

vidual to whom such benefits were paid would have been entitled to such benefits in or after the month in which this Act was enacted [January 1968] if the report mentioned in the amendment made by subsection (a) of this section had been correct (but without regard to the provisions of section 202(j)(1) of such Act [section 402(j)(1) of this title]).”

EFFECTIVE DATE OF 1939 AMENDMENT

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

**§ 405. Evidence, procedure, and certification for payments**

**(a) Rules and regulations; procedures**

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

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

(1) The Commissioner of Social Security is directed to make findings of fact, and decisions as to the rights of any individual applying for a payment under this subchapter. Any such decision by the Commissioner of Social Security which involves a determination of disability and which is in whole or in part unfavorable to such individual shall contain a statement of the case, in understandable language, setting forth a discussion of the evidence, and stating the Commissioner's determination and the reason or reasons upon which it is based. Upon request by any such individual or upon request by a wife, divorced wife, widow, surviving divorced wife, surviving divorced mother, surviving divorced father, husband, divorced husband, widower, surviving divorced husband, child, or parent who makes a showing in writing that his or her rights may be prejudiced by any decision the Commissioner of Social Security has rendered, the Commissioner shall give such applicant and such other individual reasonable notice and opportunity for a hearing with respect to such decision, and, if a hearing is held, shall, on the basis of evidence adduced at the hearing, affirm, modify, or reverse the Commissioner's findings of fact and such decision. Any such request with respect to such a decision must be filed within sixty days after notice of such decision is received by the individual making such request. The Commissioner of Social Security is further authorized, on the Commissioner's own motion, to hold such hearings and to conduct such investigations and other proceedings as the Commissioner may deem necessary or proper for the administration of this subchapter. In the course of any hearing, investigation, or other proceeding, the Commissioner may administer oaths and affirmations, examine witnesses, and receive evi-

dence. Evidence may be received at any hearing before the Commissioner of Social Security even though inadmissible under rules of evidence applicable to court procedure.

(2) In any case where—

(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

(B) the physical or mental impairment on the basis of which such benefits are payable is found to have ceased, not to have existed, or to no longer be disabling, and

(C) as a consequence of the finding described in subparagraph (B), such individual is determined by the Commissioner of Social Security not to be entitled to such benefits,

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

(3)(A) A failure to timely request review of an initial adverse determination with respect to an application for any benefit under this subchapter or an adverse determination on reconsideration of such an initial determination shall not serve as a basis for denial of a subsequent application for any benefit under this subchapter if the applicant demonstrates that the applicant, or any other individual referred to in paragraph (1), failed to so request such a review acting in good faith reliance upon incorrect, incomplete, or misleading information, relating to the consequences of reapplying for benefits in lieu of seeking review of an adverse determination, provided by any officer or employee of the Social Security Administration or any State agency acting under section 421 of this title.

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

in lieu of requesting review of the determination.

**(c) Wage records**

(1) For the purposes of this subsection—

(A) The term “year” means a calendar year when used with respect to wages and a taxable year when used with respect to self-employment income.

(B) The term “time limitation” means a period of three years, three months, and fifteen days.

(C) The term “survivor” means an individual’s spouse, surviving divorced wife, surviving divorced husband, surviving divorced mother, surviving divorced father, child, or parent, who survives such individual.

(D) The term “period” when used with respect to self-employment income means a taxable year and when used with respect to wages means—

(i) a quarter if wages were reported or should have been reported on a quarterly basis on tax returns filed with the Secretary of the Treasury or his delegate under section 6011 of the Internal Revenue Code of 1986 or regulations thereunder (or on reports filed by a State under section 418(e)<sup>1</sup> of this title (as in effect prior to December 31, 1986) or regulations thereunder),

(ii) a year if wages were reported or should have been reported on a yearly basis on such tax returns or reports, or

(iii) the half year beginning January 1 or July 1 in the case of wages which were reported or should have been reported for calendar year 1937.

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

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

(I) to aliens at the time of their lawful admission to the United States either for permanent residence or under other authority of law permitting them to engage in employment in the United States and to other aliens at such time as their status is so changed as to make

it lawful for them to engage in such employment;

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

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

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

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

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

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

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

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

(ii) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has

<sup>1</sup> See References in Text note below.

more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Commissioner of Social Security) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the Commissioner of Social Security and the agency administering the State's plan under part D of subchapter IV of this chapter in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure.

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

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

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

(IV) The Secretary of Agriculture, and the head of any agency or instrumentality with which information is shared pursuant to clause<sup>2</sup> (II), shall provide such other safeguards as the Commissioner of Social Security determines to be necessary or appropriate to protect the confidentiality of the social security account numbers.

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

(v) If and to the extent that any provision of Federal law heretofore enacted is inconsistent with the policy set forth in clause (i), such provision shall, on and after October 4, 1976, be null, void, and of no effect. If and to the extent that any such provision is inconsistent with the requirement set forth in clause (ii), such provision shall, on and after October 13, 1988, be null, void, and of no effect.

(vi)(I) For purposes of clause (i) of this subparagraph, an agency of a State (or political subdivision thereof) charged with the administration of any general public assistance, driver's license, or motor vehicle registration law which did not use the social security account number for identification under a law or regulation adopted before January 1, 1975, may require an individual to disclose his or her social security number to such agency solely for the purpose of administering the laws referred to in clause (i)

<sup>2</sup> So in original. Probably should be "subclause".

above and for the purpose of responding to requests for information from an agency administering a program funded under part A of subchapter IV of this chapter or an agency operating pursuant to the provisions of part D of such subchapter.

(II) Any State or political subdivision thereof (and any person acting as an agent of such an agency or instrumentality), in the administration of any driver's license or motor vehicle registration law within its jurisdiction, may not display a social security account number issued by the Commissioner of Social Security (or any derivative of such number) on any driver's license, motor vehicle registration, or personal identification card (as defined in section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004), or include, on any such license, registration, or personal identification card, a magnetic strip, bar code, or other means of communication which conveys such number (or derivative thereof).

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

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

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

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

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

for a social security account number is maintained pursuant to this clause.

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

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

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

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

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

(iii) For purposes of this subparagraph—

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

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

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

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

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

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

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

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

(iii) To the extent that any provision of Federal law enacted before August 15, 1994, is inconsistent with the policy set forth in clause (i), such provision shall, on and after August 15, 1994, be null, void, and of no effect.

(iv) For purposes of this subparagraph, the term "State" has the meaning such term has in subparagraph (D).

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

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

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

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

(4) Prior to the expiration of the time limitation following any year the Commissioner of Social Security may, if it is brought to the Commissioner's attention that any entry of wages or self-employment income in the Commissioner's records for such year is erroneous or that any item of wages or self-employment income for such year has been omitted from such records, correct such entry or include such omitted item in the Commissioner's records, as the case may be. After the expiration of the time limitation following any year—

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

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

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

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

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

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

(C) to correct errors apparent on the face of such records;

(D) to transfer items to records of the Railroad Retirement Board if such items were credited under this subchapter when they should have been credited under the Railroad Retirement Act of 1937 or 1974 [45 U.S.C. 228a et seq., 231 et seq.], or to enter items transferred by the Railroad Retirement Board

which have been credited under the Railroad Retirement Act of 1937 or 1974 when they should have been credited under this subchapter;

(E) to delete or reduce the amount of any entry which is erroneous as a result of fraud;

(F) to conform the Commissioner's records to—

(i) tax returns or portions thereof (including information returns and other written statements) filed with the Commissioner of Internal Revenue under title VIII of the Social Security Act, under subchapter E of chapter 1 or subchapter A of chapter 9 of the Internal Revenue Code of 1939, under chapter 2 or 21 of the Internal Revenue Code of 1954 or the Internal Revenue Code of 1986, or under regulations made under authority of such title, subchapter, or chapter;

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

(iii) assessments of amounts due under an agreement pursuant to section 418 of this title (as in effect prior to December 31, 1986), if such assessments are made within the period specified in subsection (q)<sup>3</sup> of such section (as so in effect), or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section;

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

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

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

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

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

(6) Written notice of any deletion or reduction under paragraph (4) or (5) of this subsection

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

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

(8) A translation into English by a third party of a statement made in a foreign language by an applicant for or beneficiary of monthly insurance benefits under this subchapter shall not be regarded as reliable for any purpose under this subchapter unless the third party, under penalty of perjury—

(A) certifies that the translation is accurate; and

(B) discloses the nature and scope of the relationship between the third party and the applicant or recipient, as the case may be.

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

**(d) Issuance of subpoenas in administrative proceedings**

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

<sup>3</sup> See References in Text note below.

mail or by certified mail, the return post-office receipt therefor signed by the individual so served, shall be proof of service. Witnesses so subpoenaed shall be paid the same fees and mileage as are paid witnesses in the district courts of the United States.

**(e) Judicial enforcement of subpoenas; contempt**

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

**(f) Repealed. Pub. L. 91-452, title II, § 236, Oct. 15, 1970, 84 Stat. 930**

**(g) Judicial review**

Any individual, after any final decision of the Commissioner of Social Security made after a hearing to which he was a party, irrespective of the amount in controversy, may obtain a review of such decision by a civil action commenced within sixty days after the mailing to him of notice of such decision or within such further time as the Commissioner of Social Security may allow. Such action shall be brought in the district court of the United States for the judicial district in which the plaintiff resides, or has his principal place of business, or, if he does not reside or have his principal place of business within any such judicial district, in the United States District Court for the District of Columbia. As part of the Commissioner's answer the Commissioner of Social Security shall file a certified copy of the transcript of the record including the evidence upon which the findings and decision complained of are based. The court shall have power to enter, upon the pleadings and transcript of the record, a judgment affirming, modifying, or reversing the decision of the Commissioner of Social Security, with or without remanding the cause for a rehearing. The findings of the Commissioner of Social Security as to any fact, if supported by substantial evidence, shall be conclusive, and where a claim has been denied by the Commissioner of Social Security or a decision is rendered under subsection (b) of this section which is adverse to an individual who was a party to the hearing before the Commissioner of Social Security, because of failure of the claimant or such individual to submit proof in conformity with any regulation prescribed under subsection (a) of this section, the court shall review only the question of conformity with such regulations and the validity of such regulations. The court may, on motion of the Commissioner of Social Security made for good cause shown before the Commissioner files the Commissioner's answer, remand the case to the Commissioner of Social Security for further action by the Commissioner of Social Security, and it may at any time order additional evidence to be taken before the Commissioner of Social Security, but only upon a showing that

there is new evidence which is material and that there is good cause for the failure to incorporate such evidence into the record in a prior proceeding; and the Commissioner of Social Security shall, after the case is remanded, and after hearing such additional evidence if so ordered, modify or affirm the Commissioner's findings of fact or the Commissioner's decision, or both, and shall file with the court any such additional and modified findings of fact and decision, and, in any case in which the Commissioner has not made a decision fully favorable to the individual, a transcript of the additional record and testimony upon which the Commissioner's action in modifying or affirming was based. Such additional or modified findings of fact and decision shall be reviewable only to the extent provided for review of the original findings of fact and decision. The judgment of the court shall be final except that it shall be subject to review in the same manner as a judgment in other civil actions. Any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Commissioner of Social Security or any vacancy in such office.

**(h) Finality of Commissioner's decision**

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

**(i) Certification for payment**

Upon final decision of the Commissioner of Social Security, or upon final judgment of any court of competent jurisdiction, that any person is entitled to any payment or payments under this subchapter, the Commissioner of Social Security shall certify to the Managing Trustee the name and address of the person so entitled to receive such payment or payments, the amount of such payment or payments, and the time at which such payment or payments should be made, and the Managing Trustee, through the Fiscal Service of the Department of the Treasury, and prior to any action thereon by the Government Accountability Office, shall make payment in accordance with the certification of the Commissioner of Social Security (except that in the case of (A) an individual who will have completed ten years of service (or five or more years of service, all of which accrues after December 31, 1995) creditable under the Railroad Retirement Act of 1937 [45 U.S.C. 228a et seq.] or the Railroad Retirement Act of 1974 [45 U.S.C. 231 et seq.], (B) the wife or husband of such an individual, (C) any survivor of such an individual if such survivor is entitled, or could upon application become entitled, to an annuity under section 2 of the Railroad Retirement Act of 1974 [45 U.S.C. 231a], and (D) any other person entitled to benefits under section 402 of this title on the basis of the wages and self-employment income

of such an individual (except a survivor of such an individual where such individual did not have a current connection with the railroad industry, as defined in the Railroad Retirement Act of 1974, at the time of his death), such certification shall be made to the Railroad Retirement Board which shall provide for such payment or payments to such person on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974: *Provided*, That where a review of the Commissioner's decision is or may be sought under subsection (g) of this section the Commissioner of Social Security may withhold certification of payment pending such review. The Managing Trustee shall not be held personally liable for any payment or payments made in accordance with a certification by the Commissioner of Social Security.

