

ORR State Letter

09-05

Date: April 28, 2009

TO: STATE REFUGEE COORDINATORS
REFUGEE HEALTH COORDINATORS
NATIONAL VOLUNTARY AGENCIES
OTHER INTERESTED PARTIES

FROM: David Siegel
Acting Director
Office of Refugee Resettlement

SUBJECT: “SSI Extension for Elderly and Disabled Refugees Act” Extends SSI Eligibility for Certain Refugees and Others from 7 to 9 Years, for the Period October 1, 2008 Through September 30, 2011

I. Purpose of this ORR State Letter

The purpose of this ORR State Letter is to inform refugee service providers of a change in the law that **extends the 7-year Supplemental Security Income (SSI) eligibility period** for certain refugees and certain other humanitarian immigrants who meet the conditions described below **to 9 years** for the period October 1, 2008 through September 30, 2011.

II. “SSI Extension for Elderly and Disabled Refugees Act” Extends the 7-year SSI eligibility period for Qualifying Refugees and Others to 9 years for October 1, 2008 to September 30, 2011.

The “SSI Extension for Elderly and Disabled Refugees Act,” Pub. L. No. 110-328, 122 Stat. 3567 (2008), amends section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act, 8 U.S.C. § 1612(a)(2), (“**PRWORA**”). The effect of this change is to **extend the 7-year SSI eligibility period for refugees, asylees, Cuban and Haitian entrants, Amerasians and trafficking victims who meet certain requirements as described in either Paragraph III or IV of this State Letter, and who meet certain requirements listed in Paragraphs V, VI, and VII or VIII below, to 9 years** for the period October 1, 2008 through September 30, 2011 (the “**SSI 9 year rule**”).

Additionally, persons whose SSI ended between August 22, 1996 and September 30, 2008, solely due to expiration of the 7 year eligibility period, and who meet the other requirements, may be eligible for an additional 2 years of SSI (see Paragraph VI). Certain persons who have reached the 9 year SSI limit before September 30, 2011 who have a pending application for naturalization may receive up to one additional year of SSI. (See Paragraph VIII)

III. Eligibility for Extension of SSI for Aliens Whose Benefits Cease After September 30, 2008 Due to Expiration of 7 Years

Aliens whose SSI ceases after September 30, 2008, solely by expiration of the 7 years eligibility period, who also meet the requirements described in Paragraphs V, VI, and VII of this State Letter, may be eligible for an additional 2 years of SSI.

IV. Eligibility for Extension of SSI for Aliens Whose Benefits Ceased in Prior Years Due to Expiration of 7 Years

Aliens whose SSI was terminated in the period August 22, 1996 to September 30, 2008, solely by expiration of the 7 year eligibility period, who also meet the requirements described in Paragraphs V, VI, and VII of this State Letter, may be eligible for an additional 2 years of SSI. All payments will be prospective, not retroactive, and issued on a monthly basis over the duration of the noncitizen's renewed eligibility for a maximum of two years.

V. SSI Eligibility for Refugees and Others under PRWORA

Section 402(a)(2)(A) of PRWORA made the following categories of aliens eligible for SSI for up to 7 years, excepting them from the eligibility limitations on other aliens:

- Admitted to the U.S. as a **Refugee** under section 207 of the Immigration and Nationality Act (“INA”), 8 USC § 1157;
- Granted **Asylum** under INA section 208, 8 USC § 1158;
- Granted Withholding of Deportation or Removal under INA section 243(h), 8 USC § 1253(h) or section 241(b)(3), 8 USC § 1251(b)(3);
- Granted status as a **Cuban/Haitian Entrant** under the Refugee Education Assistance Act of 1980;
- Admitted to the U.S. as an **Amerasian** under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

¹ Pursuant to section 2 of the “SSI Extension for Elderly and Disabled Refugees Act” a trafficking victim is an individual who meets the definition at 22 U.S.C. § 7105(b)(1)(C) or who has been granted status under section 101(a)(15)(T)(ii) of the INA.

VI. Aliens Eligible for the SSI 9 Year Rule

For the period October 1, 2008 through September 30, 2011, aliens listed in section 402(a)(2)(A) of PRWORA and trafficking victims¹ may be eligible to receive 9 years of SSI eligibility if the **alien or victim has met any one of the following conditions** —

‘(aa) has been a **lawful permanent resident for less than 6 years** and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

‘(bb) **has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident** with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

‘(cc) has been granted the status of **Cuban and Haitian entrant**, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422), for purposes of the specified Federal program described in paragraph (3)(A);

‘(dd) has had his or her **deportation withheld** by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208), or whose removal is withheld under section 241(b)(3) of such Act;

‘(ee) **has not attained age 18**; or

‘(ff) **has attained age 70**.

