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## Supplemental Security Income: How a Noble Mission Without Modernization Perpetuates Poverty

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## Supplemental Security Income: How a Noble Mission Without Modernization Perpetuates Poverty

Caroline Jarcho

Not many people can adequately support themselves with \$794. Monthly expenses, such as rent, utilities, food, and healthcare can add up very quickly. But for many people living in poverty, \$794 is the maximum that they can expect to receive in government assistance each month as they struggle to cover even the most basic necessities. And that assistance is conditioned; there are many rules in place that restrict beneficiaries' ability to save any money or create a better economic situation for themselves that would end their need for continued assistance. Congress created the Supplemental Security Income ("SSI") program in 1972 as an amendment to Social Security to provide basic cash assistance to low-income aged, blind, and disabled individuals who did not qualify for other Social Security programs.<sup>1</sup> But the rules of the program, as well as the benefits disbursed to eligible beneficiaries, have remained stagnant since its inception nearly fifty years ago. There have been very few amendments to the SSI program's procedures, and its benefit levels have not stayed consistent with wages or cost of living increases, leaving beneficiaries with diminishing purchasing power and the inability to break the cycle of poverty.<sup>2</sup>

The SSI program provides assistance to just under eight million beneficiaries nationwide and constitutes five percent of the Social Security Administration's overall disbursement across all programs.<sup>3</sup> To qualify for the program, beneficiaries must be: (1) over the age of 65, blind, or disabled; and (2) have an income low enough to fit within the quite restrictive income and resource limits.<sup>4</sup> Unlike Social Security, which is funded by workers' FICA taxes, SSI is funded by general tax revenue.<sup>5</sup> In 2021, the full benefit amount for an eligible

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<sup>1</sup> 20 C.F.R. § 416.110 (1997).

<sup>2</sup> *Policy Options for Improving SSI: Hearing Before the Subcomm. on Soc. Sec., Pensions, and Fam. Pol'y*, 117th Cong. (2021) [hereinafter SSI Hearing] (statement of Sen. Sherrod Brown, Chairman, Subcomm. On Soc. Sec., Pensions, and Fam. Pol'y), <https://www.finance.senate.gov/hearings/policy-options-for-improving-ssi>.

<sup>3</sup> *Fiscal Year 2021 Congressional Justification*, SOC. SEC. ADMIN. 3 (2021), <https://www.ssa.gov/budget/FY21Files/2021BO.pdf>.

<sup>4</sup> *Supra* note 1.

<sup>5</sup> *Id.*

individual was \$794 per month, only 74 percent of the federal poverty level.<sup>6</sup> If an SSI beneficiary has an additional source of income, such as a pension or child support, the beneficiary may only keep up to \$85 of that income before their total benefit is reduced.<sup>7</sup> The amount of income beneficiaries may keep without affecting their benefits, called the “income disregard provision,” has not increased since 1981.<sup>8</sup> To remain eligible for the program, SSI beneficiaries may only save up to \$2,000 as an individual, or \$3,000 as a couple.<sup>9</sup> This resource provision has not been updated since 1989.<sup>10</sup> Additionally, from 1998 until 2021, there were neither committee hearings nor Senate activity regarding the SSI program.<sup>11</sup> Legislators have not discussed increasing benefits levels since 1989.<sup>12</sup> The program and its rules are considerably outdated and due for a much-needed upgrade to reflect modern economic needs and provide real support for those living in poverty.

#### THE SUPPLEMENTAL SECURITY INCOME RESTORATION ACT

In June 2021, Ohio Senator Sherrod Brown introduced the Supplemental Security Income Restoration Act of 2021 (hereinafter “Act”) in an effort to modify the program and realign it with modern economic standards.<sup>13</sup> A similar bill was likewise introduced in the House of Representatives.<sup>14</sup> The Act aims to reorient the SSI program towards its original intent by updating its financial eligibility rules.<sup>15</sup> Most notably, the Act would bring the benefit level up to one hundred percent of the federal poverty level to ensure beneficiaries will not be living below the poverty line.<sup>16</sup> Other proposed changes of note

<sup>6</sup> Ayelet Sheffey, *3.3 Million People Could be Lified Out of Poverty with a Proposal in Democrats’ \$3.5 Trillion Social Spending Bill*, BUS. INSIDER, Sept. 7, 2021, <https://www.businessinsider.com/millions-lifted-out-of-poverty-supplemental-security-income-reconciliation-bill-2021-9>.