**(j) Representative payees**

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

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

(2)(A) Any certification made under paragraph (1) for payment of benefits to an individual's representative payee shall be made on the basis of—

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

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

(B)(i) As part of the investigation referred to in subparagraph (A)(i), the Commissioner of Social Security shall—

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

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

(III) determine whether such person has been convicted of a violation of section 408, 1011, or 1383a of this title,

(IV) obtain information concerning whether such person has been convicted of any other offense under Federal or State law which resulted in imprisonment for more than 1 year,

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

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

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

(I) a list of the names and social security account numbers (or employer identification numbers) of all persons with respect to whom certification of payment of benefits has been revoked on or after January 1, 1991, pursuant to this subsection, whose designation as a representative payee has been revoked pursuant to section 1007(a) of this title, or with respect to whom payment of benefits has been terminated on or after such date pursuant to section 1383(a)(2)(A)(iii) of this title, by reason of misuse of funds paid as benefits under this subchapter, subchapter VIII of this chapter, or subchapter XVI of this chapter, and

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

(iii) Notwithstanding the provisions of section 552a of title 5 or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1306(c) of this title), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, social security account number, and photograph (if applicable) of any person investigated under this paragraph, if the officer furnishes the Commissioner with the name of such person and such other identifying information as may reasonably be required by the Commissioner to establish the unique iden-

tivity of such person, and notifies the Commissioner that—

(I) such person is described in section 402(x)(1)(A)(iv) of this title,

(II) such person has information that is necessary for the officer to conduct the officer's official duties, and

(III) the location or apprehension of such person is within the officer's official duties.

(C)(i) Benefits of an individual may not be certified for payment to any other person pursuant to this subsection if—

(I) such person has previously been convicted as described in subparagraph (B)(i)(III),

(II) except as provided in clause (ii), certification of payment of benefits to such person under this subsection has previously been revoked as described in subparagraph (B)(i)(VI)<sup>4</sup> the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title, or payment of benefits to such person pursuant to section 1383(a)(2)(A)(ii) of this title has previously been terminated as described in section 1383(a)(2)(B)(ii)(VI) of this title,

(III) except as provided in clause (iii), such person is a creditor of such individual who provides such individual with goods or services for consideration,

(IV) such person has previously been convicted as described in subparagraph (B)(i)(IV), unless the Commissioner determines that such certification would be appropriate notwithstanding such conviction, or

(V) such person is a person described in section 402(x)(1)(A)(iv) of this title.

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

(iii) Clause (i)(III) shall not apply with respect to any person who is a creditor referred to therein if such creditor is—

(I) a relative of such individual if such relative resides in the same household as such individual,

(II) a legal guardian or legal representative of such individual,

(III) a facility that is licensed or certified as a care facility under the law of a State or a political subdivision of a State,

(IV) a person who is an administrator, owner, or employee of a facility referred to in subclause (III) if such individual resides in such facility, and the certification of payment to such facility or such person is made only after good faith efforts have been made by the local servicing office of the Social Security Administration to locate an alternative representative payee to whom such certification of payment would serve the best interests of such individual, or

(V) an individual who is determined by the Commissioner of Social Security, on the basis

of written findings and under procedures which the Commissioner of Social Security shall prescribe by regulation, to be acceptable to serve as a representative payee.

(iv) The procedures referred to in clause (iii)(V) shall require the individual who will serve as representative payee to establish, to the satisfaction of the Commissioner of Social Security, that—

(I) such individual poses no risk to the beneficiary,

(II) the financial relationship of such individual to the beneficiary poses no substantial conflict of interest, and

(III) no other more suitable representative payee can be found.

(v) In the case of an individual described in paragraph (1)(B), when selecting such individual's representative payee, preference shall be given to—

(I) a certified community-based nonprofit social service agency (as defined in paragraph (10)),

(II) a Federal, State, or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities,

(III) a State or local government agency with fiduciary responsibilities, or

(IV) a designee of an agency (other than of a Federal agency) referred to in the preceding subclauses of this clause, if the Commissioner of Social Security deems it appropriate,

unless the Commissioner of Social Security determines that selection of a family member would be appropriate.

(D)(i) Subject to clause (ii), if the Commissioner of Social Security makes a determination described in the first sentence of paragraph (1) with respect to any individual's benefit and determines that direct payment of the benefit to the individual would cause substantial harm to the individual, the Commissioner of Social Security may defer (in the case of initial entitlement) or suspend (in the case of existing entitlement) direct payment of such benefit to the individual, until such time as the selection of a representative payee is made pursuant to this subsection.

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

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

(iii) Payment pursuant to this subsection of any benefits which are deferred or suspended pending the selection of a representative payee shall be made to the individual or the representative payee as a single sum or over such period of time as the Commissioner of Social Security determines is in the best interest of the individual entitled to such benefits.

(E)(i) Any individual who is dissatisfied with a determination by the Commissioner of Social Security to certify payment of such individual's benefit to a representative payee under para-

<sup>4</sup> So in original. Probably should be followed by a comma.

graph (1) or with the designation of a particular person to serve as representative payee shall be entitled to a hearing by the Commissioner of Social Security to the same extent as is provided in subsection (b) of this section, and to judicial review of the Commissioner's final decision as is provided in subsection (g) of this section.

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

- (I) is under the age of 15,
- (II) is an unemancipated minor under the age of 18, or
- (III) is legally incompetent,

then such notice shall be provided solely to the legal guardian or legal representative of such individual.

(iii) Any notice described in clause (ii) shall be clearly written in language that is easily understandable to the reader, shall identify the person to be designated as such individual's representative payee, and shall explain to the reader the right under clause (i) of such individual or of such individual's legal guardian or legal representative—

- (I) to appeal a determination that a representative payee is necessary for such individual,
- (II) to appeal the designation of a particular person to serve as the representative payee of such individual, and
- (III) to review the evidence upon which such designation is based and submit additional evidence.

(3)(A) In any case where payment under this subchapter is made to a person other than the individual entitled to such payment, the Commissioner of Social Security shall establish a system of accountability monitoring whereby such person shall report not less often than annually with respect to the use of such payments. The Commissioner of Social Security shall establish and implement statistically valid procedures for reviewing such reports in order to identify instances in which such persons are not properly using such payments.

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

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

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

(E) In any case in which the person described in subparagraph (A) or (D) receiving payments

on behalf of another fails to submit a report required by the Commissioner of Social Security under subparagraph (A) or (D), the Commissioner may, after furnishing notice to such person and the individual entitled to such payment, require that such person appear in person at a field office of the Social Security Administration serving the area in which the individual resides in order to receive such payments.

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

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

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

(4)(A)(i) Except as provided in the next sentence, a qualified organization may collect from an individual a monthly fee for expenses (including overhead) incurred by such organization in providing services performed as such individual's representative payee pursuant to this subsection if such fee does not exceed the lesser of—

- (I) 10 percent of the monthly benefit involved, or
- (II) \$25.00 per month (\$50.00 per month in any case in which the individual is described in paragraph (1)(B)).

A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual's benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual's benefit for purposes of paragraphs (5) and (6). The Commissioner shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(i)(2)(A) of this title, except that any amount so adjusted that is not a multiple of \$1.00 shall be rounded to the nearest multiple of \$1.00. Any agreement providing for a fee in excess of the amount permitted under this subparagraph shall be void and shall be treated as misuse by such organization of such individual's benefits.

(ii) In the case of an individual who is no longer currently entitled to monthly insurance benefits under this subchapter but to whom all past-due benefits have not been paid, for purposes of clause (i), any amount of such past-due benefits payable in any month shall be treated as a monthly benefit referred to in clause (i)(I).

(B) For purposes of this paragraph, the term “qualified organization” means any State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any certified community-based nonprofit social service agency (as defined in paragraph (10)), if such agency, in accordance with any applicable regulations of the Commissioner of Social Security—

(i) regularly provides services as the representative payee, pursuant to this subsection or section 1007 or 1383(a)(2) of this title, concurrently to 5 or more individuals;<sup>5</sup>

(ii) demonstrates to the satisfaction of the Commissioner of Social Security that such agency is not otherwise a creditor of any such individual.

The Commissioner of Social Security shall prescribe regulations under which the Commissioner of Social Security may grant an exception from clause (ii) for any individual on a case-by-case basis if such exception is in the best interests of such individual.

(C) Any qualified organization which knowingly charges or collects, directly or indirectly, any fee in excess of the maximum fee prescribed under subparagraph (A) or makes any agreement, directly or indirectly, to charge or collect any fee in excess of such maximum fee, shall be fined in accordance with title 18, or imprisoned not more than 6 months, or both.

(5) In cases where the negligent failure of the Commissioner of Social Security to investigate or monitor a representative payee results in misuse of benefits by the representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to such misused benefits. In any case in which a representative payee that—

(A) is not an individual (regardless of whether it is a “qualified organization” within the meaning of paragraph (4)(B)); or

(B) is an individual who, for any month during a period when misuse occurs, serves 15 or more individuals who are beneficiaries under this subchapter, subchapter VIII of this chapter, subchapter XVI of this chapter, or any combination of such subchapters;

misuses all or part of an individual’s benefit paid to such representative payee, the Commissioner of Social Security shall certify for payment to the beneficiary or the beneficiary’s alternative representative payee an amount equal to the amount of such benefit so misused. The provisions of this paragraph are subject to the limitations of paragraph (7)(B). The Commissioner of Social Security shall make a good faith effort to obtain restitution from the terminated representative payee.

<sup>5</sup> So in original. Probably should be followed by “and”.

(6)(A) In addition to such other reviews of representative payees as the Commissioner of Social Security may otherwise conduct, the Commissioner shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under this subchapter (alone or in combination with benefits payable under subchapter VIII of this chapter or subchapter XVI of this chapter) to another individual pursuant to the appointment of such person or agency as a representative payee under this subsection, section 1007 of this title, or section 1383(a)(2) of this title in any case in which—

(i) the representative payee is a person who serves in that capacity with respect to 15 or more such individuals;

(ii) the representative payee is a certified community-based nonprofit social service agency (as defined in paragraph (10) of this subsection or section 1383(a)(2)(I) of this title); or

(iii) the representative payee is an agency (other than an agency described in clause (ii)) that serves in that capacity with respect to 50 or more such individuals.

(B) Within 120 days after the end of each fiscal year, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of periodic onsite reviews conducted during the fiscal year pursuant to subparagraph (A) and of any other reviews of representative payees conducted during such fiscal year in connection with benefits under this subchapter. Each such report shall describe in detail all problems identified in such reviews and any corrective action taken or planned to be taken to correct such problems, and shall include—

(i) the number of such reviews;

(ii) the results of such reviews;

(iii) the number of cases in which the representative payee was changed and why;

(iv) the number of cases involving the exercise of expedited, targeted oversight of the representative payee by the Commissioner conducted upon receipt of an allegation of misuse of funds, failure to pay a vendor, or a similar irregularity;

(v) the number of cases discovered in which there was a misuse of funds;

(vi) how any such cases of misuse of funds were dealt with by the Commissioner;

(vii) the final disposition of such cases of misuse of funds, including any criminal penalties imposed; and

(viii) such other information as the Commissioner deems appropriate.

(7)(A) If the Commissioner of Social Security or a court of competent jurisdiction determines that a representative payee that is not a Federal, State, or local government agency has misused all or part of an individual’s benefit that was paid to such representative payee under this subsection, the representative payee shall be liable for the amount misused, and such amount (to the extent not repaid by the representative payee) shall be treated as an overpayment of benefits under this subchapter to the represent-

ative payee for all purposes of this chapter and related laws pertaining to the recovery of such overpayments. Subject to subparagraph (B), upon recovering all or any part of such amount, the Commissioner shall certify an amount equal to the recovered amount for payment to such individual or such individual's alternative representative payee.

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

(8) For purposes of this subsection, the term "benefit based on disability" of an individual means a disability insurance benefit of such individual under section 423 of this title or a child's, widow's, or widower's insurance benefit of such individual under section 402 of this title based on such individual's disability.

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

(10) For purposes of this subsection, the term "certified community-based nonprofit social service agency" means a community-based nonprofit social service agency which is in compliance with requirements, under regulations which shall be prescribed by the Commissioner, for annual certification to the Commissioner that it is bonded in accordance with requirements specified by the Commissioner and that it is licensed in each State in which it serves as a representative payee (if licensing is available in the State) in accordance with requirements specified by the Commissioner. Any such annual certification shall include a copy of any independent audit on the agency which may have been performed since the previous certification.

**(k) Payments to incompetents**

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

**(l) Delegation of powers and duties by Commissioner**

The Commissioner of Social Security is authorized to delegate to any member, officer, or employee of the Social Security Administration designated by the Commissioner any of the powers conferred upon the Commissioner by this section, and is authorized to be represented by the Commissioner's own attorneys in any court

in any case or proceeding arising under the provisions of subsection (e) of this section.