¹ Pursuant to section 2 of the “SSI Extension for Elderly and Disabled Refugees Act” a trafficking victim is an individual who meets the definition at 22 U.S.C. § 7105(b)(1)(C) or who has been granted status under section 101(a)(15)(T)(ii) of the INA.

VII. Declaration of Having Made a Good Faith Effort to Pursue U.S. Citizenship

In order to be eligible to receive assistance under the SSI 9 year rule, the alien must furnish a **declaration that he or she has made a good faith effort to pursue U.S. citizenship**. This declaration is to be provided by the alien to the Commissioner of Social Security (SSA) stating that “under penalty of perjury the alien or victim has made a good faith effort to pursue United States Citizenship, as determined by the Secretary of Homeland Security”. Children who have not reached the age of 18 are exempt from such a declaration.

VIII. Special Rule for Applicants for Naturalization not Subject to 7 year SSI Limitation for Fiscal Years 2009 through 2011

Under a special rule in the “SSI Extension for Elderly and Disabled Refugees Act”, the

¹ Pursuant to section 2 of the “SSI Extension for Elderly and Disabled Refugees Act” a trafficking victim is an individual who meets the definition at 22 U.S.C. § 7105(b)(1)(C) or who has been granted status under section 101(a)(15)(T)(ii) of the INA.

aliens listed in section 402(a)(2)(A) of PRWORA and trafficking victims are not subject to the 7 year SSI limit during the period October 1, 2008 to September 30, 2011 if they have a pending application for **naturalization**, or if such application has been approved and they are awaiting the naturalization ceremony, and this fact is verified by SSA through procedures established in consultation with the Department of Homeland Security (DHS). The exemption also applies to individuals with applications for naturalization pending who were previously rendered ineligible for SSI due to expiration of the 7-year period during the period August 22, 1996 to September 30, 2008.

IX. Medicaid Eligibility of Categorically Needy SSI Recipients

Individuals who qualify for the 2-year extension of SSI benefits will also continue to be eligible for Medicaid on the same basis as anyone else receiving SSI benefits. In states using more restrictive eligibility criteria than SSI when determining Medicaid eligibility for the aged, blind and disabled, the state's more restrictive criteria will apply to individuals who qualify for the 2-year extension, just as those criteria apply to others receiving SSI benefits.

X. Procedural and Practical Considerations

A. Current SSI Beneficiaries Who May Lose Benefits Under the 7 Year Rule

Applicants currently receiving SSI benefits are not required by SSA to take steps to ensure continuation of SSI beyond the 7 year limit. SSA has announced that it will take the necessary steps to reinstate eligible humanitarian immigrants who **who meet certain requirement as described in either Paragraph III or IV of this State Letter, and who meet certain requirements listed in Paragraphs III, IV, V below, to 9 years** for the period October 1, 2008 through September 30, 2011 (the "**SSI 9 year rule**"). If the 7-year limit applies to an applicant, SSA may ask the applicant to sign the declaration described above, that the applicant is making a "good faith effort to pursue United States citizenship." If the 9 year limit is reached before September 30, 2011, the applicant may continue to receive SSI until September 30, 2011 only if he or she has a pending application for naturalization (see above).

B. Previous Beneficiaries of SSI Whose SSI Ended Prior to September 30, 2008 Due to the 7 Year Rule: No Retroactivity

Previous recipients of SSI whose SSI ended prior to October 1, 2008 due to the 7 year limit are not eligible for benefits retroactive from the SSI termination date up to September 30, 2008. However, such persons may be eligible for up to 2 additional years of SSI starting on October 1, 2008. If the SSI stopped because of the 7-year limit, the person may receive SSI retroactive to October 1, 2008 up to September 30, 2010.

If an applicant's SSI benefits were stopped before October 1, 2008, SSA will need proof of financial eligibility for any month after October 1, 2008 and may require proof that the applicant has pursued LPR or citizenship status (see above). If the applicant lacks documentary proof of an immigration status that meets the law's requirements, SSA may require the applicant to sign a statement, and will verify immigration status with the Department of Homeland Security. SSA will also review the applicant's financial eligibility during the months beginning October 1, 2008. If the applicant can prove

eligibility back to that date, SSA will place the person on SSI retroactively to October 1, 2008, regardless of date of application. Otherwise, the applicant will receive SSI for only those months for which eligibility can be demonstrated. Applicants may also need to contact the appropriate state agency if Medicaid benefits are interrupted because of cessation of SSI.

C. Impact of “SSI Extension for Elderly and Disabled Refugees Act” on Certain Refugees Who Recently Turned 65 or Became Disabled, Who Apply for SSI for the First Time after September 30, 2008

Refugees and other categories identified above who are applying for SSI for the first time on or after October 1, 2008, may be eligible to receive SSI, depending on the year that they first attained their status as a refugee or other category (see Paragraph V).