<sup>7</sup> Chantel Boyens et al., *How Four Proposals to Reform Supplemental Security Income Would Reduce Poverty*, URB. INST. 2, Sept. 6, 2021, [https://www.urban.org/sites/default/files/publication/104738/how-four-proposals-to-reform-supplemental-security-income-would-reduce-poverty\\_0\\_1.pdf](https://www.urban.org/sites/default/files/publication/104738/how-four-proposals-to-reform-supplemental-security-income-would-reduce-poverty_0_1.pdf).

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *SSI Hearing*, *supra* note 2.

<sup>12</sup> *Id.*

<sup>13</sup> Sheffey, *supra* note 6.

<sup>14</sup> *Issue Brief*, JUST. IN AGING, <https://www.justiceinaging.org/wp-content/uploads/2021/06/SSI-Policy-Issue-Brief-Updated-2021.pdf>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

include: (1) increasing the amount beneficiaries are able to save up to \$10,000 for an individual and \$20,000 for couples; (2) increasing the earned income limit that beneficiaries may make up to \$416 per month before their benefits are reduced; and (3) increasing the limit on other types of unearned income, such as pension payments or Social Security benefits, to up to \$128 per month before their benefits are affected.<sup>17</sup>

#### HOW THE CURRENT PROGRAM PERPETUATES THE CYCLE OF POVERTY

Beneficiaries who receive the full benefit amount under the SSI program in its current form still struggle to meet their basic needs. Amy Marinacci is a Social Security specialist attorney at Legal Council for Health Justice who supports the Act's proposed changes.<sup>18</sup> She explains that SSI “. . . certainly helps those who have it because if they didn't have it they would likely have nothing, but it doesn't even come close to providing for fair market rent and utilities and all those other kinds of things people need for very basic existence.”<sup>19</sup> Because the income and resource provisions have not been updated in decades, the benefits have lost real value over time.<sup>20</sup> Twenty dollars in today's economy has the same purchasing power as about three dollars in 1972.<sup>21</sup> Furthermore, the population of eligible recipients for any amount of SSI benefits is decreasing because the real economic value of the income and resource exclusions are shrinking every year.<sup>22</sup>

For the almost 260,000 SSI beneficiaries residing in Illinois, fair market rent for a one-bedroom apartment is \$972 per month, 1.2 times their entire benefit.<sup>23</sup> Under the current program, any support from family or friends to fill in the financial gaps results in a penalty in the form of a one-third reduction in their benefit.<sup>24</sup> This penalty is called in-kind support and maintenance

<sup>17</sup> *Id.*

<sup>18</sup> Telephone Interview with Amy Marinacci, Soc. Sec. Specialist Att'y, Legal Council for Health Just (Oct. 1, 2021). [hereinafter Marinacci Interview].

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> JUST. IN AGING, *supra* note 14.

<sup>22</sup> Marinacci Interview, *supra* note 18.

<sup>23</sup> *Illinois Congressional Statistics, 2020*, SOC. SEC. ADMIN., [https://www.ssa.gov/policy/docs/factsheets/cong\\_stats/2020/il.pdf](https://www.ssa.gov/policy/docs/factsheets/cong_stats/2020/il.pdf); *Out of Reach 2021: Illinois*, NAT'L LOW INCOME HOUS. COAL., <https://reports.nlihc.org/oor/illinois>. (last visited October 25, 2021).

<sup>24</sup> Boyens et al., *supra* note 7.

or “ISM.”<sup>25</sup> As Marinacci says, “We shouldn’t be designing a program that will take away someone’s future income if someone steps in and helps them out.”<sup>26</sup>

Legal Aid Chicago, a non-profit organization that provides pro bono legal services to low-income clients in Cook County, assists many clients who are barely over the threshold for income and resources to qualify for SSI, but are struggling all the same to cover their monthly expenses.<sup>27</sup> Many are ineligible for SSI because they only make between \$800 and \$900 per month, but they still cannot afford fair market rent or other basic expenses.<sup>28</sup> Illinois provides a cash supplement to beneficiaries and those whose income is just over the SSI program’s income limit.<sup>29</sup> But the supplement only provides an additional \$30 to \$40 on average for someone who receives the full SSI benefit or whose income is just over the threshold, an amount that fails to cover the remaining basic expenses left uncovered by the SSI benefit.<sup>30</sup>