**(m) Repealed. Aug. 28, 1950, ch. 809, title I, § 101(b)(2), 64 Stat. 488**

**(n) Joint payments**

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

**(o) Crediting of compensation under Railroad Retirement Act**

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

**(p) Special rules in case of Federal service**

(1) With respect to service included as employment under section 410 of this title which is performed in the employ of the United States or in the employ of any instrumentality which is wholly owned by the United States, including service, performed as a member of a uniformed service, to which the provisions of subsection (l)(1) of such section are applicable, and including service, performed as a volunteer or volunteer leader within the meaning of the Peace Corps Act [22 U.S.C. 2501 et seq.], to which the

provisions of section 410(o) of this title are applicable, the Commissioner of Social Security shall not make determinations as to the amounts of remuneration for such service, or the periods in which or for which such remuneration was paid, but shall accept the determinations with respect thereto of the head of the appropriate Federal agency or instrumentality, and of such agents as such head may designate, as evidenced by returns filed in accordance with the provisions of section 3122 of the Internal Revenue Code of 1954 and certifications made pursuant to this subsection. Such determinations shall be final and conclusive. Nothing in this paragraph shall be construed to affect the Commissioner's authority to determine under sections 409 and 410 of this title whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.

(2) The head of any such agency or instrumentality is authorized and directed, upon written request of the Commissioner of Social Security, to make certification to the Commissioner with respect to any matter determinable for the Commissioner of Social Security by such head or his agents under this subsection, which the Commissioner of Social Security finds necessary in administering this subchapter.

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

**(q) Expedited benefit payments**

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

(2) In any case in which—

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

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

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

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

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

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

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

(5) For purposes of this subsection, benefits payable under section 428 of this title shall be treated as monthly insurance benefits payable under this subchapter. However, this subsection shall not apply with respect to any benefit for which a check has been negotiated, or with respect to any benefit alleged to be due under either section 423 of this title, or section 402 of this title to a wife, husband, or child of an individual entitled to or applying for benefits under section 423 of this title, or to a child who has attained age 18 and is under a disability, or to a widow or widower on the basis of being under a disability.

**(r) Use of death certificates to correct program information**

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

(A) States (or political subdivisions thereof) voluntarily contract with the Commissioner of Social Security to furnish the Commissioner of Social Security periodically with information (in a form established by the Commissioner of Social Security in consultation with the States) concerning individuals with respect to whom death certificates (or equiva-

lent documents maintained by the States or subdivisions) have been officially filed with them; and

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

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

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

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

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

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

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

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

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

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

(i) enter into an agreement with such official for the purpose of verifying applicable in-

formation, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and

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

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

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

(D) For purposes of this paragraph—

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

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

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

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

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

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

**(s) Notice requirements**

The Commissioner of Social Security shall take such actions as are necessary to ensure that any notice to one or more individuals issued pursuant to this subchapter by the Commissioner of Social Security or by a State agency—

(1) is written in simple and clear language, and

(2) includes the address and telephone number of the local office of the Social Security Administration which serves the recipient.

In the case of any such notice which is not generated by a local servicing office, the requirements of paragraph (2) shall be treated as satisfied if such notice includes the address of the local office of the Social Security Administration which services the recipient of the notice and a telephone number through which such office can be reached.

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

In any case in which an individual visits a field office of the Social Security Administration and represents during the visit to an officer or employee of the Social Security Administration in the office that the individual's visit is occasioned by—

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

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

the Commissioner of Social Security shall ensure that the individual is granted a face-to-face interview at the office with an officer or employee of the Social Security Administration before the close of business on the day of the visit.

**(u) Redetermination of entitlement**

(1)(A) The Commissioner of Social Security shall immediately redetermine the entitlement of individuals to monthly insurance benefits under this subchapter if there is reason to believe that fraud or similar fault was involved in the application of the individual for such benefits, unless a United States attorney, or equivalent State prosecutor, with jurisdiction over potential or actual related criminal cases, certifies, in writing, that there is a substantial risk that such action by the Commissioner of Social Security with regard to beneficiaries in a particular investigation would jeopardize the criminal prosecution of a person involved in a suspected fraud.

(B) When redetermining the entitlement, or making an initial determination of entitlement, of an individual under this subchapter, the Commissioner of Social Security shall disregard any evidence if there is reason to believe that fraud or similar fault was involved in the providing of such evidence.

(2) For purposes of paragraph (1), similar fault is involved with respect to a determination if—

(A) an incorrect or incomplete statement that is material to the determination is knowingly made; or

(B) information that is material to the determination is knowingly concealed.

(3) If, after redetermining pursuant to this subsection the entitlement of an individual to monthly insurance benefits, the Commissioner of Social Security determines that there is insufficient evidence to support such entitlement, the Commissioner of Social Security may terminate such entitlement and may treat benefits

paid on the basis of such insufficient evidence as overpayments.

(Aug. 14, 1935, ch. 531, title II, §205, 49 Stat. 624; Aug. 10, 1939, ch. 666, title II, §201, 53 Stat. 1362, 1368; June 25, 1948, ch. 646, §32(b), 62 Stat. 991; May 24, 1949, ch. 139, §127, 63 Stat. 107; Aug. 28, 1950, ch. 809, title I, §§101(b)(2), 108(a)-(c), 109(b), 64 Stat. 488, 518, 523; July 18, 1952, ch. 945, §5(b), 66 Stat. 775; Sept. 1, 1954, ch. 1206, title I, §101(a)(5), (c)(3), 68 Stat. 1052, 1054; Aug. 1, 1956, ch. 836, title I, §§107(b), 111(a), 117, 70 Stat. 829, 831, 834; Aug. 1, 1956, ch. 837, title IV, §402(b), 70 Stat. 871; Pub. L. 86-507, §1(35), June 11, 1960, 74 Stat. 202; Pub. L. 86-778, title I, §§102(f)(2), 103(j)(2)(E), title VII, §702(a), Sept. 13, 1960, 74 Stat. 933, 938, 993; Pub. L. 87-293, title II, §202(b)(3), Sept. 21, 1961, 75 Stat. 626; Pub. L. 89-97, title III, §§308(d)(9), (10), 330, July 30, 1965, 79 Stat. 379, 401; Pub. L. 90-248, title I, §171(a), Jan. 2, 1968, 81 Stat. 876; Pub. L. 91-452, title II, §236, Oct. 15, 1970, 84 Stat. 930; Pub. L. 92-603, title I, §137, Oct. 30, 1972, 86 Stat. 1364; Pub. L. 93-445, title III, §§302(a), 303, Oct. 16, 1974, 88 Stat. 1358; Pub. L. 94-202, §4, Jan. 2, 1976, 89 Stat. 1136; Pub. L. 94-455, title XII, §1211(b), Oct. 4, 1976, 90 Stat. 1711; Pub. L. 95-216, title III, §353(f)(2), Dec. 20, 1977, 91 Stat. 1554; Pub. L. 95-600, title VII, §703(j)(14)(B), Nov. 6, 1978, 92 Stat. 2942; Pub. L. 96-265, title III, §§305(a), 307, June 9, 1980, 94 Stat. 457, 458; Pub. L. 97-455, §4(a), Jan. 12, 1983, 96 Stat. 2499; Pub. L. 98-21, title III, §§301(d), 309(i), 336, 345(a), Apr. 20, 1983, 97 Stat. 111, 117, 130, 137; Pub. L. 98-369, div. B, title VI, §§2661(h), 2663(a)(4), (j)(4), July 18, 1984, 98 Stat. 1157, 1162, 1171; Pub. L. 98-460, §16(a), Oct. 9, 1984, 98 Stat. 1809; Pub. L. 99-509, title IX, §9002(c)(2)(A), (B), Oct. 21, 1986, 100 Stat. 1971; Pub. L. 100-485, title I, §125(a), Oct. 13, 1988, 102 Stat. 2353; Pub. L. 100-647, title VIII, §§8008(a), 8009(a), 8015(a)(1), 8016(a)(1), Nov. 10, 1988, 102 Stat. 3783, 3787, 3790, 3792; Pub. L. 101-239, title X, §§10303(a), 10304, Dec. 19, 1989, 103 Stat. 2482, 2483; Pub. L. 101-508, title V, §§5105(a)(1)(A), (2)(A)(i), (3)(A)(i), (b)(1)(A), (c)(1), (d)(1)(A), 5107(a)(1), 5109(a)(1), Nov. 5, 1990, 104 Stat. 1388-254, 1388-255, 1388-260, 1388-263, 1388-265, 1388-269, 1388-271; Pub. L. 101-624, title XVII, §1735(a), (b), title XXII, §2201(b), (c), Nov. 28, 1990, 104 Stat. 3791, 3792, 3951, 3952; Pub. L. 103-296, title I, §107(a)(1), (2), (4), title II, §§201(a)(1)(A), (B), (2)(A)-(C), 206(a)(1), (d)(1), title III, §§304(a), 316(a), 318, 321(a)(7)-(11), (c)(3), (6)(B), (f)(2)(A), Aug. 15, 1994, 108 Stat. 1477, 1478, 1490-1493, 1509, 1514, 1520, 1531, 1533, 1536, 1538, 1541; Pub. L. 104-121, title I, §105(a)(2), Mar. 29, 1996, 110 Stat. 852; Pub. L. 104-193, title I, §108(a)(1), Aug. 22, 1996, 110 Stat. 2164; Pub. L. 105-34, title X, §1090(b)(1), Aug. 5, 1997, 111 Stat. 962; Pub. L. 106-169, title II, §251(b)(2), Dec. 14, 1999, 113 Stat. 1854; Pub. L. 107-90, title I, §103(i)(3), Dec. 21, 2001, 115 Stat. 882; Pub. L. 107-252, title III, §303(a)(5)(C), Oct. 29, 2002, 116 Stat. 1711; Pub. L. 108-203, title I, §§101(a), 102(a)(1), (b)(1), 103(a), 104(a), 105(a), 106(a), title IV, §411(a), Mar. 2, 2004, 118 Stat. 495, 497, 498, 500, 503-505, 527; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 108-458, title VII, §7214(a), Dec. 17, 2004, 118 Stat. 3832; Pub. L. 109-241, title IX, §902(n), July 11, 2006, 120 Stat. 568; Pub. L. 110-234, title IV, §4002(b)(1)(B), (2)(V), May 22, 2008, 122 Stat. 1096, 1097; Pub. L.

110-246, §4(a), title IV, §4002(b)(1)(B), (2)(V), June 18, 2008, 122 Stat. 1664, 1857, 1858.)

#### REFERENCES IN TEXT

Subsecs. (e) and (q) of section 418 of this title, referred to in subsec. (c)(1)(D)(i), (5)(F)(iii), which related to payments and reports by States, and to time limitation on assessments, respectively, were repealed, and subsec. (f) of section 418 of this title was redesignated as subsec. (e), by Pub. L. 99-509, title IX, §9002(c)(1), Oct. 21, 1986, 100 Stat. 1971.

Parts A and D of subchapter IV of this chapter, referred to in subsec. (c)(2)(C)(ii), (vi)(I), are classified to sections 601 et seq. and 651 et seq., respectively, of this title.

Section 7(a) of the Privacy Act of 1974, referred to in subsec. (c)(2)(C)(ii), is section 7(a) of Pub. L. 93-579, which is set out as a note under section 552a of Title 5, Government Organization and Employees.

The Food and Nutrition Act of 2008, referred to in subsec. (c)(2)(C)(iii)(I), (II), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

The Federal Crop Insurance Act, referred to in subsec. (c)(2)(C)(iv), is subtitle A of title V of act Feb. 16, 1938, ch. 30, 52 Stat. 72, which is classified generally to subchapter I (§1501 et seq.) of chapter 36 of Title 7, Agriculture. For complete classification of this Act to the Code, see section 1501 of Title 7 and Tables.

Section 7212(a)(2) of the 9/11 Commission Implementation Act of 2004, referred to in subsec. (c)(2)(C)(vi)(II), is section 7212(a)(2) of Pub. L. 108-458, which was formerly set out as a note under section 30301 of Title 49, Transportation.

The Internal Revenue Code of 1986, referred to in subsecs. (c)(2)(C)(viii)(II), (H) and (j)(2)(B)(iii), is classified generally to Title 26, Internal Revenue Code.

The Longshore and Harbor Workers' Compensation Act, referred to in subsec. (c)(2)(C)(ix), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, as amended, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

The Railroad Retirement Act of 1937, referred to in subsecs. (c)(5)(D) and (i), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally. See par. for Railroad Retirement Act of 1974 below.

The Railroad Retirement Act of 1974, referred to in subsecs. (c)(5)(D), (i), and (o), is act Aug. 29, 1935, ch. 812, as amended generally by Pub. L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1305, which is classified generally to subchapter IV (§231 et seq.) of chapter 9 of Title 45, Railroads. Pub. L. 93-445 completely amended and revised the Railroad Retirement Act of 1937 (approved June 24, 1937, ch. 382, 50 Stat. 307), and as thus amended and revised, the 1937 Act was redesignated the Railroad Retirement Act of 1974. Previously, the 1937 Act had completely amended and revised the Railroad Retirement Act of 1935 (approved Aug. 29, 1935, ch. 812, 49 Stat. 967). Section 201 of the 1937 Act provided that the 1935 Act, as in force prior to amendment by the 1937 Act, may be cited as the Railroad Retirement Act of 1935; and that the 1935 Act, as amended by the 1937 Act may be cited as the Railroad Retirement Act of 1937. The Railroad Retirement Acts of 1935 and 1937 were classified to subchapter II (§215 et seq.) and subchapter III (§228a et seq.), respectively, of chapter 9 of Title 45. For further details and complete classification of these Acts to the Code, see Codification note set out preceding section 231 of Title 45, section 231t of Title 45, and Tables.