- If the person attained immigration or trafficking victim status after October 2002, he or she may qualify for SSI until September 30, 2011.
- If the person attained immigration or trafficking status between October 1999 and October 2002, the person may receive SSI from the date of SSI application until the 9-year anniversary of grant of refugee, asylee, or other humanitarian status. Once this period ends, receipt of SSI may continue to September 30, 2011 only if there is a pending application for naturalization, or if the person has already become a U.S. citizen.
- Persons who attained status before October 1999 do not qualify for the SSI extension.

Note that these special rules only apply to immigrants who are applying for SSI for the first time on or after October 2008.

D. Recipients of SSI Who Have Not Become a U.S. Citizen after 9 years

Persons who have not naturalized to U.S. citizen after receiving SSI for 2 additional years, may continue to receive SSI for a third additional year if they have a pending application for naturalization. In any case, no SSI benefits under PL 110-328 will be payable after September 30, 2011. After September 30, 2011, persons who have received SSI for 9 years must naturalize to be eligible for SSI beyond 9 years.

XI. Kaplan v. Chertoff Settlement Agreement

The statutory changes to SSI eligibility described in this ORR State Letter is related to the *Kaplan v. Chertoff* class action settlement agreement. See Attachments #2, #3, and #4.

Under the *Kaplan v. Chertoff* class action settlement agreement, if more than 6 months have elapsed since the SSI recipient subject to the 7 year limit has **applied to become a lawful permanent resident (LPR) or U.S. citizen, he or she may** request that the U.S. Citizenship and Immigration Services (USCIS) expedite processing of their LPR or naturalization application. Applicants waiting more than 6 months may call USCIS at 1-800-889-4369 to request expeditious processing of their application for adjustment of status or naturalization. Persons making new applications for LPR status or for naturalization may inform USCIS that the application should be expedited because the

applicant is in the “Kaplan class.”

Also under the *Kaplan v. Chertoff* class action settlement agreement, applicants for LPR status or naturalization who are impacted by the SSI time limit may request a waiver of the USCIS application fees. When requesting the fee waiver, applicants for LPR or naturalization should indicate to USCIS that they are in the “Kaplan class.”

If you have questions, please contact Thomas Pabst at telephone: 202-401-5398 or by email at: thomas.pabst@acf.hhs.gov

*** **

Attachment I

Public Law 110-328: “SSI Extension for Elderly and Disabled Refugees Act” (Sept. 30, 2008; 122 Stat. 3567)

H.R.2608

One Hundred Tenth Congress

of the

United States of America

AT THE SECOND SESSION

Begun and held at the City of Washington on Thursday, the third day of January, two thousand and eight An Act

To amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide, in fiscal years 2009 through 2011, extensions of supplemental security income for refugees, asylees, and certain other humanitarian immigrants, and to amend the Internal Revenue Code of 1986 to collect unemployment compensation debts resulting from fraud.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “SSI Extension for Elderly and Disabled Refugees Act”.

SEC. 2. SSI EXTENSIONS FOR HUMANITARIAN IMMIGRANTS.

Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 ([8 U.S.C. 1612\(a\)\(2\)](#)) is amended by adding at the end the following:

‘(M) SSI EXTENSIONS THROUGH FISCAL YEAR 2011-

‘(i) TWO-YEAR EXTENSION FOR CERTAIN ALIENS AND VICTIMS OF TRAFFICKING-

‘(I) IN GENERAL- Subject to clause (ii), with respect to eligibility for benefits under subparagraph (A) for the specified Federal program described in paragraph (3)(A) of qualified aliens (as defined in section 431(b)) and victims of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), the 7-year period described in subparagraph (A) shall be deemed to be a 9-year period during fiscal years

2009 through 2011 in the case of such a qualified alien or victim of trafficking who furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable) and is described in subclause (III).

‘(II) ALIENS AND VICTIMS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS- Subject to clause (ii), beginning on the date of the enactment of the SSI Extension for Elderly and Disabled Refugees Act, any qualified alien (as defined in section 431(b)) or victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act) rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A) shall be eligible for such program for an additional 2-year period in accordance with this clause, if such qualified alien or victim of trafficking meets all other eligibility factors under title XVI of the Social Security Act, furnishes to the Commissioner of Social Security the declaration required under subclause (IV) (if applicable), and is described in subclause (III).

