

Calendar No. 260

113TH CONGRESS
1ST SESSION

S. 1360

[Report No. 113–124]

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2013

Mr. CARPER (for himself, Mr. COBURN, Mr. TESTER, Mrs. MCCASKILL, Mr. JOHNSON of Wisconsin, and Ms. AYOTTE) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

DECEMBER 12 (legislative day, DECEMBER 11), 2013

Reported by Mr. CARPER, without amendment

A BILL

To amend the Improper Payments Elimination and Recovery Improvement Act of 2012, including making changes to the Do Not Pay initiative, for improved detection, prevention, and recovery of improper payments to deceased individuals, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improper Payments
3 Agency Cooperation Enhancement Act of 2013”.

4 **SEC. 2. IMPROVING THE SHARING AND USE OF DEATH**
5 **DATA BY GOVERNMENT AGENCIES TO CURB**
6 **IMPROPER PAYMENTS.**

7 (a) IN GENERAL.—The Improper Payments Elimination and Recovery Improvement Act of 2012 (31 U.S.C.
8 3321 note) is amended by adding at the end the following:
9 “**SEC. 7. IMPROVING THE SHARING AND USE OF DEATH**
10 **DATA BY GOVERNMENT AGENCIES TO CURB**
11 **IMPROPER PAYMENTS.**
12

13 “(a) DEFINITIONS.—In this section—

14 “(1) the term ‘Commissioner’ means the Commissioner of Social Security;
15

16 “(2) the term ‘Director’ means the Director of
17 the Office of Management and Budget;

18 “(3) the term ‘Inspector General’ has the meaning defined by section 5(e)(1);
19

20 “(4) the term ‘local government’ means the government of a political subdivision of a State;
21

22 “(5) the term ‘payment’ has the meaning given
23 that term under section 2(g) of the Improper Payment Information Act of 2002 (31 U.S.C. 3321
24 note);
25

1 “(6) the term ‘Registry’ means the National
 2 Deaths Registry established under subsection (b)(1);
 3 and

4 “(7) the term ‘tribal government’ means the
 5 government of an Indian tribe, as that term is de-
 6 fined in section 4 of the Indian Self-Determination
 7 and Education Assistance Act (25 U.S.C. 450b).

8 “(b) ESTABLISHMENT OF REGISTRY.—

9 “(1) IN GENERAL.—The Commissioner shall es-
 10 tablish and maintain a registry of information relat-
 11 ing to the deaths of individuals, to be known as the
 12 National Deaths Registry.

13 “(2) INCLUSION OF INFORMATION.—As pro-
 14 vided under this section and in accordance with the
 15 guidance issued under subsection (f), the Commis-
 16 sioner shall include information relating to the
 17 deaths of individuals in the Registry for the purpose
 18 of supporting the Do Not Pay Initiative under sec-
 19 tion 5 and otherwise preventing, identifying, or re-
 20 covering improper payments.

21 “(c) USE OF THE REGISTRY.—

22 “(1) AVAILABILITY TO FEDERAL AGENCIES.—
 23 The Commissioner shall enter into cooperative
 24 agreements with agencies, including Inspectors Gen-
 25 eral—

1 “(A) under which the Commissioner shall
2 provide the information in the Registry (in full
3 and without limitation, as provided in sub-
4 section (h)(1)) to the agency or Inspector Gen-
5 eral for purposes of facilitating—

6 “(i) the making of authorized pay-
7 ments or the prevention, identification, or
8 recovery of improper payments;

9 “(ii) carrying out section 5;

10 “(iii) in the case of the Bureau of the
11 Census, verifying information obtained as
12 part of a decennial census conducted under
13 section 141(a) of title 13, United States
14 Code; or

15 “(iv) other agency functions, including
16 public health or safety, law enforcement,
17 tax administration, health administration
18 oversight, and debt collection, as deter-
19 mined appropriate by the Commissioner
20 and in accordance with guidance issued
21 under subsection (f); and

22 “(B) which shall require the agency or In-
23 specter General to provide reimbursement to
24 the Commissioner for the reasonable cost of
25 carrying out the agreement.

