

Stat. 1465; amended Pub. L. 98-369, div. B, title VI, §2663(j)(2)(E), July 18, 1984, 98 Stat. 1170; Pub. L. 103-296, title I, §107(a)(1), Aug. 15, 1994, 108 Stat. 1477.)

#### Editorial Notes

##### PRIOR PROVISIONS

A prior section 1602 of act Aug. 14, 1935, ch. 531, title XVI, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, §5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, §221(d)(3), title IV, §403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917, formerly classified to section 1382 of this title, set forth the required contents of State plans for aid to the aged, blind, or disabled, and for medical assistance for the aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, §301. Text of former section 1602 of act Aug. 14, 1935, is set out under section 1382 of this title.

##### AMENDMENTS

1994—Pub. L. 103-296 substituted “Commissioner of Social Security” for “Secretary of Health and Human Services”.

1984—Pub. L. 98-369 substituted “Health and Human Services” for “Health, Education, and Welfare”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1994 AMENDMENT

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

##### EFFECTIVE DATE OF 1984 AMENDMENT

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

##### EFFECTIVE DATE

Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1465, provided that this section is effective Jan. 1, 1974.

##### APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

##### PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of provisions of Pub. L. 92-603, eff. Jan. 1, 1974, not applicable to Puerto Rico, Guam, and the Virgin Islands, see section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title.

#### PART A—DETERMINATION OF BENEFITS

### § 1382. Eligibility for benefits

#### (a) “Eligible individual” defined

(1) Each aged, blind, or disabled individual who does not have an eligible spouse and—

(A) whose income, other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than \$1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 or any calendar year thereafter, and

(B) whose resources, other than resources excluded pursuant to section 1382b(a) of this title, are not more than (i) in case such individual has a spouse with whom he is living, the applicable amount determined under paragraph (3)(A), or (ii) in case such individual has no spouse with whom he is living, the applicable amount determined under paragraph (3)(B),

shall be an eligible individual for purposes of this subchapter.

(2) Each aged, blind, or disabled individual who has an eligible spouse and—

(A) whose income (together with the income of such spouse), other than income excluded pursuant to section 1382a(b) of this title, is at a rate of not more than \$2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974, or any calendar year thereafter, and

(B) whose resources (together with the resources of such spouse), other than resources excluded pursuant to section 1382b(a) of this title, are not more than the applicable amount determined under paragraph (3)(A),

shall be an eligible individual for purposes of this subchapter.

(3)(A) The dollar amount referred to in clause (i) of paragraph (1)(B), and in paragraph (2)(B), shall be \$2,250 prior to January 1, 1985, and shall be increased to \$2,400 on January 1, 1985, to \$2,550 on January 1, 1986, to \$2,700 on January 1, 1987, to \$2,850 on January 1, 1988, and to \$3,000 on January 1, 1989.

(B) The dollar amount referred to in clause (ii) of paragraph (1)(B), shall be \$1,500 prior to January 1, 1985, and shall be increased to \$1,600 on January 1, 1985, to \$1,700 on January 1, 1986, to \$1,800 on January 1, 1987, to \$1,900 on January 1, 1988, and to \$2,000 on January 1, 1989.

#### (b) Amount of benefits

(1) The benefit under this subchapter for an individual who does not have an eligible spouse shall be payable at the rate of \$1,752 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual.

(2) The benefit under this subchapter for an individual who has an eligible spouse shall be payable at the rate of \$2,628 (or, if greater, the amount determined under section 1382f of this title) for the calendar year 1974 and any calendar year thereafter, reduced by the amount of income, not excluded pursuant to section 1382a(b) of this title, of such individual and spouse.

#### (c) Period for determination of benefits

(1) An individual's eligibility for a benefit under this subchapter for a month shall be determined on the basis of the individual's (and eligible spouse's, if any) income, resources, and other relevant characteristics in such month, and, except as provided in paragraphs (2), (3), (4), (5), and (6), the amount of such benefit shall be determined for such month on the basis of income and other characteristics in the first or, if the Commissioner of Social Security so determines, second month preceding such month. Eli-

gibility for and the amount of such benefits shall be redetermined at such time or times as may be provided by the Commissioner of Social Security.

(2) The amount of such benefit for the month in which an application for benefits becomes effective (or, if the Commissioner of Social Security so determines, for such month and the following month) and for any month immediately following a month of ineligibility for such benefits (or, if the Commissioner of Social Security so determines, for such month and the following month) shall—

(A) be determined on the basis of the income of the individual and the eligible spouse, if any, of such individual and other relevant circumstances in such month; and

(B) in the case of the first month following a period of ineligibility in which eligibility is restored after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if eligibility had been restored on the first day of such month as the number of days in such month including and following the date of restoration of eligibility bears to the total number of days in such month.

(3) For purposes of this subsection, an increase in the benefit amount payable under subchapter II (over the amount payable in the preceding month, or, at the election of the Commissioner of Social Security, the second preceding month) to an individual receiving benefits under this subchapter shall be included in the income used to determine the benefit under this subchapter of such individual for any month which is—

(A) the first month in which the benefit amount payable to such individual under this title is increased pursuant to section 1382f of this title, or

(B) at the election of the Commissioner of Social Security, the month immediately following such month.

(4)(A) Notwithstanding paragraph (3), if the Commissioner of Social Security determines that reliable information is currently available with respect to the income and other circumstances of an individual for a month (including information with respect to a class of which such individual is a member and information with respect to scheduled cost-of-living adjustments under other benefit programs), the benefit amount of such individual under this subchapter for such month may be determined on the basis of such information.

(B) The Commissioner of Social Security shall prescribe by regulation the circumstances in which information with respect to an event may be taken into account pursuant to subparagraph (A) in determining benefit amounts under this subchapter.

(5) Notwithstanding paragraphs (1) and (2), any income which is paid to or on behalf of an individual in any month pursuant to (A) a State program funded under part A of subchapter IV, (B) section 672 of this title (relating to foster care assistance), (C) section 1522(e) of title 8 (relating to assistance for refugees), (D) section 501(a) of Public Law 96-422 (relating to assistance for Cuban and Haitian entrants), or (E) section 13 of

title 25 (relating to assistance furnished by the Bureau of Indian Affairs), shall be taken into account in determining the amount of the benefit under this subchapter of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

(6) The dollar amount in effect under subsection (b) as a result of any increase in benefits under this subchapter by reason of section 1382f of this title shall be used to determine the value of any in-kind support and maintenance required to be taken into account in determining the benefit payable under this subchapter to an individual (and the eligible spouse, if any, of the individual) for the 1st 2 months for which the increase in benefits applies.

(7) For purposes of this subsection, an application of an individual for benefits under this subchapter shall be effective on the later of—

(A) the first day of the month following the date such application is filed, or

(B) the first day of the month following the date such individual becomes eligible for such benefits with respect to such application.

(8) The Commissioner of Social Security may waive the limitations specified in subparagraphs (A) and (B) of subsection (e)(1) on an individual's eligibility and benefit amount for a month (to the extent either such limitation is applicable by reason of such individual's presence throughout such month in a hospital, extended care facility, nursing home, or intermediate care facility) if such waiver would promote the individual's removal from such institution or facility. Upon waiver of such limitations, the Commissioner of Social Security shall apply, to the month preceding the month of removal, or, if the Commissioner of Social Security so determines, the two months preceding the month of removal, the benefit rate that is appropriate to such individual's living arrangement subsequent to his removal from such institution or facility.

(9)(A) Notwithstanding paragraphs (1) and (2), any nonrecurring income which is paid to an individual in the first month of any period of eligibility shall be taken into account in determining the amount of the benefit under this subchapter of such individual (and his eligible spouse, if any) only for that month, and shall not be taken into account in determining the amount of the benefit for any other month.

(B) For purposes of subparagraph (A), payments to an individual in varying amounts from the same or similar source for the same or similar purpose shall not be considered to be non-recurring income.

(10) For purposes of this subsection, remuneration for service performed as a member of a uniformed service may be treated as received in the month in which it was earned, if the Commissioner of Social Security determines that such treatment would promote the economical and efficient administration of the program authorized by this subchapter.

**(d) Limitation on amount of gross income earned; "gross income" defined**

The Commissioner of Social Security may prescribe the circumstances under which, consistently with the purposes of this subchapter, the

gross income from a trade or business (including farming) will be considered sufficiently large to make an individual ineligible for benefits under this subchapter. For purposes of this subsection, the term “gross income” has the same meaning as when used in chapter 1 of the Internal Revenue Code of 1986.

**(e) Limitation on eligibility of certain individuals**

(1)(A) Except as provided in subparagraphs (B), (C), (D), (E), and (G), no person shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month (subject to subparagraph (G)), in a medical treatment facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX, or an eligible individual is a child described in section 1382c(f)(2)(B) of this title, or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance the benefit under this subchapter for such individual for such month shall be payable (subject to subparagraph (E))—

(i) at a rate not in excess of \$360 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of \$360 per year (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the one who is in such facility), and

(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other); and

(iii) at a rate not in excess of \$720 per year (reduced by the amount of any income not excluded pursuant to section 1382a(b) of this title) in the case of an individual who has an eligible spouse, if both of them are in such a facility throughout such month.

For purposes of this subsection, a medical treatment facility that provides services described in section 1396p(c)(1)(C) of this title shall be considered to be receiving payments with respect to an individual under a State plan approved under subchapter XIX during any period of ineligibility of such individual provided for under the State plan pursuant to section 1396p(c) of this title.

(C) As used in subparagraph (A), the term “public institution” does not include a publicly operated community residence which serves no more than 16 residents.

(D) A person may be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month throughout which he is a resident of a public emergency shelter for

the homeless (as defined in regulations which shall be prescribed by the Commissioner of Social Security); except that no person shall be an eligible individual or eligible spouse by reason of this subparagraph more than 6 months in any 9-month period.

(E) Notwithstanding subparagraphs (A) and (B), any individual who—

(i)(I) is an inmate of a public institution, the primary purpose of which is the provision of medical or psychiatric care, throughout any month as described in subparagraph (A), or

(II) is in a medical treatment facility throughout any month as described in subparagraph (B),

(ii) was eligible under section 1382h(a) or (b) of this title for the month preceding such month, and

(iii) under an agreement of the public institution or the medical treatment facility is permitted to retain any benefit payable by reason of this subparagraph,

may be an eligible individual or eligible spouse for purposes of this subchapter (and entitled to a benefit determined on the basis of the rate applicable under subsection (b)) for the month referred to in subclause (I) or (II) of clause (i) and, if such subclause still applies, for the succeeding month.

