2

Source: Prepared by Robert J. Myers, consultant to the Committee on Finance

Following the rapid increases in the number of applications for title II worker disability in the first half of the 1970's, there has been a distinct leveling off, even a decrease, in the number applying. The decrease, however, has not been as significant as the decrease in the number of awards. In the same period referred to above, 1975-78, title II disabled worker applications decreased by about 8 percent. The most recent statistics available for 1979, however, show that for the first 5 months of this year the number of applications has been slightly higher than for the corresponding period in 1978.

TABLE 36.—TITLE II DISABLED WORKER APPLICATIONS RECEIVED IN DISTRICT OFFICES, 1970 THROUGH 1978¹

[In thousands]

1970.....	868.7
1971.....	943.0
1972.....	947.5
1973.....	1,067.5
1974.....	1,331.2
1975.....	1,284.7
1976.....	1,256.3
1977.....	1,235.5
1978.....	1,184.8
January-May 1978.....	485.6
January-May 1979.....	489.0

¹ Calendar year.

Source: Social Security Administration.

TABLE 37.—DISABLED WORKER APPLICATIONS: RECEIPTS IN DISTRICT OFFICES BY QUARTER BY CALENDAR YEAR

	Jan.-Mar.	Apr.-June	July-Sept.	Oct.-Dec.	CY total
1970:					
Number.....	199,300	221,400	231,500	216,400	868,700
% of preceding qtr.....	112	111	105	93	
% of same pd yr ago....	110	119	128	122	120
1971:					
Number.....	234,000	243,400	233,500	213,100	924,000
% of preceding qtr.....	108	104	96	91	
% of same pd yr ago....	117	110	101	98	106
1972:					
Number.....	240,700	237,000	241,700	228,100	947,500
% of preceding qtr.....	113	98	102	94	
% of same pd yr ago....	103	97	104	107	103
1973:					
Number.....	268,400	267,000	273,200	258,800	1,067,500
% of preceding qtr.....	118	99	102	95	
% of same pd yr ago....	112	113	113	113	113
1974:					
Number.....	361,300	343,600	321,600	304,700	1,331,200
% of preceding qtr.....	140	95	94	95	
% of same pd yr ago....	135	129	118	118	125
1975:					
Number.....	326,600	331,000	326,500	300,600	1,284,700
% of preceding qtr.....	107	101	99	92	
% of same pd yr ago....	90	96	102	99	96
1976:					
Number.....	305,700	311,600	322,000	294,000	1,233,300
% of preceding qtr.....	102	102	104	91	
% of same pd yr ago....	94	94	99	98	96
1977:					
Number.....	322,000	319,300	317,300	277,400	1,236,000
% of preceding qtr.....	110	99	99	87	
% of same pd yr ago....	105	103	99	94	100
1978:					
Number.....	294,200	306,600	306,000	279,100	1,185,900
% of preceding qtr.....	106	104	100	91	
% of same pd yr ago....	91	96	96	101	96
1979:					
Number.....	299,300	306,830			
% of preceding qtr.....	107	103			
% of same pd yr ago....	102	100			

¹ 53d week omitted: 1971—19,000 applications; 1976—23,000 applications.

² The difference between this number and the number shown in the preceding table is due to differences in rounding.

Source: Social Security Administration.

2. SUPPLEMENTAL SECURITY INCOME

When the Congress was considering the enactment of the supplemental security income legislation in 1972, the estimates it had before it did not accurately portray the future nature of the caseload and costs of the program. Nor was there any testimony that indicated how the implementation of the program might affect the administrative capacity of the Social Security Administration, and, most particularly, the capacity of the disability adjudication structure.

Most of the discussion leading up to congressional passage of SSI centered on serving the aged population. Congress accepted estimates of the Administration indicating that the SSI population would continue to be composed largely of the aged. The Administration esti-

ated that, by the end of fiscal year 1975, there would be almost two aged beneficiaries for every disabled beneficiary. While it was foreseen that the number of persons receiving disability benefits would grow under the new program, it was expected that the number of aged beneficiaries would grow even more.

The Administration's early estimates on the number of persons who would qualify for disability payments under the SSI program appear to have been developed somewhat haphazardly. It apparently relied primarily on the Survey of the Disabled conducted by the Department of Health, Education, and Welfare in 1966. Looking to the future, the Administration estimated that the annual growth rate for SSI disability would be 2 percent, as compared to Administration estimates of 5-percent caseload growth under the then existing law projected into the future.

Even the higher projection for existing law did not seem to take into account what had actually been happening under the program of aid to the permanently and totally disabled. In the period December 1968 through December 1971 the disability rolls increased from 702,000 to 1,068,000—an increase of 52 percent.

In its budget justification for 1974, the first year of the SSI program, the Administration estimated that by June 1974 there would be 3.1 million aged on the rolls, and 1.7 million disabled. In June 1974 there were actually 2.1 million aged and 1.5 million disabled on the rolls. The Administration also estimated at that time that by June 1975 there would be 3.8 million aged and 1.8 million disabled. The figure for the disabled turned out to be accurate—there were 1.8 million disabled persons receiving benefits in June 1975, but the figure for the aged was only 2.3 million. Moreover, the overall estimate for the disabled was realized even though the estimate for disabled children of 250,000 was still less than one-third realized.

In calendar years 1974 and 1975, the first 2 years of the SSI program, the disability caseload increased substantially, from about 1.3 million individuals in January 1974 to about 2 million 2 years later. Since that time the actual number of persons receiving payments on the basis of disability has appeared to be stabilizing.

However, the SSI program is nonetheless becoming a program that is increasingly dominated by the disability aspects. Out of the 4.2 million persons receiving SSI benefits, 2.2 million came onto the rolls as the result of being determined to be disabled. (319,000 of these individuals have now reached age 65, but are still listed by SSA as being disabled. See table 37 for a State-by-State listing of recipients.)

Perhaps most indicative of the predominance of disability issues in the program are the figures showing numbers of applicants for benefits. About 80 percent of all applications are now being made on the basis of disability. This has been the case since 1976. In addition, about two-thirds of all awards made in recent years have been made to persons determined to be disabled. (See table 40.) Program expenditures also reflect the numbers and relatively higher average SSI payments of the disabled SSI population. About 60 percent of all SSI expenditures now go to persons who have been determined disabled. (See table 41.)

At the present time, more than 1 million, or nearly half of all disability applications received in social security district offices, are applications for SSI benefits. In 1974, the first full year of the SSI program, there were fewer than 800,000 applications, compared with

1.3 million title II applications. Over the 5½ years of the SSI program, SSI disability applications have increased steadily as a percentage of all disability applications. Persons working with the disability programs generally are agreed that the establishment of the SSI disability program, acting as a kind of out-reach mechanism, had the result of increasing the number of applications for title II disability.

TABLE 38.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED, [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]

State	Total	Aged	Blind	Disabled
Total ¹	4,229,782	1,956,318	77,475	2 195,989
Alabama ²	140,182	84,301	1,914	53,967
Alaska ²	3,205	1,278	68	1,859
Arizona ²	29,264	12,318	530	16,416
Arkansas.....	82,489	47,879	1,574	33,036
California.....	701,724	319,032	17,284	365,408
Colorado ²	32,927	15,322	362	17,243
Connecticut ²	23,496	7,991	313	15,192
Delaware.....	7,195	2,753	185	4,257
District of Columbia.....	14,908	4,293	197	10,418
Florida.....	169,271	86,696	2,579	79,996
Georgia.....	158,406	77,482	2,943	77,981
Hawaii.....	10,147	5,189	146	4,812
Idaho ²	7,601	2,968	93	4,540
Illinois ²	125,997	38,501	1,697	85,799
Indiana ²	41,579	16,672	1,068	23,839
Iowa.....	26,557	12,250	1,081	13,226
Kansas.....	21,621	9,161	322	12,138
Kentucky ²	95,667	46,909	2,034	46,724
Louisiana.....	143,097	73,544	2,182	67,371
Maine.....	22,782	10,921	286	11,575
Maryland.....	48,599	17,046	574	30,979
Massachusetts.....	131,641	73,735	4,977	52,929
Michigan.....	118,214	42,397	1,729	74,088
Minnesota ²	34,191	14,479	644	19,068
Mississippi.....	115,947	67,313	1,828	46,806
Missouri ²	89,169	46,509	1,502	41,158
Montana.....	7,340	2,679	140	4,521
Nebraska ²	14,144	6,212	243	7,689
Nevada.....	6,444	3,518	406	2,520
New Hampshire ²	5,455	2,319	132	3,004

TABLE 38.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]—Continued

State	Total	Aged	Blind	Disabled
New Jersey.....	84,617	33,452	1,021	50,144
New Mexico ²	25,717	11,104	441	14,172
New York.....	377,901	147,302	3,970	226,629
North Carolina ²	143,548	68,300	3,330	71,918
North Dakota ²	6,862	3,701	65	3,096
Ohio.....	123,832	40,268	2,313	81,251
Oklahoma ²	72,657	39,161	1,064	32,432
Oregon ²	23,016	8,113	536	14,367
Pennsylvania.....	170,207	63,345	3,620	103,242
Rhode Island.....	15,506	6,361	184	8,961
South Carolina ²	84,287	40,934	1,884	41,469
South Dakota.....	8,377	4,240	132	4,005
Tennessee.....	133,899	66,807	1,876	65,216
Texas ³	269,678	160,271	4,126	105,281
Utah ³	8,084	2,651	162	5,271
Vermont.....	9,083	3,947	120	5,016
Virginia ²	80,461	37,604	1,419	41,438
Washington.....	48,541	16,992	546	31,003
West Virginia ²	42,703	15,802	626	26,275
Wisconsin.....	68,883	32,987	958	34,938
Wyoming ²	2,023	928	26	1,069
Unknown.....	57	17		40
Other areas:				
Northern Mariana Islands ³	584	364	23	197

¹ Includes persons with Federal SSI payments and/or federally administered State supplementation, unless otherwise indicated.

² Data for Federal SSI payments only. State has State-administered supplementation.

³ Data for Federal SSI payments only; State supplementary payments not made.

Source: Social Security Administration.

TABLE 39.—SSI APPLICATIONS, BY CATEGORY, 1974-78

Calendar year	Total	Aged	Blind and disabled	Blind and disabled as a percent of total
1974	2,296,400	926,900	1,369,500	60
1975	1,498,400	377,400	1,121,000	75
1976	1,258,100	254,400	1,003,700	80
1977	1,298,400	258,500	1,039,900	80
1978	1,304,300	257,900	1,046,400	80

Source: Data provided by the Social Security Administration.

TABLE 40.—NUMBER OF PERSONS INITIALLY AWARDED SSI PAYMENTS¹

Year	Total SSI awards	Disabled	Disability as percent of total
1974	890,768	387,007	43
1975	702,147	436,490	62
1976	542,355	365,822	67
1977	557,570	362,067	65
1978	532,447	348,848	66

¹ Federally administered payments.

Source: Data provided by the Social Security Administration.

TABLE 41.—SSI BENEFIT EXPENDITURES¹

Calendar year	Total	Disability ²	Disability as percent of total
1974	\$5,096,813	\$2,556,988	50
1975	5,716,072	3,072,317	54
1976	5,900,215	3,345,778	57
1977	6,134,085	3,628,060	59
1978	6,371,638	3,881,531	61

¹ Federally administered payments.

² SSI program record-keeping maintains individuals on the rolls as disabled after they have reached age 65. In 1978 about \$300,000 was paid to disabled individuals in this category.

Source: Data provided by the Social Security Administration.

B. CAUSES FOR GROWTH

As the preceding discussion shows, the experts have had very great difficulty estimating how the disability programs would develop, and they have frequently been wrong. They have found it equally difficult to pinpoint the reasons for growth in the disability programs, partic-

ularly in the disability insurance program. The growth that took place, primarily in the first half of the 1970's, would seem to have leveled off. But there is still no consensus on exactly why it happened, the weight to be given to various factors, or even on whether the period of rapid growth is over.

1. INCREASES IN DISABILITY INCIDENCE RATES

The table below shows standardized disability incidence rates under the disability insurance program for the period 1968-75. As can be seen, the rates show an almost steadily increasing trend from 1968, although appearing to level off in 1973-75.

TABLE 42.—STANDARDIZED DISABILITY INCIDENCE RATES UNDER DI, 1968-75

[Rates per 1,000 insured]

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, appearing in a committee print of the Subcommittee on Social Security of the House Ways and Means Committee on "Actuarial Condition of Disability Insurance, 1978," Feb. 1, 1979, p. 7).

Year:	Standardized rate ¹	Percentage increase over 1968
1968	4.46	.....
1969	4.29	-4
1970	4.77	+7
1971	5.25	+18
1972	6.00	+35
1973	7.20	+61
1974	7.14	+60
1975	6.85	+54

¹ Overall incidence rate based on age-sex distribution of persons insured for disability benefits as of Jan. 1, 1975 (as shown in table 50, "Statistical Supplement, Social Security Bulletin," 1975); and on incidence rates by age and sex as shown in "Actuarial Study No. 74" and "Actuarial Study No. 75," Social Security Administration.

Social Security Administration actuaries attempted to assess the reasons for the increase in incidence rates in a report published in January 1977, "Experience of Disabled-Worker Benefits under OASDI, 1965-74." Their analysis points to a variety of factors, including increases in benefit levels, high unemployment rates, changes in attitude of the population, and administrative factors. These factors, as analyzed by the actuaries, are worth considering in some detail.

Starting off their discussion, the actuaries observe:

We believe that part of the recent increase in incidence rates is due to the rapid rise in benefit levels since 1970, particularly when measured in terms of pre-disability earnings. From December 1969 to December 1975 there were general benefit increases amounting to 82 percent. Also, effective in 1973, medicare benefits became available to disabled worker

beneficiaries who have been entitled for at least 2 years. We also believe the short computation period for the young workers, the weighting of the benefit formula for the low income workers, and the additional benefits payable when the worker has dependents can provide especially attractive benefits to beneficiaries in these categories. It is possible under the present formula for these beneficiaries to receive more in disability benefits than was included in their take-home pay while they were working. Benefits this high become an incentive to file a claim for disability benefits, and to pursue the claim through the appellate procedures. (p. 5)

In transmitting the Administration's proposed changes in the DI program in March of this year, former Secretary of HEW Joseph Califano pointed out that, in fact, 6 percent of DI beneficiaries receive more through their DI benefits alone than they made while working, and that 16 percent have benefits which exceed 80 percent of their prior net earnings.

The actuaries believe that another factor in the increase in incidence rates is the high unemployment rate that the country experienced after 1970. They argue that physically impaired individuals are more likely to apply for benefits if they lose their jobs in a recession than during an economic expansion when they can retain their jobs.

According to the actuaries, another factor influencing increases in incidence rates is changes in attitude. Elaborating on this theme, they state that "It is possible that the impaired lives of today do not feel the same social pressure to remain productive as did their counterparts as recently as the late 1960's." The actuaries quote John Miller, a consulting actuary and expert in the field of disability insurance, who commented in a report to the House Social Security Subcommittee on the subjective nature of the state of disability:

The underlying problem in providing and administering any plan of disability insurance is the extreme subjectivity of the state of disability. This characteristic could be discussed at length and illustrated with an almost endless array of statistics but it can best be visualized by comparing a Helen Keller or a Robert Louis Stevenson with any typical example of the multitude of ambulatory persons now drawing disability benefits who could be gainfully employed if (a) the necessary motivation existed, and (b) an employment opportunity within their present or potential capability were present or made available. Thus the problem is not simply one of medical diagnosis. The will to work, the economic climate and the "rehabilitation environment" outweigh the medical condition or problem in many, if not in most, cases.

(Reports of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance, to the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, p. 24.)

The authors were unwilling to attribute the increase in disability incidence rates to these factors to any specific degree, and observed only that they were responsible for "a large part" of the increases. Beyond that they state: "We feel that some administrative factors

... this reduction in the incidence of disability was not anticipated and its causes are not very clear, so it is uncertain whether the trend will continue in the future. Thus, the higher DI trust fund levels projected in this report (as compared to last year's report) are contingent on the realization of the lower incidence rates assumed in this year's report.