The hinderances caused by the current financial rules can be illustrated through the example of a two-parent household with a disabled child SSI beneficiary.<sup>31</sup> The family may have one family car that is excluded from their countable resources, perhaps for parent one to commute to and from work every day.<sup>32</sup> If the family has a second car, presumably to get parent two and the child around for medical appointments, grocery shopping, and any other essential errands, the second car would be considered a countable resource.<sup>33</sup> If the second car is worth as little as \$5,000, the disabled child is no longer eligible for SSI, assuming that the family has no other countable resources, meaning no cash on hand and no money in the bank.<sup>34</sup> In its current form, the SSI program traps people in poverty.<sup>35</sup>

The current program also disincentivizes beneficiaries to seek employment and start earning income after they are determined disabled. Beneficiaries cannot save any money for an unexpected or emergent expense without being

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<sup>25</sup> *Id.*

<sup>26</sup> Marinacci Interview, *supra* note 18.

<sup>27</sup> Zoom Interview with Steven Scheuer, Supervisory Att’y, Pub. Benefits Prac. Grp., Legal Aid Chi (Sept. 28, 2021).

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> Marinacci Interview, *supra* note 18.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *SSI Hearing*, *supra* at 2 (statement of Mia Ives-Rublee, Dir., Disability Just. Initiative, Ctr. for Am. Progress).

penalized.<sup>36</sup> Unlike SSI, Social Security incentivizes employment by allowing for a Trial Work Period, during which beneficiaries may test their ability to work and earn income without worrying that doing so will reduce or cancel their benefits or healthcare coverage, which is often tied to benefit status.<sup>37</sup> SSI does not provide any similar type of safety net for people to transition back to the workforce.<sup>38</sup> As Kathleen Romig, Senior Policy Analyst with the Center on Budget and Policy Priorities, explained during a Senate subcommittee hearing on SSI, “What do we want to encourage? Do we want to encourage work? Then we shouldn’t have rules that penalize work. Do we want to encourage marriage? We shouldn’t have rules that penalize marriage. Do we want to encourage savings? We shouldn’t have rules that penalize savings.”<sup>39</sup>

Changes to the resource provisions are an important part of the proposed Act. Without the ability to save any money, beneficiaries run the risk of falling deeper into poverty.<sup>40</sup> Everyone has unexpected expenses, whether it is a car repair, a home repair, or some sort of family emergency, and it is imperative to be able to save for those kinds of emergent situations.<sup>41</sup> It is in our collective best interest as a society to encourage people to save because it allows them more independence and financial security, but the resource rules, as they are, do not allow beneficiaries to save for their own futures.<sup>42</sup> The proposed changes, however, would have a positive impact and ultimately empower SSI beneficiaries.

### SSI RESTORATION ACT’S POTENTIAL IMPACT

If enacted, the proposed changes would lift over 3 million people out of poverty nationwide, including 1.2 million people over the age of sixty-five and 1.2 million disabled adults.<sup>43</sup> Increasing the benefit level would alleviate poverty for 2.8 million beneficiaries, and increasing the general and earned income exclusions would alleviate poverty for almost 400,000 beneficiaries.<sup>44</sup> The Act

<sup>36</sup> Marinacci Interview, *supra* note 18.

<sup>37</sup> *SSI Hearing*, *supra* at 2 (statement of Kathleen Romig, Senior Policy Analyst, Ctr. on Budget & Policy Priorities).

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Marinacci Interview, *supra* note 18.

<sup>42</sup> *Id.*

<sup>43</sup> Boyens et al., *supra* note 7.

<sup>44</sup> *Id.*

would also streamline the SSI program, both for beneficiaries and for the Social Security employees who administer the program.<sup>45</sup>

The current program is so complicated for beneficiaries that many consider it impossible to access without an attorney.<sup>46</sup> For the Social Security Administration, a large portion of the program's budget goes to administering SSI. While SSI benefit disbursements make up only five percent of all Social Security payments, the administrative costs of running the program are thirty-six percent of the overall budget, as opposed to ninety-five percent and forty-five percent respectively for retirement and disability insurance programs.<sup>47</sup> Strictly speaking, SSI's administrative costs are 7.2 times the amount spent on benefit disbursement while Social Security's administrative costs are only forty-seven percent of benefit disbursement.<sup>48</sup> A good example of these exorbitant administrative costs is the current ISM provision.<sup>49</sup> On a monthly basis, SSI employees must calculate the value of a beneficiary's ISM, and determine how much ISM should impact their benefit.<sup>50</sup> Typically the amount of assistance, and therefore ISM, the beneficiary receives also changes frequently.<sup>51</sup> With each ISM change, the beneficiary has to report the change, the Social Security Administration has to process that report, and then calculate a new amount for the beneficiary's next disbursement.<sup>52</sup> Eliminating the ISM provision, as the Act proposes, would not only free up the SSI and Social Security employees to process more urgent matters, but it would also make beneficiaries' lives easier by making the complicated financial rules a bit simpler.<sup>53</sup>