(F) An individual who is an eligible individual or an eligible spouse for a month by reason of subparagraph (E) shall not be treated as being eligible under section 1382h(a) or (b) of this title for such month for purposes of clause (ii) of such subparagraph.

(G) A person may be an eligible individual or eligible spouse for purposes of this subchapter, and subparagraphs (A) and (B) shall not apply, with respect to any particular month throughout which he or she is an inmate of a public institution the primary purpose of which is the provision of medical or psychiatric care, or is in a medical treatment facility receiving payments (with respect to such individual or spouse) under a State plan approved under subchapter XIX or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance, if it is determined in accordance with subparagraph (H) or (J) that—

(i) such person's stay in that institution or facility (or in that institution or facility and one or more other such institutions or facilities during a continuous period of institutionalization) is likely (as certified by a physician) not to exceed 3 months, and the particular month involved is one of the first 3 months throughout which such person is in such an institution or facility during a continuous period of institutionalization; and

(ii) such person needs to continue to maintain and provide for the expenses of the home or living arrangement to which he or she may return upon leaving the institution or facility.

The benefit of any person under this subchapter (including State supplementation if any) for each month to which this subparagraph applies shall be payable, without interruption of benefit payments and on the date the benefit involved is regularly due, at the rate that was applicable to

such person in the month prior to the first month throughout which he or she is in the institution or facility.

(H) The Commissioner of Social Security shall establish procedures for the determinations required by clauses (i) and (ii) of subparagraph (G), and may enter into agreements for making such determinations (or for providing information or assistance in connection with the making of such determinations) with appropriate State and local public and private agencies and organizations. Such procedures and agreements shall include the provision of appropriate assistance to individuals who, because of their physical or mental condition, are limited in their ability to furnish the information needed in connection with the making of such determinations.

(I)(i) The Commissioner shall enter into an agreement, with any interested State or local institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 402(x)(1)(A)(ii) of this title, under which—

(I) the institution shall provide to the Commissioner, on a monthly basis and in a manner specified by the Commissioner, the first, middle, and last names, social security account numbers or taxpayer identification numbers, prison assigned inmate numbers, last known addresses, dates of birth, confinement commencement dates, dates of release or anticipated dates of release, dates of work release, and, to the extent available to the institution, such other identifying information concerning the inmates of the institution as the Commissioner may require for the purpose of carrying out this paragraph and clause (iv)<sup>1</sup> of this subparagraph and the other provisions of this subchapter; and

(II) the Commissioner shall pay to any such institution, with respect to each individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 402(x)(1)(A)(ii) of this title, a benefit under this subchapter for such preceding month, and who is determined by the Commissioner to be ineligible for benefits under this subchapter by reason of confinement based on the information provided by such institution, \$400 (subject to reduction under clause (ii)) if the institution furnishes the information described in subclause (I) to the Commissioner within 15 days after the date such individual becomes an inmate of such institution, or \$200 (subject to reduction under clause (ii)) if the institution furnishes such information after 15 days after such date but within 90 days after such date.

(ii) The dollar amounts specified in clause (i)(II) shall be reduced by 50 percent if the Commissioner is also required to make a payment to

the institution with respect to the same individual under an agreement entered into under section 402(x)(3)(B) of this title.

(iii) The Commissioner shall maintain, and shall provide on a reimbursable basis, information obtained pursuant to agreements entered into under clause (i) to any Federal or federally-assisted cash, food, or medical assistance program for eligibility and other administrative purposes under such program, for statistical and research activities conducted by Federal and State agencies, and to the Secretary of the Treasury for the purposes of tax administration, debt collection, and identifying, preventing, and recovering improper payments under federally funded programs.

(iv) Payments to institutions required by clause (i)(II) shall be made from funds otherwise available for the payment of benefits under this subchapter and shall be treated as direct spending for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 [2 U.S.C. 900 et seq.].

(v)(I) The Commissioner may disclose information received pursuant to this paragraph to any officer, employee, agent, or contractor of the Department of the Treasury whose official duties require such information to assist in the identification, prevention, and recovery of improper payments or in the collection of delinquent debts owed to the United States, including payments certified by the head of an executive, judicial, or legislative paying agency, and payments made to individuals whose eligibility, or continuing eligibility, to participate in a Federal program (including those administered by a State or political subdivision thereof) is being reviewed.

(II) Notwithstanding the provisions of section 552a of title 5 or any other provision of Federal or State law, the Secretary of the Treasury may compare information disclosed under subclause (I) with any other personally identifiable information derived from a Federal system of records or similar records maintained by a Federal contractor, a Federal grantee, or an entity administering a Federal program or activity and may redisclose such comparison of information to any paying or administering agency and to the head of the Federal Bureau of Prisons and the head of any State agency charged with the administration of prisons with respect to inmates whom the Secretary of the Treasury has determined may have been issued, or facilitated in the issuance of, an improper payment.

(III) The comparison of information disclosed under subclause (I) shall not be considered a matching program for purposes of section 552a of title 5.

(J) For the purpose of carrying out this paragraph, the Commissioner of Social Security shall conduct periodic computer matches with data maintained by the Secretary of Health and Human Services under subchapter XVIII or XIX. The Secretary shall furnish to the Commissioner, in such form and manner and under such terms as the Commissioner and the Secretary shall mutually agree, such information as the Commissioner may request for this purpose. Information obtained pursuant to such a match may be substituted for the physician's certifi-

<sup>1</sup> So in original. Probably should refer to cl. (iii).

cation otherwise required under subparagraph (G)(i).

(2) No person shall be an eligible individual or eligible spouse for purposes of this subchapter if, after notice to such person by the Commissioner of Social Security that it is likely that such person is eligible for any payments of the type enumerated in section 1382a(a)(2)(B) of this title, such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3) Notwithstanding anything to the contrary in the criteria being used by the Commissioner of Social Security in determining when a husband and wife are to be considered two eligible individuals for purposes of this subchapter and when they are to be considered an eligible individual with an eligible spouse, the State agency administering or supervising the administration of a State plan under any other program under this chapter may (in the administration of such plan) treat a husband and wife living in the same medical treatment facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this subchapter (rather than two eligible individuals), after they have continuously lived in the same such facility for 6 months, if treating such husband and wife as two eligible individuals would prevent either of them from receiving benefits or assistance under such plan or reduce the amount thereof.

(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if during such month the person is—

(i) fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed; or

(ii) violating a condition of probation or parole imposed under Federal or State law.

(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

(i) the offense described in subparagraph (A)(i) or underlying the imposition of the pro-

bation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.

(5) Notwithstanding any other provision of 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 number, and photograph (if applicable) of any recipient of benefits under this subchapter, if the officer furnishes the Commissioner with the name of the recipient, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the recipient, and notifies the Commissioner that—

(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

(B) the location or apprehension of the recipient is within the officer's official duties.

**(f) Individuals outside United States; determination of status**

(1) Notwithstanding any other provision of this subchapter, no individual (other than a child described in section 1382c(a)(1)(B)(ii) of this title) shall be considered an eligible individual for purposes of this subchapter for any month during all of which such individual is outside the United States (and no person shall be considered the eligible spouse of an individual for purposes of this subchapter with respect to any month during all of which such person is outside the United States). For purposes of the preceding sentence, after an individual has been outside the United States for any period of 30 consecutive days, he shall be treated as remaining outside the United States until he has been in the United States for a period of 30 consecutive days.

(2) For a period of not more than 1 year, the first sentence of paragraph (1) shall not apply to any individual who—

(A) was eligible to receive a benefit under this subchapter for the month immediately preceding the first month during all of which the individual was outside the United States; and

(B) demonstrates to the satisfaction of the Commissioner of Social Security that the absence of the individual from the United States will be—

(i) for not more than 1 year; and

(ii) for the purpose of conducting studies as part of an educational program that is—

(I) designed to substantially enhance the ability of the individual to engage in gainful employment;

(II) sponsored by a school, college, or university in the United States; and

(III) not available to the individual in the United States.

**(g) Individuals deemed to meet resources test**

In the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter I, X, XIV, or XVI,

(2) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(3) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or eligible spouse with respect to whom supplemental security income benefits are payable,

the resources of such individual or such individual and his spouse (as the case may be) shall be deemed not to exceed the amount specified in subsections (a)(1)(B) and (a)(2)(B) during any period that the resources of such individual or such individual and his spouse (as the case may be) does not exceed the maximum amount of resources specified in the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973.

**(h) Individuals deemed to meet income test**

In determining eligibility for, and the amount of, benefits payable under this section in the case of any individual or any individual and his spouse (as the case may be) who—

(1) received aid or assistance for December 1973 under a plan of a State approved under subchapter X or XVI,

(2) is blind under the definition of that term in the plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973,

(3) has, since December 31, 1973, continuously resided in the State under the plan of which he or they received such aid or assistance for December 1973, and

(4) has, since December 31, 1973, continuously been (except for periods not in excess of six consecutive months) an eligible individual or an eligible spouse with respect to whom supplemental security income benefits are payable,

there shall be disregarded an amount equal to the greater of (A) the maximum amount of any earned or unearned income which could have been disregarded under the State plan, as in effect for October 1972, under which he or they received such aid or assistance for December 1973, and (B) the amount which would be required to be disregarded under section 1382a of this title without application of this subsection.

**(i) Application and review requirements for certain individuals**

For application and review requirements affecting the eligibility of certain individuals, see section 1383(j) of this title.