Under these assumptions the DI benefit roll is projected to rise from a level of about 4.9 million beneficiaries in 1979 to 7.8 million in the year 2000.

C. UNFAVORABLE RECENT ECONOMIC FORECASTS

Reports of the trustees in recent years have made projections of the financial soundness of the social security programs using three different sets of economic and demographic assumptions. These assumptions, referred to as optimistic, intermediate and pessimistic, are intended to give a picture of the financial condition of the program under a range of potential circumstances which could arise in the future. Traditionally for purposes of a general discussion of the financial condition of the programs and for pricing proposed legislative and policy changes, the intermediate or, as they sometimes are referred to, the central set of assumptions are used.

While the current forecasts under the optimistic and central sets of assumptions show that both the OASI and DI programs are adequately financed in the short run, the pessimistic assumptions show that at least the OASI program could run into financial difficulty beginning as soon as 1983 or 1984. Reserves in the OASI trust fund would fall to an extremely low level by the end of 1983. DI reserves appear to be adequate even under these conditions. The trustees caution—

that although a positive balance is projected for the OASI trust fund at the end of each year through 1983, under the pessimistic assumptions, the assets at the end of 1983 would not be large enough to cover the entire amount of benefits that are payable at the beginning of the following month. This kind of cash-flow problem becomes imminent if, at any time, the trust fund falls to less than about 9 percent of the following 12 months of disbursements. Under the pessimistic assumptions, the OASI trust fund would begin to experience cash-flow difficulties early in 1983. The cash-flow problems would arise because almost all of the benefits for a given month are payable, generally, on the third day of the following month, while contribution income is received more or less uniformly throughout the month, on a daily basis. For example, the benefits for December 1983—estimated to be about \$12½ billion under alternative III (the pessimistic assumption)—are payable on January 3, 1984, before any significant amount of income can be added to the fund's estimated assets of \$8.3 billion on December 31, 1983 . . .

They point out further that a "severe or prolonged economic downturn" could lead to this pessimistic forecast for the program.

While the trustees' report is only a few months old, recent economic forecasts of the Administration, the Congressional Budget Committees, and a number of other forecasters indicate that the economy

is not moving in line with the central set of trustees' report assumptions. Generally, these forecasts are now more pessimistic and indicate that a recession has begun coupled with a continuing high rate of inflation. For social security, this means higher than anticipated outgo, with increases in revenues which do not keep pace with the additional outgo.

1. *Administration "midsession" forecast:*

The Administration's recent economic forecast, which accompanied its "midsession" report to the Congress on the budget, indicates a higher rate of inflation and higher unemployment than reflected in both its January budget submittal and the trustees' report intermediate assumptions.

This forecast falls between the trustees' intermediate assumptions and the pessimistic ones, but closer to the pessimistic ones. OASI reserve balances fall to 10 percent of one year's outgo by 1984 under the midsession assumptions, as compared to 5 percent under the trustees' pessimistic assumptions.

Either level is considered to be too low for cash-flow purposes. Balances in the DI trust fund, on the other hand, are more than adequate under both economic scenarios.

TABLE 27.—OASDI TRUST FUND RESERVES BALANCES

[As a percent of 1 year's outgo]

	Trustees' intermediate		Trustees' pessimistic		Midsession	
	OASI	DI	OASI	DI	OASI	DI
1979.....	30	29	30	29	29	29
1980.....	24	35	23	34	23	33
1981.....	19	42	16	39	17	40
1982.....	17	60	12	53	13	55
1983.....	18	81	8	68	12	73
1984.....	18	101	5	83	10	91

Source: Social Security Administration.

2. *CBO economic update and tentative House and Senate Budget Committee forecasts:*

The Congressional Budget Office also prepared a midyear economic update for 1979 and 1980, indicating an even more pessimistic trend than the Administration's forecast, not only through 1980, but for a number of subsequent years as well.

In a July 31, 1979 letter to the committee, the director of CBO states that estimates prepared by CBO for the House and Senate Budget Committees show that under their respective assumptions, the balance in the OASI trust fund would fall between 5.4 percent of fiscal year 1984 outgo (House version) and 7.7 percent of fiscal year 1984 outgo (Senate version). Once again, both would represent precariously low OASI trust fund reserve levels. The DI trust fund would have fiscal year 1984 reserves in the range of 55 percent to 60 percent of outgo.

3. *Cautionary notes by the Trustees and Director of CBO:*

Because of the possibility that economic conditions might move in the direction of that pessimistic forecast, in their 1979 report the trustees recommended that—

... no reduction be made in the scheduled revenues of Old Age and Survivors Insurance and Disability Insurance trust funds without making provisions for offsetting reductions in expenditures or alternative financing arrangements," and that "it might be advisable to examine the need for flexibility to reallocate funds between the two trust funds in the short term.

The Director of CBO similarly suggested that "steps may have to be taken to ensure the solvency of the OASI trust fund," a number of which might alter the financing of DI.

The following four tables compare these adverse economic forecasts and show the impact they would have on the OASI and DI programs:

TABLE 28.—COMPARISON OF ECONOMIC ASSUMPTIONS OF THE SENATE BUDGET COMMITTEE, HOUSE BUDGET COMMITTEE, ADMINISTRATION'S MID-SESSION PATH, AND THE 1979 TRUSTEES' PESSIMISTIC PATH FOR CALENDAR YEARS 1979-1984

	1979	1980	1981	1982	1983	1984
Unemployment rate (average for year):						
Senate Budget Committee.....	6.2	7.3	7.0	6.3	5.7	5.3
House Budget Committee.....	6.2	7.3	7.1	6.9	6.6	6.3
Trustees' pessimistic path.....	6.3	8.2	7.4	6.9	6.4	6.0
Administration's mid-session path.....	6.1	6.8	6.5	6.1	5.8	5.6
Percentage growth in real GNP:						
Senate Budget Committee.....	1.8	1.0	3.8	5.3	4.3	3.9
House Budget Committee.....	1.8	1.0	3.5	4.0	4.0	4.0
Trustees' pessimistic path.....	2.3	-1.1	5.4	4.1	4.0	3.7
Administration's mid-session path.....	1.7	1.0	3.4	3.7	3.5	3.5
Percentage growth in CPI:						
Senate Budget Committee.....	10.6	9.3	8.4	7.6	7.5	7.5
House Budget Committee.....	10.6	9.3	8.6	7.8	7.1	6.8
Trustees' pessimistic path.....	10.3	8.9	7.3	6.3	6.0	6.0
Administration's mid-session path.....	10.7	8.6	7.5	6.6	6.2	5.6
June social security benefit increase:						
Senate Budget Committee.....	9.9	10.3	8.8	7.7	7.5	7.4
House Budget Committee.....	9.9	10.3	8.9	8.1	7.3	6.5
Trustees' pessimistic path.....	9.8	9.8	7.9	6.5	6.0	6.0
Administration's mid-session path.....	9.9	9.7	8.2	6.7	6.4	5.8

Source: CBO.

TABLE 29.—COMPARISON OF COMBINED OASDI OUTLAYS,
BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END
OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS
AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee as- sumptions.....	104.5	120.1	138.3	157.4	173.6	191.3
House Budget Committee as- sumptions.....	104.5	120.1	138.3	157.6	174.4	192.0
Administration's estimates:						
Trustees' pessimistic assump- tions.....	104.1	118.9	135.0	150.8	165.7	181.4
Administration's mid-session estimate.....	104.4	118.9	134.6	150.1	165.1	180.7
INCOME						
CBO estimates:						
Senate Budget Committee as- sumptions.....	102.0	116.8	133.8	156.7	177.4	199.1
House Budget Committee as- sumptions.....	102.0	116.8	133.8	156.0	174.7	194.5
Administration's estimates:						
Trustees' pessimistic assump- tions.....	102.5	116.4	133.1	151.8	167.3	183.2
Administration's mid-session estimate.....	101.8	117.8	134.2	154.0	170.6	187.2
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee as- sumptions.....	32.9	29.7	25.3	24.6	28.3	36.2
House Budget Committee as- sumptions.....	32.9	29.7	25.1	23.5	23.8	26.2
Administration's estimates:						
Trustees' pessimistic assump- tions.....	33.8	31.4	29.4	30.5	32.0	33.9
Administration's mid-session estimate.....	32.8	31.7	31.3	35.2	40.8	47.4
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PER- CENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee as- sumptions.....	33.9	27.4	21.5	16.1	14.2	14.8
House Budget Committee as- sumptions.....	33.9	27.4	21.5	15.9	13.5	12.4
Administration's estimates:						
Trustees' pessimistic assump- tions.....	34.0	28.4	23.3	19.5	18.4	17.6
Administration's mid-session estimate.....	33.9	27.6	23.6	20.9	21.3	22.6

Source: CBO.

TABLE 30.—COMPARISON OF OLD AGE AND SURVIVORS INSURANCE OUTLAYS, BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions	90.5	104.0	119.8	135.5	149.7	164.8
House Budget Committee assumptions	90.5	104.0	119.8	135.7	150.4	165.3
Administration's estimates:						
Trustees' pessimistic assumptions	90.1	103.1	117.3	131.2	144.2	157.7
Administration's mid-session estimate	90.3	103.2	116.9	130.5	143.7	157.3
INCOME						
CBO estimates:						
Senate Budget Committee assumptions	86.7	99.4	113.1	132.2	149.6	167.7
House Budget Committee assumptions	86.7	99.4	113.1	131.7	147.3	163.8
Administration's estimates:						
Trustees' pessimistic assumptions	87.2	99.1	112.5	128.0	140.8	153.9
Administration's mid-session estimate	86.6	100.3	113.5	129.8	143.6	157.3
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee assumptions	27.2	22.7	16.1	12.8	12.7	15.7
House Budget Committee Assumptions	27.2	22.7	16.0	12.0	8.9	7.4
Administration's estimates:						
Trustees' pessimistic assumptions	28.1	24.2	19.4	16.2	12.8	9.0
Administration's mid-session estimate	27.2	24.4	20.9	20.2	20.2	20.2
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PERCENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions	34.3	26.2	18.9	11.9	8.6	7.7
House Budget Committee assumptions	34.3	26.2	18.9	11.8	8.0	5.4
Administration's estimates:						
Trustees' pessimistic assumptions	34.4	27.3	20.6	14.8	11.2	8.1
Administration's mid-session estimate	34.3	26.4	20.9	16.0	14.1	12.8

Source: CBO.

TABLE 31.—COMPARISON OF DISABILITY INSURANCE (DI) OUTLAYS, BUDGET AUTHORITY, AND TRUST FUND BALANCES AT END OF YEAR UNDER ALTERNATIVE ECONOMIC ASSUMPTIONS AND ESTIMATING METHODOLOGIES

[In billions of dollars, by fiscal year]

	1979	1980	1981	1982	1983	1984
OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	14.0	16.1	18.5	21.9	23.9	26.5
House Budget Committee assumptions.....	14.0	16.1	18.5	21.9	24.0	26.7
Administration's estimates:						
Trustees' pessimistic assumptions.....	14.0	15.8	17.7	19.6	21.5	23.7
Administration's mid-session estimate.....	14.0	15.8	17.7	19.5	21.4	23.4
INCOME						
CBO estimates:						
Senate Budget Committee assumptions.....	15.3	17.4	20.7	24.5	27.8	31.4
House Budget Committee assumptions.....	15.3	17.4	20.7	24.3	27.4	30.7
Administration's estimates:						
Trustees' pessimistic assumptions.....	15.3	17.3	20.6	23.8	26.5	29.3
Administration's mid-session estimate.....	15.2	17.5	20.8	24.2	27.0	29.9
TRUST FUND BALANCE AT END OF YEAR						
CBO estimates:						
Senate Budget Committee assumptions.....	5.7	7.0	9.2	11.8	15.6	20.5
House Budget Committee assumptions.....	5.7	7.0	9.1	11.5	14.9	18.8
Administration's estimates:						
Trustees' pessimistic assumptions.....	5.7	7.2	10.0	14.3	19.2	24.9
Administration's mid-session estimate.....	5.5	7.3	10.4	15.0	20.6	27.1
TRUST FUND BALANCE AT END OF PREVIOUS YEAR AS PERCENT OF OUTLAYS						
CBO estimates:						
Senate Budget Committee assumptions.....	31.4	35.4	37.8	42.0	49.4	58.9
House Budget Committee assumptions.....	31.4	35.4	37.8	41.6	47.9	55.8
Administration's estimates:						
Trustees' pessimistic assumptions.....	31.4	36.1	40.7	51.0	66.5	81.0
Administration's mid-session estimate.....	31.4	34.8	41.2	53.3	70.0	88.0

Source: CBO.

VII. Costs and Caseloads of the Disability Programs

A. DEVELOPMENT OF THE PROGRAMS

As table 32 shows, the Nation's basic cash disability programs have changed dramatically in the last decade both in benefit cost and in caseload. As can also be seen, there has been a major impact on administrative costs, and on the number of individuals employed by the State disability agencies to make disability determinations. Costs of cash benefits grew from about \$3.7 billion in 1970, to nearly \$18 billion in 1979.

Nor do these figures tell the whole story. There are also major benefit expenditures for disabled persons under the medicare and medicaid programs. Since July 1, 1973, persons who are entitled to disability benefits under the Social Security Act for at least 24 consecutive months become eligible to apply for medicare part A (hospital insurance) benefits beginning with the 25th month of entitlement and also to enroll in the part B (supplementary medical insurance) program. According to estimates for fiscal year 1979, about 700,000 persons will receive reimbursed services under part A during the year at a cost of \$2.4 billion. About 1.7 million persons will receive reimbursed services under part B at a cost of \$1.4 billion. With respect to the medicaid program, for which most SSI recipients are automatically eligible, statistics for fiscal year 1976 show that about 2.7 million disabled recipients received \$3.5 billion in benefits (about 25 percent of total medicaid payments).

TABLE 32.—SOCIAL SECURITY DISABILITY PROGRAMS

Fiscal year	Beneficiaries (millions) (December each year)		Benefits paid (billions)		Total (millions)	State agency program administration Cost	Employees (thousands)
	Title II	Title XVI	DI trust fund	SSI federally administered			
1970.....	2.7	1.0	\$2.8	¹ \$0.9	\$3.7	\$48.6	2.6
1971.....	2.9	1.1	3.4	² 1.1	4.5	63.4	3.2
1972.....	3.3	1.2	4.0	² 1.3	5.3	68.2	4.4
1973.....	3.6	1.4	5.2	² 1.5	6.7	80.4	6.3
1974.....	3.9	1.7	6.2	² 1.8	8.0	146.8	10.3
1975.....	4.4	2.0	7.6	3.0	10.6	206.8	10.1
1976.....	4.6	2.1	9.2	3.4	12.6	228.3	9.3
1977.....	4.9	2.2	11.1	3.7	14.8	254.2	9.4
1978.....	4.9	2.2	12.3	4.1	16.4	278.0	9.6
1979 (est.)....	4.9	2.3	13.6	4.3	17.9	311.0	9.6

¹ The SSI program began Jan. 1, 1974. Numbers for prior years represent the number of blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled.

² Combined Federal and State expenditures for benefits paid to blind and disabled recipients under the former Federal-State programs of aid to the aged, blind, and disabled. Figure for fiscal year 1974 combines the expenditures under both programs.

1. DISABILITY INSURANCE

The disability insurance program has grown in caseload size and costs well beyond what was originally estimated. In part, the growth of the program reflects legislative changes which have expanded coverage and benefits. Much of the growth, however, must be ascribed to other causes such as *de facto* liberalizations as a result of court decisions, weaknesses in administration, and greater than anticipated incentives to become or remain dependent upon benefits.