Title VIII of the Social Security Act, referred to in subsec. (c)(5)(F)(i), probably means former title VIII of the Social Security Act, which was classified to subchapter VIII (§1001 et seq.) of this chapter, and was

omitted from the Code as superseded by the provisions of the Internal Revenue Code of 1939 and the Internal Revenue Code of 1986.

Subchapter E of chapter 1 and subchapter A of chapter 9 of the Internal Revenue Code of 1939, referred to in subsec. (c)(5)(F)(i), were comprised of sections 480 to 482 and 1400 to 1432, respectively, and were repealed (subject to certain exceptions) by section 7851(a)(1)(A), (3) of the Internal Revenue Code of 1986.

For provision deeming a reference in other laws to a provision of the 1939 Code as a reference to the corresponding provisions of the 1986 Code, see section 7852(b) of the 1986 Code. For table of comparisons of the 1939 Code to the 1986 Code, see table preceding section 1 of Title 26, Internal Revenue Code. The Internal Revenue Code of 1986 is classified generally to Title 26.

Chapters 2 and 21 of the Internal Revenue Code of 1954, referred to in subsec. (c)(5)(F)(i), were redesignated chapters 2 and 21 of the Internal Revenue Code of 1986, and are classified to sections 1401 et seq. and 3101 et seq., respectively, of Title 26.

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

Section 3122 of the Internal Revenue Code of 1954, referred to in subsec. (p)(1), redesignated section 3122 of the Internal Revenue Code of 1986 by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, and is classified to section 3122 of Title 26, Internal Revenue Code.

The Help America Vote Act of 2002, referred to in subsec. (r)(8)(A), is Pub. L. 107-252, Oct. 29, 2002, 116 Stat. 1666. For complete classification of this Act to the Code, see Short Title note set out under section 15301 of this title and Tables.

#### CODIFICATION

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

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

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

#### AMENDMENTS

2008—Subsec. (c)(2)(C)(iii)(I), (II). Pub. L. 110-246, §4002(b)(1)(B), (2)(V), substituted "Food and Nutrition Act of 2008" for "Food Stamp Act of 1977".

2006—Subsec. (p)(3). Pub. L. 109-241 substituted "of Homeland Security" for "of Transportation" in two places.

2004—Subsec. (c)(2)(C)(vi). Pub. L. 108-458 designated existing provisions as subcl. (I) and added subcl. (II).

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

Subsec. (i). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

Subsec. (j)(2)(B)(i)(IV) to (VI). Pub. L. 108-203, §103(a)(1), added subcls. (IV) and (V) and redesignated former subcl. (IV) as (VI).

Subsec. (j)(2)(B)(iii). Pub. L. 108-203, §103(a)(2), added cl. (iii).

Subsec. (j)(2)(C)(i)(II). Pub. L. 108-203, §103(a)(3), substituted "subparagraph (B)(i)(VI)" for "subparagraph

(B)(i)(IV),” and “section 1383(a)(2)(B)(ii)(VI)” for “section 1383(a)(2)(B)(ii)(IV)”.

Subsec. (j)(2)(C)(i)(IV), (V). Pub. L. 108-203, § 103(a)(4), added subcls. (IV) and (V).

Subsec. (j)(2)(C)(v)(I). Pub. L. 108-203, § 105(a)(2), substituted “paragraph (10)” for “paragraph (9)”.

Pub. L. 108-203, § 102(a)(1)(A), substituted “a certified community-based nonprofit social service agency (as defined in paragraph (9))” for “a community-based nonprofit social service agency licensed or bonded by the State”.

Subsec. (j)(3)(E). Pub. L. 108-203, § 106(a)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (j)(3)(F). Pub. L. 108-203, § 106(a)(1), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 108-203, § 105(a)(2), substituted “paragraph (10)” for “paragraph (9)”.

Pub. L. 108-203, § 102(a)(1)(B), substituted “certified community-based nonprofit social service agencies (as defined in paragraph (9))” for “community-based nonprofit social service agencies”.

Subsec. (j)(3)(G). Pub. L. 108-203, § 106(a)(1), redesignated subpar. (F) as (G).

Subsec. (j)(4)(A)(i). Pub. L. 108-203, § 104(a)(2), which directed amendment of cl. (i) in concluding provisions by substituting “A qualified organization may not collect a fee from an individual for any month with respect to which the Commissioner of Social Security or a court of competent jurisdiction has determined that the organization misused all or part of the individual’s benefit, and any amount so collected by the qualified organization for such month shall be treated as a misused part of the individual’s benefit for purposes of paragraphs (5) and (6). The Commissioner” for “The Secretary”, was executed by making the substitution for “The Commissioner of Social Security” to reflect the probable intent of Congress. See 1994 Amendment note below.

Pub. L. 108-203, § 104(a)(1), substituted “Except as provided in the next sentence, a” for “A” in introductory provisions.

Subsec. (j)(4)(B). Pub. L. 108-203, § 105(a)(2), substituted “paragraph (10)” for “paragraph (9)” in introductory provisions.

Pub. L. 108-203, § 102(a)(1)(C), substituted “any certified community-based nonprofit social service agency (as defined in paragraph (9))” for “any community-based nonprofit social service agency which is bonded or licensed in each State in which it serves as a representative payee” in introductory provisions.

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

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

Subsec. (j)(6)(A)(ii). Pub. L. 108-203, § 105(a)(3), substituted “paragraph (10)” for “paragraph (9)”.

Subsec. (j)(7). Pub. L. 108-203, § 105(a)(1), (4), added par. (7) and redesignated former par. (7) as (8).

Subsec. (j)(8). Pub. L. 108-203, § 105(a)(1), redesignated par. (7) as (8). Former par. (8) redesignated (9).

Pub. L. 108-203, § 101(a)(2), added par. (8).

Subsec. (j)(9). Pub. L. 108-203, § 105(a)(1), redesignated par. (8) as (9). Former par. (9) redesignated (10).

Pub. L. 108-203, § 102(a)(1)(D), added par. (9).

Subsec. (j)(10). Pub. L. 108-203, § 105(a)(1), redesignated par. (9) as (10).

2002—Subsec. (r)(8). Pub. L. 107-252 added par. (8).

2001—Subsec. (i). Pub. L. 107-90 inserted “(or five or more years of service, all of which accrues after December 31, 1995)” after “ten years of service”.

1999—Subsec. (j)(1)(A). Pub. L. 106-169, § 251(b)(2)(A), inserted “1007 or” before “1383(a)(2)”.

Subsec. (j)(2)(B)(i)(I). Pub. L. 106-169, § 251(b)(2)(B), inserted “, subchapter VIII of this chapter,” before “or subchapter XVI of this chapter”.

Subsec. (j)(2)(B)(i)(III). Pub. L. 106-169, § 251(b)(2)(C), inserted “, 1011,” before “or 1383a”.

Subsec. (j)(2)(B)(i)(IV). Pub. L. 106-169, § 251(b)(2)(D), inserted “, the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title,” before “or payment of benefits” and “, subchapter VIII of this chapter,” before “or subchapter XVI of this chapter”.

Subsec. (j)(2)(B)(ii)(I). Pub. L. 106-169, § 251(b)(2)(E), inserted “whose designation as a representative payee has been revoked pursuant to section 1007(a) of this title,” before “or with respect to whom” and “, subchapter VIII of this chapter,” before “or subchapter XVI of this chapter”.

Subsec. (j)(2)(B)(ii)(II). Pub. L. 106-169, § 251(b)(2)(F), inserted “, 1011,” before “or 1383a”.

Subsec. (j)(2)(C)(i)(II). Pub. L. 106-169, § 251(b)(2)(G), inserted “, the designation of such person as a representative payee has been revoked pursuant to section 1007(a) of this title,” before “or payment of benefits”.

Subsec. (j)(3)(E)(i), (ii). Pub. L. 106-169, § 251(b)(2)(H), inserted “, section 1007 of this title,” before “or section 1383(a)(2) of this title”.

Subsec. (j)(3)(F). Pub. L. 106-169, § 251(b)(2)(I), inserted “1007 or” before “1383(a)(2)”.

Subsec. (j)(4)(B)(i). Pub. L. 106-169, § 251(b)(2)(J), inserted “1007 or” before “1383(a)(2)”.

1997—Subsec. (c)(2)(B)(ii). Pub. L. 105-34, § 1090(b)(1)(A), inserted at end “With respect to an application for a social security account number for an individual who has not attained the age of 18 before such application, such evidence shall include the information described in subparagraph (C)(ii).”

Subsec. (c)(2)(C)(ii). Pub. L. 105-34, § 1090(b)(1)(B), inserted “the Commissioner of Social Security and” after “available to” in second sentence.

Subsec. (c)(2)(H). Pub. L. 105-34, § 1090(b)(1)(C), added subpar. (H).

1996—Subsec. (c)(2)(C)(vi). Pub. L. 104-193 inserted “an agency administering a program funded under part A of subchapter IV of this chapter or” before “an agency operating” and substituted “part D of such subchapter” for “part A or D of subchapter IV of this chapter”.

Subsec. (j)(1)(B). Pub. L. 104-121, § 105(a)(2)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “In the case of an individual entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Commissioner’s determination that the individual is under a disability, certification of payment of such benefits to a representative payee shall be deemed to serve the interest of such individual under this subchapter. In any case in which such certification is so deemed under this subparagraph to serve the interest of an individual, the Commissioner of Social Security shall include, in such individual’s notification of entitlement, a notice that alcoholism or drug addiction is a contributing factor material to the Commissioner’s determination of such individual’s disability and that

the Commissioner of Social Security is therefore required to make a certification of payment of such individual's benefits to a representative payee."

Subsec. (j)(2)(C)(v). Pub. L. 104-121, § 105(a)(2)(B), substituted "described in paragraph (1)(B)" for "entitled to benefits based on disability, if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is under a disability".

Subsec. (j)(2)(D)(ii)(II). Pub. L. 104-121, § 105(a)(2)(C), substituted "described in paragraph (1)(B)." for "(if alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is under a disability) is eligible for benefits under this subchapter by reason of disability.."

Subsec. (j)(4)(A)(i)(II). Pub. L. 104-121, § 105(a)(2)(D), substituted "described in paragraph (1)(B)" for "entitled to benefits based on disability and alcoholism or drug addiction is a contributing factor material to the Commissioner's determination that the individual is under a disability".

1994—Subsec. (a). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (b)(1), (2). Pub. L. 103-296, § 107(a)(4), substituted wherever appearing "Commissioner of Social Security" for "Secretary", "Commissioner's" for "Secretary's", "the Commissioner may" for "he may", "the Commissioner shall" for "he shall", and "the Commissioner's" for "his" except in the phrase "his or her rights".

Subsec. (b)(3)(A). Pub. L. 103-296, § 321(a)(7), realigned margin.

Subsec. (b)(3)(B). Pub. L. 103-296, § 321(a)(7), realigned margin.

Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(1)(D)(i). Pub. L. 103-296, § 321(c)(6)(B), substituted "Code of 1986" for "Code of 1954".

Subsec. (c)(2)(A). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places and "the Commissioner deems" for "he deems".

Subsec. (c)(2)(B)(i). Pub. L. 103-296, § 304(a)(1), substituted "(F)" for "(E)" in introductory provisions.

Pub. L. 103-296, § 107(a)(4), substituted "In carrying out the Commissioner's duties" for "In carrying out his duties" in introductory provisions and "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (c)(2)(B)(ii). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(2)(B)(iii). Pub. L. 103-296, § 321(a)(8), substituted "nonpublic" for "non-public".

Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(2)(C)(i), (ii). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (c)(2)(C)(iii). Pub. L. 103-296, § 321(a)(9)(B), redesignated the cl. (iii) as added by Pub. L. 101-624, § 2201(b)(3), as cl. (iv).

Pub. L. 103-296, § 316(a), amended cl. (iii) as added by Pub. L. 101-624, § 1735(a)(3), by inserting subcl. (I) designation before "In the administration" and by substituting subcls. (II) to (IV) for "The Secretary of Agriculture shall restrict, to the satisfaction of the Secretary of Health and Human Services, access to social security account numbers obtained pursuant to this clause only to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the Food Stamp Act of 1977. The Secretary of Agriculture shall provide such other safeguards as the Secretary of Health and Human Services determines to be necessary or appropriate to protect the confidentiality of the social security account numbers."

Subsec. (c)(2)(C)(iii)(III), (IV). Pub. L. 103-296, § 107(a)(1), in cl. (iii) as amended by Pub. L. 103-296,

§ 316(a), substituted "Commissioner of Social Security" for "Secretary of Health and Human Services".

Subsec. (c)(2)(C)(iv). Pub. L. 103-296, § 321(a)(9)(B), redesignated the cl. (iii) as added by Pub. L. 101-624, § 2201(b)(3), as cl. (iv). Former cl. (iv) redesignated (v).

Pub. L. 103-296, § 107(a)(1), in cl. (iv) as redesignated by Pub. L. 103-296, § 321(a)(9)(B), substituted "Commissioner of Social Security" for "Secretary of Health and Human Services" in two places.