(Aug. 14, 1935, ch. 531, title XVI, §1611, as added Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1466; amended Pub. L. 93-66, title II, §210(a), (b), July 9, 1973, 87 Stat. 154; Pub. L. 93-233, §§4(b)(1), (2), 18(d), (e), Dec. 31, 1973, 87 Stat. 953, 968; Pub. L. 93-368, §6(a), Aug. 7, 1974, 88 Stat. 421; Pub. L. 94-566, title V, §§502, 505(a), Oct. 20, 1976, 90 Stat. 2685, 2686; Pub. L. 96-265, title III, §303(c)(2), June 9, 1980, 94 Stat. 453; Pub. L. 97-35, title XXIII, §2341(a), Aug. 13, 1981, 95

Stat. 865; Pub. L. 97-248, title I, §§181(a), 183(a), Sept. 3, 1982, 96 Stat. 404, 405; Pub. L. 98-21, title IV, §403(a), Apr. 20, 1983, 97 Stat. 140; Pub. L. 98-369, div. B, title VI, §§2611(a)-(c), 2663(g)(1), (2), July 18, 1984, 98 Stat. 1130, 1168; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99-643, §§3(a), 4(c)(3), (d)(1), 9(a), Nov. 10, 1986, 100 Stat. 3574, 3577, 3579; Pub. L. 100-203, title IX, §§9106(a), 9107, 9113(a), 9115(a), 9119(a), Dec. 22, 1987, 101 Stat. 1330-301, 1330-302, 1330-304, 1330-308; Pub. L. 100-360, title III, §303(c)(2), July 1, 1988, 102 Stat. 762; Pub. L. 101-239, title VIII, §§8009(a), 8010(b), Dec. 19, 1989, 103 Stat. 2463, 2464; Pub. L. 103-66, title XIII, §13735(a), Aug. 10, 1993, 107 Stat. 662; Pub. L. 103-296, title I, §107(a)(4), title II, §§201(b)(3)(A), (B)(i), 204(a), Aug. 15, 1994, 108 Stat. 1478, 1502, 1504, 1508; Pub. L. 104-121, title I, §105(b)(4)(A), Mar. 29, 1996, 110 Stat. 854; Pub. L. 104-193, title I, §108(j), title II, §§201(a), 202(a), (b), 203(a)(1), 204(a), 214(a), Aug. 22, 1996, 110 Stat. 2169, 2185-2187, 2195; Pub. L. 105-33, title V, §§5521, 5522(c), Aug. 5, 1997, 111 Stat. 621, 623; Pub. L. 106-169, title II, §§204, 207(c), 212, Dec. 14, 1999, 113 Stat. 1833, 1838, 1843; Pub. L. 106-170, title IV, §402(a)(3), (c)(1)-(3), Dec. 17, 1999, 113 Stat. 1908, 1909; Pub. L. 108-203, title II, §203(b), title IV, §§433(a), (b), 436(a), Mar. 2, 2004, 118 Stat. 510, 539-541; Pub. L. 113-67, div. A, title II, §204(a)(2), (b)(2), Dec. 26, 2013, 127 Stat. 1179, 1180; Pub. L. 115-123, div. E, title XII, §53118(a), Feb. 9, 2018, 132 Stat. 307.)

**Editorial Notes**

REFERENCES IN TEXT

Section 501(a) of Public Law 96-422, referred to in subsec. (c)(5), is section 501(a) of Pub. L. 96-422, which is set out as a note under section 1522 of Title 8, Aliens and Nationality.

The Internal Revenue Code of 1986, referred to in subsecs. (d) and (e)(5), is classified generally to Title 26, Internal Revenue Code.

The Balanced Budget and Emergency Deficit Control Act of 1985, referred to in subsec. (e)(1)(I)(iv), is title II of Pub. L. 99-177, Dec. 12, 1985, 99 Stat. 1038, which enacted chapter 20 (§900 et seq.) and sections 654 to 656 of Title 2, The Congress, amended sections 602, 622, 631 to 642, and 651 to 653 of Title 2, sections 1104 to 1106, and 1109 of Title 31, Money and Finance, and section 911 of this title, repealed section 661 of Title 2, enacted provisions set out as notes under section 900 of Title 2 and section 911 of this title, and amended provisions set out as a note under section 621 of Title 2. For complete classification of this Act to the Code, see Short Title note set out under section 900 of Title 2 and Tables.

PRIOR PROVISIONS

A prior section 1382, act Aug. 14, 1935, ch. 531, title XVI, §1602, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, §5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, §221(d)(3), title IV, §403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492, set forth required contents of State plans for aid to aged, blind, or disabled, and for medical assistance for aged, prior to the general amendment of title XVI of the Social Security Act by Pub. L. 92-603, §301, but is set out as a note below in view of its continued applicability to Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

2018—Subsec. (e)(1)(I)(i)(II). Pub. L. 115-123 substituted “15 days” for “30 days” in two places.

2013—Subsec. (e)(1)(I)(i)(I). Pub. L. 113-67, § 204(a)(2), inserted “first, middle, and last” before “names”, “dates of release or anticipated dates of release, dates of work release,” before “and, to the extent available”, and “and clause (iv) of this subparagraph” before “and the other provisions of this subchapter” and substituted “social security account numbers or taxpayer identification numbers, prison assigned inmate numbers, last known addresses,” for “social security account numbers.”

Subsec. (e)(1)(I)(iii). Pub. L. 113-67, § 204(b)(2)(A), inserted before period at end “, for statistical and research activities conducted by Federal and State agencies, and to the Secretary of the Treasury for the purposes of tax administration, debt collection, and identifying, preventing, and recovering improper payments under federally funded programs”.

Subsec. (e)(1)(I)(v). Pub. L. 113-67, § 204(b)(2)(B), added cl. (v).

2004—Subsec. (c)(2)(B). Pub. L. 108-203, § 433(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “in the case of the month in which an application becomes effective or the first month following a period of ineligibility, if such application becomes effective, or eligibility is restored, after the first day of such month, bear the same ratio to the amount of the benefit which would have been payable to such individual if such application had become effective, or eligibility had been restored, on the first day of such month as the number of days in such month including and following the effective date of such application or restoration of eligibility bears to the total number of days in such month.”

Subsec. (c)(9). Pub. L. 108-203, § 433(a), added par. (9).

Subsec. (c)(10). Pub. L. 108-203, § 436(a), added par. (10).

Subsec. (e)(4). Pub. L. 108-203, § 203(b)(1), designated existing provisions as subpar. (A), redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (A), in cl. (i), substituted “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed” for “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State”, and added subpars. (B) and (C).

Subsec. (e)(5)(A), (B). Pub. L. 108-203, § 203(b)(2), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) the recipient—

“(i) is described in subparagraph (A) or (B) of paragraph (4); and

“(ii) has information that is necessary for the officer to conduct the officer’s official duties; and

“(B) the location or apprehension of the recipient is within the officer’s official duties.”

1999—Subsec. (e)(1)(G). Pub. L. 106-169, § 212(b), substituted “subparagraph (H) or (J)” for “subparagraph (H)” in introductory provisions.

Subsec. (e)(1)(I)(i). Pub. L. 106-170, § 402(c)(2), substituted “institution comprising a jail, prison, penal institution, or correctional facility, or with any other interested State or local institution a purpose of which is to confine individuals as described in section 402(x)(1)(A)(ii) of this title,” for “institution described in clause (i) or (ii) of section 402(x)(1)(A) of this title the primary purpose of which is to confine individuals as described in section 402(x)(1)(A) of this title.”

Subsec. (e)(1)(I)(I). Pub. L. 106-170, § 402(a)(3)(A), substituted “and the other provisions of this subchapter; and” for “; and”.

Subsec. (e)(1)(I)(i)(II). Pub. L. 106-170, § 402(c)(1)(A), inserted “(subject to reduction under clause (ii))” after “\$400” and “\$200”.

Subsec. (e)(1)(I)(ii). Pub. L. 106-170, § 402(c)(1)(C), added cl. (ii). Former cl. (ii) redesignated (iii).

Subsec. (e)(1)(I)(ii)(II). Pub. L. 106-170, § 402(a)(3)(B), substituted “shall maintain, and shall provide on a reimbursable basis,” for “is authorized to provide, on a reimbursable basis.”

Pub. L. 106-169, § 204, which directed substitution of “shall” for “is authorized to” in cl. (ii)(II), could not be

executed in view of the redesignation of cl. (ii) as (iii) by Pub. L. 106-170, § 402(c)(1)(B). See note above and Effective Date of 1999 Amendment note below.

Subsec. (e)(1)(I)(iii). Pub. L. 106-170, § 402(c)(3)(B), substituted “eligibility and other administrative purposes under such program” for “eligibility purposes”.

Pub. L. 106-170, § 402(c)(3)(A), struck out “(II)” before “The Commissioner” and struck out subcl. (I) which read as follows: “The provisions of section 552a of title 5 shall not apply to any agreement entered into under clause (i) or to information exchanged pursuant to such agreement.”

Pub. L. 106-170, § 402(c)(1)(B), redesignated cl. (ii) as (iii). Former cl. (iii) redesignated (iv).

Subsec. (e)(1)(I)(iv). Pub. L. 106-170, § 402(c)(1)(B), redesignated cl. (iii) as (iv).

Subsec. (e)(1)(J). Pub. L. 106-169, § 212(a), added subpar. (J).

Subsec. (e)(4). Pub. L. 106-169, § 207(c)(1), (3), redesignated par. (5) as (4) and struck out former par. (4) which read as follows:

“(4)(A) No person shall be considered an eligible individual or eligible spouse for purposes of this subchapter during the 10-year period that begins on the date the person is convicted in Federal or State court of having made a fraudulent statement or representation with respect to the place of residence of the person in order to receive assistance simultaneously from 2 or more States under programs that are funded under subchapter IV of this chapter, subchapter XIX of this chapter, or the Food Stamp Act of 1977, or benefits in 2 or more States under the supplemental security income program under this subchapter.

“(B) As soon as practicable after the conviction of a person in a Federal or State court as described in subparagraph (A), an official of such court shall notify the Commissioner of such conviction.”

Subsec. (e)(5). Pub. L. 106-169, § 207(c)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (e)(6). Pub. L. 106-169, § 207(c)(2), (3), redesignated par. (6) as (5) and substituted “(4)” for “(5)”.

1997—Subsec. (e)(1)(B). Pub. L. 105-33, § 5522(c)(1)(A), (D), in introductory provisions, substituted “medical treatment facility” for “hospital, extended care facility, nursing home, or intermediate care facility” and in closing provisions, substituted “medical treatment facility that provides services described in section 1396p(c)(1)(C) of this title” for “hospital, extended care facility, nursing home, or intermediate care facility which is a ‘medical institution or nursing facility’ within the meaning of section 1396p(c) of this title”.

Subsec. (e)(1)(B)(ii). Pub. L. 105-33, § 5522(c)(1)(B), struck out “hospital, home or” before “facility” in introductory provisions and “hospital, home, or” before “facility” in subcl. (I).

Subsec. (e)(1)(B)(iii). Pub. L. 105-33, § 5522(c)(1)(C), struck out “hospital, home, or” before “facility”.

Subsec. (e)(1)(E)(i)(II), (iii). Pub. L. 105-33, § 5522(c)(2), substituted “medical treatment facility” for “hospital, extended care facility, nursing home, or intermediate care facility”.

Subsec. (e)(1)(G). Pub. L. 105-33, § 5522(c)(3), substituted “or is in a medical treatment” for “or which is a hospital, extended care facility, nursing home, or intermediate care” and inserted “or, in the case of an individual who is a child under the age of 18, under any health insurance policy issued by a private provider of such insurance” after “subchapter XIX”.