At the time the disability insurance program was enacted in 1956, its long-range cost was estimated to be 0.42 percent of taxable payroll. The "high cost" short-range estimate indicated that benefit outlays would reach a level of \$1.3 billion by 1975. Under the 1979 social security trustees' report, the long-range cost of the program is now estimated to be 1.92 percent of taxable payroll. Benefit payments for 1975 totalled \$7.6 billion, and benefit payments for 1979 are expected to total approximately \$14 billion. (Note: at present payroll levels, 1 percent of taxable payroll is roughly \$10 billion.)

Table 34 shows the changes in the estimated costs of the program over the years since it was first enacted. Many of the cost increases in the earlier years are attributable to changes in the law broadening eligibility. The last major change of this type was enacted in 1967. The reductions in long-range costs after 1977 are partly a result of the new benefit computation for all social security benefits adopted in the 1977 amendments and of the increase in the tax base under those amendments. (An increased tax base has the effect of "lowering" the cost of the program as a percent of taxable payroll even if the actual costs of the program in absolute terms remain unchanged.) The 1978 reduction in long-range costs reflects an actuarial assumption based on a somewhat lower award rate in the past year or two.

There are now about 2.9 million disabled workers receiving DI benefits, increased from 1.9 million in 1969. This represents a 107 percent increase over a 10-year period during which there was no major legislative expansion of eligibility requirements. Currently, in addition to the disabled workers who are receiving benefits, there are benefits being paid to about 2 million dependents of disabled workers. (See table 33 for the number of benefits by type of beneficiary in each State.)

TABLE 33.—OASDHI CASH BENEFITS

[Number of monthly benefits in current-payment status, by type of beneficiary and by State, at end of June 1978]

State ¹	Total	Retired workers ²	Disabled workers ³	Wives and husbands ⁴ of—		Children ⁵ of—			Widowed mothers and fathers ⁶	Widows and widowers ⁷	Parents ⁷	Persons with special age-72 benefits
				Retired workers	Disabled workers	Retired workers	Deceased workers	Disabled workers				
Total.....	34,067,797	17,923,874	2,857,843	2,941,839	491,352	662,080	2,799,492	1,511,543	569,192	4,147,505	17,742	145,335
Alabama.....	615,337	274,014	58,610	56,372	11,818	17,653	64,874	34,148	13,920	81,862	621	1,439
Alaska.....	18,973	7,953	1,460	993	273	852	4,442	1,064	709	1,197	12	18
Arizona.....	375,863	205,227	31,718	34,566	5,853	7,655	31,573	16,820	6,115	35,153	176	1,007
Arkansas.....	427,365	203,305	44,164	42,801	9,050	10,761	31,575	26,131	6,407	51,154	239	1,778
California.....	3,065,496	1,676,896	291,546	247,490	40,284	56,856	234,812	131,659	44,108	326,720	938	14,187
Colorado.....	314,998	166,690	24,174	30,118	4,121	5,141	28,189	12,452	5,375	37,101	82	1,555
Connecticut.....	455,115	273,258	30,771	32,221	4,014	6,487	32,473	12,942	6,616	53,556	167	2,610
Delaware.....	81,633	43,585	6,739	5,878	976	1,407	7,947	3,363	1,570	9,845	28	295
District of Columbia.....	89,042	48,408	8,055	4,805	613	1,667	10,433	2,830	1,881	9,721	59	569
Florida.....	1,859,607	1,105,027	139,670	173,156	22,313	26,887	107,859	61,862	22,077	194,028	573	6,155
Georgia.....	734,200	333,080	86,296	50,561	14,425	14,782	82,945	47,340	16,575	84,546	592	3,058
Hawaii.....	102,953	54,853	6,693	9,208	1,057	7,376	9,257	3,603	1,941	8,435	74	450
Idaho.....	122,864	67,814	9,030	12,164	1,568	2,385	10,021	4,642	1,735	13,021	26	458
Illinois.....	1,594,772	882,122	110,622	129,238	15,493	25,355	139,771	51,956	26,935	204,439	794	7,981
Indiana.....	793,795	426,509	61,593	67,373	10,131	12,870	65,291	32,863	12,678	101,339	283	2,859
Iowa.....	482,046	269,754	27,744	53,951	4,500	7,066	30,083	12,689	5,768	66,672	95	3,724
Kansas.....	366,151	209,108	20,521	38,963	3,080	5,382	23,401	9,496	4,217	49,139	87	2,757
Kentucky.....	582,470	262,455	55,570	58,591	14,035	13,226	50,362	37,302	11,297	77,431	363	1,838
Louisiana.....	568,944	227,680	59,362	53,274	14,464	13,880	62,845	43,534	13,841	77,027	325	2,712
Maine.....	190,877	105,734	14,885	15,715	2,876	3,213	13,495	8,688	2,755	22,710	74	732
Maryland.....	502,251	268,189	39,037	37,204	5,235	8,335	50,496	16,751	9,892	64,085	289	2,738
Massachusetts.....	894,721	528,358	61,561	63,847	9,467	12,044	63,335	28,620	13,700	109,162	320	4,287
Michigan.....	1,316,999	667,692	115,690	114,284	19,429	23,699	117,797	61,222	23,187	169,098	556	4,345
Minnesota.....	599,767	340,603	32,643	63,557	5,343	11,831	41,844	16,289	7,895	75,429	131	4,202
Mississippi.....	417,726	181,735	43,425	35,832	8,631	14,472	45,368	28,885	9,002	48,832	364	1,180
Missouri.....	840,158	457,278	65,438	76,923	11,152	13,909	60,773	33,639	11,918	105,298	259	3,571
Montana.....	114,225	60,251	8,611	10,767	1,540	2,363	10,278	4,650	1,788	13,317	41	619
Nebraska.....	248,112	142,411	12,859	27,299	2,008	3,520	16,462	6,147	2,964	32,359	57	2,026
Nevada.....	80,587	44,780	7,971	5,098	1,111	1,307	8,114	3,424	1,493	7,051	18	220
New Hampshire.....	133,503	81,090	8,989	9,428	1,411	1,913	9,528	4,427	1,882	14,117	26	692

New Jersey.....	1,116,429	627,594	93,755	78,410	13,376	15,344	85,425	42,111	18,497	137,070	558	4,289
New Mexico.....	162,882	73,812	14,447	15,353	3,852	4,818	18,611	11,435	3,995	15,852	149	558
New York.....	2,837,044	1,601,350	236,823	198,014	35,983	46,717	210,467	114,856	43,061	335,158	1,338	13,277
North Carolina.....	846,938	415,521	87,409	62,786	13,831	16,444	87,935	41,897	17,737	99,671	682	3,025
North Dakota.....	101,517	54,513	4,969	13,089	973	2,471	7,349	2,679	1,380	13,402	30	662
Ohio.....	1,580,052	793,524	134,786	146,346	23,286	25,074	130,707	70,437	26,771	222,000	591	6,530
Oklahoma.....	469,551	241,873	39,869	48,363	7,184	7,823	33,242	21,079	6,486	61,554	193	1,885
Oregon.....	389,256	227,210	30,931	33,187	4,830	6,228	25,963	13,696	4,591	41,054	84	1,482
Pennsylvania.....	1,989,240	1,070,588	160,558	174,289	25,502	27,480	140,850	66,767	31,690	281,770	1,038	8,708
Rhode Island.....	161,951	97,091	13,417	9,966	1,844	1,954	10,394	5,634	2,242	18,559	57	793
South Carolina.....	422,000	192,561	48,465	26,739	7,934	8,724	52,560	25,054	11,057	47,034	388	1,484
South Dakota.....	116,565	63,407	6,338	13,657	1,145	2,336	8,473	3,133	1,576	15,596	20	884
Tennessee.....	705,111	334,846	71,994	64,274	13,399	15,229	61,416	38,972	13,002	88,461	564	2,954
Texas.....	1,739,311	848,716	134,944	177,315	26,361	39,727	165,883	79,416	34,676	224,657	1,051	6,565
Utah.....	138,238	75,558	8,924	13,545	1,626	2,762	13,353	4,904	2,306	14,841	29	390
Vermont.....	77,860	42,723	6,066	6,542	1,127	1,283	5,716	3,385	1,169	9,416	29	404
Virginia.....	680,538	335,210	63,051	54,531	11,611	13,149	66,608	33,115	13,675	85,646	514	3,428
Washington.....	547,495	312,086	42,665	46,898	6,399	9,118	39,991	19,718	6,669	61,383	130	2,438
West Virginia.....	354,773	146,469	39,348	35,212	10,495	8,748	28,559	25,126	6,933	52,349	286	1,248
Wisconsin.....	740,366	419,655	47,866	70,331	7,870	13,330	51,121	24,814	9,609	91,589	167	4,014
Wyoming.....	47,410	26,629	2,798	4,333	411	842	4,545	1,348	775	5,484	18	227
Other areas												
American Samoa.....	2,036	349	100	184	56	391	545	228	127	51	5	0
Guam.....	2,654	679	160	221	46	248	825	191	182	97	5	0
Puerto Rico.....	536,205	164,746	73,426	48,757	22,976	38,898	49,468	93,705	10,943	32,229	1,037	20
Virgin Islands.....	6,851	2,990	433	532	77	520	1,280	364	232	409	14	0
Abroad.....	304,974	138,315	8,854	37,228	2,881	18,122	32,543	8,029	9,569	48,329	1,096	8

¹ Beneficiary by State of residence.

² Aged 62 and over.

³ Under age 65.

⁴ Includes wife beneficiaries aged 62 and over, nondivorced and divorced, and those under age 65 with entitled children in their care.

⁵ Includes disabled persons aged 18 and over whose disability began before age 22 and entitled full-time students aged 18 to 21.

⁶ Includes surviving divorced mothers and fathers with entitled children in their care.

⁷ Aged 60 and over for widows, widowers, and surviving divorced wives, and aged 62 and over for parents. Also includes disabled widows, widowers, and surviving divorced wives aged 50 to 59.

Source: Social Security Bulletin, March 1979/vol. 42, No. 3.

TABLE 34.—GROWTH IN ESTIMATED COST OF DI PROGRAM

Year of estimate	Estimated cost		
	Long-range (as percent of payroll)	Short-range ¹ (millions)	1980 projection (millions)
1956.....	0.42	\$379	(²)
1958.....	.49	492	\$1,380
1960.....	.56	864	1,550
1965.....	.67	1,827	2,211
1967.....	.95	2,068	3,351
1973.....	1.54	6,295	NA
1975.....	2.97	9,640	NA
1976.....	3.51	12,715	16,197
1977.....	3.68	14,822	16,817
1978.....	2.26	16,532	16,532
1979.....	1.92	17,212	15,600

¹ Short-range represents intermediate estimate of cost for second year after the year of estimate.

² No 1980 projection made; 1975 costs were projected to be \$949,000,000.

NA—not available.

Source: Estimates prepared by the Office of the Actuary of the Social Security Administration in connection with legislation (1956-67) or as a part of annual trustees' reports (1973-79). Short-range costs shown in this table are benefit payments only.

The following table shows the number of awards by calendar year over the last decade. The number of disabled worker awards in the last 5 years has been about 2.7 million. Through the 1968-78 period the annual number of awards rose from an average of about 340,000 for 1968-70 to a peak of 592,000 in 1975. Following 1975, there was no longer a steady upward trend. Instead, the number of awards in 1976-77 was about 5 percent lower than in 1975. The 1978 decrease was even sharper, to a level about 23 percent below that of 1975.

TABLE 35.—DISABLED-WORKER BENEFIT AWARDS, 1968-78

	Number of awards	Awards per 1,000 insured workers
Calendar year:		
1968.....	323,514	4.8
1969.....	344,741	4.9
1970.....	350,384	4.8
1971.....	415,897	5.6
1972.....	456,562	6.0
1973.....	491,955	6.3
1974.....	535,977	6.7
1975.....	592,049	7.1
1976.....	551,740	6.5
1977.....	569,035	6.6
1978.....	457,451	5.2

Source: Prepared by Robert J. Myers, consultant to the Committee on Finance

Following the rapid increases in the number of applications for title II worker disability in the first half of the 1970's, there has been a distinct leveling off, even a decrease, in the number applying. The decrease, however, has not been as significant as the decrease in the number of awards. In the same period referred to above, 1975-78, title II disabled worker applications decreased by about 8 percent. The most recent statistics available for 1979, however, show that for the first 5 months of this year the number of applications has been slightly higher than for the corresponding period in 1978.

TABLE 36.—TITLE II DISABLED WORKER APPLICATIONS RECEIVED IN DISTRICT OFFICES, 1970 THROUGH 1978¹

[In thousands]

1970.....	868.7
1971.....	943.0
1972.....	947.5
1973.....	1,067.5
1974.....	1,331.2
1975.....	1,284.7
1976.....	1,256.3
1977.....	1,235.5
1978.....	1,184.8
January-May 1978.....	485.6
January-May 1979.....	489.0

¹ Calendar year.

Source: Social Security Administration.

TABLE 37.—DISABLED WORKER APPLICATIONS: RECEIPTS IN DISTRICT OFFICES BY QUARTER BY CALENDAR YEAR

	Jan.-Mar.	Apr.-June	July-Sept.	Oct.-Dec.	CY total
1970:					
Number.....	199,300	221,400	231,500	216,400	868,700
% of preceding qtr.....	112	111	105	93	
% of same pd yr ago....	110	119	128	122	120
1971:					
Number.....	234,000	243,400	233,500	213,100	924,000
% of preceding qtr.....	108	104	96	91	
% of same pd yr ago....	117	110	101	98	106
1972:					
Number.....	240,700	237,000	241,700	228,100	947,500
% of preceding qtr.....	113	98	102	94	
% of same pd yr ago....	103	97	104	107	103
1973:					
Number.....	268,400	267,000	273,200	258,800	1,067,500
% of preceding qtr.....	118	99	102	95	
% of same pd yr ago....	112	113	113	113	113
1974:					
Number.....	361,300	343,600	321,600	304,700	1,331,200
% of preceding qtr.....	140	95	94	95	
% of same pd yr ago....	135	129	118	118	125
1975:					
Number.....	326,600	331,000	326,500	300,600	1,284,700
% of preceding qtr.....	107	101	99	92	
% of same pd yr ago....	90	96	102	99	96
1976:					
Number.....	305,700	311,600	322,000	294,000	1,233,300
% of preceding qtr.....	102	102	104	91	
% of same pd yr ago....	94	94	99	98	96
1977:					
Number.....	322,000	319,300	317,300	277,400	1,236,000
% of preceding qtr.....	110	99	99	87	
% of same pd yr ago....	105	103	99	94	100
1978:					
Number.....	294,200	306,600	306,000	279,100	1,185,900
% of preceding qtr.....	106	104	100	91	
% of same pd yr ago....	91	96	96	101	96
1979:					
Number.....	299,300	306,830	.....	.....	.....
% of preceding qtr.....	107	103	.....	.....	.....
% of same pd yr ago....	102	100	.....	.....	.....

¹ 53d week omitted: 1971—19,000 applications; 1976—23,000 applications.

² The difference between this number and the number shown in the preceding table is due to differences in rounding.

Source: Social Security Administration.

2. SUPPLEMENTAL SECURITY INCOME

When the Congress was considering the enactment of the supplemental security income legislation in 1972, the estimates it had before it did not accurately portray the future nature of the caseload and costs of the program. Nor was there any testimony that indicated how the implementation of the program might affect the administrative capacity of the Social Security Administration, and, most particularly, the capacity of the disability adjudication structure.

Most of the discussion leading up to congressional passage of SSI centered on serving the aged population. Congress accepted estimates of the Administration indicating that the SSI population would continue to be composed largely of the aged. The Administration esti-

mated that, by the end of fiscal year 1975, there would be almost two aged beneficiaries for every disabled beneficiary. While it was foreseen that the number of persons receiving disability benefits would grow under the new program, it was expected that the number of aged beneficiaries would grow even more.

The Administration's early estimates on the number of persons who would qualify for disability payments under the SSI program appear to have been developed somewhat haphazardly. It apparently relied primarily on the Survey of the Disabled conducted by the Department of Health, Education, and Welfare in 1966. Looking to the future, the Administration estimated that the annual growth rate for SSI disability would be 2 percent, as compared to Administration estimates of 5-percent caseload growth under the then existing law projected into the future.