Subsec. (c)(2)(C)(v). Pub. L. 103-296, § 321(a)(9)(B), (C), redesignated cl. (iv) as (v), and substituted "policy set forth in clause (i)" for "policy set forth in subclause (I) of clause (i)" and "clause (ii)" for "subclause (II) of clause (i)". Former cl. (v) redesignated (vi).

Subsec. (c)(2)(C)(vi). Pub. L. 103-296, § 321(a)(9)(B), redesignated cl. (v) as (vi). Former cl. (vi) redesignated (vii).

Subsec. (c)(2)(C)(vii). Pub. L. 103-296, § 321(a)(9)(B), redesignated cl. (vi) as (vii). Former cl. (vii) added by Pub. L. 101-624, § 1735(b), redesignated (viii).

Pub. L. 103-296, § 321(a)(9)(A), struck out cl. (vii) added by Pub. L. 101-624, § 2201(c), which was substantially identical to the cl. (vii) added by Pub. L. 101-624, § 1735(b).

Subsec. (c)(2)(C)(viii). Pub. L. 103-296, § 321(a)(9)(B), (D), redesignated the cl. (vii) added by Pub. L. 101-624, § 1735(b), as (viii) and inserted "a social security account number or" before "a request for" in subcl. (IV).

Subsec. (c)(2)(C)(ix). Pub. L. 103-296, § 318, added cl. (ix).

Pub. L. 103-296, § 107(a)(1), amended cl. (ix) as added by Pub. L. 103-296, § 318, by substituting "Commissioner of Social Security" for "Secretary of Health and Human Services" in two places.

Subsec. (c)(2)(D)(i)(I), (II). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(2)(E). Pub. L. 103-296, § 304(a)(3), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 103-296, § 107(a)(4), in subpar. (E) added by Pub. L. 103-296, § 304(a)(3), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (c)(2)(F), (G). Pub. L. 103-296, § 304(a)(2), redesignated subpars. (E) and (F) as (F) and (G), respectively.

Pub. L. 103-296, § 107(a)(4), in subpars. (F) and (G) as redesignated by Pub. L. 103-296, § 304(a)(2), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (c)(3). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner's" for "Secretary's" and "Commissioner of Social Security" for "Secretary".

Subsec. (c)(4). Pub. L. 103-296, § 107(a)(4), in introductory provisions, substituted "Commissioner of Social Security" for "Secretary" and substituted "the Commissioner's" for "his" wherever appearing, in subpars. (A) and (B), substituted "Commissioner's" for "Secretary's", and in subpar. (C), substituted "Commissioner's records as" for "Secretary's records as", "Commissioner of Social Security" for "Secretary", and "the Commissioner's records the" for "his records the".

Subsec. (c)(5). Pub. L. 103-296, § 107(a)(4), in introductory provisions substituted "Commissioner of Social Security" for "Secretary" and substituted "the Commissioner's" for "his" in two places.

Subsec. (c)(5)(B). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner's" for "Secretary's" in two places.

Subsec. (c)(5)(F). Pub. L. 103-296, § 107(a)(4), substituted "the Commissioner's" for "his" in introductory provisions, "Commissioner of Social Security" for "Secretary" in cl. (ii), and "Commissioner's" for "Secretary's" in closing provisions.

Subsec. (c)(5)(F)(i). Pub. L. 103-296, § 321(c)(3), inserted "or the Internal Revenue Code of 1986" after "Code of 1954".

Subsec. (c)(5)(G), (J), (6), (7). Pub. L. 103-296, § 107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "the

Commissioner's" for "his" before "records" in two places in par. (7).

Subsec. (c)(8). Pub. L. 103-296, §206(a)(1)(B), added par. (8). Former par. (8) redesignated (9).

Subsec. (c)(9). Pub. L. 103-296, §206(a)(1)(A), redesignated par. (8) as (9).

Pub. L. 103-296, §107(a)(4), in par. (9) as redesignated by Pub. L. 103-296, §206(a)(1)(A), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (d). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "the Commissioner's" for "his" before "jurisdiction", and "by the Commissioner" for "by him".

Subsec. (e). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (g). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "the Commissioner's" for "his" wherever appearing except in second sentence, and "the Commissioner files" for "he files".

Subsec. (h). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (i). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "Commissioner's" for "Secretary's".

Subsec. (j). Pub. L. 103-296, §321(a)(10), made technical amendment to heading.

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

Pub. L. 103-296, §107(a)(4), in par. (1) as amended by Pub. L. 103-296, §201(a)(1)(A), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "Commissioner's" for "Secretary's" in two places in subpar. (B).

Subsec. (j)(2)(A) to (C)(iv). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (j)(2)(C)(v). Pub. L. 103-296, §201(a)(2)(A), added cl. (v).

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

Subsec. (j)(2)(D)(i). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places.

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

Pub. L. 103-296, §107(a)(4), in subcl. (II) as amended by Pub. L. 103-296, §201(a)(1)(B), substituted "Commissioner's" for "Secretary's" in two places.

Subsec. (j)(2)(D)(iii), (E), (3)(A), (B), (D), (E). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing and "Commissioner's" for "Secretary's" in par. (2)(E)(i) and (ii).

Subsec. (j)(4)(A). Pub. L. 103-296, §201(a)(2)(B)(i), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, added new subcl. (II) and struck out former subcl. (II) (as redesignated) which read "\$25.00 per month.", inserted "The Secretary shall adjust annually (after 1995) each dollar amount set forth in subclause (II) under procedures providing for adjustments in the same manner and to the same extent as adjustments are provided for under the procedures used to adjust benefit amounts under section 415(i)(2)(A) of this title, except that any amount so adjusted that is not a mul-

tiples of \$1.00 shall be rounded to the nearest multiple of \$1.00." before "Any agreement" in concluding provisions, and added cl. (ii).

Pub. L. 103-296, §107(a)(4), in subpar. (A) as amended by Pub. L. 103-296, §201(a)(2)(B)(i), substituted "Commissioner's" for "Secretary's" and "Commissioner of Social Security" for "Secretary".

Subsec. (j)(4)(B). Pub. L. 103-296, §201(a)(2)(B)(ii), in introductory provisions, inserted "State or local government agency whose mission is to carry out income maintenance, social service, or health care-related activities, any State or local government agency with fiduciary responsibilities, or any" after "means any", substituted "representative payee, if such agency," for "representative payee and which.", substituted a period for "and" at end of cl. (ii), and struck out cl. (iii) which read as follows: "was in existence on October 1, 1988."

Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

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

Subsec. (j)(5). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (j)(6). Pub. L. 103-296, §321(f)(2)(A), made technical correction to Pub. L. 101-508, §5105(d)(1)(A). See 1990 Amendment note below.

Pub. L. 103-296, §107(a)(4), in par. (6) as amended by Pub. L. 103-296, §321(f)(2)(A), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

Subsec. (j)(7). Pub. L. 103-296, §201(a)(2)(C), added par. (7).

Subsec. (k). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary".

Subsec. (l). Pub. L. 103-296, §107(a)(2), (4), substituted "Commissioner of Social Security" for "Secretary", "Social Security Administration" for "Department of Health and Human Services", "by the Commissioner" for "by him", "upon the Commissioner" for "upon him", and "the Commissioner's" for "his".

Subsec. (n). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security may, in the Commissioner's discretion" for "Secretary may, in his discretion".

Subsec. (p)(1), (2). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "the Commissioner's" for "Secretary's" in par. (1), and "to the Commissioner" for "to him" in par. (2).

Subsecs. (q), (r). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" wherever appearing, "the Commissioner finds" for "he finds" in subsec. (q)(2), and "the Commissioner may" for "he may" in subsec. (q)(3).

Subsec. (s). Pub. L. 103-296, §321(a)(11), made technical amendment to heading.

Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in two places in introductory provisions.

Subsec. (t). Pub. L. 103-296, §107(a)(4), substituted "Commissioner of Social Security" for "Secretary" in closing provisions.

Subsec. (u). Pub. L. 103-296, §206(d)(1), added subsec. (u).

Pub. L. 103-296, §107(a)(4), in subsec. (u) added by Pub. L. 103-296, §206(d)(1), substituted "Commissioner of Social Security" for "Secretary" wherever appearing.

1990—Subsec. (b)(3). Pub. L. 101-508, §5107(a)(1), added par. (3).

Subsec. (c)(2)(C). Pub. L. 101-624, §§1735(a), (b), 2201(b), (c), made similar amendments redesignating subcls. (I) and (II) of former cl. (i) as cls. (i) and (ii), respectively, adding two cls. (iii) which are different, redesignating former cls. (ii) to (iv) as (iv) to (vi), respectively, and adding two substantially identical cls. (vii). Cls. (iii) and (vii), as added by §1735 of Pub. L. 101-624, are set

out first and cls. (iii) and (vii), as added by §2201 of Pub. L. 101-624, are set out second.

Subsec. (j). Pub. L. 101-508, §5105(a)(1)(A), inserted heading "Representative payees".

Subsec. (j)(1). Pub. L. 101-508, §5105(a)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows: "When it appears to the Secretary that the interest of an applicant entitled to a payment would be served thereby, certification of payment may be made, regardless of the legal competency or incompetency of the individual entitled thereto, either for direct payment to such applicant, or for his use and benefit to a relative or some other person."

Subsec. (j)(2). Pub. L. 101-508, §5105(a)(2)(A)(i), amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Any certification made under paragraph (1) for payment to a person other than the individual entitled to such payment must be made on the basis of an investigation, carried out either prior to such certification or within forty-five days after such certification, and on the basis of adequate evidence that such certification is in the interest of the individual entitled to such payment (as determined by the Secretary in regulations). The Secretary shall ensure that such certifications are adequately reviewed."

Subsec. (j)(3)(B), (C). Pub. L. 101-508, §5105(b)(1)(A)(i), (ii), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "Subparagraph (A) shall not apply in any case where the other person to whom such payment is made is a parent or spouse of the individual entitled to such payment who lives in the same household as such individual. The Secretary shall require such parent or spouse to verify on a periodic basis that such parent or spouse continues to live in the same household as such individual."

Subsec. (j)(3)(D). Pub. L. 101-508, §5105(b)(1)(A)(ii), (iii), redesignated subpar. (E) as (D) and substituted "(A), (B), and (C)" for "(A), (B), (C), and (D)". Former subpar. (D) redesignated (C).

Subsec. (j)(3)(E), (F). Pub. L. 101-508, §5105(b)(1)(A)(ii), (iv), added subpars. (E) and (F) and redesignated former subpar. (E) as (D).

Subsec. (j)(4). Pub. L. 101-508, §5105(a)(3)(A)(i), added par. (4). Former par. (4) redesignated (5).

Subsec. (j)(5). Pub. L. 101-508, §5105(c)(1), added par. (5) relating to negligent failure of the Secretary to investigate or monitor. Former par. (5), relating to annual report, redesignated (6).

Pub. L. 101-508, §5105(a)(3)(A)(i), redesignated par. (4), relating to annual report, as (5).

Subsec. (j)(6). Pub. L. 101-508, §5105(d)(1)(A), as amended by Pub. L. 103-296, §321(f)(2)(A), amended par. (6) generally. Prior to amendment, par. (6) read as follows:

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

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

Pub. L. 101-508, §5105(c)(1), redesignated par. (5), relating to annual report, as (6).

Subsec. (s). Pub. L. 101-508, §5109(a)(1), added subsec. (s).

1989—Subsec. (c)(5)(H). Pub. L. 101-239, §10304, struck out "if there is an absence of an entry in the Secretary's records of wages having been paid by such employer to such individual in such period" before semicolon at end.

Subsec. (t). Pub. L. 101-239, §10303(a), added subsec. (t).

1988—Subsec. (c)(2)(B)(i). Pub. L. 100-647, §8009(a)(1), inserted "and subparagraph (E)" after "subparagraph (A)".

Subsec. (c)(2)(C)(i). Pub. L. 100-485, §125(a)(1), designated existing provisions as subcl. (I) and added subcl. (II).

Subsec. (c)(2)(C)(ii). Pub. L. 100-485, §125(a)(2), substituted "subclause (I) of clause (i)" for "clause (i) of this subparagraph" and inserted at end "If and to the extent that any such provision is inconsistent with the requirement set forth in subclause (II) of clause (i), such provision shall, on and after October 13, 1988, be null, void, and of no effect."

Subsec. (c)(2)(C)(iii). Pub. L. 100-647, §8016(a)(1), substituted "of this Act" for "of the Social Security Act", which for purposes of codification was translated as "of this chapter".

Subsec. (c)(2)(D). Pub. L. 100-647, §8008(a)(2), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (c)(2)(E). Pub. L. 100-647, §8009(a)(3), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 100-647, §8008(a)(1), redesignated former subpar. (D) as (E).

Subsec. (c)(2)(F). Pub. L. 100-647, §8009(a)(2), redesignated former subpar. (E) as (F).

Subsec. (p)(1). Pub. L. 100-647, §8015(a)(1), substituted "the Secretary shall not make determinations as to the amounts of remuneration for such service, or the periods in which or for which such remuneration was paid" for "the Secretary shall not make determinations as to whether an individual has performed such service, the periods of such service, the amounts of remuneration for such service which constitute wages under the provisions of section 409 of this title, or the periods in which or for which such wages were paid" and inserted at end "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under sections 409 and 410 of this title whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages."