Subsec. (e)(1)(I)(i)(I). Pub. L. 105-33, § 5521(c), substituted “this paragraph” for “paragraph (1)”.

Subsec. (e)(1)(I)(i)(II). Pub. L. 105-33, § 5521(b), substituted “individual who receives in the month preceding the first month throughout which such individual is an inmate of the jail, prison, penal institution, or correctional facility that furnishes information respecting such individual pursuant to subclause (I), or is confined in the institution (that so furnishes such information) as described in section 402(x)(1)(A)(ii) of this title, a benefit under this subchapter for such preceding month, and who is determined by the Commissioner to

be ineligible for benefits under this subchapter by reason of confinement based on the information provided by such institution” for “inmate of the institution who is eligible for a benefit under this subchapter for the month preceding the first month throughout which such inmate is in such institution and becomes ineligible for such benefit as a result of the application of this subparagraph”.

Subsec. (e)(3). Pub. L. 105-33, §5522(c)(4), substituted “same medical treatment facility” for “same hospital, home, or facility” and “same such facility” for “same such hospital, home, or facility”.

Subsec. (e)(6). Pub. L. 105-33, §5521(a), inserted “and section 1306(c) of this title” after “of 1986”.

1996—Subsec. (c)(5)(A). Pub. L. 104-193, §108(j), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “a State plan approved under part A of subchapter IV of this chapter (relating to aid to families with dependent children),”.

Subsec. (c)(7)(A), (B). Pub. L. 104-193, §204(a), amended subpars. (A) and (B) generally. Prior to amendment, subpars. (A) and (B) read as follows:

“(A) the date such application is filed, or

“(B) the date such individual first becomes eligible for such benefits with respect to such application.”

Subsec. (e)(1)(B). Pub. L. 104-193, §214(a), inserted “or, in the case of an eligible individual who is a child under the age of 18, receiving payments (with respect to such individual) under any health insurance policy issued by a private provider of such insurance” after “section 1382c(f)(2)(B) of this title,”.

Subsec. (e)(1)(I). Pub. L. 104-193, §203(a)(1), added subpar. (I).

Subsec. (e)(3). Pub. L. 104-193, §201(a), redesignated par. (5) as (3).

Pub. L. 104-121 struck out par. (3) which related to limitation on eligibility for benefits by reason of disability based on alcoholism or drug addiction.

Subsec. (e)(4). Pub. L. 104-193, §201(a), added par. (4).

Subsec. (e)(5). Pub. L. 104-193, §§201(a), 202(a), added par. (5) and redesignated former par. (5) as (3).

Subsec. (e)(6). Pub. L. 104-193, §202(b), added par. (6).

1994—Subsecs. (c), (d), (e)(1)(D), (H), (2). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary” wherever appearing.

Subsec. (e)(3)(A). Pub. L. 103-296, §201(b)(3)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1382c(a)(3) of this title) shall be an eligible individual or eligible spouse for purposes of this subchapter with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).”

Pub. L. 103-296, §107(a)(4), in subpar. (A) as amended by Pub. L. 103-296, §201(b)(3)(A), substituted “Commissioner of Social Security” for “Secretary” and “Commissioner’s” for “Secretary’s” wherever appearing.

Subsec. (e)(3)(B). Pub. L. 103-296, §201(b)(3)(B)(i), designated existing provisions as cl. (i), struck out “The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.” after first sentence, and added cls. (ii) and (iii).

Pub. L. 103-296, §107(a)(4), in subpar. (B) as amended by Pub. L. 103-296, §201(b)(3)(B)(i), substituted “Commissioner of Social Security” for “Secretary” wherever appearing and “Commissioner’s” for “Secretary’s” in cl. (iii)(II)(aa).

Subsec. (e)(5). Pub. L. 103-296, §107(a)(4), substituted “Commissioner of Social Security” for “Secretary”.

Subsec. (f). Pub. L. 103-296, §204(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(2)(B). Pub. L. 103-296, §107(a)(4), in subpar. (B) as added by Pub. L. 103-296, §204(a), substituted “Commissioner of Social Security” for “Secretary”.

1993—Subsec. (c)(1). Pub. L. 103-66, §13735(a)(1), substituted “(5), and (6)” for “and (5)”.

Subsec. (c)(6) to (8). Pub. L. 103-66, §13735(a)(2), (3), added par. (6) and redesignated former pars. (6) and (7) as (7) and (8), respectively.

1989—Subsec. (e)(1)(B). Pub. L. 101-239, §8010(b), inserted “or an eligible individual is a child described in section 1382c(f)(2)(B) of this title,” before “the benefit under this subchapter” in introductory provisions.

Subsec. (f). Pub. L. 101-239, §8009(a), inserted “(other than a child described in section 1382c(a)(1)(B)(ii) of this title)” after “no individual”.

1988—Subsec. (e)(1)(B). Pub. L. 100-360 inserted at end “For purposes of this subsection, a hospital, extended care facility, nursing home, or intermediate care facility which is a ‘medical institution or nursing facility’ within the meaning of section 1396p(c) of this title shall be considered to be receiving payments with respect to an individual under a State plan approved under subchapter XIX during any period of ineligibility of such individual provided for under the State plan pursuant to section 1396p(c) of this title.”

1987—Subsec. (c)(1). Pub. L. 100-203, §9106(a)(1), substituted “paragraphs (2), (3), (4), and (5)” for “paragraphs (2), (3), and (4)”.

Subsec. (c)(5) to (7). Pub. L. 100-203, §9106(a)(2), (3), added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Subsec. (e)(1)(A). Pub. L. 100-203, §9115(a)(1), substituted “(E), and (G)” for “and (E)”.

Subsec. (e)(1)(B). Pub. L. 100-203, §9115(a)(2), inserted “(subject to subparagraph (G))” after “throughout any month”.

Subsec. (e)(1)(B)(i) to (iii). Pub. L. 100-203, §9119(a), in cls. (i) and (ii)(I) substituted “\$360 per year” for “\$300 per year” and in cl. (iii) substituted “\$720 per year” for “\$600 per year”.

Subsec. (e)(1)(D). Pub. L. 100-203, §9113(a), substituted “6 months in any 9-month period” for “three months in any 12-month period”.

Subsec. (e)(1)(G), (H). Pub. L. 100-203, §9115(a)(3), added subpars. (G) and (H).

Subsec. (e)(5). Pub. L. 100-203, §9107, substituted “living in the same hospital, home, or facility” for “sharing a room or comparable accommodation in a hospital, home, or facility” and “lived in the same such hospital, home, or facility” for “shared such a room or accommodation”.

1986—Subsec. (d). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”.

Subsec. (e)(1). Pub. L. 99-643, §3(a), in subpar. (A) substituted “(D), and (E)” for “and (D)”, in subpar. (B) inserted “(subject to subparagraph (E))” after “shall be payable”, and added subpars. (E) and (F).

Subsec. (e)(4). Pub. L. 99-643, §4(d)(1), struck out par. (4) which read as follows: “No benefit shall be payable under this subchapter, except as provided in section 1382h of this title (or section 1382e(c)(3) of this title), with respect to an eligible individual or his eligible spouse who is an aged, blind, or disabled individual solely by application of section 1382c(a)(3)(F) of this title for any month, after the third month, in which he engages in substantial gainful activity during the fifteen-month period following the end of his trial work period determined by application of section 1382c(a)(4)(D)(i) of this title.”

Subsec. (e)(5). Pub. L. 99-643, §9(a), added par. (5).

Subsec. (i). Pub. L. 99-643, §4(c)(3), added subsec. (i).

1984—Subsec. (a)(1)(B). Pub. L. 98-369, §2611(a), substituted “the applicable amount determined under paragraph (3)(A)” for “\$2,250” and “the applicable amount determined under paragraph (3)(B)” for “\$1,500”.

Subsec. (a)(2)(B). Pub. L. 98-369, §2611(b), substituted “the applicable amount determined under paragraph (3)(A)” for “\$2,250”.



Subsec. (a)(3). Pub. L. 98-369, §2611(c), added par. (3).  
 Subsec. (c). Pub. L. 98-369, §2663(g)(1), amended heading.

Subsec. (g). Pub. L. 98-369, §2663(g)(2), substituted “or such individual” for “or individuals” in provisions following par. (3).

1983—Subsec. (e)(1)(A). Pub. L. 98-21, §403(a)(1), inserted reference to subpar. (D).

Subsec. (e)(1)(D). Pub. L. 98-21, §403(a)(2), added subpar. (D).

1982—Subsec. (c)(1). Pub. L. 97-248, §183(a)(1), inserted reference to pars. (3) and (4).

Subsec. (c)(2). Pub. L. 97-248, §181(a), in par. (2) redesignated existing provisions as provisions preceding subpar. (A) and subpar. (A), and added subpar. (B).

Subsec. (c)(3) to (6). Pub. L. 97-248, §§181(a), 183(a)(2), (3), struck out par. (3) providing that an application shall be effective as of the first day of the month in which it is filed, added par. (3) providing that an application shall be effective on the later of the date it is filed or the date such individual first becomes eligible for such benefits with respect to such application and redesignated such par. (3) as (5), redesignated par. (4) as (6), and added pars. (3) and (4).

1981—Subsec. (c). Pub. L. 97-35 substituted provision that eligibility and benefit amount generally be determined on a one-month retrospective basis, with for the first month of eligibility, the month in which the application is filed, eligibility and benefit amount both determined on a prospective basis for provision that eligibility and benefit amount be determined on a quarterly prospective basis and inserted provision authorizing the Secretary to grant waivers.

1980—Subsec. (e)(4). Pub. L. 96-265 added par. (4).

1976—Subsec. (e)(1)(A). Pub. L. 94-566, §505(a), inserted reference to subparagraph (C).

Subsec. (e)(1)(B)(ii). Pub. L. 94-566, §502, inserted “of the one who is in such hospital, home, or facility” after “section 1382a(b) of this title” in parenthetical provisions that follow “the rate of \$300 per year” and inserted “(reduced by the amount of any income, not excluded pursuant to section 1382a(b) of this title, of the other)” after “the applicable rate specified in subsection (b)(1)”.

Subsec. (e)(1)(C). Pub. L. 94-566, §505(a), added subpar. (C).

1974—Pub. L. 93-368 inserted “(or, if greater, the amount determined under section 1382f of this title)” after “\$1,752” in subssecs. (a)(1)(A) and (b)(1) and “\$2,628” in subssecs. (a)(2)(A) and (b)(2).