‘(III) ALIENS AND VICTIMS DESCRIBED- For purposes of subclauses (I) and (II), a qualified alien or victim of trafficking described in this subclause is an alien or victim who--

‘(aa) has been a lawful permanent resident for less than 6 years and such status has not been abandoned, rescinded under section 246 of the Immigration and Nationality Act, or terminated through removal proceedings under section 240 of the Immigration and Nationality Act, and the Commissioner of Social Security has verified such status, through procedures established in consultation with the Secretary of Homeland Security;

‘(bb) has filed an application, within 4 years from the date the alien or victim began receiving supplemental security income benefits, to become a lawful permanent resident with the Secretary of Homeland Security, and the Commissioner of Social Security has verified, through procedures established in consultation with such Secretary, that such application is pending;

‘(cc) has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422), for purposes of the specified Federal program described in paragraph (3)(A);

‘(dd) has had his or her deportation withheld by the Secretary of Homeland Security under section 243(h) of the Immigration and Nationality Act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208), or whose removal is withheld under section 241(b)(3) of such Act;

‘(ee) has not attained age 18; or

‘(ff) has attained age 70.

‘(IV) DECLARATION REQUIRED-

‘(aa) IN GENERAL- For purposes of subclauses (I) and (II), the declaration required under this subclause of a qualified alien or victim of trafficking described in either such subclause is a declaration under penalty of perjury stating that the alien or victim has made a good faith effort to pursue United States citizenship, as determined by the Secretary of Homeland Security. The Commissioner of Social Security shall develop criteria as needed, in consultation with the Secretary of Homeland Security, for consideration of such declarations.

‘(bb) EXCEPTION FOR CHILDREN- A qualified alien or victim of trafficking described in subclause (I) or (II) who has not attained age 18 shall not be required to furnish to the Commissioner of Social Security a declaration described in item (aa) as a condition of being eligible for the specified Federal program described in paragraph (3)(A) for an additional 2-year period in accordance with this clause.

‘(V) PAYMENT OF BENEFITS TO ALIENS WHOSE BENEFITS CEASED IN PRIOR FISCAL YEARS- Benefits paid to a qualified alien or victim described in subclause (II) shall be paid prospectively over the duration of the qualified alien’s or victim’s renewed eligibility.

‘(ii) SPECIAL RULE IN CASE OF PENDING OR APPROVED NATURALIZATION APPLICATION- With respect to eligibility for benefits for the specified program described in paragraph (3)(A), paragraph (1) shall not apply during fiscal years 2009 through 2011 to an alien described in one of clauses (i) through (v) of subparagraph (A) or a victim of trafficking in persons (as defined in section 107(b)(1)(C) of division A of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386) or as granted status under section 101(a)(15)(T)(ii) of the Immigration and Nationality Act), if such alien or victim (including any such alien or victim rendered ineligible for the specified Federal program described in paragraph (3)(A) during the period beginning on August 22, 1996, and ending on September 30, 2008, solely by reason of the termination of the 7-year period described in subparagraph (A)) has filed an application for naturalization that is pending before the Secretary of Homeland Security or a United States district court based on section 336(b) of the Immigration and Nationality Act, or has been approved for naturalization but not yet sworn in as a United States citizen, and the Commissioner of Social Security has verified, through procedures established in consultation with the Secretary of Homeland Security, that such application is pending or has been approved.’

SEC. 3. COLLECTION OF UNEMPLOYMENT COMPENSATION DEBTS RESULTING FROM FRAUD.

(a) In General- Section 6402 of the Internal Revenue Code (relating to authority to make credits or refunds) is amended by redesignating subsections (f) through (k) as subsections (g) through (l), respectively, and by inserting after subsection (e) the following new subsection:

‘(f) Collection of Unemployment Compensation Debts Resulting From Fraud-
‘(1) IN GENERAL- Upon receiving notice from any State that a named

person owes a covered unemployment compensation debt to such State, the Secretary shall, under such conditions as may be prescribed by the Secretary--

‘(A) reduce the amount of any overpayment payable to such person by the amount of such covered unemployment compensation debt;

‘(B) pay the amount by which such overpayment is reduced under subparagraph (A) to such State and notify such State of such person’s name, taxpayer identification number, address, and the amount collected; and

‘(C) notify the person making such overpayment that the overpayment has been reduced by an amount necessary to satisfy a covered unemployment compensation debt.

If an offset is made pursuant to a joint return, the notice under subparagraph (C) shall include information related to the rights of a spouse of a person subject to such an offset.

‘(2) PRIORITIES FOR OFFSET- Any overpayment by a person shall be reduced pursuant to this subsection--

‘(A) after such overpayment is reduced pursuant to--

‘(i) subsection (a) with respect to any liability for any internal revenue tax on the part of the person who made the overpayment;

‘(ii) subsection (c) with respect to past-due support; and

‘(iii) subsection (d) with respect to any past-due, legally enforceable debt owed to a Federal agency; and

‘(B) before such overpayment is credited to the future liability for any Federal internal revenue tax of such person pursuant to subsection (b).

If the Secretary receives notice from a State or States of more than one debt subject to paragraph (1) or subsection (e) that is owed by a person to such State or States, any overpayment by such person shall be applied against such debts in the order in which such debts accrued.