1986—Subsec. (c)(1)(D)(i). Pub. L. 99-509, §9002(c)(2)(A), inserted "(as in effect prior to December 31, 1986)".

Subsec. (c)(5)(F)(iii). Pub. L. 99-509, §9002(c)(2)(B), inserted "(as in effect prior to December 31, 1986)" and "(as so in effect)".

1984—Subsec. (c)(5)(D). Pub. L. 98-369, §2663(a)(4)(A), inserted "of 1937 or 1974" after "Railroad Retirement Act" in two places.

Subsec. (c)(5)(I). Pub. L. 98-369, §2663(a)(4)(B), inserted "or section 7(b)(7) of the Railroad Retirement Act of 1974".

Subsec. (e). Pub. L. 98-369, §2663(a)(4)(C), substituted "an order" for "on order".

Subsec. (h). Pub. L. 98-369, §2663(a)(4)(D), substituted "section 1331 or 1346 of title 28" for "section 24 of the Judicial Code of the United States".

Subsec. (i). Pub. L. 98-369, §2663(a)(4)(E), substituted "the Fiscal Service of the Department of the Treasury" for "the Division of Disbursement of the Treasury Department".

Subsec. (j). Pub. L. 98-460 designated existing provisions as par. (1) and added pars. (2) to (4).

Subsec. (l). Pub. L. 98-369, §2663(j)(4), substituted "Department of Health and Human Services" for "Federal Security Agency".

Subsec. (p)(1). Pub. L. 98-369, §2663(a)(4)(F), substituted "section 3122 of the Internal Revenue Code of 1954" for "section 1420(e) of the Internal Revenue Code of 1939".

Subsec. (r)(4). Pub. L. 98-369, §2661(h)(1), substituted "subparagraphs (A) and (B) of paragraph (3)" for "paragraph (3)(A) and (B)".

Subsec. (r)(7). Pub. L. 98-369, §2661(h)(2), substituted "this Act" for "the Act" which was translated as "this title".

1983—Subsec. (b). Pub. L. 98-21, §§301(d)(1), 309(i)(1), in par. (1) inserted "divorced husband," after "husband," "surviving divorced husband," after "widower," and "surviving divorced father," after "surviving divorced mother,".

Pub. L. 97-455 designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1)(C). Pub. L. 98-21, §§301(d)(2), 309(i)(2), inserted "surviving divorced husband," after "wife," and "surviving divorced father," after "surviving divorced mother,".

Subsec. (c)(2)(D). Pub. L. 98-21, §345(a), added subpar. (D).

Subsec. (r). Pub. L. 98-21, §336, added subsec. (r).

1980—Subsec. (b). Pub. L. 96-265, §305(a), inserted provisions relating to the information that must accompany a decision by the Secretary.

Subsec. (g). Pub. L. 96-265, §307, substituted "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;" for "The court shall, on motion of the Secretary made before he files his answer, remand the case to the Secretary for further action by the Secretary, and may, at any time, on good cause shown, order additional evidence to be taken before the Secretary,".

1978—Subsec. (p)(3). Pub. L. 95-600 substituted "Secretary of Transportation" for "Secretary of the Treasury" in two places.

1977—Subsec. (c)(1)(A). Pub. L. 95-216, §353(f)(2)(A), struck out "(as defined in section 411(e) of this title)" after "taxable year".

Subsec. (c)(1)(D). Pub. L. 95-216, §353(f)(2)(B), added subpar. (D).

Subsec. (o). Pub. L. 95-216, §353(f)(2)(C), inserted "before 1978" after "calendar year".

1976—Subsec. (b). Pub. L. 94-202 substituted provisions that a request for a hearing following the decision of the Secretary be made within sixty days after notice of such decision is received for provisions which authorized the Secretary to prescribe by regulation the period within which to file a request, including the limitation that the period so prescribed be not less than six months after notice of the decision was mailed.

Subsec. (c)(2)(C). Pub. L. 94-455 added subpar. (C).

1974—Subsec. (i). Pub. L. 93-445, §302(a), inserted parenthetical provision covering service under the Railroad Retirement Acts of 1937 and 1974 and certification to the Railroad Retirement Board and payment on behalf of the Managing Trustee in accordance with the provisions of the Railroad Retirement Act of 1974.

Subsec. (o). Pub. L. 93-445, §303, substituted "annuity under section 2 of the Railroad Retirement Act of 1974" for "section 5 of the Railroad Retirement Act of 1937", "section 6(b) of such Act" for "subsection (f)(1) of such section", and "section 3(i) of such Act" for "section 4 of such Act".

1972—Subsec. (c)(2). Pub. L. 92-603 designated existing provisions as par. (A) and added par. (B).

1970—Subsec. (f). Pub. L. 91-452 struck out subsec. (f) which related to the immunity from prosecution of any person compelled to testify or produce evidence after claiming his privilege against self-incrimination.

1968—Subsec. (q). Pub. L. 90-248, §171(a), added subsec. (q).

1965—Subsec. (b). Pub. L. 89-97, §308(d)(9), substituted in second sentence "wife, divorced wife, widow, surviving divorced wife, surviving divorced mother," for "wife, widow, former wife divorced,".

Subsec. (c)(1)(C). Pub. L. 89-97, §308(d)(10), substituted "surviving divorced wife, surviving divorced mother," for "former wife divorced,".

Subsec. (n). Pub. L. 89-97, §330, provided that Secretary of the Treasury may authorize surviving payee or payees of a combined benefit check to cash one or more such checks which were not negotiated before one of payees died, provided that part of proceeds from each check that represents an overpayment is to be adjusted or recovered as provided in section 404(a) of this title.

1961—Subsec. (p)(1). Pub. L. 87-293 provided that head of Federal agency having control of service or such

agents as the head may designate would make determinations with respect to employment and wages in case of service performed by volunteers and volunteer leaders in Peace Corps.

1960—Subsec. (c)(5)(F). Pub. L. 86-778, §102(f)(2), authorized the Secretary to add, change, or delete entries to conform his records to assessments of amounts due under an agreement pursuant to section 418 of this title, if such assessments are made within the period specified in subsection (q) of such section, or allowances of credits or refunds of overpayments by a State under an agreement pursuant to such section, and inserted references to chapters 2 and 21 of the Internal Revenue Code of 1954.

Subsec. (d). Pub. L. 86-507 inserted "or by certified mail" after "registered mail" in two places.

Subsec. (g). Pub. L. 86-778, §702(a), inserted sentence providing that any action instituted in accordance with this subsection shall survive notwithstanding any change in the person occupying the office of Secretary or any vacancy in such office.

Subsec. (p)(1). Pub. L. 86-778, §103(j)(2)(E), substituted "subsection (l)(1)" for "subsection (m)(1)".

1956—Subsec. (b). Act Aug. 1, 1956, ch. 836, §111(a), required requests with respect to decisions to be filed within such period as the Secretary prescribes by regulation, which period may not be less than six months after notice of the decision is mailed.

Subsec. (c)(1)(B). Act Aug. 1, 1956, ch. 836, §107(b), substituted "three months" for "two months".

Subsec. (c)(5)(F). Act Aug. 1, 1956, ch. 836, §117, struck out provisions prohibiting inclusion in records of amount of self-employment income in excess of the amount which had been deleted as payments erroneously included in such records as wages paid to such individual in such taxable year, which provisions are now covered by subsec. (c)(5)(J) of this section.

Subsec. (c)(5)(J). Act Aug. 1, 1956, ch. 836, §117, added subpar. (J).

Subsec. (p)(1). Act Aug. 1, 1956, ch. 837, provided for determinations with respect to service performed as a member of a uniformed service to which the provisions of section 410(m)(1) of this title are applicable.

1954—Subsec. (o). Act Sept. 1, 1954, §101(a)(5), substituted "section 410(a)(9)" for "section 410(a)(10)".

Subsec. (p)(3). Act Sept. 1, 1954, §101(c)(3), inserted provisions making subsec. (p)(1) and (2) applicable to services performed by a civilian employee in the Coast Guard Exchanges or certain other activities at Coast Guard installations.

1952—Subsec. (o). Act July 18, 1952, substituted "subsection (a) or (e) of section 417 of this title" for "section 417(a) of this title".

1950—Act Aug. 28, 1950, §109(b)(1), substituted "Administrator" for "Board", "Administrator's" for "Board's", "he", "him", and "his" for "it", and "its", wherever appearing.

Subsec. (b). Act Aug. 28, 1950, §108(a), inserted "former wife divorced, husband, widower," after "widow".

Subsec. (c). Act Aug. 28, 1950, §108(b), amended subsec. (c) generally to include definitions, to provide for the maintaining of records of self-employed persons, to allow for the revision of the Administrator's record, to authorize corrections after the times limitations if an application for monthly benefits or a lump-sum death payment is filed within the time limitation and no final decision has been made on it, to continue the requirement that written notice of any deletion or reduction of wages be given to the individual whose record is involved, to give the Administrator discretion to prescribe the period, after any change or refusal to change his records, within which an individual may be granted a hearing, and to provide for judicial review.

Subsec. (l). Act Aug. 28, 1950, §109(b)(2), amended subsec. (l) generally.

Subsecs. (o), (p). Act Aug. 28, 1950, §108(c), added subsecs. (o) and (p).

1939—Act Aug. 10, 1939, omitted former section 405 relating to payments of \$500 or less to estates, and added subsecs. (a) to (n).

## EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(V) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

## EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108-458, title VII, §7214(b), Dec. 17, 2004, 118 Stat. 3832, provided that: "The amendment made by subsection (a)(2) [amending this section] shall apply with respect to licenses, registrations, and identification cards issued or reissued 1 year after the date of enactment of this Act [Dec. 17, 2004]."

Amendment by Pub. L. 108-458 effective Dec. 17, 2004, notwithstanding any other provision of such Act, see section 7219 of Pub. L. 108-458, set out as a note under section 1202 of Title 8, Aliens and Nationality.

Pub. L. 108-203, title I, §101(d), Mar. 2, 2004, 118 Stat. 497, provided that: "The amendments made by this section [amending this section and sections 1007, 1382b, and 1383 of this title] shall apply to any case of benefit misuse by a representative payee with respect to which the Commissioner of Social Security makes the determination of misuse on or after January 1, 1995."

Pub. L. 108-203, title I, §102(a)(3), Mar. 2, 2004, 118 Stat. 498, provided that: "The amendments made by this subsection [amending this section and section 1383 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title I, §103(d), Mar. 2, 2004, 118 Stat. 503, provided that: "The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall take effect on the first day of the thirteenth month beginning after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title I, §104(c), Mar. 2, 2004, 118 Stat. 504, provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to any month involving benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title I, §105(d), Mar. 2, 2004, 118 Stat. 505, provided that: "The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall apply to benefit misuse by a representative payee in any case with respect to which the Commissioner of Social Security or a court of competent jurisdiction makes the determination of misuse after 180 days after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title I, §106(d), Mar. 2, 2004, 118 Stat. 506, provided that: "The amendments made by this section [amending this section and sections 1007 and 1383 of this title] shall take effect 180 days after the date of the enactment of this Act [Mar. 2, 2004]."

Pub. L. 108-203, title IV, §411(b), Mar. 2, 2004, 118 Stat. 527, provided that: "The amendment made by this section [amending this section] shall apply with respect to final determinations issued (upon remand) on or after the date of the enactment of this Act [Mar. 2, 2004]."

## EFFECTIVE DATE OF 2001 AMENDMENT

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

## EFFECTIVE DATE OF 1997 AMENDMENT

Section 1090(b)(2) of Pub. L. 105-34 provided that:

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

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

## EFFECTIVE DATE OF 1996 AMENDMENTS

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

Section 105(a)(5) of Pub. L. 104-121, as amended by Pub. L. 106-170, title IV, §401(a), (b), Dec. 17, 1999, 113 Stat. 1906, provided that:

"(A) The amendments made by paragraphs (1) and (4) [amending sections 423 and 425 of this title] shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, benefits under title II of the Social Security Act [this subchapter] based on disability on or after the date of the enactment of this Act [Mar. 29, 1996], and, in the case of any individual who has applied for, and whose claim has been finally adjudicated with respect to, such benefits before such date of enactment, such amendments shall apply only with respect to such benefits for months beginning on or after January 1, 1997.

"(B) The amendments made by paragraphs (2) and (3) [amending this section and section 422 of this title] shall take effect on July 1, 1996, with respect to any individual—

"(i) whose claim for benefits is finally adjudicated on or after the date of the enactment of this Act [Mar. 29, 1996]; or

"(ii) whose entitlement to benefits is based upon an entitlement redetermination made pursuant to subparagraph (C).