Even the higher projection for existing law did not seem to take into account what had actually been happening under the program of aid to the permanently and totally disabled. In the period December 1968 through December 1971 the disability rolls increased from 702,000 to 1,068,000—an increase of 52 percent.

In its budget justification for 1974, the first year of the SSI program, the Administration estimated that by June 1974 there would be 3.1 million aged on the rolls, and 1.7 million disabled. In June 1974 there were actually 2.1 million aged and 1.5 million disabled on the rolls. The Administration also estimated at that time that by June 1975 there would be 3.8 million aged and 1.8 million disabled. The figure for the disabled turned out to be accurate—there were 1.8 million disabled persons receiving benefits in June 1975, but the figure for the aged was only 2.3 million. Moreover, the overall estimate for the disabled was realized even though the estimate for disabled children of 250,000 was still less than one-third realized.

In calendar years 1974 and 1975, the first 2 years of the SSI program, the disability caseload increased substantially, from about 1.3 million individuals in January 1974 to about 2 million 2 years later. Since that time the actual number of persons receiving payments on the basis of disability has appeared to be stabilizing.

However, the SSI program is nonetheless becoming a program that is increasingly dominated by the disability aspects. Out of the 4.2 million persons receiving SSI benefits, 2.2 million came onto the rolls as the result of being determined to be disabled. (319,000 of these individuals have now reached age 65, but are still listed by SSA as being disabled. See table 37 for a State-by-State listing of recipients.)

Perhaps most indicative of the predominance of disability issues in the program are the figures showing numbers of applicants for benefits. About 80 percent of all applications are now being made on the basis of disability. This has been the case since 1976. In addition, about two-thirds of all awards made in recent years have been made to persons determined to be disabled. (See table 40.) Program expenditures also reflect the numbers and relatively higher average SSI payments of the disabled SSI population. About 60 percent of all SSI expenditures now go to persons who have been determined disabled. (See table 41.)

At the present time, more than 1 million, or nearly half of all disability applications received in social security district offices, are applications for SSI benefits. In 1974, the first full year of the SSI program, there were fewer than 800,000 applications, compared with

1.3 million title II applications. Over the 5½ years of the SSI program, SSI disability applications have increased steadily as a percentage of all disability applications. Persons working with the disability programs generally are agreed that the establishment of the SSI disability program, acting as a kind of out-reach mechanism, had the result of increasing the number of applications for title II disability.

TABLE 38.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED, [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]

State	Total	Aged	Blind	Disabled
Total ¹	4,229,782	1,956,318	77,475	2 195,989
Alabama ²	140,182	84,301	1,914	53,967
Alaska ²	3,205	1,278	68	1,859
Arizona ²	29,264	12,318	530	16,416
Arkansas.....	82,489	47,879	1,574	33,036
California.....	701,724	319,032	17,284	365,408
Colorado ²	32,927	15,322	362	17,243
Connecticut ²	23,496	7,991	313	15,192
Delaware.....	7,195	2,753	185	4,257
District of Columbia.....	14,908	4,293	197	10,418
Florida.....	169,271	86,696	2,579	79,996
Georgia.....	158,406	77,482	2,943	77,981
Hawaii.....	10,147	5,189	146	4,812
Idaho ²	7,601	2,968	93	4,540
Illinois ²	125,997	38,501	1,697	85,799
Indiana ²	41,579	16,672	1,068	23,839
Iowa.....	26,557	12,250	1,081	13,226
Kansas.....	21,621	9,161	322	12,138
Kentucky ²	95,667	46,909	2,034	46,724
Louisiana.....	143,097	73,544	2,182	67,371
Maine.....	22,782	10,921	286	11,575
Maryland.....	48,599	17,046	574	30,979
Massachusetts.....	131,641	73,735	4,977	52,929
Michigan.....	118,214	42,397	1,729	74,088
Minnesota ²	34,191	14,479	644	19,068
Mississippi.....	115,947	67,313	1,828	46,806
Missouri ²	89,169	46,509	1,502	41,158
Montana.....	7,340	2,679	140	4,521
Nebraska ²	14,144	6,212	243	7,689
Nevada.....	6,444	3,518	406	2,520
New Hampshire ²	5,455	2,319	132	3,004

TABLE 38.—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED [Number of persons receiving federally administered payments, by reason for eligibility and State, March 1979]—Continued

State	Total	Aged	Blind	Disabled
New Jersey	84,617	33,452	1,021	50,144
New Mexico ²	25,717	11,104	441	14,172
New York	377,901	147,302	3,970	226,629
North Carolina ²	143,548	68,300	3,330	71,918
North Dakota ²	6,862	3,701	65	3,096
Ohio	123,832	40,268	2,313	81,251
Oklahoma ²	72,657	39,161	1,064	32,432
Oregon ²	23,016	8,113	536	14,367
Pennsylvania	170,207	63,345	3,620	103,242
Rhode Island	15,506	6,361	184	8,961
South Carolina ²	84,287	40,934	1,884	41,469
South Dakota	8,377	4,240	132	4,005
Tennessee	133,899	66,807	1,876	65,216
Texas ³	269,678	160,271	4,126	105,281
Utah ³	8,084	2,651	162	5,271
Vermont	9,083	3,947	120	5,016
Virginia ²	80,461	37,604	1,419	41,438
Washington	48,541	16,992	546	31,003
West Virginia ²	42,703	15,802	626	26,275
Wisconsin	68,883	32,987	958	34,938
Wyoming ²	2,023	928	26	1,069
Unknown	57	17		40
Other areas:				
Northern Mariana Islands ³	584	364	23	197

¹ Includes persons with Federal SSI payments and/or federally administered State supplementation, unless otherwise indicated.

² Data for Federal SSI payments only. State has State-administered supplementation.

³ Data for Federal SSI payments only; State supplementary payments not made.

Source: Social Security Administration.

TABLE 39.—SSI APPLICATIONS, BY CATEGORY, 1974-78

Calendar year	Total	Aged	Blind and disabled	Blind and disabled as a percent of total
1974.....	2,296,400	926,900	1,369,500	60
1975.....	1,498,400	377,400	1,121,000	75
1976.....	1,258,100	254,400	1,003,700	80
1977.....	1,298,400	258,500	1,039,900	80
1978.....	1,304,300	257,900	1,046,400	80

Source: Data provided by the Social Security Administration.

TABLE 40.—NUMBER OF PERSONS INITIALLY AWARDED SSI PAYMENTS¹

Year	Total SSI awards	Disabled	Disability as percent of total
1974.....	890,768	387,007	43
1975.....	702,147	436,490	62
1976.....	542,355	365,822	67
1977.....	557,570	362,067	65
1978.....	532,447	348,848	66

¹ Federally administered payments.

Source: Data provided by the Social Security Administration.

TABLE 41.—SSI BENEFIT EXPENDITURES¹

Calendar year	Total	Disability ²	Disability as percent of total
1974.....	\$5,096,813	\$2,556,988	50
1975.....	5,716,072	3,072,317	54
1976.....	5,900,215	3,345,778	57
1977.....	6,134,085	3,628,060	59
1978.....	6,371,638	3,881,531	61

¹ Federally administered payments.

² SSI program record-keeping maintains individuals on the rolls as disabled after they have reached age 65. In 1978 about \$300,000 was paid to disabled individuals in this category.

Source: Data provided by the Social Security Administration.

B. CAUSES FOR GROWTH

As the preceding discussion shows, the experts have had very great difficulty estimating how the disability programs would develop, and they have frequently been wrong. They have found it equally difficult to pinpoint the reasons for growth in the disability programs, partic-

ularly in the disability insurance program. The growth that took place, primarily in the first half of the 1970's, would seem to have leveled off. But there is still no consensus on exactly why it happened, the weight to be given to various factors, or even on whether the period of rapid growth is over.

1. INCREASES IN DISABILITY INCIDENCE RATES

The table below shows standardized disability incidence rates under the disability insurance program for the period 1968-75. As can be seen, the rates show an almost steadily increasing trend from 1968, although appearing to level off in 1973-75.

TABLE 42.—STANDARDIZED DISABILITY INCIDENCE RATES UNDER DI, 1968-75

[Rates per 1,000 insured]

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, appearing in a committee print of the Subcommittee on Social Security of the House Ways and Means Committee on "Actuarial Condition of Disability Insurance, 1978," Feb. 1, 1979, p. 7).

Year:	Standardized rate ¹	Percentage increase over 1968
1968	4.46	.....
1969	4.29	-4
1970	4.77	+7
1971	5.25	+18
1972	6.00	+35
1973	7.20	+61
1974	7.14	+60
1975	6.85	+54

¹ Overall incidence rate based on age-sex distribution of persons insured for disability benefits as of Jan. 1, 1975 (as shown in table 50, "Statistical Supplement, Social Security Bulletin," 1975); and on incidence rates by age and sex as shown in "Actuarial Study No. 74" and "Actuarial Study No. 75," Social Security Administration.

Social Security Administration actuaries attempted to assess the reasons for the increase in incidence rates in a report published in January 1977, "Experience of Disabled-Worker Benefits under OASDI, 1965-74." Their analysis points to a variety of factors, including increases in benefit levels, high unemployment rates, changes in attitude of the population, and administrative factors. These factors, as analyzed by the actuaries, are worth considering in some detail.

Starting off their discussion, the actuaries observe:

We believe that part of the recent increase in incidence rates is due to the rapid rise in benefit levels since 1970, particularly when measured in terms of pre-disability earnings. From December 1969 to December 1975 there were general benefit increases amounting to 82 percent. Also, effective in 1973, medicare benefits became available to disabled worker

beneficiaries who have been entitled for at least 2 years. We also believe the short computation period for the young workers, the weighting of the benefit formula for the low income workers, and the additional benefits payable when the worker has dependents can provide especially attractive benefits to beneficiaries in these categories. It is possible under the present formula for these beneficiaries to receive more in disability benefits than was included in their take-home pay while they were working. Benefits this high become an incentive to file a claim for disability benefits, and to pursue the claim through the appellate procedures. (p. 5)

In transmitting the Administration's proposed changes in the DI program in March of this year, former Secretary of HEW Joseph Califano pointed out that, in fact, 6 percent of DI beneficiaries receive more through their DI benefits alone than they made while working, and that 16 percent have benefits which exceed 80 percent of their prior net earnings.

The actuaries believe that another factor in the increase in incidence rates is the high unemployment rate that the country experienced after 1970. They argue that physically impaired individuals are more likely to apply for benefits if they lose their jobs in a recession than during an economic expansion when they can retain their jobs.

According to the actuaries, another factor influencing increases in incidence rates is changes in attitude. Elaborating on this theme, they state that "It is possible that the impaired lives of today do not feel the same social pressure to remain productive as did their counterparts as recently as the late 1960's." The actuaries quote John Miller, a consulting actuary and expert in the field of disability insurance, who commented in a report to the House Social Security Subcommittee on the subjective nature of the state of disability:

The underlying problem in providing and administering any plan of disability insurance is the extreme subjectivity of the state of disability. This characteristic could be discussed at length and illustrated with an almost endless array of statistics but it can best be visualized by comparing a Helen Keller or a Robert Louis Stevenson with any typical example of the multitude of ambulatory persons now drawing disability benefits who could be gainfully employed if (a) the necessary motivation existed, and (b) an employment opportunity within their present or potential capability were present or made available. Thus the problem is not simply one of medical diagnosis. The will to work, the economic climate and the "rehabilitation environment" outweigh the medical condition or problem in many, if not in most, cases.

(Reports of Consultants on Actuarial and Definitional Aspects of Social Security Disability Insurance, to the Subcommittee on Social Security of the Committee on Ways and Means, U.S. House of Representatives, p. 24.)

The authors were unwilling to attribute the increase in disability incidence rates to these factors to any specific degree, and observed only that they were responsible for "a large part" of the increases. Beyond that they state: "We feel that some administrative factors

must have also played an important part in the recent increases, but we cannot offer a definite proof to that effect."

One administrative factor mentioned is the multi-step appeals process, which enables the claimant to pursue his case to what the actuaries term as the "weak link" in the hierarchy of disability determination. Under the multi-step appeals process, a claimant who has been denied benefits may request first a reconsideration, then a hearing before an Administrative Law Judge, appeal his hearing denial to the Appeals Council, and, if his case is still denied, take his claim to the U.S. district court. The actuaries claim that by the very nature of the claims process, the cases which progress through the appeals process are likely to be borderline cases where vocational factors play an important role in the determination of disability. The definition of disability—"inability to engage in any substantial gainful activity by reason of a medically determinable impairment"—involves two variables: (1) impairment and (2) vocational factors. An emphasis on vocational factors, they say, citing William Roemmich, former Chief Medical Director of the Bureau of Disability Insurance, can change the definition to "inability to engage in usual work by reason of age, education, and work experience providing any impairment is present." To the extent that vocational factors are given higher weight as a claim progresses through the appeals process, the chances of reversal of a former denial is increased.

The actuaries also cite the "massive nature" of the disability determination process as one of the administrative factors which may be responsible for the growth in the rolls. There has been an enormous increase in the number of claims required to be processed by the system. In fiscal year 1969, the Social Security Administration took in over 700,000 claims for disability insurance benefits. By 1974 the number of DI claims per year had grown to 1.2 million. In addition, over 500,000 disability claims under the black lung program, which started during 1970, had been taken in. And the number of SSI disability claims being taken in approached another million. As the actuaries point out, all this was happening at a time when the administration was making a determined effort to hold down administrative costs.

During this period it would appear that there was an inevitable conflict within the administrative process between quality and quantity. The winner, it would appear, was quantity. The actuaries state:

All of this put tremendous pressure on the disability adjudicators to move claims quickly. As a result the administration reduced their review procedures to a small sample, limited the continuing disability investigations on cases which were judged less likely to be terminated, and adopted certain expedients in the development and documentation in the claims process. Although all of these moves may have been necessary in order to avoid an unduly large backlog of disability claims, it is our opinion that they had an unfortunate effect on the cost of the program (p. 8).

A final factor given for the increase in the incidence rates is "the difficulty of maintaining a proper balance between sympathy for the claimant and respect for the trust funds in a large public system." The actuaries maintain that they do not mean that disability adjudicators consciously circumvent the law in order to benefit an

unfortunate claimant. They mean rather that in a program designed specifically to help people, whose operations are an open concern to millions of individuals, and where any one decision has an insignificant effect on the overall cost of the program, there is a natural tendency to find in favor of the claimant in close decisions. "This tendency is likely to result in a small amount of growth in disability incidence rates each year, such as that experienced under the DI program prior to 1970, but it can become highly significant during long periods of difficult national economic conditions." (p. 8.)

Although the above discussion of the factors in increased incidence rates was aimed specifically at the disability insurance program, it would seem to be applicable also to the SSI program. The same definition and the same administrative procedures are used in both programs. And it is logical to assume that the economic, human, and administrative factors which affect growth would be present in both programs.

2. DECREASE IN TERMINATIONS

At the same time that there have been increases in disability incidence rates, there have also been decreases in disability termination rates. As the table below shows, death termination rates have decreased gradually over the years from about 80 per thousand in 1968 to about 50 per thousand in 1977.

TABLE 43.—DISABILITY TERMINATION RATES
UNDER DI, 1968-77

(Reprinted from "Actuarial Analysis of Operation of Disability Insurance System Under Social Security Program," by Robert J. Myers, cited earlier, (p. 7)).

Year:	Number of terminations (thousands)		Termination rates ¹	
	Death	Recovery	Death	Recovery
1968.....	99.9	37.7	79	30
1969.....	108.8	38.1	80	28
1970.....	105.8	40.8	72	28
1971.....	109.9	43.0	69	27
1972.....	108.7	39.4	62	22
1973.....	125.6	36.7	65	19
1974.....	135.1	² 38.0	63	18
1975.....	139.8	² 39.0	59	16
1976.....	137.1	² 40.0	53	15
1977.....	139.4	² 60.0	50	22

¹ Rate per 1,000 average beneficiaries on the roll.