‘(3) OFFSET PERMITTED ONLY AGAINST RESIDENTS OF STATE SEEKING OFFSET- Paragraph (1) shall apply to an overpayment by any person for a taxable year only if the address shown on the Federal return for such taxable year of the overpayment is an address within the State seeking the offset.

‘(4) NOTICE; CONSIDERATION OF EVIDENCE- No State may take action under this subsection until such State--

‘(A) notifies by certified mail with return receipt the person owing the covered unemployment compensation debt that the State proposes to take action pursuant to this section;

‘(B) provides such person at least 60 days to present evidence that all or part of such liability is not legally enforceable or due to fraud;

‘(C) considers any evidence presented by such person and determines that an amount of such debt is legally enforceable and due to fraud; and

‘(D) satisfies such other conditions as the Secretary may prescribe to ensure that the determination made under subparagraph (C) is valid and that the State has made reasonable efforts to obtain payment of such covered unemployment compensation debt.

‘(5) COVERED UNEMPLOYMENT COMPENSATION DEBT- For purposes of this subsection, the term ‘covered unemployment compensation debt’ means--

‘(A) a past-due debt for erroneous payment of unemployment compensation due to fraud which has become final under the law of a State certified by the Secretary of Labor pursuant to section 3304 and which remains uncollected for not more than 10 years;

‘(B) contributions due to the unemployment fund of a State for which the State has determined the person to be liable due to fraud and which remain uncollected for not more than 10 years; and

‘(C) any penalties and interest assessed on such debt.

‘(6) REGULATIONS-

‘(A) IN GENERAL- The Secretary may issue regulations prescribing the time and manner in which States must submit notices of covered unemployment compensation debt and the necessary information that must be contained in or accompany such notices. The regulations may specify the minimum amount of debt to which the reduction procedure established by paragraph (1) may be applied.

‘(B) FEE PAYABLE TO SECRETARY- The regulations may require States to pay a fee to the Secretary, which may be deducted from amounts collected, to reimburse the Secretary for the cost of applying such procedure. Any fee paid to the Secretary pursuant to the preceding sentence shall be used to reimburse appropriations which bore all or part of the cost of applying such procedure.

‘(C) SUBMISSION OF NOTICES THROUGH SECRETARY OF LABOR- The regulations may include a requirement that States submit notices of covered unemployment compensation debt to the Secretary via the Secretary of Labor in accordance with procedures established by the Secretary of Labor. Such procedures may require States to pay a fee to the Secretary of Labor to reimburse the Secretary of Labor for the costs of applying this subsection. Any such fee shall be established in consultation with the Secretary of the Treasury. Any fee paid to the Secretary of Labor may be deducted from amounts collected and shall be used to reimburse the appropriation account which bore all or part of the cost of applying this subsection.

‘(7) ERRONEOUS PAYMENT TO STATE- Any State receiving notice from the Secretary that an erroneous payment has been made to such State under paragraph (1) shall pay promptly to the Secretary, in accordance with such regulations as the Secretary may prescribe, an amount equal to the amount of such erroneous payment (without regard to whether any other amounts payable to such State under such paragraph have been paid to such State).

‘(8) TERMINATION- This section shall not apply to refunds payable after the date which is 10 years after the date of the enactment of this subsection.’

(b) Disclosure of Certain Information to States Requesting Refund Offsets for Legally Enforceable State Unemployment Compensation Debt Resulting From Fraud-

(1) GENERAL RULE- Paragraph (3) of section 6103(a) of such Code is amended by inserting ‘(10),’ after ‘(6),’

(2) DISCLOSURE TO DEPARTMENT OF LABOR AND ITS AGENT- Paragraph (10) of section 6103(l) of such Code is amended--

(A) by striking ‘(c), (d), or (e)’ each place it appears in the heading and text and inserting ‘(c), (d), (e), or (f),’

(B) in subparagraph (A) by inserting ‘, to officers and employees of the Department of Labor for purposes of facilitating the exchange of data in connection with a request made under subsection (f)(5) of section

6402,' after 'section 6402', and

(C) in subparagraph (B)--

(i) by inserting '(i)' after '(B)'; and

(ii) by adding at the end the following:

'(ii) Notwithstanding clause (i), return information disclosed to officers and employees of the Department of Labor may be accessed by agents who maintain and provide technological support to the Department of Labor's Interstate Connection Network (ICON) solely for the purpose of providing such maintenance and support.'

(3) SAFEGUARDS- Paragraph (4) of section 6103(p) of such Code is amended--

(A) in the matter preceding subparagraph (A), by striking '(l)(16),' and inserting '(l)(10), (16),';

(B) in subparagraph (F)(i), by striking '(l)(16),' and inserting '(l)(10), (16),'; and

(C) in the matter following subparagraph (F)(iii)--

(i) in each of the first two places it appears, by striking '(l)(16),' and inserting '(l)(10), (16),';

(ii) by inserting '(10),' after 'paragraph (6)(A),'; and

(iii) in each of the last two places it appears, by striking '(l)(16)' and inserting '(l)(10) or (16)'.