"(C) Within 90 days after the date of the enactment of this Act [Mar. 29, 1996], the Commissioner of Social Security shall notify each individual who is entitled to monthly insurance benefits under title II of the Social Security Act based on disability for the month in which this Act is enacted and whose entitlement to such benefits would terminate by reason of the amendments made by this subsection [amending this section and sections 422, 423, and 425 of this title]. If such an individual reapplies for benefits under title II of such Act (as amended by this Act) based on disability within 120 days after the date of the enactment of this Act, the Commissioner of Social Security shall, not later than January 1, 1997, complete the entitlement redetermination (including a new medical determination) with respect to such individual pursuant to the procedures of such title.

"(D) For purposes of this paragraph, an individual's claim, with respect to benefits under title II based on disability, which has been denied in whole before the date of the enactment of this Act, may not be considered to be finally adjudicated before such date if, on or after such date—

"(i) there is pending a request for either administrative or judicial review with respect to such claim; or

"(ii) there is pending, with respect to such claim, a readjudication by the Commissioner of Social Security pursuant to relief in a class action or implementation by the Commissioner of a court remand order.

"(E) Notwithstanding the provisions of this paragraph, with respect to any individual for whom the Commissioner of Social Security does not perform the entitlement redetermination before the date prescribed

in subparagraph (C), the Commissioner shall perform such entitlement redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's entitlement is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 223(f) [section 423(f) of this title] shall not apply to such redetermination."

[Pub. L. 106-170, title IV, §401(c), Dec. 17, 1999, 113 Stat. 1907, provided that: "The amendments made by this section [amending section 105(a)(5) of Pub. L. 104-121, set out above] shall take effect as if included in the enactment of section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121; 110 Stat. 852 et seq.)."]

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 107(a)(1), (2), (4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

Section 201(a)(1)(D) of Pub. L. 103-296 provided that:

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

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

"(I) an individual is entitled to benefits based on disability (as defined in section 205(j)(7) of the Social Security Act [subsec. (j)(7) of this section], as amended by this section),

"(II) the determination of disability was made by the Secretary of Health and Human Services during or before the 180-day period following the date of the enactment of this Act, and

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

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

Section 201(a)(2)(B)(iii) of Pub. L. 103-296 provided that the amendment made by that section is effective July 1, 1994.

Section 201(a)(2)(D) of Pub. L. 103-296 provided that: "Except as provided in subparagraph (B)(iii) [set out above], the amendments made by this paragraph [amending this section] shall apply with respect to months beginning after 90 days after the date of the enactment of this Act [Aug. 15, 1994]."

Section 206(a)(3) of Pub. L. 103-296 provided that: "The amendments made by this subsection [amending this section and section 1383 of this title] shall apply to translations made on or after October 1, 1994."

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

Section 304(c) of Pub. L. 103-296 provided that: "The amendments made by this section [amending this section and section 1320b-10 of this title] shall take effect on the date of the enactment of this Act [Aug. 15, 1994]."

Section 321(f)(5) of Pub. L. 103-296 provided that: "Each amendment made by this subsection [amending this section and sections 406, 423, 1320a-6, and 1383 of this title] shall take effect as if included in the provisions of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101-508] to which such amendment relates, except that the amendments made by paragraph (3)(B) [amending sections 406 and 1320a-6 of this title] shall apply with respect to favorable judgments made after

180 days after the date of the enactment of this Act [Aug. 15, 1994]."

#### EFFECTIVE DATE OF 1990 AMENDMENTS

Amendment by section 1735(a), (b) of Pub. L. 101-624 effective and implemented first day of month beginning 120 days after publication of implementing regulations to be promulgated not later than Oct. 1, 1991, see section 1781(a) of Pub. L. 101-624, set out as a note under section 2012 of Title 7, Agriculture.

Section 5105(a)(5) of Pub. L. 101-508 provided that:

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

"(i) certifications of payment of benefits under title II of the Social Security Act [this subchapter] to representative payees made on or after such date; and

"(ii) provisions for payment of benefits under title XVI of such Act [subchapter XVI of this chapter] to representative payees made on or after such date.

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

Section 5105(b)(1)(B) of Pub. L. 101-508 provided that: "The amendments made by subparagraph (A) [amending this section] shall take effect October 1, 1992, and the Secretary of Health and Human Services shall take such actions as are necessary to ensure that the requirements of section 205(j)(3)(E) of the Social Security Act [subsec. (j)(3)(E) of this section] (as amended by subparagraph (A) of this paragraph) are satisfied as of such date."

Section 5105(d)(2) of Pub. L. 101-508 provided that: "The amendments made by paragraph (1) [amending this section and section 1383 of this title] shall apply with respect to annual reports issued for years after 1991."

Section 5107(b) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to adverse determinations made on or after July 1, 1991."

Section 5109(b) of Pub. L. 101-508 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to notices issued on or after July 1, 1991."

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 10303(c) of Pub. L. 101-239 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply to visits to field offices of the Social Security Administration on or after January 1, 1990."

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Section 8009(b) of Pub. L. 100-647 provided that: "The amendments made by this section [amending this section] shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted [November 1988]."

Amendment by section 8015(a)(1) of Pub. L. 100-647 applicable to determinations relating to service commenced in any position on or after Nov. 10, 1988, see section 8015(a)(3) of Pub. L. 100-647, set out as a note under section 3122 of Title 26, Internal Revenue Code.

Amendment by section 8016(a)(1) of Pub. L. 100-647 effective Nov. 10, 1988, except that any amendment to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act [42 U.S.C. 301 et seq.], or to Title 26, as added or amended by a provision of a particular Public Law which is so referred to, effective as though included or reflected in the relevant provisions of that Public Law at the time of its enactment, see section 8016(b) of Pub.

L. 100-647, set out as a note under section 3111 of Title 26.

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

#### EFFECTIVE DATE OF 1986 AMENDMENT

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

#### EFFECTIVE DATE OF 1984 AMENDMENTS

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

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

Amendment by section 2663(a)(4), (j)(4) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENTS

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

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

Section 4(b) of Pub. L. 97-455 provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to reconsiderations (of findings described in section 205(b)(2)(B) of the Social Security Act [subsec. (b)(2)(B) of this section]) which are requested on or after such date as the Secretary of Health and Human Services may specify, but in any event not later than January 1, 1984."

#### EFFECTIVE DATE OF 1980 AMENDMENT

Section 305(c) of Pub. L. 96-265 provided that: "The amendments made by this section [amending this section and section 1383 of this title] shall apply with respect to decisions made on or after the first day of the 13th month following the month in which this Act is enacted [June, 1980]."

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 effective Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-216 effective Jan. 1, 1978, see section 353(g) of Pub. L. 95-216, set out as a note under section 418 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 5 of Pub. L. 94-202 provided that: "The amendments made by the first two sections of this Act

[amending section 1383 of this title], and the provisions of section 3 [enacting provisions set out as a note under section 1383 of this title], shall take effect on the date of the enactment of this Act [Jan. 2, 1976]. The amendment made by section 4 of this Act [amending this section] shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, after February 29, 1976. The amendment made by the first section of this Act [amending section 1383 of this title], to the extent that it changes the period within which hearings must be requested, shall apply with respect to any decision or determination of which notice is received, by the individual requesting the hearing involved, on or after the date of the enactment of this Act."

#### EFFECTIVE DATE OF 1974 AMENDMENT

Section 302(b) of Pub. L. 93-445 provided that: "The amendment made by this section [amending this section] shall apply only with respect to benefits payable to individuals who first become entitled to benefits under title II of the Social Security Act [this subchapter] after 1974."

Amendment by section 303 of Pub. L. 93-445 effective Jan. 1, 1975, see section 603 of Pub. L. 93-445, set out as a note under section 402 of this title.

#### EFFECTIVE DATE OF 1970 AMENDMENT

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

#### EFFECTIVE DATE OF 1968 AMENDMENT

Section 171(b) of Pub. L. 90-248 provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective with respect to written requests filed under section 205(q) of the Social Security Act [subsec. (q) of this section] after June 30, 1968."

#### EFFECTIVE DATE OF 1965 AMENDMENT

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

#### EFFECTIVE DATE OF 1961 AMENDMENT

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

#### EFFECTIVE DATE OF 1960 AMENDMENT

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

Amendment by section 103(j)(2)(E) of Pub. L. 86-778 effective Sept. 13, 1960, see section 103(v)(1) of Pub. L. 86-778, set out as a note under section 402 of this title.

Section 702(b) of Pub. L. 86-778 provided that: "The amendment made by subsection (a) [amending this section] shall apply to actions which are pending in court on the date of the enactment of this Act or are commenced after such date."

## EFFECTIVE DATE OF 1956 AMENDMENTS

Section 111(b) of act Aug. 1, 1956, ch. 836, provided that: "The amendment made by subsection (a) [amending this section] shall be effective upon enactment [Aug. 1, 1956]; except that the period of time prescribed by the Secretary pursuant to the third sentence of section 205(b) of the Social Security Act [subsec. (b) of this section], as amended by subsection (a) of this section, with respect to decisions notice of which has been mailed by him to any individual prior to the enactment of this Act may not terminate for such individual less than six months after the date of enactment of this Act."

Amendment by act Aug. 1, 1956, ch. 837, effective Jan. 1, 1957, see section 603(a) of act Aug. 1, 1956.

## EFFECTIVE DATE OF 1954 AMENDMENT

Section 101(n) of act Sept. 1, 1954, provided that: "The amendment made by paragraph (3) of subsection (g) [amending section 411 of this title] shall be applicable only with respect to taxable years beginning after 1950. The amendments made by paragraphs (1), (2), and (4) of such subsection [amending section 411 of this title] and by subsection (d) [amending section 411 of this title] shall, except for purposes of section 203 of the Social Security Act [section 403 of this title], be applicable only with respect to taxable years ending after 1954. The amendments made by paragraphs (1), (2), and (3) of subsection (a) [amending section 409 of this title] shall be applicable only with respect to remuneration paid after 1954. The amendments made by paragraphs (4), (5), and (6) of subsection (a) [amending sections 410 and 418 of this title] shall be applicable only with respect to services (whether performed after 1954 or prior to 1955) for which the remuneration is paid after 1954. The amendment made by paragraph (3) of subsection (c) [amending this section] shall become effective January 1, 1955. The other amendments made by this section (other than the amendments made by subsections (h), (i), (j) and (m)) [amending section 410 of this title] shall be applicable only with respect to services performed after 1954. For purposes of section 203 of the Social Security Act [section 403 of this title], the amendments made by paragraphs (1), (2), and (4) of subsection (g) [amending section 411 of this title] and by subsection (d) [amending section 411 of this title] shall be effective with respect to net earnings from self-employment derived after 1954. The amount of net earnings from self-employment derived during any taxable year ending in, and not with the close of, 1955 shall be credited equally to the calendar quarter in which such taxable year ends and to each of the three or fewer preceding quarters any part of which is in such taxable year; and, for purposes of the preceding sentence of this subsection, net earnings from self-employment so credited to calendar quarters in 1955 shall be deemed to have been derived after 1954."

## EFFECTIVE DATE OF 1950 AMENDMENT

Section 108(d) of act Aug. 28, 1950, provided that: "The amendments made by subsections (a) and (c) of this section [amending this section] shall take effect on September 1, 1950. The amendment made by subsection (b) of this section [amending this section] shall take effect January 1, 1951, except that, effective on September 1, 1950, the husband or former wife divorced of an individual shall be treated the same as a parent of such individual, and the legal representative of an individual or his estate shall be treated the same as the individual, for purposes of section 205(c) of the Social Security Act [subsec. (c) of this section] as in effect prior to the enactment of this Act [Aug. 28, 1950]."

Section 101(b)(2) of act Aug. 28, 1950, provided that: "Section 205(m) of the Social Security Act [subsec. (m) of this section] is repealed effective with respect to monthly payments under section 202 of the Social Security Act [this section], as amended by this Act, for months after August 1950."

## EFFECTIVE DATE OF 1939 AMENDMENT

Section 201 of act Aug. 10, 1939, provided that the amendment made by that section is effective Jan. 1, 1940.

## REPEALS: AMENDMENTS AND APPLICATION OF AMENDMENTS UNAFFECTED

Section 202(b)(3) of Pub. L. 87-293, cited as a credit to this section, was repealed by Pub. L. 89-572, §5(a), Sept. 13, 1966, 80 Stat. 765. Such repeal not deemed to affect amendments to this section contained in such provisions, and continuation in full force and effect until modified by appropriate authority of all determinations, authorization, regulation, orders, contracts, agreements, and other actions issued, undertaken, or entered into under authority of the repealed provisions, see section 5(b) of Pub. L. 89-572, set out as a note under section 2515 of Title 22, Foreign Relations and Inter-course.

## TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

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

## SOCIAL SECURITY CARDS AND NUMBERS

Pub. L. 108-458, title VII, §7213, Dec. 17, 2004, 118 Stat. 3830, provided that:

"(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

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

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

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

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

"(2) notwithstanding section 205(r) of the Social Security Act (42 U.S.C. 405(r)) and any agreement entered into thereunder, not later than 18 months after the date of enactment of this Act with respect to death indicators and not later than 36 months after the date of enactment of this Act with respect to fraud indicators, add death and fraud indicators to the social security number verification systems for employers, State agencies issuing driver's licenses and identity cards, and other verification routines that the Commissioner determines to be appropriate.