1 “(2) AVAILABILITY TO STATES AND LOCAL AND
2 TRIBAL GOVERNMENTS.—

3 “(A) FOR MAKING FEDERALLY FUNDED
4 PAYMENTS OR AVOIDING FEDERALLY FUNDED
5 IMPROPER PAYMENTS.—The Commissioner
6 shall, to the extent feasible, enter into coopera-
7 tive agreements with States and local and tribal
8 governments—

9 “(i) to provide the information in the
10 Registry to the State or local or tribal gov-
11 ernment for purposes of facilitating the
12 making of authorized payments and the
13 prevention, identification, or recovery of
14 improper payments under federally funded
15 programs; and

16 “(ii) which shall require the State or
17 local or tribal government to provide reim-
18 bursement to the Commissioner for the
19 reasonable cost of carrying out the agree-
20 ment.

21 “(B) FOR PROGRAMS WHOLLY FUNDED BY
22 STATES AND LOCAL AND TRIBAL GOVERN-
23 MENTS.—The Commissioner may enter into co-
24 operative agreements with States and local and
25 tribal governments—

1 “(i) to provide the information in the
2 Registry for purposes relating to programs
3 wholly funded by the State or local or trib-
4 al governments; and

5 “(ii) which shall require the State or
6 local or tribal government to provide reim-
7 bursement to the Commissioner for the
8 reasonable cost of carrying out the agree-
9 ment.

10 “(3) EXCEPTIONAL CIRCUMSTANCES.—The
11 Commissioner may withhold information that would
12 otherwise be required to be disclosed under a cooper-
13 ative agreement under this subsection if the Com-
14 missioner determines there are exceptional cir-
15 cumstances warranting an exception (such as safety
16 of the individual or interference with an investiga-
17 tion).

18 “(4) CONFIDENTIALITY.—Information provided
19 by the Commission under an agreement under this
20 subsection or by an individual to any agency that
21 has entered into a cooperative agreement under this
22 subsection shall be—

23 “(A) considered as strictly confidential;
24 and

1 “(B) used only for the purposes described
2 in this subsection and for carrying out an
3 agreement under this subsection.

4 “(d) REGISTRY REQUIREMENTS.—The Commissioner
5 shall—

6 “(1) implement procedures for identifying and
7 correcting errors, including those identified—

8 “(A) by agencies;

9 “(B) by States and local and tribal govern-
10 ments; and

11 “(C) by members of the public;

12 “(2) include a process for determining the accu-
13 racy of death records in the Registry, including esti-
14 mates of accuracy through the use of statistical sam-
15 pling of errors on a systematic basis;

16 “(3) ensure the Registry is operated and main-
17 tained in accordance with protocols that ensure the
18 secure transfer and storage of any information pro-
19 vided to another entity consistent with applicable
20 laws and best practices of the Federal Government
21 relating to information, privacy, security, and disclo-
22 sure, including protecting social security numbers
23 and other identifiers determined appropriate by the
24 Commissioner; and

1 “(4) make the information in the Registry
 2 available to a contractor of an agency, State, or local
 3 or tribal government for carrying out a purpose de-
 4 scribed in subsection (c)(1) or (c)(2) and in accord-
 5 ance with the cooperative agreement with the agen-
 6 cy, State, or local or tribal government if the agency,
 7 State, or local or tribal government submits to the
 8 Commissioner a certification that the contractor is
 9 in compliance with the requirements of the agency
 10 relating to privacy and security described in para-
 11 graph (3).