Increasing the SSI benefit has valuable links to other social programs.<sup>54</sup> For example, home and community-based services, which are primarily funded by Medicaid and provide in-home medical care for low-income disabled and senior individuals, are less expensive than privatized home medical care or

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<sup>45</sup> *SSI Hearing, supra* at 2 (statement of Mia-Ives Rublee, Dir., Disability Just. Initiative, Ctr. for Am. Progress), *Marinacci Interview, supra* note 18.

<sup>46</sup> *SSI Hearing, supra* at 2 (statement of Mia-Ives Rublee, Dir., Disability Just. Initiative, Ctr. for Am. Progress).

<sup>47</sup> SOC. SEC. ADMIN., *supra* note 3, at 4.

<sup>48</sup> *Id.*

<sup>49</sup> *Marinacci Interview, supra* note 18.

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> *Id.*

nursing home care and thus often preferable.<sup>55</sup> However, many states have long waiting lists so not everyone who qualifies for in-home medical care is able to receive it.<sup>56</sup> It can be extremely difficult for SSI beneficiaries who get off the waiting list to transition from institutional-level care to home and community-based services.<sup>57</sup> This is because the benefit does not typically cover the rent that would provide stable housing in which beneficiaries could receive in-home care.<sup>58</sup> Improving the SSI program by increasing the benefit to a more liveable amount would also improve the ability of beneficiaries to access other forms of assistance, like in-home care, for which they are qualified and deserve.<sup>59</sup>

### THE FUTURE FOR SSI

There is widespread bipartisan support for the Act's provision to increase benefit levels.<sup>60</sup> A poll conducted by Century Foundation/Data for Progress found that ninety-one percent of Democrats and seventy percent of Republicans are in favor of increasing SSI benefits to the poverty level.<sup>61</sup> President Biden endorsed several key provisions of the Act as well during his presidential campaign.<sup>62</sup> As advocates for increased benefit levels and income and resource limits explain, it should be obvious that a program that has not kept up with modern times should be changed to reflect the aim of its original implementation, and that SSI's lost value over time needs to be updated.<sup>63</sup> Although many are hopeful the Act will pass, there is still time for Congress to consider whether it will even be included in the budget reconciliation this year.<sup>64</sup>

While it is uncertain whether the Act will pass, and in what form, it is clear that the SSI program is in severe need of modernization. Although SSI

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<sup>55</sup> *Id.*; Andrew Donlan, 'There's a Lot of Unmet Need': Addressing Long HCBS Waitlists, HOME HEALTH CARE NEWS, Sept. 28, 2021, <https://homehealthcarenews.com/2021/09/theresa-lot-of-unmet-need-addressing-long-hcbs-waitlists/>.

<sup>56</sup> Donlan, *supra* note 55.

<sup>57</sup> *Id.*

<sup>58</sup> Marinacci Interview, *supra* note 18.

<sup>59</sup> *Id.*

<sup>60</sup> Maggie Astor, *How Disabled Americans Are Pushing to Overhaul a Key Benefits Program*, N.Y. TIMES, Aug. 6, 2021, <https://www.nytimes.com/2021/07/30/us/politics/disability-benefits-ssi-congress.html>.

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

<sup>63</sup> Marinacci Interview, *supra* note 18; SSI Hearing, *supra* at 2 (statement of Kathleen Romig, Senior Pol'y Analyst, Ctr. on Budget & Pol'y Priorities).

<sup>64</sup> Marinacci Interview, *supra* note 18.



provides a small amount of stability to the most vulnerable members of society, it fails to provide as much support as was originally intended. Instead, the SSI program in its current form perpetuates the cycle of poverty and disincentivizes qualified individuals from working or otherwise improving their economic status. Failing to update the program's financial rules not only hurts SSI beneficiaries, but also slows the progress of other social programs and society as a whole. Indexing SSI's financial rules with current economic standards does not give beneficiaries an extravagant benefit that would incentivize fraud or laziness, it simply allows low-income beneficiaries to function at one hundred percent of the federal poverty level and provides them with some room to grow without threatening their meager safety net. It is essential that such a fundamental program is revitalized so it can more adequately support those living,