1973—Subsec. (a)(1)(A). Pub. L. 93-233, §4(b)(1), substituted “\$1,752” for “\$1,680”.

Pub. L. 93-66, §210(a), substituted “\$1,680” for “\$1,560”.

Subsec. (a)(2)(A). Pub. L. 93-233, §4(b)(2), substituted “\$2,628” for “\$2,520”.

Pub. L. 93-66, §210(b), substituted “\$2,520” for “\$2,340”.

Subsec. (b)(1). Pub. L. 93-233, §4(b)(1), substituted “\$1,752” for “\$1,680”.

Pub. L. 93-66, §210(a), substituted “\$1,680” for “\$1,560”.

Subsec. (b)(2). Pub. L. 93-233, §4(b)(2), substituted “\$2,628” for “\$2,520”.

Pub. L. 93-66, §210(b), substituted “\$2,520” for “\$2,340”.

Subsec. (g). Pub. L. 93-233, §18(d), incorporated existing provisions in text designated as cl. (1), added cls. (2) and (3), and substituted final December “1973” for “1972”.

Subsec. (h). Pub. L. 93-233, §18(e), incorporated existing text in provisions designated as cls. (1) and (2), added cls. (3) and (4), redesignated former cls. (1) and (2) as items (A) and (B), and in item (A) inserted “under which he or they received such aid or assistance for December 1973”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-123, div. E, title XII, §53118(b), Feb. 9, 2018, 132 Stat. 307, provided that: “The amendments made by

subsection (a) [amending this section] shall apply with respect to any payment made by the Commissioner of Social Security pursuant to section 1611(e)(1)(I)(i)(II) of the Social Security Act (42 U.S.C. 1382(e)(1)(I)(i)(II)) (as amended by such subsection) on or after the date that is 6 months after the date of enactment of this Act [Feb. 9, 2018].”

##### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by section 203(b) of Pub. L. 108-203 effective on the first day of the first month that begins on or after the date that is 9 months after Mar. 2, 2004, see section 203(d) of Pub. L. 108-203, set out as a note under section 402 of this title.

Pub. L. 108-203, title IV, §433(c), Mar. 2, 2004, 118 Stat. 540, provided that: “The amendments made by this section [amending this section] shall be effective with respect to benefits payable for months that begin on or after 1 year after the date of enactment of this Act [Mar. 2, 2004].”

Pub. L. 108-203, title IV, §436(b), Mar. 2, 2004, 118 Stat. 541, provided that: “The amendments made by this section [amending this section] shall apply to benefits payable for months that begin more than 90 days after the date of enactment of this Act [Mar. 2, 2004].”

##### EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by section 402(a)(3) of Pub. L. 106-170 applicable to individuals whose period of confinement in an institution commences on or after the first day of the fourth month beginning after December 1999, see section 402(a)(4) of Pub. L. 106-170, set out as a note under section 402 of Title 42, The Public Health and Welfare.

Pub. L. 106-170, title IV, §402(c)(4), Dec. 17, 1999, 113 Stat. 1909, provided that: “The amendments made by this subsection [amending this section] shall take effect as if included in the enactment of section 203(a) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2186). The reference to section 202(x)(1)(A)(ii) of the Social Security Act [42 U.S.C. 402(x)(1)(A)(ii)] in section 1611(e)(1)(I)(i) of the Social Security Act [42 U.S.C. 1382(e)(1)(I)(i)], as amended by paragraph (2) of this subsection, shall be deemed a reference to such section 202(x)(1)(A)(ii) of such Act as amended by subsection (b)(1)(C) of this section.”

Amendment by section 207(c) of Pub. L. 106-169 applicable to statements and representations made on or after Dec. 14, 1999, see section 207(e) of Pub. L. 106-169, set out as a note under section 402 of this title.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title II of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5528(a) of Pub. L. 105-33, set out as a note under section 903 of this title.

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 108(j) of 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.

Pub. L. 104-193, title II, §201(b), Aug. 22, 1996, 110 Stat. 2185, provided that: “The amendment made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 22, 1996].”

Pub. L. 104-193, title II, §202(c), Aug. 22, 1996, 110 Stat. 2186, provided that: “The amendments made by this section [amending this section] shall take effect on the date of the enactment of this Act [Aug. 22, 1996].”

Pub. L. 104-193, title II, §203(a)(2), Aug. 22, 1996, 110 Stat. 2187, provided that: "The amendment made by this subsection [amending this section] shall apply to individuals whose period of confinement in an institution commences on or after the first day of the seventh month beginning after the month in which this Act is enacted [August 1996]."

Pub. L. 104-193, title II, §204(d), Aug. 22, 1996, 110 Stat. 2188, provided that:

"(1) IN GENERAL.—The amendments made by this section [amending this section and sections 1382c and 1383 of this title] shall apply to applications for benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] filed on or after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments.

"(2) BENEFITS UNDER TITLE XVI.—For purposes of this subsection, the term 'benefits under title XVI of the Social Security Act' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)], and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out below]."

Pub. L. 104-193, title II, §214(b), Aug. 22, 1996, 110 Stat. 2196, provided that: "The amendment made by this section [amending this section] shall apply to benefits for months beginning 90 or more days after the date of the enactment of this Act [Aug. 22, 1996], without regard to whether regulations have been issued to implement such amendments."

Pub. L. 104-121, title I, §105(b)(5), Mar. 29, 1996, 110 Stat. 854, as amended by Pub. L. 105-33, title V, §5525(a), (b), Aug. 5, 1997, 111 Stat. 624, provided that:

"(A) The amendments made by paragraphs (1) and (4) [amending this section and sections 1382c and 1383c of this title] shall apply to any individual who applies for, or whose claim is finally adjudicated with respect to, supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] 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) [enacting section 1383e of this title and amending section 1383 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 eligibility for benefits is based upon an eligibility 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 eligible for supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] for the month in which this Act is enacted and whose eligibility for such benefits would terminate by reason of the amendments made by this subsection [enacting section 1383e of this title and amending this section and sections 1382c, 1383, and 1383c of this title]. If such an individual reapplies for supplemental security income benefits under title XVI of such Act (as amended by this Act) 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 eligibility 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 supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] based on disability, which has been

denied in whole before the date of the enactment of this Act [Mar. 29, 1996], 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 does not perform the eligibility redetermination before the date prescribed in subparagraph (C), the Commissioner shall perform such eligibility redetermination in lieu of a continuing disability review whenever the Commissioner determines that the individual's eligibility is subject to redetermination based on the preceding provisions of this paragraph, and the provisions of section 1614(a)(4) of the Social Security Act [42 U.S.C. 1382c(a)(4)] shall not apply to such redetermination.

"(F) For purposes of this paragraph, the phrase 'supplemental security income benefits under title XVI of the Social Security Act' includes supplementary payments pursuant to an agreement for Federal administration under section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)] and payments pursuant to an agreement entered into under section 212(b) of Public Law 93-66 [set out below]."

[Amendment by Pub. L. 105-33 to section 105(b)(5) of Pub. L. 104-121, set out above, effective as if included in the enactment of section 105 of Pub. L. 104-121, see section 5528(c)(1) of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 903 of this title.]

#### EFFECTIVE DATE OF 1994 AMENDMENT; SUNSET PROVISION

Amendment by section 107(a)(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.

Pub. L. 103-296, title II, §201(b)(3)(C), (E), Aug. 15, 1994, 108 Stat. 1504, 1505, provided that:

"(C) SUNSET OF 36-MONTH RULE.—Section 1611(e)(3)(A)(v) of the Social Security Act [42 U.S.C. 1382(e)(3)(A)(v)] (added by subparagraph (A) of this paragraph) shall cease to be effective with respect to benefits for months after September 2004.

"(E) EFFECTIVE DATE.—

"(i) IN GENERAL.—Except as otherwise provided in this paragraph [amending this section and section 1383c of this title and enacting provisions set out as notes below], the amendments made by this paragraph shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] by reason of disability which are otherwise payable in months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994]. The Secretary of Health and Human Services shall issue regulations necessary to carry out the amendments made by this paragraph not later than 180 days after such date of enactment.

"(ii) REFERRAL AND MONITORING AGENCIES.—The amendments made by subparagraph (B) [amending this section] shall take effect 180 days after the date of the enactment of this Act [Aug. 15, 1994].

"(iii) TERMINATION AFTER 36 MONTHS.—Clause (v) of section 1611(e)(3)(A) of the Social Security Act [42 U.S.C. 1382(e)(3)(A)] (added by the amendment made by subparagraph (A) of this paragraph) shall apply with respect to supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] by reason of disability for months beginning after 180 days after the date of the enactment of this Act [Aug. 15, 1994]."

Pub. L. 103-296, title II, §204(b), Aug. 15, 1994, 108 Stat. 1509, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on January 1, 1995."

## EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13735(b), Aug. 10, 1993, 107 Stat. 663, provided that: "The amendments made by subsection (a) [amending this section] shall apply to benefits paid for months after the calendar year 1994."

## EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VIII, §8009(c), Dec. 19, 1989, 103 Stat. 2463, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382c of this title] shall apply with respect to benefits for months after March 1990."

Pub. L. 101-239, title VIII, §8010(c), Dec. 19, 1989, 103 Stat. 2464, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382c of this title] shall take effect on the 1st day of the 6th calendar month beginning after the date of the enactment of this Act [Dec. 19, 1989]."

## EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-360 applicable to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendment have been promulgated by such date, see section 303(g)(3) of Pub. L. 100-360, set out as a note under section 1396r-5 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IX, §9106(b), Dec. 22, 1987, 101 Stat. 1330-302, provided that: "The amendments made by subsection (a) [amending this section] shall become effective April 1, 1988."

Pub. L. 100-203, title IX, §9107, Dec. 22, 1987, 101 Stat. 1330-302, provided that the amendment made by that section is effective Nov. 10, 1986.

Pub. L. 100-203, title IX, §9113(b), Dec. 22, 1987, 101 Stat. 1330-304, provided that:

"(1) The amendment made by subsection (a) [amending this section] shall become effective January 1, 1988.

"(2) In the application of section 1611(e)(1)(D) of the Social Security Act [42 U.S.C. 1382(e)(1)(D)] on and after the effective date of such amendment, months before January 1988 in which a person was an eligible individual or eligible spouse by reason of such section shall not be taken into account."

Pub. L. 100-203, title IX, §9115(c), Dec. 22, 1987, 101 Stat. 1330-305, provided that: "The amendments made by this section [amending this section and section 1396a of this title] shall become effective July 1, 1988."