12 “(e) REPORTING BY FEDERAL AGENCIES OF ADDI-
 13 TIONAL DEATH DATA TO THE REGISTRY.—

14 “(1) IMPROVED DEATH DATA MATCHING BY
 15 FEDERAL AGENCIES.—

16 “(A) IN GENERAL.—Not later than 90
 17 days after the date of enactment of the Im-
 18 proper Payments Agency Cooperation Enhance-
 19 ment Act of 2013, the Director shall identify
 20 each agency or component of an agency that
 21 operates or maintains a database of information
 22 relating to beneficiaries, annuity recipients, or
 23 other matters such that improved data match-
 24 ing with the Registry would be desirable, as de-
 25 termined by the Director.

1 “(B) MATCHING REQUIREMENT.—

2 “(i) IN GENERAL.—The head of each
3 agency identified by the Director under
4 subparagraph (A) shall establish a data
5 matching procedure under which the agen-
6 cy shall compare information in the data-
7 base of the agency with information in the
8 Registry in order to improve the accuracy
9 and completeness of the information in
10 both the database of the agency and in the
11 Registry relating to the death of individ-
12 uals and to facilitate the prevention, identi-
13 fication, and recovery of improper pay-
14 ments.

15 “(ii) DO NOT PAY PROGRAM.—The re-
16 quirement to establish a data matching
17 procedure under this subparagraph shall
18 not be construed to diminish in any way
19 the requirements for an agency under sec-
20 tion 5, relating to preventing identifying,
21 and recovering improper payments, includ-
22 ing to deceased individuals.

23 “(2) PROMPT REPORTING.—Not later than 1
24 year after the date of enactment of the Improper
25 Payments Agency Cooperation Enhancement Act of

1 2013, each agency identified by the Director under
2 paragraph (1)(A) shall establish a procedure (con-
3 sistent with guidance issued under subsection (f))
4 under which the agency shall, promptly and on a
5 regular basis, submit to the Commissioner informa-
6 tion relating to the death of a Federal beneficiary,
7 Federal annuitant recipient, or other individual rel-
8 evant for the purposes of this section.

9 “(f) GUIDANCE BY THE OFFICE OF MANAGEMENT
10 AND BUDGET.—

11 “(1) GUIDANCE TO AGENCIES.—Not later than
12 6 months after the date of enactment of the Im-
13 proper Payments Agency Cooperation Enhancement
14 Act of 2013, and in consultation with the Council of
15 Inspectors General on Integrity and Efficiency, the
16 Commissioner, and the heads of other relevant agen-
17 cies, the Director shall issue guidance for agencies
18 regarding implementation of this section.

19 “(2) GUIDANCE FOR STATES AND LOCAL AND
20 TRIBAL GOVERNMENTS.—Not later than 6 months
21 after the date of enactment of the Improper Pay-
22 ments Agency Cooperation Enhancement Act of
23 2013, the Director shall provide guidance to States
24 and local and tribal governments relating to access-
25 ing and using information in the Registry.

1 “(3) PLAN TO ASSIST STATES AND LOCAL AND
2 TRIBAL GOVERNMENTS.—The Director shall develop
3 a plan to assist States and local and tribal govern-
4 ments in providing electronically to the Commis-
5 sioner, for use or inclusion in the Registry, records
6 relating to the death of individuals, which shall in-
7 clude recommendations to Congress for any statu-
8 tory changes or financial assistance to States and
9 local and tribal governments that are necessary to
10 ensure States and local and tribal governments can
11 provide such records electronically not later than
12 January 1, 2015.

13 “(g) REPORTING.—

14 “(1) REPORT TO CONGRESS ON IMPROVING
15 DATA MATCHING REGARDING PAYMENTS TO INDIVID-
16 UALS WHO ARE DECEASED.—Not later than 270
17 days after the date of enactment of Improper Pay-
18 ments Agency Cooperation Enhancement Act of
19 2013, the Director, after consultation with the Com-
20 missioner, the heads of other relevant agencies, and
21 States and local and tribal governments, shall sub-
22 mit to Congress a plan regarding how States and
23 local and tribal governments that provide benefits
24 under a federally funded program will improve data
25 matching with the Registry.