(c) Expenditures From State Fund- Section 3304(a)(4) of such Code is amended--

(1) in subparagraph (E), by striking 'and' after the semicolon;

(2) in subparagraph (F), by inserting 'and' after the semicolon; and

(3) by adding at the end the following new subparagraph:

'(G) with respect to amounts of covered unemployment compensation debt (as defined in section 6402(f)(4)) collected under section 6402(f)--

'(i) amounts may be deducted to pay any fees authorized under such section; and

'(ii) the penalties and interest described in section 6402(f)(4)(B) may be transferred to the appropriate State fund into which the State would have deposited such amounts had the person owing the debt paid such amounts directly to the State;'

(d) Conforming Amendments-

(1) Subsection (a) of section 6402 of such Code is amended by striking '(c), (d), and (e),' and inserting '(c), (d), (e), and (f)'.

(2) Paragraph (2) of section 6402(d) of such Code is amended by striking 'and before such overpayment is reduced pursuant to subsection (e)' and inserting 'and before such overpayment is reduced pursuant to subsections (e) and (f)'.

(3) Paragraph (3) of section 6402(e) of such Code is amended in the last sentence by inserting 'or subsection (f)' after 'paragraph (1)'.

(4) Subsection (g) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking '(c), (d), or (e)' and inserting '(c), (d), (e), or (f)'.

(5) Subsection (i) of section 6402 of such Code, as redesignated by subsection (a), is amended by striking 'subsection (c) or (e)' and inserting 'subsection (c), (e), or (f)'.

(e) Effective Date- The amendments made by this section shall apply to refunds payable under section 6402 of the Internal Revenue Code of 1986 on or after the date of enactment of this Act.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

Attachment II

Kaplan v Chertoff Settlement

NOTICE OF SETTLEMENT AGREEMENT IN CLASS ACTION FOR NON-CITIZENS WHO HAVE RECEIVED OR ARE RECEIVING SUPPLEMENTAL SECURITY INCOME

KAPLAN, ET AL. v. CHERTOFF, ET AL., Civil Action No. 06-5304 IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

TO: All non-United States citizens who are receiving or have received Supplemental Security Income (“SSI”) and are or will be subject to the seven-year limit on receiving SSI pursuant to 8 U.S.C. § 1612(a)(2)(A) (such as refugees and asylees), prior to becoming a naturalized United States citizen.

You are hereby notified that a **Stipulation and Agreement of Settlement and Release** has been signed by the parties, resolving the claims that have been brought on your behalf in this law suit.

Purpose Of This Notice

This notice has two purposes: 1) to tell you about the settlement; and 2) to tell you how to obtain more information, including a copy of the full settlement agreement.

Background

This class action lawsuit (“Kaplan”) was filed on December 6, 2006, to challenge alleged delays by the government in adjudicating applications for adjustment of status (“Form I-485”) and naturalization (“Form N-400”) for those who are receiving or have received SSI benefits and the resulting actual or potential cut-off of SSI benefits. The parties have reached a settlement that the Court has approved.

Description Of Settlement Agreement

The following description is only a summary of the key points in the settlement agreement. Information on obtaining a copy of the full, proposed agreement is provided after this summary. The Effective Date of the agreement is **March 5, 2008**. The duration of the settlement agreement will be for two (2) years and eleven (11) months from the Effective Date.



The key terms of the settlement agreement provide that any class member may request Expedited Processing from the United States Citizenship and Immigration Service ("USCIS") for pending applications for naturalization or adjustment of status, or for future applications for naturalization or adjustment of status filed during the pendency of the Settlement Agreement, if six months have elapsed since the filing of the pertinent application without a decision. USCIS will request priority processing of any pending or future security checks and provide the earliest available appointment for applications requiring an appointment. If an Oath of Allegiance is required, USCIS will administer or schedule the Oath at the next available opportunity.

USCIS will also, through identifying information provided by SSA, attempt to identify individuals whose SSI benefits have been terminated or will be terminated in the near future and have pending applications for naturalization or adjustment of status. Where those individuals are positively identified, USCIS will automatically expedite their pending application. The automatic expedites will take place close to the end of the first year of the Settlement Agreement.

If a class member has a pending Form I-485 or Form N-400 and has received or is receiving SSI benefits, he or she (or his or her representative) may call USCIS at 1-800-375-5283 ("the USCIS 1-800 number") and request Expedited Processing. Expedited Processing may also be requested in writing or by going to the local USCIS office.