Pub. L. 100-203, title IX, §9119(c), Dec. 22, 1987, 101 Stat. 1330-309, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1382g of this title] shall become effective July 1, 1988."

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by sections 3(a) and 4(c)(3), (d)(1) of Pub. L. 99-643 effective July 1, 1987, except as otherwise provided, see section 10(b) of Pub. L. 99-643, set out as a note under section 1396a of this title.

Pub. L. 99-643, §9(b), Nov. 10, 1986, 100 Stat. 3580, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 10, 1986]."

## EFFECTIVE DATE OF 1984 AMENDMENT

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

Amendment by section 2663(g)(1), (2) 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 AMENDMENT

Pub. L. 98-21, title IV, §403(b), Apr. 20, 1983, 97 Stat. 140, provided that: "The amendments made by sub-

section (a) [amending this section] shall be effective with respect to months after the month in which this Act is enacted [April 1983]."

## EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title I, §181(b), Sept. 3, 1982, 96 Stat. 404, provided that: "The amendment made by this section [amending this section] shall become effective on October 1, 1982."

Pub. L. 97-248, title I, §183(b), Sept. 3, 1982, 96 Stat. 405, provided that: "The amendment made by subsection (a) [amending this section] shall become effective October 1, 1982."

## EFFECTIVE DATE OF 1981 AMENDMENT AND TRANSITIONAL PROVISIONS

Pub. L. 97-35, title XXIII, §2341(c), Aug. 13, 1981, 95 Stat. 865, provided that:

"(1) The amendments made by this section [amending this section and section 1382a of this title] shall be effective with respect to months after the first calendar quarter which ends more than five months after the month in which this Act is enacted [August 1981].

"(2) The Secretary of Health and Human Services may, under conditions determined by him to be necessary and appropriate, make a transitional payment or payments during the first two months for which the amendments made by this section are effective. A transitional payment made under this section shall be deemed to be a payment of supplemental security income benefits."

## EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-265 effective on first day of sixth month which begins after June 9, 1980, and applicable with respect to any individual whose disability has not been determined to have ceased prior to such first day, see section 303(d) of Pub. L. 96-265, set out as a note under section 402 of this title.

## EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-566, title V, §505(e), Oct. 20, 1976, 90 Stat. 2687, provided that: "The amendments [amending this section and section 1382a of this title] and repeals [repealing section 1382e(e) of this title] made by this section, unless otherwise specified therein, shall take effect on October 1, 1976."

## EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-233, §4(b), Dec. 31, 1973, 87 Stat. 953, provided that the amendments made by section 4(b)(1), (2) of Pub. L. 93-233 are effective with respect to payments for months after June 1974.

Pub. L. 93-66, title II, §210(c), July 9, 1973, 87 Stat. 154, as amended Pub. L. 93-233, §4(a)(1), Dec. 31, 1973, 87 Stat. 953, provided: "The amendments made by this section [amending this section] shall apply with respect to payments for months after December 1973."

## EFFECTIVE DATE

Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1465, provided that this section is effective Jan. 1, 1974.

## REGULATIONS

Pub. L. 104-193, title II, §215, Aug. 22, 1996, 110 Stat. 2196, provided that: "Within 3 months after the date of the enactment of this Act [Aug. 22, 1996], the Commissioner of Social Security shall prescribe such regulations as may be necessary to implement the amendments made by this subtitle [subtitle B (§§211-215) of title II of Pub. L. 104-193, amending this section, sections 1382a to 1382c and 1383 of this title, sections 665e and 901 of Title 2, The Congress, and provisions set out as a note under section 401 of this title, and repealing provisions set out as a note below]."

## CONSTRUCTION OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 to be executed as if Pub. L. 106-169 had been enacted after the enactment of

Pub. L. 106-170, see section 121(c)(1) of Pub. L. 106-169, set out as a note under section 1396a of this title.

STUDY OF DENIAL OF SSI BENEFITS FOR FAMILY FARMERS

Pub. L. 106-169, title II, §261, Dec. 14, 1999, 113 Stat. 1856, required a study on the denial of supplemental security income benefits to family farmers with resources of less than \$100,000 and a report on the study within 1 year after Dec. 14, 1999.

STUDY OF OTHER POTENTIAL IMPROVEMENTS IN COLLECTION OF INFORMATION RESPECTING PUBLIC INMATES

Pub. L. 104-193, title II, §203(b), Aug. 22, 1996, 110 Stat. 2187, required a study on various improvements in the furnishing of information to the Commissioner by courts and prisons and a report to be submitted no later than 1 year after Aug. 22, 1996.

ADDITIONAL REPORT TO CONGRESS

Pub. L. 104-193, title II, §203(c), Aug. 22, 1996, 110 Stat. 2187, required the Commissioner to provide, no later than Oct. 1, 1998, a list of institutions providing or not providing information under subsec. (e)(1)(I) of this section.

STUDY BY GENERAL ACCOUNTING OFFICE

Pub. L. 104-193, title II, §232, Aug. 22, 1996, 110 Stat. 2198, provided that, not later than Jan. 1, 1999, the Comptroller General was to study and report on the impact of the amendments and provisions of title II of Pub. L. 104-193 on the supplemental security income program under this subchapter and extra expenses incurred by families of children receiving benefits under this subchapter not covered by other Federal, State, or local programs.

REPORT TO CONGRESS ON REFERRAL, MONITORING AND TREATMENT ACTIVITIES RELATING TO ALCOHOLICS AND DRUG ADDICTS

Pub. L. 103-296, title II, §201(b)(3)(B)(ii), Aug. 15, 1994, 108 Stat. 1504, which directed Secretary of Health and Human Services to submit to Congress, not later than Dec. 31, 1996, a report on the Secretary's activities under subsec. (e)(3)(B) of this section, was repealed by Pub. L. 105-33, title V, §5525(c), Aug. 5, 1997, 111 Stat. 625.

TRANSITION RULES FOR CURRENT BENEFICIARIES

Pub. L. 103-296, title II, §201(b)(3)(F), Aug. 15, 1994, 108 Stat. 1505, provided that: "In any case in which an individual is eligible for supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] by reason of disability, 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 [Aug. 15, 1994], and alcoholism or drug addiction is a contributing factor material to the Secretary's determination that the individual is disabled, for purposes of section 1611(e)(3)(A)(v) of the Social Security Act [42 U.S.C. 1382(e)(3)(A)(v)] (added by the amendment made by subparagraph (A) of this paragraph)—

"(i) the first month of such eligibility beginning after 180 days after the date of the enactment of this Act shall be treated as the individual's first month of such eligibility; and

"(ii) the Secretary shall notify the individual of the requirements of the amendments made by this paragraph [amending this section and section 1383c of this title] no later than 180 days after the date of the enactment of this Act."

COMMISSION ON CHILDHOOD DISABILITY

Pub. L. 103-296, title II, §202, Aug. 15, 1994, 108 Stat. 1506, provided for establishment of a Commission on the Evaluation of Disability to conduct a study, in consultation with the National Academy of Sciences, of ef-

fects of definition of "disability" under this subchapter in effect on Aug. 15, 1994, as such definition applied to determining whether a child under age of 18 was eligible to receive benefits under this subchapter, the appropriateness of such definition, and the advantages and disadvantages of using any alternative definition of disability in determining whether a child under age 18 was eligible to receive benefits under this subchapter, and further provided for contents of study, appointment of Commission members, administrative provisions, assistance of experts, and for submission of report to Congress not later than Nov. 30, 1995.

DISABILITY REVIEW REQUIRED FOR SSI RECIPIENTS WHO ARE 18 YEARS OF AGE

Pub. L. 103-296, title II, §207, Aug. 15, 1994, 108 Stat. 1516, which required applicable State agency or Secretary of Health and Human Services to redetermine eligibility of qualified individual for supplemental security income benefits under this subchapter by reason of disability, by applying criteria used in determining eligibility for such benefits of applicants who have attained 18 years of age during 1-year period beginning on date qualified individual attains 18 years of age, and Secretary to conduct such redeterminations with respect to not less than 1/3 of qualified individuals in each of fiscal years 1996 through 1998, defined term "qualified individual", and provided that such redetermination was to be considered substitute for review required under section 1382c(a)(3)(G) of this title, that redetermination requirement was to have no force or effect after Oct. 1, 1998, and that not later than Oct. 1, 1998, Secretary was to submit to House Ways and Means and Senate Finance Committees report on such activities, was repealed by Pub. L. 104-193, title II, §212(b)(2), Aug. 22, 1996, 110 Stat. 2193.

CONTINUING DISABILITY REVIEWS

Pub. L. 103-296, title II, §208, Aug. 15, 1994, 108 Stat. 1516, provided that:

"(a) TEMPORARY ANNUAL MINIMUM NUMBER OF REVIEWS.—During each year of the 3-year period that begins on October 1, 1995, the Secretary of Health and Human Services shall apply section 221(i) of the Social Security Act [42 U.S.C. 421(i)] in making disability determinations under title XVI of such Act [42 U.S.C. 1381 et seq.] with respect to at least 100,000 recipients of supplemental security income benefits under such title.

"(b) REPORT TO THE CONGRESS.—Not later than October 1, 1998, the Secretary of Health and Human Services 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 activities conducted under subsection (a)."

NOTIFICATION OF POSSIBLE BENEFIT AVAILABILITY TO POTENTIAL SUPPLEMENTAL SECURITY INCOME RECIPIENTS

Pub. L. 98-21, title IV, §405, Apr. 20, 1983, 97 Stat. 140, provided that: "Prior to July 1, 1984, the Secretary of Health and Human Services shall notify all elderly recipients of benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] who may be eligible for supplemental security income benefits under title XVI of such Act [42 U.S.C. 1381 et seq.] of the availability of the supplemental security income program, and shall encourage such recipients to contact the Social Security district office. Such notification shall also be made to all recipients prior to attainment of age 65, with the notification made with respect to eligibility for supplementary medical insurance."

ASSISTANCE PAID UNDER CERTAIN HOUSING ACTS NOT CONSIDERED IN DETERMINING ELIGIBILITY FOR BENEFITS UNDER THIS SUBCHAPTER; EFFECTIVE DATE

Pub. L. 94-375, §2(h), Aug. 3, 1976, 90 Stat. 1068, provided that: "Notwithstanding any other provision of law, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of

1937 [section 1437 et seq. of this title], the National Housing Act [section 1701 et seq. of Title 12, Banks and Banking], section 101 of the Housing and Urban Development Act of 1965 [section 1701s of Title 12 and sections 1451 and 1465 of this title], or title V of the Housing Act of 1949 [section 1471 et seq. of this title] may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of the benefits payable to, any person living in such unit for assistance under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.]. This subsection shall become effective on October 1, 1976."