1 “(2) ANNUAL REPORT.—Not later than 1 year
2 after the date of enactment of the Improper Pay-
3 ments Agency Cooperation Enhancement Act of
4 2013, and every year thereafter until the date that
5 is 4 years after such date of enactment, the Director
6 shall submit to Congress a report, which may be in-
7 cluded as part of another report submitted to Con-
8 gress by the Director, regarding the implementation
9 of this section and the Improper Payments Agency
10 Cooperation Enhancement Act of 2013. The first re-
11 port under this paragraph shall include the rec-
12 ommendations of the Director described in sub-
13 section (f)(3).

14 “(h) CONSISTENCY WITH THE SOCIAL SECURITY
15 ACT.—

16 “(1) IN GENERAL.—Notwithstanding section
17 205(r) of the Social Security Act (42 U.S.C. 405(r))
18 or any other provision of that Act, the Commissioner
19 may include in the Registry any information pro-
20 vided to the Commissioner pursuant to that Act (in-
21 cluding any information received from a State or
22 any other source) and may use or provide all such
23 information (including information received from
24 States or any other source) as authorized under this

1 section to any agency, including any Inspector Gen-
2 eral.

3 “(2) FUNCTIONS.—To the extent any function
4 of the Commissioner under the Social Security Act
5 (42 U.S.C. 401 et seq.) is the same as a required
6 function of the Commissioner under this section,
7 performance of the function under that Act shall
8 also satisfy the requirement to perform the function
9 under this section.

10 “(3) USE REGARDLESS OF SOURCE OF INFOR-
11 MATION.—The Commissioner may use any informa-
12 tion in the Registry for any purpose authorized
13 under the Social Security Act (42 U.S.C. 401 et
14 seq.), regardless of whether the information was pro-
15 vided to the Commissioner under authority of this
16 section or any provision of the Social Security Act.”.

17 (b) TECHNICAL AND CONFORMING AMENDMENT.—
18 Section 2(g)(3) of the Improper Payments Information
19 Act of 2002 (31 U.S.C. 3321 note) is amended by striking
20 “Federal employee,” and inserting “Federal employee or
21 any other individual in Federal service,”.

1 **SEC. 3. ENHANCEMENT OF PREPAYMENT AND PRE-AWARD**
 2 **PROCEDURES.**

3 Section 5(a) of the Improper Payments Elimination
 4 and Recovery Improvement Act of 2012 (31 U.S.C. 3321
 5 note) is amended—

6 (1) in paragraph (2) by adding, after subpara-
 7 graph (E), the following:

8 “(F) The registry of people who are de-
 9 ceased established by the Commissioner of So-
 10 cial Security under section 7.”; and

11 (2) by adding, after paragraph (2), the fol-
 12 lowing:

13 “(3) AGENCIES TO PROVIDE ACCESS.—Each
 14 agency that operates or maintains a database de-
 15 scribed in paragraph (2) shall provide each other
 16 agency with access to the information contained in
 17 that database for purposes of complying with para-
 18 graphs (1) and (2), subject to such reasonable and
 19 permissible conditions as the agency operating or
 20 maintaining the database establishes.”.

21 **SEC. 4. DATA ANALYTICS.**

22 Section 5 of the Improper Payments Elimination and
 23 Recovery Improvement Act of 2012 (31 U.S.C. 3321 note)
 24 is amended by adding at the end the following—

25 “(h) REPORT ON IMPROPER PAYMENTS DATA ANAL-
 26 YSIS.—Not later than 180 days after the date of enact-

1 ment of the Improper Payments Agency Cooperation En-
2 hancement Act of 2013, the Secretary of the Treasury
3 shall submit to Congress a report, which may be included
4 as part of another report submitted to Congress, which
5 shall include a description of—

6 “(1) data analytics performed as part of the Do
7 Not Pay Initiative for the purpose of detecting, pre-
8 venting, and recovering improper payments through
9 pre-award, post-award pre-payment, and post-pay-
10 ment analysis, which shall include a description of
11 any analysis or investigations incorporating—