After the Effective Date of the agreement (March 5, 2008) if Expedited Processing has already been requested, but the applicant has not received notice of a decision, he or she may call the USCIS 1-800 number to verify that an Expedite has been initiated in his or her case. If 45 days have passed since the call to the USCIS 1-800 number with no response, or if the response from USCIS was unsatisfactory, class members should contact Class Counsel.

The agreement further provides that, in consideration of the other provisions in the agreement, class members release all defendants from all "settled claims." For a complete description of the releases and "settled claims," you should obtain a full copy of the settlement agreement. Defendants do not admit any wrongdoing, fault or liability, nor may their agreement to the preservation of the March 29, 2007 decision on the motion to dismiss be construed as either party's acceptance of any of the findings of fact or conclusions of law contained in that decision. The settlement agreement cannot be used against defendants as evidence of any presumption, concession or admission of any liability, negligence, fault or wrongdoing in future actions.

For Further Information:

Copies of the proposed settlement may be obtained from: 1) The USCIS website (www.uscis.gov); 2) the SSA website (www.socialsecurity.gov); and local community-based and non-profit organizations through USCIS' Community Relations Program.



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Attachment III

USCIS Questions & Answers re the Kaplan v Chertoff Settlement

June 5, 2008



**EXPEDITED PROCESSING AVAILABLE FOR CERTAIN
SUPPLEMENTAL SECURITY INCOME (SSI) BENEFICIARIES**
SSI Beneficiaries can request expedited processing of Forms I-485 and N-400

Q: Why is expedited processing available for SSI beneficiaries?

A: U.S. Citizenship and Immigration Services (USCIS) recently entered into a settlement agreement in a national class action, *Kaplan, et al. v. Chertoff, et al.*, CV 06-5304. The suit was brought by non-U.S. citizens who had lost or who were about to lose their eligibility for Supplemental Security Income (SSI) based on a statutory seven-year limit, and who were unable to become naturalized U.S. citizens before the loss of SSI benefits. Under the settlement agreement USCIS will expedite I-485 (Application to Register Permanent Residence or Adjust Status) – commonly referred to as ‘green card’ applications – and N-400 (Application for Naturalization) of current or former Supplemental Security Income (SSI) beneficiaries if the application has been pending with USCIS for more than six months.

Q: What is expedited processing under the Kaplan Settlement?

A: Expedited processing includes USCIS requesting an accelerated FBI Name Check and prioritizing any USCIS internal actions, such as scheduling an interview. USCIS will work with the Social Security Administration (SSA) to identify people who have lost or who will lose their SSI benefits within the next year and who already have an I-485 or N-400 pending with USCIS. USCIS will then expedite those cases even if the applicant has not yet requested expedited processing and if the application has not been pending for six months. Information on the Kaplan Settlement is available at www.uscis.gov/kaplan.

Q: What if I am a non-citizen who has lost my SSI benefits and am waiting for my N-400 or I-485 to be processed?

A: If you are a non-citizen who has lost eligibility for SSI benefits based on a statutory seven-year limit, and you have filed an I-485 or N-400 with USCIS, you may request expedited processing of your pending application at any time, regardless of when you lost SSI benefits. USCIS is working with SSA to identify people who have lost or who will lose their SSI benefits within the next year and who already have an I-485 or N-400 pending with USCIS. USCIS will then expedite those cases even if the applicant has not yet requested expedited processing and the application has not been pending for six months.

Q: How will USCIS contact non-citizen SSI beneficiaries with pending applications who have lost their SSI benefits?

A: USCIS and SSA will mail a blue letter to people who have lost their SSI benefits due



to the seven-year statutory limit. The letter will explain that they need to do the following:

- File an I-485 or N-400, if eligible
- Be aware of the fee waiver application process
- For those who already have a pending application, how to request expedited processing

Q: What should I include with my I-485 or N-400 form?

A: If you receive a blue letter from USCIS about your eligibility for expedited processing, you should include that letter when you mail your form to USCIS. If you do not receive a blue letter from USCIS about the Kaplan settlement, you should include any other documents showing proof that that you are receiving or have received SSI benefits.

Q: How do I contact USCIS to request expedited processing based on my eligibility as a non-citizen beneficiary of SSI?

- A: There are several ways you can contact USCIS to request expedited processing:
- Call the USCIS National Customer Service Center at 1-800-375-5283.
 - Make an InfoPass appointment at www.infopass.uscis.gov and come to your local USCIS Field Office in person. Our website, www.uscis.gov, has a list of all field office locations.
 - Mail a request for expedited processing to the office where your I-485 or N-400 is pending once you receive a USCIS receipt notice for your application. To find out where your application is pending, please call 1-800-375-5283.
 - Include a written request for expedited processing when you submit your application, however be aware that this method may take longer to process.