² Estimated.

The actuarial study referred to earlier cites several reasons for the decline in the death termination rate: legislative changes which brought in younger workers, maturation of the program, the liberalized definition of disability in the 1965 amendments from permanent disability to one that is expected to last at least 12 months, and

improved medical procedures that have also contributed to the decline in death rates in the general population.

However, the actuaries state that although all of these reasons contributed to the decline, "it is doubtful that they can fully account for the rather rapid decrease that has been observed." Rather, they say, they believe that healthier applicants are being awarded disability benefits and consequently there is a tendency for the overall mortality rates to decline:

The magnitude of the increase in the incidence rates is so substantial, that it is likely to have had a significant effect on the characteristics of applicants that are being awarded disability benefits. It is our belief that progressively healthier individuals have been granted benefits, and that progressively healthier individuals have been allowed to stay on the rolls (p. 12).

Examining the other significant factor in termination rates, recovery rates, the actuaries come to essentially the same conclusion:

The rapid decrease in the gross recovery rate since 1967 cannot be explained in terms of legislated changes since there have not been any major changes in the law since then. As with the decline in the gross death rate, and probably even more so, it is believed that progressively healthier beneficiaries are being allowed to continue receiving benefits without being terminated (p. 12).

The actuaries also cite administrative changes as a possible reason for a decline in recoveries due to a determination of improvements in the beneficiary's physical condition. Pinpointing "administrative expediency," they note that the high workload pressures of past years forced SSA to curtail some of its policing activities. The Social Security Administration made continuing disability investigations of about 10 percent of the DI beneficiaries on the rolls in years prior to 1970. During fiscal years 1971 to 1974, when the administrative crunch of the black lung and SSI programs were at their peak, there was an investigation of just over 4 percent of the DI beneficiaries in a year.

A final factor which is mentioned in the actuaries analysis is high benefit levels, or high replacement ratios. Defining the replacement ratio as the annual amount of benefits received by the disabled worker and his dependents divided by his after tax earnings in the year before onset of disability, the actuaries claim that the average replacement ratio of disabled workers with median earnings has increased from about 60 percent in 1967 to over 90 percent in 1976. During this period the gross recovery rate decreased to only one-half of what it was in 1967.

More recently, the Social Security Administration actuaries commented on how replacement ratios affect the recovery rate by noting:

High benefits are a formidable incentive to maintain beneficiary status especially when the value of medicare and other benefits are considered. We believe that the incentive to return to permanent self-supporting work provided by the trial work period provision has been largely negated by the prospect of losing the high benefits. ("Experience of Disabled-

Workers Benefits Under OASDI, 1972-76," actuarial study
No. 75, June 1978.)

A study of disabled workers who were awarded benefits in 1972 which appeared in the April 1979 issue of the Social Security Bulletin found that, among certain workers with conditions most subject to medical improvements, those with high replacement rates were less likely to leave the rolls. More specifically, the study found that among younger workers, a relationship of benefits to recovery according to earnings-replacement level was apparent. Twenty percent of those under age 40 with higher replacement rates recovered from their disabilities. This percentage increased to 32 when the replacement rate was less than 75 percent. A similar effect was found for those with dependent children and for those with injuries such as fractures and disc displacements.

The authors conclude:

Thus, although the overall recovery proportions seem alike for those with high and low earnings-replacement rates, receipt of benefits does appear to have an effect on some of the subgroups.

C. CURRENT STATUS OF THE PROGRAM

1. WHAT RECENT STATISTICS SHOW

Recent statistics seem to indicate that the social security disability programs are leveling off. Title II disabled worker applications have been decreasing on an annual basis since 1974. SSI disability applications have been increasing, but at a rate significantly lower than in earlier years. As mentioned earlier, for the first 5 months of 1979 the number of title II disabled worker applications was virtually the same as for the same period in the previous year. SSI disability applications were up by 7.5 percent in that same period of time.

Application statistics, however, are perhaps not as significant as other program statistics—those telling how many are coming on the rolls and those telling how many are going off. Between 1975 and 1978 the number of benefits awarded to disabled workers dropped from 592,049 in 1975 to 457,451 in 1978, a 23 percent decrease. In the first 5 months of 1979 this trend continued, with awards in that period about 13 percent lower than for the same 5-month period in 1978. SSI awards to the disabled have also been declining, from a high of 436,490 in 1975, to 348,848 in 1978, a decline of about 20 percent. Statistics show that this trend is continuing into 1979. SSI awards on the basis of disability for the first 5 months of 1979 were about 7 percent below those of the previous year.

Program statistics also show a considerable increase in State agency denial rates. In fiscal year 1973, 47 percent of all State agency initial decisions relating to title II disabled workers were denials. The denial rate in 1978 was 60 percent. State agency initial decisions on SSI applications resulted in a denial rate of about 58 percent in 1977, increasing to 64 percent in 1978. For the last quarter in 1978 the denial rate reached nearly 67 percent.

In addition, available statistics show that the number of cessations as opposed to continuances in determinations of continuing disability for disabled workers have greatly increased as follows:

TABLE 44.—TITLE II DISABLED WORKERS, CESSATIONS AND CONTINUATIONS, 1975-78

Calendar year	Cessations		Continuations		Total cases (continuations and cessations)
	Number	Percent	Number	Percent	
1975.....	37,200	31.2	82,000	68.8	119,200
1976.....	37,600	33.5	74,700	66.5	112,300
1977.....	58,200	46.0	68,400	54.0	126,600
1978.....	61,400	50.8	59,400	49.2	120,800

Experts in the field of disability are reluctant to draw many conclusions from these statistics. There is a feeling of unease about their significance, particularly over the long term. The 1979 trustees' report shows an improved forecast for the DI trust fund over the one made last year. This is caused by projections of lower rates of enrollment than were made previously and were based on the actual slowdown in new awards since the last quarter of 1977 (although enrollment is still projected to rise in the future under all three sets of economic assumptions in the report—optimistic, intermediate, and pessimistic). The trustees add their own note of caution, however, observing that "this reduction in the incidence of disability was not anticipated and its causes are not very clear, so it is uncertain whether the trend will continue in the future."

2. EXPLANATIONS GIVEN FOR CHANGES IN THE GROWTH PATTERN

As the preceding quotation from the trustees' report indicates, there is a feeling of uncertainty among disability experts as to exactly why the growth in the programs appears to be leveling off. If one reads back through the analysis of the causes of growth prepared by the social security actuaries, one expects to find some basis for understanding why the growth may have slowed. The actuaries' analysis cites administrative factors as having an impact on the growing disability incidence rates in earlier years, as well as having an effect on the decline in terminations. Although other factors seem relatively unchanged, there has, in fact, been considerable change in the administration of the disability programs in the last 2-3 years.

The Ways and Means Committee Report on H.R. 3236, in referring to the new assumptions of reduced disability incidence rates, states that the reasons for these are not wholly known. However, the report refers to the fact that the Subcommittee on Social Security "has received considerable testimony that this may be the result of tighter administration and a growing reliance on the medical factors in the determination of disability." (p. 15)

The House Social Security Subcommittee staff issued a committee print on February 1, 1979, which includes statistics similar to those

above. Citing these statistics, the Subcommittee requested administrators of the State agencies to give "your opinion as to the reasons for these recent trends. . . . and deal with any other aspect of the 'climate of adjudication' which seems relevant to our inquiry." Some 30 administrators responded, and their observations were discussed in some depth in the committee print.

A number of States wrote that criticism of the disability program has had the effect of changing the "adjudicative climate." The Subcommittee print quotes one administrator as saying:

I believe the primary reason for the recent conservative approach to disability evaluation is a direct result of the activities of the Subcommittee on Social Security, the General Accounting Office, and others involved in evaluating the effectiveness of the program. The Administration has apparently carefully considered all of the comments, inquiries, opinions, etc., and concluded that a "tightening up" is desired. This view may be somewhat of an over simplification; but in the real world it is quite likely the root cause of the recent trends.

In summary, I believe the "adjudicative climate" has changed primarily as a result of the activities of your committee. I believe the change to be reasonable and desirable. Benefits are being awarded to those individuals who are not working and unable to work primarily as a result of their medically determinable physical and mental impairments, and benefits are being withheld from those individuals who are not working primarily as a result of other factors. (p. 12)

According to the staff analysis, however, more administrators pointed to the promulgation of more specific Federal guidelines and better documentation of cases (as the result of quality assurance requirements and procedures) as being mainly responsible for increased denials. Quotations from the letters of three administrators taking this view are as follows:

I believe it is fair to state that most cases are more completely documented now than they were two years ago and that this more complete documentation has resulted in improved decisions. Of course, the increased documentation has increased administrative costs; however, it seems that the increase in administrative costs may have resulted in lower program cost; thus a net reduction in cost to the trust fund. The important point is that the better documentation has led to more "right" decisions.

* * * * *

Why the increase in denial and cessation rates? Is it due to some form of subtle persuasion from [the Central or Regional offices] to deny or cease benefits because of certain Trust Fund considerations? Perhaps the cost-effectiveness aspect is one cause and one result of the "tightening up," but we do not view it as the only or even major goal. Our reasoning is simply this: we have not been given a new set of rules under which to operate but, rather, needed definition and structure to concepts and criteria which have always existed as part of the

disability program since its inception. Are the increased denial and cessation rates, then, a result of a more appropriate application of program concepts and criteria to the disability determination process? Our feeling is yes. Demands for additional and more solid documentation cannot disfavor the allowable claimant but can disfavor the deniable claimant. What, if any, are the differences in demographic characteristics of and illness/disease incidence and treatment effectiveness in the population of today as compared to that of four years ago, and what role do they play in the increased denial-cessation rate? Are the criteria to allow or continue too rigid? The answer to the latter is, it is not for us to say. (p.13)

* * * * *

We feel that a combination of better quality assurance, better leadership from the Regional Offices as well as the Central Office, more definitive procedure and policy instructions, a closer adherence to the actual medical listings on which disabilities must be based, all of these have come together to create a more realistic approach to the aspect of disability decisions. Therefore, with these guidelines being followed closely, a good adherence to quality assurance recommendations, the denial rate has increased, the allowances that are allowed are becoming more realistic, and this trend will continue because there is a way yet to go in terms of accuracy relative to the continuation and the allowances processes. (p. 13)

* * * * *

The House subcommittee letter specifically asked the State administrators to evaluate the increase in denials on the basis of "slight impairment" which has taken place in recent years. Under the sequential determination procedure used in deciding whether an individual is disabled, the disability adjudicator must determine whether the individual has a severe impairment, even before he explores whether the individual meets or equals the medical listings, or, in the next step, is entitled to consideration of vocational factors. If the adjudicator decides that the condition is not "severe," but is, rather, a "slight impairment," then the individual is determined not to be disabled. The percentage of disabled worker cases denied on the basis of "slight impairment" increased from about 8 percent in 1975 to about 32 percent in 1977, increasing to 36 percent in the last 6 months of calendar year 1978.

According to the subcommittee staff, the States cited a number of elements which could account for the rise in percentage of denials based on slight impairment. These include increased Federal guidance on what constitutes slight impairment communicated by written and oral policy instructions, training sessions, and through cases returned to the States as the result of quality assurance review by the central office in Baltimore and the regional offices. All of these have emphasized increased physician involvement in adjudication and also increased documentation of cases.

Following are two analyses of the development by State administrators:

* * * * *

The slight impairment basis code has an interesting story. When I began adjudicating cases, the closest thing we had to a definition of "slight impairment" was that it meant "no impairment *at all*." Thus, if we found any deviation from normal we would proceed to other considerations. In recent years, more and more effort has gone into trying to define what was meant by "slight" and into trying to give examples of such impairments. Now, there are available lists of impairments which, when occurring alone, or in combination with other (similar) impairments, are automatically considered slight. These are impairments that would not have been routinely considered slight in past years, but the consensus of medical opinion is that they actually are (colostomy, loss of one eye, etc.). Quite often one may find disagreements among medical practitioners about the impact of some of these impairments, but overall this approach (specified examples) is probably one of the best ways to promote uniformity in the use of this basis code. (p. 15)

* * * * *

Initially, there was concern that examiners, with an additional documentation "burden," might opt for the "slight impairment" denial to avoid the detailed vocational documentation now required when adjudicating on a "more-than-slight" impairment basis. While this may have begun to occur, it did not continue on a sustained basis, primarily because of the advent of the SPAR program in 1/77. Second tier feedback in the form of 2052's ("returns" outlining the deficiency but without the accompanying case) included basis code errors and increased emphasis on/and delineation of sequential analysis, the first step of which is to determine severity level.

It is not without reason, then, that the big jump in "slight impairment" denials occurred between 1976 and 1977 and continued to rise in 1978. Examiners began to look more carefully at severity level for it meant more or less work for them depending on whether the impairment was "slight" or "more than slight." Also, the 2052 basis code "returns" continued to come in and Q/A, taking its cue from this feedback, began to carefully monitor the application of sequential analysis. With the new DISM VII (Quality Assurance Instructions) (7/78), the State agency chief medical consultant now reviews many more claims than before and, for each, he notes his severity rating. We are now being trained and are learning to differentiate, not between an allowance and a denial, but among six levels of severity as the first step in sequential analysis, leading to sounder and more uniform decisions. (p. 16)

* * * * *

A number of States see problems with the growth in "slight impairment" denials. One administrator wrote:

We must also admit that use of this basis code has been inflated by both conscious and habitual examiner actions to

avoid vocational development. There has been an increased emphasis on vocational factors over the past several years. Documentation requirements are perceived as excessive. In fulfilling the criteria, the time demand and complexity of documenting vocational issues is burdensome. Then, despite valid efforts, the chances of a deficiency citation are great since the expectations are so detailed. Also, assessments of residual functional capacity are extremely judgmental and represent another area of high-error probability. The obvious solution for the examiner is to use the "slight impairment" basis and thereby avoid the questions of residual capacity and vocational factors altogether.

Certainly this practice is discouraged administratively and has been reduced; however, the method is still there and does influence borderline cases. The ramifications are severe. It reflects an absence of sequential analysis since the claim is prejudged to be a denial and then the absence of functional loss is ascribed. It has not been our experience that decisional errors frequently occur as a result of this practice, yet we cannot deny that potential. (p. 15)

* * * * *

As shown above, the statistics relating to cessations show an impressive increase. In 1975 only 31.2 percent of continuing disability investigations (CDIs) were resulting in cessations of disability. By 1978 this had grown to 50.8 percent. The State administrators generally shared the same explanations for this development. They referred to increased documentation of cases and the return of cases to the State agencies as the result of Federal quality assurance review. In addition the 100 percent review of continuances which was in effect at times during the period is said to have had a major effect. One State agency administrator summarized the factors as follows:

The increase in the number of cessations seems to be an interplay of three factors: (a) The approach to CDI cases is now much different than in earlier years. [State agencies] are now developing CDI cases much the same way that initial claims are handled. This results in a great decrease in the number of "no CDI issue" continuances. (b) Many cases that were allowed during the trauma period following implementation of the SSI program are now being reviewed under a more careful approach. (c) The increased documentation requirements previously mentioned also apply in CDI cases. Incidentally, a greater overall percentage of these cases are being reviewed by all three tiers of the review system.

I would be reluctant to place a great deal of weight on one other factor as far as the national picture is concerned—but it needs to be mentioned. Many cases being ceased by the [State agencies] are cases which were allowed at the hearing level with less objectivity than the [State agencies] uses. I do not wish to belabor the issue of ALJ adjudication, but I would like to again make the plea that all components—BHA included—be required to follow the same guidelines if we are handling claims under the same regulations. We are seeing an

increasing ground swell of attorneys who seem to specialize in disability cases, and who do everything possible to impede handling of claims by the [State agencies] so that they can get the claim denied and escalated to the hearing level. They are aware that having a claim reviewed from a subjective rather than objective standpoint enhances the chances for a favorable decision. (p. 17)

Nearly all the administrators also pointed to the elimination in July 1976 of the requirement that "medical improvement" had to be shown before the State agency could terminate a case. The need to show medical improvement had long been cited as a problem because some administrators felt that they were being forced by that requirement to continue people on the rolls who should not have been awarded benefits in the first place.