12 “(A) review and data matching of pay-
13 ments and beneficiary enrollment lists of State
14 programs carried out using Federal funds for
15 the purposes of identifying eligibility duplica-
16 tion, residency ineligibility, duplicate payments,
17 or other potential improper payment issues;

18 “(B) review of multiple Federal agencies
19 and programs for which comparison of data
20 could show payment duplication; and

21 “(C) review of other information the Sec-
22 retary of the Treasury determines are effective,
23 which may include investigation or review of in-
24 formation from multiple Federal agencies or
25 programs; and

1 “(2) the metrics used in determining whether
 2 the analytic and investigatory efforts have reduced,
 3 or contributed to the reduction of, improper pay-
 4 ments or improper awards.”.

5 **SEC. 5. CURBING IMPROPER PAYMENT OF FEDERAL RE-**
 6 **TIREMENT ANNUITIES TO DECEASED INDI-**
 7 **VIDUALS.**

8 (a) ESTABLISHMENT.—Not later than 60 days after
 9 the date of enactment of this Act, the Director of the Of-
 10 fice of Management and Budget shall convene a task force
 11 of agencies (in this section referred to as the “task force”)
 12 to—

13 (1) identify ways to improve the sharing of in-
 14 formation relating to the death of an individual re-
 15 ceiving an annuity under a Federal retirement pro-
 16 gram; and

17 (2) share best practices for identifying deceased
 18 annuitants.

19 (b) MEMBERSHIP.—The Director of the Office of
 20 Management and Budget shall appoint the members of the
 21 task force, which shall include a representative of—

22 (1) the Department of Defense;

23 (2) the Social Security Administration;

24 (3) the Department of Veterans Affairs;

25 (4) the Office of Personnel Management; and

1 (5) any other agency that provides annuities or
2 is relevant to the oversight of annuity payments.

3 (c) PLAN.—Not later than 270 days after the date
4 of enactment of this Act, the task force shall establish a
5 plan to carry out the purposes described in subsection (a).

6 (d) REPORTS.—The task force shall—

7 (1) not later than 1 year after the date of en-
8 actment of this Act, submit to Congress a report on
9 the plan established under subsection (c); and

10 (2) not later than 2 years after the date of en-
11 actment of this Act, submit to Congress a report on
12 implementation of the plan by agencies.

13 (e) TERMINATION.—The task force shall terminate
14 on the day after the date on which the task force submits
15 the report required under subsection (d)(2).

16 **SEC. 6. AGENCY ACCESS TO POSTAL DATABASE.**

17 Section 412 of title 39, United States Code, is
18 amended—

19 (1) in subsection (a), by striking “subsection
20 (b)” and inserting “subsection (b) or (c)”; and

21 (2) by adding at the end the following:

22 “(c)(1) For purposes of this subsection—

23 “(A) the term ‘agency’ means an executive
24 agency as that term is defined under section 102 of
25 title 31;

1 “(B) the term ‘improper payment’ has the
2 meaning given that term in section 2(g) of the Im-
3 proper Payments Information Act of 2002 (31
4 U.S.C. 3321 note); and

5 “(C) the term ‘Inspector General’ has the
6 meaning given that term in section 5(e)(1) of the
7 Improper Payments Elimination and Recovery Im-
8 provement Act of 2012 (31 U.S.C. 3321 note);

9 “(2) The Postal Service shall provide to agencies (in-
10 cluding to Inspectors General) access to information con-
11 cerning delivery addresses, including the Commercial Mail
12 Receiving Agency lists of known locations of commercial
13 mailbox offices, for purposes of improved detection, pre-
14 vention, and recovery of improper payments.

15 “(3) The provision of information under this sub-
16 section shall be in accordance with such mutually agree-
17 able terms and conditions, including reimbursability, as
18 the Postal Service and the agency or Inspector General
19 determine appropriate.”.

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