Whichever option you choose, please let USCIS know that you are requesting expedited processing based on your SSI status.

Q: If I am a non-citizen receiving SSI benefits and I just submitted an N-400 or I-485, can I apply for expediting processing now or must I wait until my application has been pending for over six months?

A: Customers may request expediting processing at any time, but USCIS will not start the expedite process until the application has been pending for over six months.

Q: If an applicant is eligible for SSI, will USCIS automatically waive fees?

A: No, however, USCIS is aware that applicants in the Kaplan class receive or have received SSI. SSI is a federal means-tested benefit and generally means that household incomes are at or below the poverty level, and that individuals are age 65 or over, or disabled. Therefore, applicants are likely to establish eligibility for a fee waiver.



USCIS asks that class members write a large notation, "KAPLAN" on the outside of mailing envelopes containing either the I-485 or N-400 and the fee waiver request.

Q: What happens if I have changed addresses and never receive the blue letter?

A: It is vital that customers keep USCIS informed of their current address. It is critically important to ensure that correspondence with USCIS can be maintained. Customers who move must submit a free AR-11 Change of Address Form with USCIS within 10 days of their move. USCIS will check for an updated address for any blue letters that have been returned to USCIS within 90 days of mailing.

Q: When did the Kaplan Settlement take effect, and how long will it last?

A: The settlement took effect March 5, 2008 and will remain in effect until February 5, 2011.

Q: Does this mean that if I am a non-citizen receiving SSI benefits, I will become a citizen?

A: Expedited processing will ensure that USCIS prioritizes processing these forms. However, it is not a guarantee that the benefit will be granted. USCIS still needs to make sure that applicants meet eligibility requirements before the benefit can be granted.

Q: Can I visit a Service Center or the National Benefit Center to ask questions about this settlement?

A: No. If you believe you may be eligible for expedited processing under the Kaplan Settlement Agreement, then please call the USCIS National Customer Service Center at 1-800-375-5283, or you may make an InfoPass appointment to visit your local public field office.

**Attachment IV
USCIS Update**

May 15, 2008



Section 1.01

USCIS SETTLES KAPLAN CL.

SSI Beneficiaries can request expedited processing of Forms I-485 and N-400

Section 1.02

WASHINGTON—U.S. Citizenship and Immigration Services (USCIS) has entered into a settlement agreement in a national class action, Kaplan, et al. v. Chertoff, et al., CV 06-5304, which was filed in the U.S. District Court for the Eastern District of Pennsylvania.

Section 1.03

Section 1.04 The suit was brought by non-U.S. citizens who had lost or who were about to lose their eligibility for Supplemental Social Income (SSI) based on a statutory seven-year limit found at 8 U.S.C. §1612(a)(2)(A), and who were unable to become naturalized U.S. citizens before the loss of SSI benefits. In addition to DHS and USCIS, the Federal Bureau of Investigation (FBI) and the Social Security Administration (SSA) are part of the settlement agreement. The class was represented by attorneys at Community Legal Services in Philadelphia, the HIAS and Council Migration Services in Philadelphia, Ballard Spahr Andrews & Ingersoll LLP, pro bono counsel, and the Sargent Shriver National Center on Poverty Law. The settlement agreement took effect March 5, 2008, and will remain in effect until February 5, 2011.

Under the settlement agreement USCIS will expedite Applications to Register Permanent Status or Adjust Status (Form I-485) – commonly referred to as ‘green card’ applications – and Applications for Naturalization (Form N-400) of current or former SSI beneficiaries if the application has been pending with USCIS for more than six months. Expedited processing includes USCIS requesting an accelerated FBI Name Check as well as prioritizing other USCIS internal actions, such as the scheduling of an interview. USCIS will work with SSA to identify individuals who have lost or who will lose their SSI benefits within the next year and who already have an I-485 or N-400 pending with USCIS. USCIS will then expedite those cases even if the applicant has not yet requested expedited processing and even if the application has not been pending for six months.

If you are not a U.S. citizen currently receiving SSI benefits or you have had your benefits terminated or suspended due to the seven-year limit, you can request expedited processing of your I-485 or N-400 by calling the USCIS toll free number at (800) 375-5283 or (800) 767-1833 (TTY), or by contacting your local USCIS office in person or in writing. You should keep a record of this call or contact.

If you have not yet filed an I-485 or N-400 and are eligible to do so, you may also apply for a fee waiver when you file the application. You may also request expedited processing when you file the application. Be sure to write the word “**KAPLAN**” on the outside of the mailing envelope of your application.

To learn more about becoming a U.S. citizen, applying for adjustment of status, or to receive information about fee waivers, visit USCIS websites at www.uscis.gov/naturalization, www.uscis.gov/greencard, and www.uscis.gov/feewaiver. General information can also be obtained by contacting the National Customer Service Center at (800) 375-5283.