Most of the above comments echo those heard by the staff of the Finance Committee in its discussions in the last two years with Federal and State disability administrators. They tend to confirm the crucial importance of administrative factors in the disability programs, and the sensitivity of the disability rolls to what might appear to be technical changes in requirements.

VIII. Pending Legislation

A. GENERAL DESCRIPTION

There are a number of bills amending the disability insurance and supplemental security income programs which will be of interest to the committee in any consideration of disability legislation.

The House of Representatives has passed H.R. 3236, the Disability Insurance Amendments of 1979, providing changes in the DI program which are designed to remove disincentives to employment. The House-passed bill is similar in a number of respects to the disability insurance amendments proposed in the 96th Congress by the Administration. Both include provisions for a "cap" on family benefits, as well as other provisions aimed at encouraging the disabled to return to work. These additional provisions would (1) permit a deduction of extraordinary impairment-related work expenses in determining whether an individual is performing substantial gainful activity, (2) extend the trial work period from 9 to 24 months and make the same trial work period applicable to disabled widow(er)s, (3) extend medicare coverage for an additional 36 months after cash benefits cease for individuals who have not medically recovered but have returned to substantial gainful work, (4) eliminate the second 24-month waiting period for medicare which a beneficiary presently must undergo if he returns to work but subsequently must return to the disability rolls, and (5) authorize demonstration projects to test ways to stimulate a return to work by disability beneficiaries. (These latter provisions to encourage a return to work are also included in S. 1643, introduced by Senator Durenberger. S. 1643 does not, however, include the provision for a "cap" on benefits.)

Both the House-passed bill and the Administration's bill include proposals affecting the administration of the disability programs, although these differ in a number of respects.

In addition the Senate has before it bills which amend the SSI disability program and which also are aimed at removing disincentives for disabled persons to seek employment. S. 591, introduced by Senator Dole, with Senator Moynihan, Bentsen, Ribicoff, Cranston, Danforth, Schweiker, and Javits as cosponsors, provides for special benefit status for persons who are determined to have a severe medical disability but lose eligibility for regular SSI benefits because they begin performing substantial gainful activity (earning more than \$280 a month). Eligibility for this special status would be limited to those who meet or equal the Social Security Administration's medical listings for disability, and would not include individuals who meet the definition of disability on the basis of vocational factors. Cash benefits would be the same as provided for regular SSI recipients, and would phase out at \$481 a month (at current benefit levels). Persons would be eligible for medicaid and social services up to this phaseout point, and could, depending on their particular circumstances, retain eligibility for medicaid and social services beyond this level if they met certain criteria provided in the bill.

The provisions for special benefit status for persons who meet or equal the medical listings are somewhat similar to temporary provisions approved by the Finance Committee in the 95th Congress (H.R. 12972). However, the 95th Congress legislation was aimed primarily at protecting medicaid and social services eligibility for the severely disabled, and provided a special monthly payment of \$10 a month rather than extending cash benefits on the same basis as for regular SSI recipients.

H.R. 3464, the Supplemental Security Income Amendments of 1979, as passed by the House is similarly aimed at assisting disabled individuals to undertake and continue employment. One of the major provisions of H.R. 3464 would expand current eligibility criteria for SSI recipients by changing the definition of what constitutes substantial gainful activity. The substantial gainful activity test for SSI eligibility would, in effect, be increased from its present level of \$280 a month to a minimum of \$481 for individuals (\$689 in the case of a couple). Thus, an individual could be determined "not disabled" on the basis of his earnings only if they exceeded this amount. The SGA limit would be further increased by the cost of any impairment-related work expenses. The bill includes a number of other provisions affecting disabled SSI recipients, aimed both at encouraging a return to work and improved administration. The House-passed provisions are included in S. 1657, introduced by Senator Levin, with Senators Lugar, Durkin, Baucus, Hatch, Simpson, Sarbanes, Riegle, and Leahy as cosponsors. Identical provisions are included in a broader SSI bill, S. 1402, introduced by Senator Riegle.

(The Administration's draft disability bill referred to above also has provisions amending the SSI and medicaid programs. These provisions generally are written so as to coordinate the DI and SSI programs with respect to the trial work period, eligibility for medical benefits, and preservation of beneficiary status.)

S. 1203, introduced by Senator Bayh, would amend title II to eliminate the waiting period for benefits in the case of individuals who are terminally ill.

A more detailed description of these bills is provided below:

B. H.R. 3236, THE DISABILITY INSURANCE AMENDMENTS OF 1979

The stated major purpose of the bill is "to provide better work incentives and improved accountability in the disability insurance program." The House Committee on Ways and Means observes in its report on H.R. 3236 that "Recent actuarial studies in both the public and private sector have indicated that high replacement ratios (the ratio of benefits to previous earnings) have constituted a major disincentive to disabled people in attempting rehabilitation or generally returning to the work force."

Limit on family benefit.—In order to provide greater incentives to work, the House bill provides for a so-called "cap" on family benefits. The bill would limit total DI family benefits to an amount equal to the smaller of 80 percent of a worker's average indexed monthly earnings (AIME) or 150 percent of the worker's primary insurance amount (PIA). The 80 percent of AIME limitation has its major effect on wage earners at lower earnings levels; the 150 percent of PIA limitation would affect average and higher wage earners. Under the bill no family benefit would be reduced below 100 percent of the worker's primary benefit. The limitation would be effective only with respect to individuals becoming entitled to benefits on or after January 1, 1980, based on disabilities that began after calendar year 1978.

The 80 percent cap was adopted in response to the criticism that under present law family benefits often exceed 100 percent of a worker's average indexed monthly earnings. As the committee report points out, social security benefits are based on gross earnings, not earnings net of Federal and State taxes and work-related expenses. Thus, the 80 percent cap actually represents a higher percentage of "take-home" pay than would first appear.

The committee report argues that for workers at higher wage levels social security benefits should replace less than 80 percent of AIME. The reasons given are: at higher wage levels, concern for benefit adequacy is less, the likelihood of private supplementation is greater, and the discrepancy between gross earnings (upon which social security benefits are based) and pre-disability disposable earnings is greater than in the case of the lower paid worker. The 150 percent of PIA limitation is designed to produce family benefits for these higher paid workers that are less than 80 percent of AIME, with the percentage declining to about 50 percent of AIME at the highest earnings levels.

It is estimated that the limit on benefits would apply to 30 percent of newly entitled disabled workers. Seventy percent of those coming on the rolls do not have eligible dependents and thus would not be affected by the cap on family benefits. According to estimates, 123,000 disabled-worker families would be affected by the cap in the first year.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. In response to the argument that this gives an undue advantage to younger workers, the House bill provides for varying the number of dropout years according to the age of the worker. Under H.R. 3236, there would be no dropout years allowed for workers under age 27. The number of dropped years would gradually

increase to 5, as under present law, for workers age 27 and over, as follows:

Worker's age:	Number of dropout years
Under 27.....	0
27 through 31.....	1
32 through 36.....	2
37 through 41.....	3
42 through 46.....	4
47 and over.....	5

In addition, the bill provides that if a worker provided principal care for a child under age 6 for more than 6 months in a calendar year that was a year of low earnings, that year could also be dropped (up to a total of 5 dropout years). This provision would become effective in January 1981. The Social Security Administration is directed to submit a report on how the provision would be implemented, with recommendations for any changes, by January 1, 1980.

Other provisions designed to encourage a return to work.—H.R. 3236 includes a number of provisions described in the report as being designed to "stimulate more disabled beneficiaries to return to work despite their impairments." These are:

1. Permit a deduction of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions.

2. Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under present law, when the nine-month trial work period is completed, three additional months of benefits are provided. The bill does not alter this aspect of present law.)

3. Extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period would be part of the new 24-month trial work period.) Under present law medicare coverage ends when cash benefits cease.

4. Eliminate the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. This amendment would apply to workers becoming disabled again within 60 months, and to disabled widow(er)s and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within the aforementioned time periods.

5. Authorize waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries.

Administration by State agencies.—The House bill would eliminate the provision in present law which provides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. Instead, the bill would provide for disability determinations to be made by State agencies in accordance with standards and criteria contained in regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his finding, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the bill provides for termination by the State. The State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency determinations.—The bill would have the effect, over time, of reinstating a review procedure used by SSA until 1972 under which most State disability allowances were reviewed prior to the payment of benefits. The bill provides for pre-adjudicative Federal review of at least 15 percent of allowances in fiscal year 1980, 35 percent in 1981, and 65 percent in years thereafter.

Periodic review of disability determinations.—Unless there has been a finding that an individual's disability is permanent, there would have to be a review of the case at least once every 3 years to determine continuing eligibility.

Claims and appeals procedures.—The bill includes a number of provisions relating to the adjudication and appeals process. These are:

1. Require that notices to claimants include a statement of the pertinent law and regulations, a list of the evidence of record, and the reasons upon which the disability determination is based.
2. Authorize the Secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II claims as is done in title XVI (SSI) claims.
3. Provide permanent authority for payment of the travel expenses of claimants (and their representatives in the case of reconsiderations and ALJ hearings) resulting from participation in various phases of the adjudication process.
4. Eliminate the provision in present law which requires that cases which have been appealed to the district court be remanded by the court to the Secretary upon motion by the Secretary. In-

stead, remand would be discretionary with the court, and only on motions of the Secretary where "good cause" was shown.

5. Continue the provision of present law which gives the court discretionary authority to remand cases to the Secretary, but add the requirement that remand for the purpose of taking new evidence be limited to cases in which there is a showing that there is new evidence which is material and that there was good cause for failure to incorporate it into the record in a prior proceeding.

6. Foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

7. Require the Secretary to submit a report to Congress by January 1, 1980, recommending appropriate case processing time limits for the various levels of adjudication.

Trust fund expenditures for rehabilitation.—Additional amendments are included which are intended to improve the effectiveness of rehabilitation services provided to DI beneficiaries by State vocational rehabilitation agencies. Present law authorizes an amount of up to 1.5 percent of disability insurance expenditures to be made available to rehabilitate title II beneficiaries under the beneficiary rehabilitation program. The House bill eliminates this special funding. The committee report justifies this change on the basis that the cost effectiveness of the provision has been questioned. The report cites a GAO study which estimated that for every \$1 of rehabilitation expenditure, only \$1.15 in savings is realized by the trust fund. The bill assumes that rehabilitation services for DI beneficiaries would be financed out of general revenues under the basic rehabilitation State grants program. However, it authorizes payment from the trust fund of a bonus to the States of an amount equal to twice the State share of the cost of services to DI beneficiaries which result in their performance of substantial gainful activity which lasts for a continuous period of 12 months, or which result in their employment for an equal period of time in a sheltered workshop. (The State share of the cost of rehabilitating individuals under the basic rehabilitation program is 20 percent.) This provision is intended to emphasize that the main purpose of trust fund expenditures for rehabilitation is to bring about benefit terminations.

Termination of benefits for persons in VR programs.—The House bill also provides that no DI beneficiary be terminated due to medical recovery if the beneficiary is participating in an approved VR program which the Social Security Administration determines will increase the likelihood that the beneficiary may be permanently removed from the disability rolls.

Cost estimates.—The following estimates of the effects of the bill have been provided by SSA actuaries. The estimates used are based on the so-called intermediate assumptions. The use of either the pessimistic or optimistic assumptions would produce different results.

TABLE 45.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISIONS OF H.R. 3236

[Pluses indicate cost, minuses indicate savings]

Provision ¹	Estimated effect on OASDI expenditures in fiscal years 1980-84 ² (in millions)					Estimated effect on long range OASDI expenditures as percent of taxable payroll ^{2,3}
	1980	1981	1982	1983	1984	
Limitation on total family benefits for disabled-worker families (sec. 2)—						
Benefit payments.....	-\$38	-\$146	-\$263	-\$392	-\$525	
Administrative costs.....	(⁴)	(⁴)	(⁴)	(⁴)	(⁴)	
Total.....	-38	-146	-263	-392	-525	-0.09
Reduction in number of dropout years for younger disabled workers (sec. 3)—						
Benefit payments.....	-12	-46	-89	-139	-194	
Administrative costs.....	(⁴)	+1	+1	+1	+1	
Total.....	-12	-45	-88	-138	-193	-0.04
Deduction of impairment-related work expenses from earnings in determining substantial gainful activity (sec. 5)—						
Benefit payments.....	+1	+2	+5	+9	+13	
Administrative costs.....	(⁴)	(⁴)	(⁴)	(⁴)	(⁴)	
Total.....	+1	+2	+5	+9	+13	+0.01
Federal review of State agency allowances (sec. 8)—						
Benefit payments.....	-3	-20	-73	-133	-198	
Administrative costs.....	+7	+13	+16	+17	+17	
Total.....	+4	-7	-57	-116	-181	-0.06
More detailed notices specifying reasons for denial of disability claims (sec. 9)—						
Benefit payments.....	(⁶)	(⁶)	(⁶)	(⁶)	(⁶)	
Administrative costs ⁷	+13	+20	+21	+22	+23	
Total.....	+13	+20	+21	+22	+23	(⁸)

See footnotes at end of table.

TABLE 45.—ESTIMATED EFFECT ON OASDI EXPENDITURES, BY PROVISIONS OF H.R. 3236—Continued

[Pluses indicate cost, minuses indicate savings]

Provision ¹	Estimated effect on OASDI expenditures in fiscal years 1980-84 ² (in millions)					Estimated effect on long range OASDI expenditures as percent of taxable payroll ³
	1980	1981	1982	1983	1984	
Limit trust fund payments for costs of vocational rehabilitation services to only such services that result in a cessation of disability, as demonstrated by a return to work (sec. 13)—						
Trust fund payments.....			-\$42	-\$83	-\$86	
Administrative costs.....		(⁴)	(⁴)	(⁴)	(⁴)	
Total.....			-42	-83	-86	-.01
Payment for existing medical evidence and certain travel expenses (sec. 15 and 16)—						
Benefit payments.....	(⁶)	(⁶)	(⁶)	(⁶)	(⁶)	
Administrative costs ⁵	+\$17	+\$21	+22	+23	+24	
Total.....	+17	+21	+22	+23	+24	(⁶)
Periodic review of disability determinations (sec. 17)—						
Benefit payments.....	-2	-25	-60	-100	-160	
Administrative costs ⁴	+34	+40	+42	+43	+45	
Total.....	+32	+15	-18	-57	-115	-.03
Benefit payments.....	-54	-235	-480	-755	-1,064	
Payments for costs of vocational rehabilitation services.....			-42	-83	-86	
Administrative costs.....	+71	+95	+102	+106	+110	
Total net effect on OASDI trust fund expenditures.....	+17	-140	-420	-732	-1,040	-.21

¹ The benefit estimates shown for each provision take account of the provisions that precede it in the table.

² Estimates are based on the intermediate assumptions in the 1979 trustees report.

³ The estimated change in long-range average expenditures represents the total net change in both benefits and administrative expenses over the next 75 yr.

⁴ Additional administrative expenses are less than \$1,000,000.

⁵ None.

⁶ Assumes short concise statement and applies only to DI claims.

⁷ Less than 0.005 percent.

⁸ Additional expenditures for the payment of certain travel expenses amount to less than \$1,000,000 in each year.

Note: The above estimates are based on assumed enactment of H.R. 3236 in December 1979.

Source: Social Security Administration, Oct. 8, 1979.