SPECIAL \$50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of \$50 as soon as practicable after Mar. 29, 1975, by the Secretary of the Treasury to each individual who, for the month of March, 1975, was entitled to a benefit under the supplemental security income benefits program established by this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of this title.

ADJUSTMENT OF INDIVIDUAL'S MONTHLY SUPPLEMENTAL SECURITY INCOME PAYMENTS; REGULATIONS; LIMITATIONS

Pub. L. 93-335, §2(b)(2), July 8, 1974, 88 Stat. 291, authorized the Secretary of Health, Education, and Welfare to prescribe regulations for the adjustment of an individual's monthly supplemental security income payment in accordance with any increase to which such individual might be entitled under the amendment made by subsection (a) of this section [amending section 212(a)(3)(B)(i) of Pub. L. 93-66, set out below]; provided that such adjustment in monthly payment, together with the remittance of any prior unpaid increments to which such individual might be entitled under such amendment, was to be made no later than the first day of the first month beginning more than sixty days after July 8, 1974.

MEDICAID ELIGIBILITY FOR INDIVIDUALS RECEIVING MANDATORY STATE SUPPLEMENTARY PAYMENTS; EFFECTIVE DATE

Additional requirement for approval of subchapter XIX State plan for medical assistance respecting medicaid eligibility for individuals receiving mandatory State supplementary payments, see section 13(c) of Pub. L. 93-233, set out as a note under section 1396a of this title.

FEDERAL PROGRAM OF SUPPLEMENTAL SECURITY INCOME; SUPPLEMENTAL SECURITY INCOME BENEFITS FOR ESSENTIAL PERSONS; DEFINITIONS OF QUALIFIED INDIVIDUAL AND ESSENTIAL PERSON

Pub. L. 93-66, title II, §211, July 9, 1973, 87 Stat. 154, as amended by Pub. L. 93-233, §4(a)(2), (b)(3), Dec. 31, 1973, 87 Stat. 953, provided that:

"(a)(1) In determining (for purposes of title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], as in effect after December 1973) the eligibility for and the amount of the supplemental security income benefit payable to any qualified individual (as defined in subsection (b)), with respect to any period for which such individual has in his home an essential person (as defined in subsection (c))—

"(A) the dollar amounts specified in subsection (a)(1)(A) and (2)(A), and subsection (b)(1) and (2), of section 1611 of such Act [42 U.S.C. 1382], shall each be increased by \$876 for each such essential person, and

"(B) the income and resources of such individual shall (for purposes of such title XVI [42 U.S.C. 1381 et seq.]) be deemed to include the income and resources of such essential person;

except that the provisions of this subsection shall not, in the case of any individual, be applicable for any period which begins in or after the first month that such individual—

"(C) does not but would (except for the provisions of subparagraph (B)) meet—

"(i) the criteria established with respect to income in section 1611(a) of such Act [42 U.S.C. 1382(a)], or

"(ii) the criteria established with respect to resources by such section 1611(a) [42 U.S.C. 1382(a)] (or, if applicable, by section 1611(g) of such Act [42 U.S.C. 1382(g)]).

"(2) The provisions of section 1611(g) of the Social Security Act [42 U.S.C. 1382(g)] (as in effect after December 1973) shall, in the case of any qualified individual (as defined in subsection (b)), be applied so as to include, in the resources of such individual, the resources of any person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for the aid or assistance referred to in subsection (b)(1).

"(b) For purposes of this section, an individual shall be a 'qualified individual' only if—

"(1) for the month of December 1973 such individual was a recipient of aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], and

"(2) in determining the need of such individual for such aid or assistance for such month under such State plan, there were taken into account the needs of a person (other than such individual) who—

"(A) was living in the home of such individual, and

"(B) was not eligible (in his or her own right) for aid or assistance under such State plan for such month.

"(c) The term 'essential person', when used in connection with any qualified individual, means a person who—

"(1) for the month of December 1973 was a person (described in subsection (b)(2)) whose needs were taken into account in determining the need of such individual for aid or assistance under a State plan referred to in subsection (b)(1) as such State plan was in effect for June 1973,

"(2) lives in the home of such individual,

"(3) is not eligible (in his or her own right) for supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] (as in effect after December 1973), and

"(4) is not the eligible spouse (as that term is used in such title XVI [42 U.S.C. 1381 et seq.]) of such individual or any other individual.

If for any month after December 1973 any person fails to meet the criteria specified in paragraph (2), (3), or (4) of the preceding sentence, such person shall not, for such month or any month thereafter be considered to be an essential person."

[Amendment of section 211(a)(1)(A) of Pub. L. 93-66, set out above, by Pub. L. 93-233 effective with respect to payments for months after June 1974, see section 4(b) of Pub. L. 93-233.]

MANDATORY MINIMUM STATE SUPPLEMENTATION OF SUPPLEMENTAL SECURITY INCOME BENEFITS PROGRAM; DECEMBER 1973 INCOME; TITLE XVI BENEFIT PLUS OTHER INCOME; REDUCTION OF AMOUNT; ADMINISTRATION AGREEMENT; PAYMENTS TO COMMISSIONER; STATE CONSTITUTIONAL RESTRICTION

Pub. L. 93-66, title II, §212, July 9, 1973, 87 Stat. 155, as amended by Pub. L. 93-233, §10, Dec. 31, 1973, 87 Stat. 957; Pub. L. 93-335, §2(a), July 8, 1974, 88 Stat. 291; Pub. L. 96-265, title II, §201(b)(2), June 9, 1980, 94 Stat. 446; Pub. L. 103-66, title XIII, §13731(a)(2), Aug. 10, 1993, 107 Stat. 661; Pub. L. 105-33, title V, §5102(a)(2), (b)(1)(B), Aug. 5, 1997, 111 Stat. 595, 596; Pub. L. 105-78, title V, §516(a)(2), (b)(1)(B), Nov. 13, 1997, 111 Stat. 1518, 1519; Pub. L. 106-170, title IV, §410(a)(2), Dec. 17, 1999, 113 Stat. 1916, provided that:

"(a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to be eligible for payments pursuant to title XIX [42 U.S.C. 1396 et seq.], with respect to expenditures for any quarter beginning after December 1973, such State

must have in effect an agreement with the Commissioner of Social Security (hereinafter in this section referred to as the 'Commissioner of Social Security') whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

"(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

"(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act [42 U.S.C. 1382c(a)], as enacted by section 301 of the Social Security Amendments of 1972), and

"(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title I, X, XIV, or XVI, of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.]

shall be entitled to receive, from the State, the supplementary payment described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

"(C) the month in which such individual dies, or

"(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A);

except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] by reason of the provisions of section 1611(e)(1)(A), (2), or (3) [42 U.S.C. 1382(e)(1)(A), (2), (3)], 1611(f) [42 U.S.C. 1382(f)], or 1615(c) of such Act [42 U.S.C. 1382d(c) of this title].

"(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection shall (except as provided in subparagraphs (D) and (E)) be an amount equal to (i) the amount by which such individual's 'December 1973 income' (as determined under subparagraph (B)) exceeds the amount of such individual's 'title XVI benefit plus other income' (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

"(B) For purposes of subparagraph (A), an individual's 'December 1973 income' means an amount equal to the aggregate of—

"(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title I, X, XIV, or XVI, of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.] of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92-603 [set out as a note under section 1382e of this title], if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act [42 U.S.C. 1382e(a)], and (II) the level of which has been found by the Commissioner of Social Security pursuant to section 8 of Public Law 93-233 [set out as notes under section 1382e of this title and sections 612c, 1431 and 2012 of Title 7, Agriculture] to have been specifically increased so as to include the bonus value of food stamps, and

"(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i)) received by such individual in December 1973,

minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

"(C) For purposes of subparagraph (A), the amount of an individual's 'title XVI benefit plus other income' for any month means an amount equal to the aggregate of—

"(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], and

"(ii) the amount of any income of such individual for such month (other than income in the form of a benefit described in clause (i)).

"(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

"(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

"(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being),

and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such month and for each month thereafter the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced.

"(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

"(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.].

"(4) Any State having an agreement with the Commissioner of Social Security under paragraph (1) may, at its option, include individuals receiving benefits under section 1619 of the Social Security Act [42 U.S.C. 1382h], or who would be eligible to receive such benefits but for their income, under the agreement as though they are aged, blind, or disabled individuals as specified in paragraph (2)(A).

"(b)(1) Any State having an agreement with the Commissioner of Social Security under subsection (a) may

enter into an administration agreement with the Commissioner of Social Security whereby the Commissioner of Social Security will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

“(2) Any such administration agreement between the Commissioner of Social Security and a State entered into under this subsection shall provide that the State will (A) certify to the Commissioner of Social Security the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], together with the amount of such assistance payable to each such individual and the amount of such individual’s December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Commissioner of Social Security with such additional data at such times as the Commissioner of Social Security may reasonably require in order properly, economically, and efficiently to carry out such administration agreement.

“(3)(A) Any State which has entered into an administration agreement under this subsection shall, in accordance with subparagraph (E), pay to the Commissioner of Social Security an amount equal to the expenditures made by the Commissioner of Social Security as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a), plus an administration fee assessed in accordance with subparagraph (B) and any additional services fee charged in accordance with subparagraph (C).

“(B)(i) The Commissioner of Social Security shall assess each State an administration fee in an amount equal to—

“(I) the number of supplementary payments made by the Commissioner of Social Security on behalf of the State under this subsection for any month in a fiscal year; multiplied by

“(II) the applicable rate for the fiscal year.

“(ii) As used in clause (i), the term ‘applicable rate’ means—

“(I) for fiscal year 1994, \$1.67;

“(II) for fiscal year 1995, \$3.33;

“(III) for fiscal year 1996, \$5.00;

“(IV) for fiscal year 1997, \$5.00;

“(V) for fiscal year 1998, \$6.20;

“(VI) for fiscal year 1999, \$7.60;

“(VII) for fiscal year 2000, \$7.80;

“(VIII) for fiscal year 2001, \$8.10;

“(IX) for fiscal year 2002, \$8.50; and

“(X) for fiscal year 2003 and each succeeding fiscal year—

“(aa) the applicable rate in the preceding fiscal year, increased by the percentage, if any, by which the Consumer Price Index for the month of June of the calendar year of the increase exceeds the Consumer Price Index for the month of June of the calendar year preceding the calendar year of the increase, and rounded to the nearest whole cent; or

“(bb) such different rate as the Commissioner determines is appropriate for the State.