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

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

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

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

## “(c) ENUMERATION AT BIRTH.—

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

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

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

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

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

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

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

## “(2) REPORT.—

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

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

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.”

## DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD

Pub. L. 104-208, div. C, title VI, §657, Sept. 30, 1996, 110 Stat. 3009-719, provided that:

## “(a) DEVELOPMENT.—

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

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

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

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

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

## “(b) STUDIES AND REPORTS.—

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

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

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

Similar provisions were contained in the following prior act:

Pub. L. 104-193, title I, §111, Aug. 22, 1996, 110 Stat. 2176.

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

Section 201(a)(1)(C) of Pub. L. 103-296 provided that: “In the case of an individual who, as of 180 days after the date of the enactment of this Act [Aug. 15, 1994], has been determined to be under a disability, if alcoholism or drug addiction is a contributing factor material to the determination of the Secretary of Health and Human Services that the individual is under a disability, the Secretary may, notwithstanding clauses (i) and (ii) of section 205(j)(2)(D) of the Social Security Act [subsec. (j)(2)(D) of this section], make direct payment of benefits to such individual during the 90-day period commencing with the date on which such individual is provided the notice described in subparagraph (D)(ii) of this paragraph [set out above], until such time during such period as the selection of a representative payee is made pursuant to section 205(j) of such Act [subsec. (j) of this section].”

## STUDY REGARDING FEASIBILITY, COST, AND EQUITY OF REQUIRING REPRESENTATIVE PAYEES FOR ALL DISABILITY BENEFICIARIES SUFFERING FROM ALCOHOLISM OR DRUG ADDICTION

Section 201(a)(1)(E) of Pub. L. 103-296 provided that:

“(i) STUDY.—As soon as practicable after the date of the enactment of this Act [Aug. 15, 1994], the Secretary of Health and Human Services shall conduct a study of the representative payee program. In such study, the Secretary shall examine—

“(I) the feasibility, cost, and equity of requiring representative payees for all individuals entitled to benefits based on disability under title II or XVI of the Social Security Act [this subchapter and subchapter XVI of this chapter] who suffer from alcoholism or drug addiction, irrespective of whether the alcoholism or drug addiction was material in any case to the Secretary’s determination of disability,

“(II) the feasibility, cost, and equity of providing benefits through non-cash means, including (but not limited to) vouchers, debit cards, and electronic benefits transfer systems,

“(III) the extent to which child beneficiaries are afflicted by drug addiction or alcoholism and ways of addressing such affliction, including the feasibility of requiring treatment, and

“(IV) the extent to which children’s representative payees are afflicted by drug addiction or alcoholism, and methods to identify children’s representative payees afflicted by drug addiction or alcoholism and to ensure that benefits continue to be provided to beneficiaries appropriately.

“(ii) REPORT.—Not later than December 31, 1995, the Secretary shall transmit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report setting forth the findings of the Secretary based on such study.

Such report shall include such recommendations for administrative or legislative changes as the Secretary considers appropriate.”

ANNUAL REPORTS ON REVIEWS OF OASDI AND SSI  
CASES

Section 206(g) of Pub. L. 103-296, as amended by Pub. L. 103-296, title I, §108(b)(10)(B), Aug. 15, 1994, 108 Stat. 1483, provided that: “The Commissioner of Social Security shall annually submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the extent to which the Commissioner has exercised his authority to review cases of entitlement to monthly insurance benefits under title II of the Social Security Act [this subchapter] and supplemental security income cases under title XVI of such Act [subchapter XVI of this chapter], and the extent to which the cases reviewed were those that involved a high likelihood or probability of fraud.”

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

Section 5105(a)(2)(B) of Pub. L. 101-508 provided that: “As soon as practicable after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Health and Human Services, in consultation with the Attorney General of the United States and the Secretary of the Treasury, shall study the feasibility of establishing and maintaining a current list, which would be readily available to local offices of the Social Security Administration for use in investigations undertaken pursuant to section 205(j)(2) or 1631(a)(2)(B) of the Social Security Act [subsec. (j)(2) of this section or section 1383(a)(2)(B) of this title], of the names and social security account numbers of individuals who have been convicted of a violation of section 495 of title 18, United States Code. The Secretary of Health and Human Services shall, not later than July 1, 1992, submit the results of such study, together with any recommendations, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”

REPORTS ON ORGANIZATIONS SERVING AS  
REPRESENTATIVE PAYEES AND FEES FOR SERVICES

Section 5105(a)(3)(B) of Pub. L. 101-508 provided that: “(i) REPORT BY SECRETARY OF HEALTH AND HUMAN SERVICES.—Not later than January 1, 1993, the Secretary of Health and Human Services shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the number and types of qualified organizations which have served as representative payees and have collected fees for such service pursuant to any amendment made by subparagraph (A) [amending this section and section 1383 of this title].

“(ii) REPORT BY COMPTROLLER GENERAL.—Not later than July 1, 1992, the Comptroller General of the United States shall conduct a study of the advantages and disadvantages of allowing qualified organizations serving as representative payees to charge fees pursuant to the amendments made by subparagraph (A) and shall transmit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate setting forth the results of such study.”

STUDY RELATING TO FEASIBILITY OF SCREENING OF  
INDIVIDUALS WITH CRIMINAL RECORDS

Section 5105(a)(4) of Pub. L. 101-508 provided that: “As soon as practicable after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Health and Human Services shall conduct a study of the feasibility of determining the type of representative payee applicant most likely to have a felony or misdemeanor conviction, the suitability of individuals with prior convictions to serve as representative payees, and the circum-

stances under which such applicants could be allowed to serve as representative payees. The Secretary shall transmit the results of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than July 1, 1992.”

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

Section 5105(b)(2) of Pub. L. 101-508 provided that:

“(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Health and Human Services shall conduct a study of the need for a more stringent accounting system for high-risk representative payees than is otherwise generally provided under section 205(j)(3) or 1631(a)(2)(C) of the Social Security Act [subsec. (j)(3) of this section or section 1383(a)(2)(C) of this title], which would include such additional reporting requirements, record maintenance requirements, and other measures as the Secretary considers necessary to determine whether services are being appropriately provided by such payees in accordance with such sections 205(j) and 1631(a)(2).

“(B) SPECIAL PROCEDURES.—In such study, the Secretary shall determine the appropriate means of implementing more stringent, statistically valid procedures for—

“(i) reviewing reports which would be submitted to the Secretary under any system described in subparagraph (A), and

“(ii) periodic, random audits of records which would be kept under such a system, in order to identify any instances in which high-risk representative payees are misusing payments made pursuant to section 205(j) or 1631(a)(2) of the Social Security Act.

“(C) HIGH-RISK REPRESENTATIVE PAYEE.—For purposes of this paragraph, the term ‘high-risk representative payee’ means a representative payee under section 205(j) or 1631(a)(2) of the Social Security Act (42 U.S.C. 405(j) and 1383(a)(2), respectively) (other than a Federal or State institution) who—

“(i) regularly provides concurrent services as a representative payee under such section 205(j), such section 1631(a)(2), or both such sections, for 5 or more individuals who are unrelated to such representative payee,

“(ii) is neither related to an individual on whose behalf the payee is being paid benefits nor living in the same household with such individual,

“(iii) is a creditor of such individual, or

“(iv) is in such other category of payees as the Secretary may determine appropriate.

“(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the results of the study, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing stricter accounting and review procedures for high-risk representative payees in all servicing offices of the Social Security Administration (together with proposed legislative language).”

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

Section 5105(b)(3) of Pub. L. 101-508 provided that:

“(A) IN GENERAL.—As soon as practicable after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Health and Human Services shall implement a demonstration project under this paragraph in all or part of not fewer than 2 States. Under each such project, the Secretary shall enter into an agreement with the State in which the project is located to make readily available, for the duration of the project, to the appropriate State agency, a listing of addresses of multiple benefit recipients.

“(B) LISTING OF ADDRESSES OF MULTIPLE BENEFIT RECIPIENTS.—The list referred to in subparagraph (A) shall consist of a current list setting forth each address within the State at which benefits under title II [this subchapter], benefits under title XVI [subchapter XVI of this chapter], or any combination of such benefits are being received by 5 or more individuals. For purposes of this subparagraph, in the case of benefits under title II, all individuals receiving benefits on the basis of the wages and self-employment income of the same individual shall be counted as 1 individual.

“(C) APPROPRIATE STATE AGENCY.—The appropriate State agency referred to in subparagraph (A) is the agency of the State which the Secretary determines is primarily responsible for regulating care facilities operated in such State or providing for child and adult protective services in such State.

“(D) REPORT.—The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning such demonstration projects, together with any recommendations, not later than July 1, 1992. Such report shall include an evaluation of the feasibility and desirability of legislation implementing the programs established pursuant to this paragraph on a permanent basis.

“(E) STATE.—For purposes of this paragraph, the term ‘State’ means a State, including the entities included in such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).”

#### COUNTERFEITING OF SOCIAL SECURITY ACCOUNT NUMBER CARDS

Pub. L. 99-603, title I, §101(f), Nov. 6, 1986, 100 Stat. 3373, provided that:

“(1) The Comptroller General of the United States, upon consultation with the Attorney General and the Secretary of Health and Human Services as well as private sector representatives (including representatives of the financial, banking, and manufacturing industries), shall inquire into technological alternatives for producing and issuing social security account number cards that are more resistant to counterfeiting than social security account number cards being issued on the date of enactment of this Act [Nov. 6, 1986] by the Social Security Administration, including the use of encoded magnetic, optical, or active electronic media such as magnetic stripes, holograms, and integrated circuit chips. Such inquiry should focus on technologies that will help ensure the authenticity of the card, rather than the identity of the bearer.

“(2) The Comptroller General of the United States shall explore additional actions that could be taken to reduce the potential for fraudulently obtaining and using social security account number cards.

“(3) Not later than one year after the date of enactment of this Act [Nov. 6, 1986], the Comptroller General of the United States shall prepare and transmit to the Committee on the Judiciary and the Committee on Ways and Means of the House of Representatives and the Committee on the Judiciary and the Committee on Finance of the Senate a report setting forth his findings and recommendations under this subsection.”

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

Section 5 of Pub. L. 97-455 provided that: “The Secretary of Health and Human Services shall take such steps as may be necessary or appropriate to assure public understanding of the importance the Congress attaches to the face-to-face reconsiderations provided for in section 205(b)(2) of the Social Security Act [subsec. (b)(2) of this section] (as added by section 4 of this Act). For this purpose the Secretary shall—

“(1) provide for the establishment and implementation of procedures for the conduct of such reconsiderations in a manner which assures that beneficiaries will receive reasonable notice and information with respect to the time and place of reconsideration and

the opportunities afforded to introduce evidence and be represented by counsel; and

“(2) advise beneficiaries who request or are entitled to request such reconsiderations of the procedures so established, of their opportunities to introduce evidence and be represented by counsel at such reconsiderations, and of the importance of submitting all evidence that relates to the question before the Secretary or the State agency at such reconsiderations.”

#### INCLUSION OF SELF-EMPLOYMENT INCOME IN RECORDS OF SECRETARY OF HEALTH, EDUCATION, AND WELFARE

Section 331(c) of Pub. L. 89-97 provided that: “Notwithstanding any provision of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], the Secretary of Health, Education, and Welfare may conform, before April 16, 1970, his records to tax returns or statements of earnings which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e)(5) of such Code [section 1402(e)(5) of Title 26, Internal Revenue Code].”

Section 101(e) of Pub. L. 86-778, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The provisions of section 205(c)(5)(F) of the Social Security Act [subsec. (c)(5)(F) of this section], insofar as they prohibit inclusion in the records of the Secretary of Health, Education, and Welfare of self-employment income for a taxable year when the return or statement including such income is filed after the time limitation following such taxable year, shall not be applicable to earnings which are derived in any taxable year ending before 1960 and which constitute self-employment income solely by reason of the filing of a certificate which is effective under section 1402(e)(3)(B) or (5) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] [section 1402(e)(3)(B) or (5) of Title 26].”

#### § 405a. Regulations pertaining to frequency or due dates of payments and reports under voluntary agreements covering State and local employees; effective date

Notwithstanding any other provision of law, no regulation and no modification of any regulation, promulgated by the Secretary of Health and Human Services, after January 2, 1976, shall become effective prior to the end of the eighteen-month period which begins with the first day of the first calendar month which begins after the date on which such regulation or modification of a regulation is published in the Federal Register, if and insofar as such regulation or modification of a regulation pertains, directly or indirectly, to the frequency or due dates for payments and reports required under section 418(e)<sup>1</sup> of this title.

(Pub. L. 94-202, §7, Jan. 2, 1976, 89 Stat. 1137; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

#### REFERENCES IN TEXT

Subsec. (e) of section 418 of this title, referred to in text, which related to payments and reports by States, was repealed, and subsec. (f) of section 418 of this title was redesignated as subsec. (e), by Pub. L. 99-509, title IX, §9002(c)(1), Oct. 21, 1986, 100 Stat. 1971.

#### CODIFICATION

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

#### CHANGE OF NAME

“Secretary of Health and Human Services” substituted for “Secretary of Health, Education, and Wel-

<sup>1</sup> See References in Text note below.