TABLE 46.—LONG-RANGE COST ESTIMATES FOR THE PROVISIONS OF H.R. 3236 ASSUMING EFFECTIVE DATE OF JAN. 1, 1980: ESTIMATES SHOWN FOR EACH PROVISION TAKE INTO ACCOUNT INTERACTION WITH PROVISIONS THAT PRECEDE IN THE TABLE

	Estimated long-range cost as percent of taxable payroll based on 1979 trustees report's intermediate assumptions		
	OASI	DI	HI ¹
1. Limit total DI family benefits to the smaller of 80 percent of AIME or 150 percent of PIA. No family benefits would be reduced below 100 percent of worker's PIA.....	(²)	-0.09	(²)
2. Compute DI benefits using one dropout year for each 5 full elapsed years. However, if the worker provided principal care of a child (own child or spouse's) under age 6 for more than 6 mo in any calendar year which is included in the worker's elapsed years, the number of dropout years is increased by 1 for each such calendar year. The maximum number of dropout years allowed is 5. Continued application of this provision for retirement benefits when disabled worker attains age 65 but not for survivor benefits when he dies. (Child care dropout provision effective Jan. 1, 1981).....	(²)	-.04	(²)
3. Exclude from earnings used in determining ability to engage in SGA the cost to the worker of any extraordinary work related expenses due to severe impairment including routine drugs and routine medical services.....	(²)	.01	(²)
4. Exclude trial work period for disabled widows/widowers.....	(²)	.....	(²)
5. For any disabled worker, widow(er), or child who engages in substantial gainful activity within 13 mo after the completion of the trial period (TWP) DI benefits are terminated after the 15th mo following completion of the TWP. Suspend DI benefits for any month during the 15 mo following completion of the TWP in which the beneficiary engages in substantial gainful activity, excluding the 1st 3 such months.....	(²)	(²)	(²)
6. Extend medicare coverage for 24 mo after SGA termination following the completion of a trial work period.....	(²)	(²)	(²)
7. Eliminate the requirement that months in the medicare waiting period be consecutive for persons returning to beneficiary status within 60 mo of termination. (84 mo for disabled children or disabled widows/widowers).....	(²)	(²)	(²)
Proposals 6 and 7 combined.....	(²)	(²)	.....
8. Provide that determinations of disability be made by secretary or by State agency pursuant to an agreement with the secretary. The Federal-State agreement is optional and could be terminated by either State or secretary. Provide that secretary alone determine reimbursement to State for actual costs of making disability determinations.....	(²)	(²)	+0.01
	(²)	(²)	(²)

See footnotes at end of table.

TABLE 46.—LONG-RANGE COST ESTIMATES FOR THE PROVISIONS OF H.R. 3236 ASSUMING EFFECTIVE DATE OF JAN. 1, 1980: ESTIMATES SHOWN FOR EACH PROVISION TAKE INTO ACCOUNT INTERACTION WITH PROVISIONS THAT PRECEDE IN THE TABLE—Continued

	Estimated long-range cost as percent of taxable pay- roll based on 1979 trust- ees report's intermediate assumptions		
	OASI	DI	HI ¹
9. SSA preadjudicative review of at least 65 percent of State agency initial determinations (allowances only), fully effective in fiscal year 1982.....	(²)	-0.06	-0.01
10. Provide claimant with written summary of evidence used in making disability determination.....	(²)	(²)	(²)
11. Provide that the Secretary's authority to remand a court case to the ALJ be discretionary with the court upon a showing of good cause by the secretary. Require that the court may remand only on a showing that there is new evidence which is material, and that there was good cause for failure to incorporate it into the record in a prior proceeding.....	(²)	(²)	(²)
12. For any person whose disability ceases as a result of rehabilitation (as demonstrated by 12 continuous months of employment either at the level of SGA or in a sheltered workshop), the DI trust fund will reimburse the U.S. Treasury the Federal share of the VR cost for that person. No DI trust fund reimbursement will be made otherwise.....	(²)	-0.01	(²)
13. Provide that no beneficiary be terminated due to medical recovery if the beneficiary is participating in an approved VR program which SSA determines will increase the likelihood that the beneficiary may be permanently removed from the disability benefit rolls.....	(²)	(²)	(²)
14. Require secretary to pay all non-Federal providers for costs of supplying medical evidence of record in title II disability claims.....	(²)	(²)	(²)
15. Authorize payments from DI trust fund for claimant's travel expenses resulting from undergoing a medical exam required by Secretary. Pay for travel expenses of claimants, representatives, and witnesses in attending reconsideration interviews and hearings.....	(²)	(²)	(²)
16. Require State agency or secretary to review the cases of disability beneficiaries at least once every 3 yr for purposes of determining continuing eligibility. If the beneficiary's disability is determined to be permanent, the periodic review is not required.....	(²)	-0.03	(²)
Total for H.R. 3236 ³	(²)	-0.21	-0.01

¹ 25-yr average cost.

² Less than 0.005 percent.

³ Due to rounding separate estimates for the provisions may not add to the total.

Source: Social Security Administration.

C. DISABILITY INSURANCE REFORM ACT OF 1979, AS PROPOSED BY
THE ADMINISTRATION

The Administration's disability amendments are expressly aimed at targeting expenditures for disability insurance benefits "in a manner more specifically directed to achieve the purposes of the program," to remove disincentives for the disabled to engage in gainful activity, and to make administrative improvements. The draft bill would amend both title II (disability insurance) and title XVI (supplemental security income program) of the Social Security Act.

In the March 12, 1979, letter to the Congress which accompanied the Administration's draft disability bill, the Secretary of HEW stated that "The cost of the disability insurance program has grown in the last decade and serious and legitimate questions about the wage replacement rate feature of the benefit structure continue to be voiced. Since the inception of the disability insurance program in 1956, disability insurance (DI) and old-age and survivors insurance (OASI) benefits have been calculated using the same formula. One result has been that, for a significant minority of the caseload, that rate at which benefits replace wages is extremely high; approximately 16 percent of the disability caseload has wage replacement rates in excess of 80 percent of disposable earnings, and for 6 percent that rate exceeds 100 percent."

Limit on family benefit.—In response to this criticism, the Administration bill provides for a "cap" on family benefits. There would be a limit of 80 percent of the individual's average indexed monthly earnings (AIME) as the maximum amount of total benefits that could be paid to the family (the individual and his dependents) on the basis of the worker's earnings record. (The House bill provides for the smaller of 80 percent of AIME or 150 percent of the primary insurance amount (PIA)). Current law, which would remain unchanged for those entitled to old-age and survivors insurance benefits, has higher limits. The provision would be effective only with respect to individuals becoming entitled to benefits after August 1979, based on disabilities that began after calendar year 1978.

Reduction in dropout years.—Under current law, workers of all ages are allowed to exclude 5 years of low earnings in averaging their earnings for benefit purposes. The Administration's bill, like the House bill, provides for varying the number of dropout years according to the age of the worker. Under both proposals, there would be no dropout years allowed for workers under age 27. The number of dropped years would gradually increase to 5, as under present law, for workers age 27 and over. In presenting this proposal, the Administration observed that "The proposal would bring the benefits of young disabled workers more into line with those provided to older workers." It would apply to workers becoming disabled after 1978, and entitled for months after August 1978.

Other provisions designed to encourage a return to work.—The Administration's proposal includes a number of provisions designed to eliminate disincentives to engage in substantial gainful activity and encourage a return to work. A number of these are similar or identical to provisions in H.R. 3236, as reported by the Ways and Means Committee (although H.R. 3236 omits any provisions affecting the SSI and medicaid programs):

1. Eliminate the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. This amendment would apply to workers becoming disabled again within 60 months, and to disabled widow(er)s and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within the aforementioned time period.

2. Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (See description of this provision in H. R. 3236.)

3. Extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. Under present law medicare coverage ends when cash benefits cease.

4. Provide that the extension of the trial work period, described in (2) above, would also apply to persons receiving benefits under the SSI program.

5. Provide for an extension of medicaid coverage for SSI recipients for an additional 36 months, under the same circumstances as are applicable to DI beneficiaries in (3) above.

6. Require that in determining whether an individual's earnings constitute substantial gainful activity, there must be excluded amounts spent by the individual for attendant care, or other items or services that he needs, because of his impairment, to engage in gainful activity. If care or services necessary to enable him to work are furnished without cost to him the Secretary will specify the amount of the deduction with respect to that care or service that is to be made for purposes of determining ability to engage in SGA. The same amounts are to be excluded for DI and SSI in the case of a person receiving benefits under both programs. These amounts are to be excluded even though the care or service may also be necessary to enable the individual to carry out his normal daily functions. The bill also provides the same exclusion for applicants and recipients under title XVI for purposes of determining SGA. In addition, if the blind or disabled individual pays the costs of these services or items himself, these amounts will be deducted in determining the amount of the SSI benefit. The Secretary is directed to prescribe the types of work-related expenses that may be deducted, and to set limits on the amounts of the deductions.

7. Require the Secretary to review the above amendments and report to the Congress, after 5 years, concerning their effectiveness in encouraging disabled individuals to return to substantial gainful activity.

Administration by State agencies.—The Administration bill, like the House bill, would eliminate the provision in present law which pro-

vides for disability determinations to be performed by State agencies under an agreement negotiated by the State and the Secretary of HEW. Instead, the provisions of the Administration's bill, which were adopted by the House, would provide for disability determinations to be made by State agencies in accordance with standards and criteria contained in regulations or other written guidelines of the Secretary. It would require the Secretary to issue regulations specifying performance standards and administrative requirements and procedures to be followed in performing the disability function "in order to assure effective and uniform administration of the disability insurance program throughout the United States."

The bill also provides that if the Secretary finds that a State agency is substantially failing to make disability determinations consistent with his regulations, the Secretary shall, not earlier than 180 days following his finding, terminate State administration and make the determinations himself. In addition to providing for termination by the Secretary, the bill provides for termination by the State. The State is required to continue to make disability determinations for 180 days after notifying the Secretary of its intent to terminate. Thereafter, the Secretary would be required to make the determinations.

Federal review of State agency decisions.—The Administration's bill would allow the Secretary to review and revise State agency disability determinations to make the findings either more or less favorable to the claimant. Under present law, the Secretary may review only allowances, and not denials.

Limit on introduction of new evidence.—The Administration's bill (like H.R. 3236) would amend present law to foreclose the introduction of new evidence with respect to an application after the decision is made at the administrative law judge hearing level. At the present time new evidence may be introduced until all levels of administrative review have been exhausted (through the Appeals Council).

Research and Demonstration projects.—The Administration's bill contains provisions similar to those in the SSI and DI bills approved by the House which would authorize the Secretary to waive certain requirements under titles II, XVI, and XVIII in order to carry out experimental or demonstration projects.

Judicial review.—Under the Administration's bill the Secretary's determinations with respect to facts would be final; court review would be limited to questions of statutory and constitutional interpretation. Present law provides that the findings of the Secretary as to any fact, if supported by substantial evidence, shall be conclusive. The Administration's bill would delete the substantial evidence requirement. This would apply to decisions under both the DI and SSI programs.

Deeming of parents' income to disabled or blind children.—For purposes of SSI eligibility determination, the "deeming" of parents' income would be limited to disabled or blind children under age 18 regardless of student status. This provision is similar to one adopted by the Finance Committee in H.R. 7200, 95th Congress, and to a provision in H.R. 3464, as passed by the House in the 96th Congress. However, the House bill also provides that those individuals through 21 who are receiving benefits at the time of enactment would be protected against loss of benefits due to this change.

D. S. 591, INTRODUCED BY SENATORS DOLE, MOYNIHAN, BENTSEN,
RIBICOFF, CRANSTON, DANFORTH, SCHWEIKER, AND JAVITS

S. 591 amends title XVI (the supplemental security income program) with respect to benefits for disabled recipients who have earnings from gainful employment. The purpose of the bill is to assist severely handicapped individuals to undertake and continue employment.

Benefits for individuals who perform substantial gainful activity despite severe medical impairment.—Under present law an individual qualifies for SSI disability payments only if he is "unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months." The Secretary of HEW is required to prescribe the criteria for determining when services performed or earnings derived from employment demonstrate an individual's ability to engage in substantial gainful activity (SGA). For 1979, the level of earnings established by the Secretary for determining whether an individual is engaging in substantial gainful activity is \$280 a month. Thus, when an individual has earnings (following a 9-month trial work period) which exceed this amount, he loses eligibility for cash benefits, and may also lose eligibility for medicaid and social services.

S. 591 provides that for persons who are determined to have a severe medical disability, but cease to be eligible for regular SSI benefits because they are performing substantial gainful activity, special benefits could be paid until earnings reach the SSI breakeven point, \$481 a month. These special benefits would be paid only to those who are determined to meet or equal the social security disability medical listings, without regard to consideration of vocational factors (such as age, education, or work experience). The amount of the special cash benefits would be reduced as earnings increase. Persons who received these special benefits would be eligible for medicaid and social services on the same basis as regular SSI beneficiaries. States would have the option of supplementing the special Federal benefits.

The bill also would allow continuation of medicaid and social services beyond the breakeven point (\$481) if the Secretary of HEW determined that the termination of eligibility for these benefits would seriously inhibit the individual's ability to continue his employment, and if his earnings were not sufficient to allow him to provide for himself a reasonable equivalent of the cash and other benefits that would be available to him in the absence of earnings.

This provision is similar to a temporary provision approved by the committee in 1978 in H.R. 12972. However, H.R. 12972 limited the cash benefit to \$10 a month and was aimed primarily at preserving eligibility for medicaid and social services.

Exclusion of certain work expenses in determining SGA.—S. 591 includes a provision, similar to provisions in the House-passed bills, H.R. 3236 and H.R. 3464, which require that in determining whether an individual is performing substantial gainful activity, there shall be excluded the cost of attendant care services, medical devices, equipment, or prostheses, and similar items and services (not including routine drugs or other routine medical care and services) which are necessary in order for the individual to work, whether or not these items are also needed to enable him to carry out his normal daily

functions. S. 591 specifies, in addition, that the Secretary of HEW shall determine those items and services which may be excluded under this provision.

Presumptive disability.—The bill allows a person who was once disabled for purposes of either title II or title XVI to be considered presumptively disabled if he leaves the rolls as a result of performing substantial gainful activity, but reapplies for benefits within a 5-year period. Benefits paid to a person who was subsequently determined not to be disabled would be subject to recovery.

Earned income in sheltered workshops.—Under the bill, earnings received in sheltered workshops and work activities centers would be considered as earned income, rather than unearned income for purposes of determining SSI benefits. This would assure that individuals with earnings from these kinds of activities would have the advantage of the earned income disregards provided in law for earnings from regular employment. The committee approved an identical provision in H. R. 7200, 95th Congress.

Cost estimates.—CBO has estimated the cost of the bill to be \$5 million in fiscal year 1980, increasing to \$11 million the following year as the provisions are fully implemented.

E. H. R. 12972, 95TH CONGRESS, AS REPORTED BY THE COMMITTEE
ON FINANCE

Benefits for individuals who perform substantial gainful activity despite severe medical impairment.—As described under S. 591, present law provides that an individual who has earnings of \$280 a month or more loses eligibility for SSI benefits, regardless of his impairment. This is the dollar amount of earnings considered under present regulations to constitute "substantial gainful activity," which is the basic test for whether an individual is disabled. Under the bill reported by the committee last year, a severely medically disabled individual (who meets or equals the Social Security Administration's medical listings) who loses his eligibility for regular SSI benefits because of performance of substantial gainful activity would become eligible for a special \$10 monthly benefit. Eligibility for the benefit would be considered to be the same as eligibility for SSI for purposes of maintaining the individual's Medicaid and social services coverage.

The special SSI benefit and the concomitant eligibility for other programs would continue until the individual's earnings reached the point at which his benefit amount would have been reduced to zero under the regular benefit computation formula (\$481 at the present time). When the severely disabled individual's income exceeded the amount which would cause a regular benefit to be reduced to zero, the special benefit would be terminated unless the Secretary found (1) that the termination of the cash benefits and the loss of Medicaid and social services eligibility would make it impossible for the individual to retain his employment; and (2) that the individual's earnings did not provide at least an equivalent of the combined benefits he would otherwise receive from the SSI, Medicaid, and social services programs.

Disregard of attendant care costs in determining SGA.—The bill provides that if an individual has a functional limitation which requires that he have personal assistance in order to work, the amount which he must pay for attendant care will be disregarded in determin-

ing whether his earnings constitute substantial gainful activity. This disregard will apply even if the attendant care is necessary to enable him to carry out his normal daily functions.