“(iii) Upon making a determination under clause (ii)(X)(bb), the Commissioner of Social Security shall promulgate the determination in regulations, which may take into account the complexity of administering the State’s supplementary payment program.

“(iv) All fees assessed pursuant to this subparagraph shall be transferred to the Commissioner of Social Security at the same time that amounts for such supplementary payments are required to be so transferred.

“(C)(i) The Commissioner of Social Security may charge a State an additional services fee if, at the request of the State, the Commissioner of Social Security provides additional services beyond the level customarily provided, in the administration of State supplementary payments pursuant to this subsection.

“(ii) The additional services fee shall be in an amount that the Commissioner of Social Security determines is

necessary to cover all costs (including indirect costs) incurred by the Federal Government in furnishing the additional services referred to in clause (i).

“(D)(i) The first \$5 of each administration fee assessed pursuant to subparagraph (B), upon collection, shall be deposited in the general fund of the Treasury of the United States as miscellaneous receipts.

“(ii) The portion of each administration fee in excess of \$5, and 100 percent of each additional services fee charged pursuant to subparagraph (C), upon collection for fiscal year 1998 and each subsequent fiscal year, shall be credited to a special fund established in the Treasury of the United States for State supplementary payment fees. The amounts so credited, to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred in carrying out this section and title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] and related laws.

“(E)(i) Any State which has entered into an agreement with the Commissioner of Social Security under this section shall remit the payments and fees required under this paragraph with respect to monthly benefits paid to individuals under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] no later than—

“(I) the business day preceding the date that the Commissioner pays such monthly benefits; or

“(II) with respect to such monthly benefits paid for the month that is the last month of the State’s fiscal year, the fifth business day following such date.

“(ii) The Cash Management Improvement Act of 1990 [see Short Title of 1990 Amendment note set out under section 6501 of Title 31, Money and Finance] shall not apply to any payments or fees required under this paragraph that are paid by a State before the date required by clause (i).

“(iii) Notwithstanding clause (i), the Commissioner may make supplementary payments on behalf of a State with funds appropriated for payment of supplemental security income benefits under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.], and subsequently to be reimbursed for such payments by the State at such times as the Commissioner and State may agree. Such authority may be exercised only if extraordinary circumstances affecting a State’s ability to make payment when required by clause (i) are determined by the Commissioner to exist.

“(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act [42 U.S.C. 1382a(b)(6)] (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act [42 U.S.C. 1381 et seq.] (as so in effect).

“(2) Supplementary payments made by the Commissioner of Social Security (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972 [set out as a note under section 1382e of this title], be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act [42 U.S.C. 1382e] (as enacted by section 301 of the Social Security Amendments of 1972); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Commissioner of Social Security, the provisions of subsection (b) of such section 401 [set out as a note under section 1382e of this title].

“(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Commissioner of Social Security under section 1616 of the Social Security Act [42 U.S.C. 1382e] under which—

“(1) individuals, other than individuals described in subsection (a)(2)(A) and (B), are entitled to receive supplementary payments, and

“(2) supplementary benefits are payable, to individuals described in subsection (a)(2)(A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

“(e) Except as the Commissioner of Social Security may by regulations otherwise provide, the provisions of title XVI of the Social Security Act [42 U.S.C. 1381 et seq.] (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title [42 U.S.C. 1383 et seq.], relating to the terms and conditions under which the benefits authorized by such title [42 U.S.C. 1381 et seq.] are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Commissioner of Social Security by such title [42 U.S.C. 1381 et seq.] may, where appropriate, be exercised by him in the administration of this section.

“(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

“(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

“(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act [42 U.S.C. 1382e].”

[For effective date of amendment to section 212 of Pub. L. 93-66, set out above, by Pub. L. 106-170, see section 410(b) of Pub. L. 106-170, set out as an Effective Date of 1999 Amendment note under section 1382e of this title.]

[For effective date of amendment to section 212 of Pub. L. 93-66, set out above, by Pub. L. 103-66, see section 13731(b) of Pub. L. 103-66, set out as an Effective Date of 1993 Amendment note under section 1382e of this title.]

[Section 2(b)(1) of Pub. L. 93-335, July 8, 1974, 88 Stat. 291, provided that the amendment of section 212 of Pub. L. 93-66, set out above, by Pub. L. 93-335 is effective Jan. 1, 1974.]

[Amendment of section 212 of Pub. L. 93-66, set out above, by Pub. L. 96-265 effective Jan. 1, 1981, see section 201(d) of Pub. L. 96-265, as amended, set out as an Effective Date note under section 1382h of this title.]

#### APPLICATION TO NORTHERN MARIANA ISLANDS

For applicability of this section to the Northern Mariana Islands, see section 502(a)(1) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America and Proc. No. 4534, Oct. 24, 1977, 42 F.R. 6593, set out as notes under section 1801 of Title 48, Territories and Insular Possessions.

#### PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of section 1602 of the Social Security Act by Pub. L. 92-603, eff. Jan. 1, 1974 (42 U.S.C. 1381a), was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1602 of the Social Security Act as it existed prior to reenactment by Pub. L. 92-603 (former 42 U.S.C. 1382), and as amended, continues to apply and reads as follows:

§ 1382. State plans for aid to aged, blind, or disabled

##### (a) Contents

A State plan for aid to the aged, blind, or disabled, must—

(1) except to the extent permitted by the Commissioner of Social Security with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan,

or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid or assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing;

(5) provide (A) such methods of administration (including methods relating to the establishment and maintenance of personnel standards on a merit basis, except that the Commissioner of Social Security shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Commissioner of Social Security to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid subprofessional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Commissioner of Social Security may from time to time require, and comply with such provisions as the Commissioner of Social Security may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for aid or assistance under the plan shall have opportunity to do so, and that such aid or assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes aid or assistance to or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for or recipients of aid or assistance under the plan to help them attain self-support or self-care, including a description of the steps taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services;

(11) provide that no aid or assistance will be furnished any individual under the plan with respect to any period with respect to which he is receiving assistance under the State plan approved under subchapter I of this chapter or assistance under a State program funded under part A of subchapter IV of this chapter or under subchapter X or XIV of this chapter;

(12) provide that, in determining whether an individual is blind, there shall be an examination by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select;

(13) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of aid or assistance under the plan;



(14) provide that the State agency shall, in determining need for aid to the aged, blind, or disabled, take into consideration any other income and resources of an individual claiming such aid, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination with respect to any individual—

(A) if such individual is blind, the State agency (i) shall disregard the first \$85 per month of earned income plus one-half of earned income in excess of \$85 per month, and (ii) shall, for a period not in excess of 12 months, and may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan,

(B) if such individual is not blind but is permanently and totally disabled, (i) of the first \$80 per month of earned income, the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and (ii) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of any such individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation,

(C) if such individual has attained age 65 and is neither blind nor permanently and totally disabled, of the first \$80 per month of earned income the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder, and

(D) the State agency may, before disregarding the amounts referred to above in this paragraph (14), disregard not more than \$7.50 of any income; and

(15) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b-7 of this title.

Notwithstanding paragraph (3), if on January 1, 1962, and on the date on which a State submits its plan for approval under this subchapter, the State agency which administered or supervised the administration of the plan of such State approved under subchapter X of this chapter was different from the State agency which administered or supervised the administration of the plan of such State approved under subchapter I of this chapter and the State agency which administered or supervised the administration of the plan of such State approved under subchapter XIV of this chapter, the State agency which administered or supervised the administration of such plan approved under subchapter X of this chapter may be designated to administer or supervise the administration of the portion of the State plan for aid to the aged, blind, or disabled which relates to blind individuals and a separate State agency may be established or designated to administer or supervise the administration of the rest of such plan; and in such case the part of the plan which each such agency administers, or the administration of which each such agency supervises, shall be regarded as a separate plan for purposes of this subchapter.

(b) Approval by Commissioner

The Commissioner of Social Security shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that the Commissioner shall not approve any plan which imposes, as a condition of eligibility for aid or assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding

the application for such aid and has resided therein continuously for one year immediately preceding the application; or

(3) any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Commissioner of Social Security as a condition for the approval of such plan under this subchapter. In the case of any State to which the provisions of section 344 of the Social Security Act Amendments of 1950 were applicable on January 1, 1962, and to which the sentence of section 1202(b) of this title following paragraph (2) thereof is applicable on the date on which its State plan for aid to the aged, blind, or disabled was submitted for approval under this subchapter, the Commissioner of Social Security shall approve the plan of such State for aid to the aged, blind, or disabled for purposes of this subchapter, even though it does not meet the requirements of paragraph (14) of subsection (a) of this section, if it meets all other requirements of this subchapter for an approved plan for aid to the aged, blind, or disabled; but payments under section 1383 of this title shall be made, in the case of any such plan, only with respect to expenditures thereunder which would be included as expenditures for the purposes of section 1383 of this title under a plan approved under this section without regard to the provisions of this sentence.

(c) Limitation on number of plans

Subject to the last sentence of subsection (a) of this section, nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter.

(Aug. 14, 1935, ch. 531, title XVI, § 1602, as added July 25, 1962, Pub. L. 87-543, title I, § 141(a), 76 Stat. 198; amended Oct. 13, 1964, Pub. L. 88-650, § 5(b), 78 Stat. 1078; July 30, 1965, Pub. L. 89-97, title II, § 221(d)(3), title IV, § 403(e), 79 Stat. 358, 418; Jan. 2, 1968, Pub. L. 90-248, title II, §§ 210(a)(5), 213(a)(4), 241(d), 81 Stat. 896, 898, 917; Oct. 30, 1972, Pub. L. 92-603, title IV, §§ 405(d), 406(d), 407(d), 410(d), 413(d), 86 Stat. 1488, 1489, 1491, 1492; Aug. 13, 1981, Pub. L. 97-35, title XXI, § 2184(d)(4), 95 Stat. 817; July 18, 1984, Pub. L. 98-369, div. B, title VI, § 2651(h), 98 Stat. 1150; Aug. 15, 1994, Pub. L. 103-296, title I, § 107(a)(4), 108 Stat. 1478; Aug. 22, 1996, Pub. L. 104-193, title I, § 108(i), 110 Stat. 2169.)

[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.]

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

**§ 1382a. Income; earned and unearned income defined; exclusions from income**

(a) For purposes of this subchapter, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 403(f)(5)(C) of this title but without the application of section 410(j)(3) of this title (and, in the case of cash remuneration paid for service as a member of a uniformed service (other than payments described in para-