The above provisions were to be implemented on a trial basis, expiring at the end of three years.

Cost estimate.—CBO estimated outlays of \$1 million in the first year of the bill (fiscal year 1979), \$2 million in the second year, and \$3 million in the third year.

F. H.R. 3464, SUPPLEMENTAL SECURITY INCOME AMENDMENTS OF 1979, AS PASSED BY THE HOUSE

H.R. 3464 amends title XVI (the supplemental security income program) with respect to disabled recipients who have earnings from gainful employment. The stated major purpose of the bill is to assist disabled individuals to undertake and continue employment.

The determination of substantial gainful activity.—As described under S. 591, present law provides that an individual who has earnings of \$280 a month or more loses eligibility for SSI benefits, regardless of his impairment. This is the dollar amount of earnings considered under present regulations to constitute "substantial gainful activity," which is the basic test for whether an individual is disabled.

Under H.R. 3464 an individual could be found "not disabled" on the basis of his earnings capacity only if he were unable to earn as much as \$481 for a single individual, and \$690 for an eligible couple. (Any future automatic cost-of-living increases in the Federal SSI benefit would automatically increase the current basic SGA amounts.) These amounts would be further increased by the amount of any impairment-related work expenses. Thus the SGA level would vary from individual to individual depending on his impairment-related work expenses and on his marital status. A single individual with monthly expenses of \$150 would have an SGA level of \$631 a month or \$7,572 a year. If this same individual had an eligible spouse his SGA level would be \$840 a month or \$10,080 a year.

The effect of H.R. 3464 is to modify the SSI definition of disability by changing the definition of what constitutes substantial gainful activity. For individuals with severe disabilities which meet or equal SSA's medical listings, or who qualify on the basis of vocational factors, the increase in the SGA level would permit them to obtain employment at a higher level of earnings than is now possible without losing their entitlement to SSI benefits. It would also permit initial eligibility for any such severely disabled individuals who are not now eligible because they are, in fact, performing work at levels above the level of substantial gainful activity.

The determination of the benefit amount.—Present law provides that in determining eligibility for and the amount of SSI benefits, there shall be excluded the first \$65 of monthly earnings, plus 50 percent of earnings above this amount. The \$65 a month exclusion was established as a standard amount to take account of work expenses of all aged, blind and disabled recipients with earnings. These disregard provisions have the effect of establishing a Federal SSI breakeven point of \$481 for an individual and \$690 for an eligible couple. If an aged or disabled individual (or couple) has earnings above the breakeven point, he is not eligible for any Federal benefit. However, blind recip-

ients are, in addition, entitled to a disregard of individual itemized amounts spent as work expenses. This provision has the effect of raising the breakeven point for blind persons who have work expenses, thus increasing the amount of earnings that a blind individual may have and still retain SSI eligibility.

H. R. 3464 provides that, for the disabled, a standard work-related expense disregard equal to 20 percent of gross earnings would be allowed in determining the monthly SSI payment. In addition, impairment-related work expenses which are paid for by the individual would be disregarded. For purposes of determining the benefit amount, amounts of earnings would be disregarded as follows: (1) the first \$65 of monthly earnings, (2) 20 percent of gross earnings, (3) impairment-related work expenses paid for by the individual, and (4) 50 percent of any remaining monthly earnings.

Disability status without SSI payments and presumptive disability determination.—Under H. R. 3464, a disabled SSI recipient would be allowed to retain disability status, without receiving SSI payments, for 12 months following termination of SSI benefits due to earnings in excess of the SGA limit. During this 12 month period, a person could immediately requalify for SSI payments if necessary because of a loss of or reduction in earnings. This 12 month period during which the individual would maintain disability status without SSI payments would follow the 9 month "trial work period," plus the 3 months allowed before actual termination of payments, provided under present law.

In addition, a person who loses title II (disability insurance) or SSI disability status due to earnings in excess of the SGA limit would be considered presumptively disabled if he reapplies for SSI benefits within four years following the loss of disability status. Such an individual would begin receiving SSI payments immediately upon a determination that he meets the income and assets tests and would continue to receive benefits unless and until it was determined that the disability requirements were not met.

In addition to the changes in the SSI disability program, the bill contains the following provisions:

SSI Demonstration Projects.—The Secretary of HEW would be authorized to conduct experimental, pilot or demonstration projects which, in his judgment, are likely to promote the objectives or improve the administration of the SSI program. The Secretary, however, would not be authorized to carry out any project that would result in a substantial reduction in any individual's total income and resources as a result of his participation in the project. The Secretary could not require any individual to participate in a project and would have to assure that the voluntary participation of individuals in any project is obtained through an informed written consent agreement which satisfies requirements established by the Secretary. The Secretary would also have to assure that any individual could revoke at any time his voluntary agreement to participate.

Deeming of Parents' Income to Disabled or Blind Children.—For purposes of SSI eligibility determination, the "deeming" of parents' income would be limited to disabled or blind children under 18 regardless of student status. Those individuals through 21 who are receiving benefits at the time of enactment would be protected against loss of benefits due to this change.

Decision Notices for SSI Applicants.—The Secretary of HEW would be required to provide SSI applicants with a decision notice containing a citation of the pertinent law and regulations, a summary of the evidence, and the reasons for the decision on their application.

SSI Payments During Participation in Rehabilitation Program.—An SSI beneficiary could not be terminated due to medical recovery while he is participating in an approved vocational rehabilitation program which the Social Security Administration determines will increase the likelihood that the person may be permanently removed from the disability benefit rolls.

Cost estimates.—According to the Congressional Budget Office, outlays for SSI and medicaid benefits under the House bill would be increased by \$7 million in fiscal year 1980 (the bill becomes effective only in the last quarter of the year), increasing to \$63 million in 1981, \$118 million in 1982, \$149 million in 1983, and \$158 million in 1985. Most of these costs are attributable to the increase in the SGA level. In submitting its estimate for H.R. 3464, the Congressional Budget Office cited the problems it had in developing the estimate, noting "paucity of information" and difficulty in predicting behavioral response of either recipients or administrators. It cautioned that under certain circumstances "the cost estimates here could be significantly understated." The CBO statement which is included in the Ways and Means Committee Report on H.R. 3464 is quoted here in full:

Cost estimates involving disability determinations are difficult and seldom precise. There is a paucity of information available on current disabled recipients and even less information is available on the potentially eligible recipients. In addition, it is difficult to predict the behavioral response of either recipients or administrators. This cost estimate has made no adjustment for three potentially important factors because of a lack of detailed information on which to base an adjustment. First, no adjustment has been made to reduce costs because of increased work response of current recipients to the increased work incentives provided in this bill. Second, no decreased work response has been calculated for those who might work less in an attempt to become eligible for either SSI or disability insurance. Finally, the estimate implicitly assumes no change in the medical or vocational factors currently used to determine disability. If the medical listings or vocational factors are liberalized as a result of the increase in the SGA limit, the costs estimated here could be significantly understated. (p. 38)

In addition to the difficulty of estimating the direct costs of the provision for the SSI program, there is also a question of its impact on the title II disability insurance program. While H.R. 3464 changes the meaning of "substantial gainful activity" only with respect to the SSI program, the same term is used—without legislative definition—in the title II program. Apart from the costs which would be involved if the Department found it necessary or desirable to modify the title II meaning of that term to conform to that in H.R. 3464, the actuarial office of the Social Security Administration estimates some spill-

over impact on the costs of that program, as is indicated in the memorandum below.

SEPT. 26, 1979.

MEMORANDUM FROM FRANCISCO R. BAYO, DEPUTY CHIEF
ACTUARY, SOCIAL SECURITY ADMINISTRATION, ON EFFECT
OF H.R. 3464 ON DI COSTS

H.R. 3464 (Corman bill), which modifies the substantial gainful activity (SGA) amount for title XVI (SSI), will have a significant effect on DI costs. There are two reasons for this. The first is that some workers who are impaired enough to qualify under the definition of disability in present law but who nevertheless have not applied for benefits can more easily become entitled to DI benefits under the bill. The second reason is that the proposed change in the SGA concept for the SSI program implies a liberalization of the definition of disability for that program, which will ultimately also affect the definition of disability for the DI program.

With respect to the first reason, we think that under present law there is a significant number of workers who have not applied for disability benefits even though they are impaired enough to be found disabled. Their current earnings are substantially above the present law SGA levels, and they are not sure that their impairment is severe enough for them to qualify for benefits if their earnings were lower. Under present law, in order to become entitled to disability benefits, these individuals would have to leave their jobs (which they might be unable to get back) and file an application for benefits (which as far as they know could be denied). It is our opinion that many of them perceive the financial risks of trying to become entitled to benefits as being too high and prefer to continue working even though they are highly impaired.

The bill, with its proposed changes in SGA, would allow a large portion of these workers to apply and become eligible to SSI disability benefits with little or no change in their work or earnings patterns. Once these workers are eligible to receive SSI disability benefits their perception about their own situation could change significantly. They will recognize that there is little financial risk in allowing their earnings to drop since they are assured that a large portion of the drop in their earnings will be replaced by the SSI program. For some, their earnings will eventually drop enough for them to qualify under the DI program. Of those, there are some who will become entitled earlier than under present law, and there are others who under present law would not have become entitled to DI benefits at any time. Therefore, some DI costs will be generated by the bill that would not be incurred under present law.

With respect to the second reason we think that there are two important ideas that need to be understood. One is that the SGA concept is an integral part of the definition of disability. There are many who erroneously translate the SGA concept into the idea of "allowable earnings". However,

the SGA dollar level was developed and is primarily applied under present law as an administrative tool that assists in the determination of whether a person is or is not disabled. In addition, many people erroneously equate disability with an impairment. However, the definition of disability requires first an inability to engage in substantial gainful activity (SGA) and second that such inability be due to an impairment. Therefore, a change in what constitutes SGA is clearly a fundamental change in the definition of disability. Consequently, since the bill proposes a change in the SGA concept for SSI, it is also proposing a change in the definition of disability for SSI.

The second idea which needs to be understood is that the SGA concepts and the definitions of disability under the SSI and DI programs are highly interrelated. To date, the same adjudicators have administered both programs in the same way and have applied the same definition of disability. Under the bill, the situation will still be the same, except that the SGA concepts and hence the definitions of disability under the two programs will be different. We see this as posing a practical problem in the administration of the programs. Although we are not sure how this will be resolved, our best judgment is that the liberalizations in the SSI program under the bill will lead to a more liberal DI program, which will result in additional DI costs.

Although no one can exactly predict how many individuals will be affected or what their additional DI benefits will be, on the basis of our judgment we estimate that the average long-range cost of the DI program will increase by 0.05 percent of taxable payroll (based on 1979 trustees reports intermediate assumptions). This would be equivalent to about \$500 million in calendar year 1979. Most of this increase in costs is estimated to be due to the first reason stated above. We are assuming that only small additional costs will arise due to the practical side effect of the liberalization of the definition of disability in the DI program. These small additional costs that are estimated are based on the assumption that the application of the definition of disability in the DI program will be carefully monitored. If not carefully monitored, there would be very large cost impact on the DI program. For example, if the modifications proposed in the bill were to be made applicable to DI the long-range program cost would increase by at least 0.70 percent of taxable payroll. This would be equivalent to at least \$7 billion in calendar year 1979.

**G. S. 603, INTRODUCED BY SENATORS JAVITS, STAFFORD, CHAFEE,
SCHWEIKER, AND HAYAKAWA**

S. 603 is aimed at preserving medicaid eligibility for persons who are severely disabled but do not meet the requirements for disability benefits under the SSI program because they are performing substantial gainful activity.

Specifically, the bill would amend title XIX to allow States to provide coverage under medicaid for "severely disabled individuals

who meet such criteria of medical severity of disability as the Secretary shall prescribe in regulations, notwithstanding such individuals' performance of 'substantial gainful activity' within the meaning of title XVI. . . ." No cost estimate is available.

H. S. 1203, INTRODUCED BY SENATOR BAYH

S. 1203 would amend the title II disability insurance program to provide that the waiting period for disability benefits shall not be applicable in the case of an individual suffering from a terminal illness. Present law requires a 5-month waiting period before benefits may be payable.

Under the bill, terminal illness would be defined as "a medically determinable physical impairment which is expected to result in the death of such individual within the next 12 months." The amendment would be effective with regard to applications made after the enactment of the bill, or before the month of enactment (1) if notice of the final decision of eligibility for disability has not yet been given to the applicant, or (2) if the case has been appealed to a U.S. district court.

The cost of this bill is discussed in the following memorandum of the Social Security actuary's office:

MEMORANDUM FROM STEVE GOSS, OFFICE OF THE ACTUARY, SOCIAL SECURITY ADMINISTRATION ON EFFECT OF ELIMINATING THE DI WAITING PERIOD FOR THE TERMINALLY ILL

Senator Birch Bayh has drafted a bill that will eliminate the 5 month waiting period for disabled workers who are "terminally ill." Terminal illness is defined as "a medically determinable physical impairment which is expected to result in death . . . within the next 12 months."

The bill does not specify whether death must be expected to occur within 12 months of onset of disability or within 12 months of the disability determination. For the purpose of the cost estimates that follow in this note, it is assumed that death must be expected to occur within 12 months of onset of disability.

Due to the difficulty involved in predicting whether an illness will result in premature death, especially within a limited time of 12 months or less, the level of accuracy of determinations of terminal illness cannot be expected to be very good. It is expected that many persons will be found reasonably likely to die within 12 months of onset who will in fact survive the year. Similarly many persons will die within 12 months of onset who will not have been expected to do so. For persons who die unexpectedly, retroactive payments will be made for the up to 5 waiting period months during which they will actually have been entitled under this provision. However, it is assumed that for persons who survive unexpectedly, no return of benefits for the five months during which they were not entitled will be required.

The long-range DI program cost for this bill as drafted is estimated at .03 percent of taxable payroll. However, if bene-

fits for the waiting period months are only paid retrospectively following the death of the disabled worker when death occurs within 12 months of his onset date, the long-range DI cost is estimated at .01 percent of taxable payroll. These estimates are based on the intermediate assumptions of the 1979 trustees reports.

I. S. 1643, INTRODUCED BY SENATOR DURENBERGER

S. 1643 includes the following provisions designed to encourage disabled title II beneficiaries to return to work despite their impairments. These provisions would:

1. Permit a deduction of extraordinary impairment-related work expenses, attendant care costs, and the cost of medical devices, equipment, and drugs and services (necessary to control an impairment) from earnings for purposes of determining whether an individual is engaging in substantial gainful activity, regardless of whether these items are also needed to enable him to carry out his normal daily functions.

2. Extend the present 9-month trial work period to 24 months. In the last 12 months of the 24-month period the individual would not receive cash benefits, but could automatically be reinstated to active benefit status if a work attempt fails. The bill also provides that the same trial work period would be applicable to disabled widow(er)s. (Under present law, when the nine-month trial work period is completed, three additional months of benefits are provided. The bill does not alter this aspect of present law.)

3. Extend medicare coverage for an additional 36 months after cash benefits cease for a worker who is engaging in substantial gainful activity but has not medically recovered. (The first 12 months of the 36-month period would be part of the new 24-month trial work period.) Under present law medicare coverage ends when cash benefits cease.

4. Eliminate the requirement that a person who becomes disabled a second time must undergo another 24-month waiting period before medicare coverage is available to him. This amendment would apply to workers becoming disabled again within 60 months, and to disabled widow(er)s and adults disabled since childhood becoming disabled again within 84 months. In addition, where a disabled individual was initially on the cash benefit rolls but for a period of less than 24 months, the months during which he received cash benefits would count for purposes of qualifying for medicare coverage if a subsequent disability occurred within the aforementioned time periods.

5. Authorize waiver of certain benefit requirements of titles II and XVIII (medicare) to allow demonstration projects by the Social Security Administration to test ways in which to stimulate a return to work by disability beneficiaries.

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