Public Law 99-643
99th Congress

An Act

Nov. 10, 1986
[H.R. 5595]

To make permanent and improve the provisions of section 1619 of the Social Security Act, and for other purposes.

Employment Opportunities for Disabled Americans Act. 42 USC 1305 note.

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 "Employment Opportunities for Disabled Americans Act".

SEC. 2. PERMANENT AUTHORIZATION OF PROGRAM OF BENEFITS UNDER SECTION 1619.

Section 201(d) of the Social Security Disability Amendments of 1980 (42 U.S.C. 1382h note) is amended by striking out ", but shall remain in effect only through June 30, 1987".

SEC. 3. ELIGIBILITY OF CERTAIN DISABLED OR BLIND INDIVIDUALS FOR BENEFITS DURING INITIAL TWO MONTHS IN CERTAIN INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e)(1) of the Social Security Act (42 U.S.C. 1382(e)(1)) is amended—

(1) in subparagraph (A) by striking out "and (D)" and inserting in lieu thereof "(D), and (E)";

(2) in subparagraph (B) by inserting "(subject to subparagraph (E))" after "shall be payable"; and

(3) by adding at the end thereof the following new subparagraphs:

"(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 hospital, extended care facility, nursing home, or intermediate care facility throughout any month as described in subparagraph (B),

Post, p. 3575.

"(ii) was eligible under section 1619 (a) or (b) for the month preceding such month, and

"(iii) under an agreement of the public institution or the hospital, extended care facility, nursing home, or intermediate care 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 title (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

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treated as being eligible under section 1619 (a) or (b) for such month for purposes of clause (ii) of such subparagraph.". 42 USC 1382h.

(b) MEDICAID STATE PLAN REQUIREMENT.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following new subsection:

"(l) Notwithstanding any provision of subsection (a) to the contrary, a State plan under this title shall provide that any supplemental security income benefits paid by reason of section 1611(e)(1)(E) to an individual who— *Ante*, p. 3574.

"(1) is eligible for medical assistance under the plan, and

"(2) is in a hospital, skilled nursing facility, or intermediate care facility at the time such benefits are paid,

will be disregarded for purposes of determining the amount of any post-eligibility contribution by the individual to the cost of the care and services provided by the hospital, skilled nursing facility, or intermediate care facility.".

SEC. 4. IMPROVEMENTS TO SECTION 1619 PROGRAM.

(a) CASH BENEFITS.—Section 1619(a) of the Social Security Act (42 U.S.C. 1382h(a)) is amended to read as follows:

"(a)(1) Any individual who was determined to be an eligible individual (or eligible spouse) by reason of being under a disability and was eligible to receive benefits under section 1611 (or a federally administered State supplementary payment) for a month and whose earnings in a subsequent month exceed the amount designated by the Secretary ordinarily to represent substantial gainful activity shall qualify for a monthly benefit under this subsection for such subsequent month (which shall be in lieu of any benefit under section 1611) equal to an amount determined under section 1611(b)(1) (or, in the case of an individual who has an eligible spouse, under section 1611(b)(2)), and for purposes of title XIX shall be considered to be receiving supplemental security income benefits under this title, for so long as— State and local governments. 42 USC 1396.

"(A) such individual continues to have the disabling physical or mental impairment on the basis of which such individual was found to be under a disability; and

"(B) the income of such individual, other than income excluded pursuant to section 1612(b), is not equal to or in excess of the amount which would cause him to be ineligible for payments under section 1611 and such individual meets all other non-disability-related requirements for eligibility for benefits under this title. 42 USC 1382a.

"(2) The Secretary shall make a determination under paragraph (1)(A) with respect to an individual not later than 12 months after the first month for which the individual qualifies for a benefit under this subsection.".

(b) CONTINUING BENEFITS UNDER TITLE XIX.—Section 1619(b) of such Act is amended—

(1) in paragraph (1) by striking out "continues to meet" and inserting in lieu thereof "meets",

(2) in paragraph (4) by striking out "benefits under this title and title XIX" and inserting in lieu thereof "benefits under this title (including any federally administered State supplementary payments), benefits under title XIX, and publicly funded attendant care services (including personal care assistance),", State and local governments.

(3) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively,

(4) by striking out the matter preceding subparagraph (A) (as redesignated by paragraph (3)) and inserting in lieu thereof the following:

Blind persons. State and local governments. 42 USC 1396. *Post*, p. 3577.

"(b)(1) For purposes of title XIX, any individual under age 65 who was determined to be a blind or disabled individual eligible to receive a benefit under section 1611 or any federally administered State supplementary payment for a month and who in a subsequent month is ineligible for benefits under this title (and for any federally administered State supplementary payments) because of his or her income shall, nevertheless, be considered to be receiving supplemental security income benefits for such subsequent month provided that the Secretary determines under regulations that—", and

(5) by adding at the end thereof (after and below subparagraph (D), as so redesignated) the following new paragraphs:

"(2)(A) Determinations made under paragraph (1)(D) shall be based on information and data updated no less frequently than annually.

"(B) In determining an individual's earnings for purposes of paragraph (1)(D), there shall be excluded from such earnings an amount equal to the sum of any amounts which are or would be excluded under clauses (ii) and (iv) of section 1612(b)(4)(B) (or under clauses (ii) and (iii) of section 1612(b)(4)(A)) in determining his or her income.".

42 USC 1382a.

(c) REVIEW PROCESS FOR CERTAIN INDIVIDUALS.—

(1) Section 1631 of such Act (42 U.S.C. 1383) is amended—

(A) in subsection (e)(1)(A) by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraph (B) and subsection (j)", and

(B) by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

42 USC 1382h.

"(j)(1) Notwithstanding any provision of section 1611 or 1619, any individual who—

"(A) was an eligible individual (or eligible spouse) under section 1611 or was eligible for benefits under or pursuant to section 1619, and

"(B) who, after such eligibility, is ineligible for benefits under or pursuant to both such sections for a period of 12 consecutive months,

may not thereafter become eligible for benefits under or pursuant to either such section until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.

"(2)(A) Notwithstanding any provision of section 1611 or section 1619, any individual who was eligible for benefits pursuant to section 1619(b), and who—

"(i)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible for benefits under section 1611 or 1619(a) for a month that follows a period during which the individual was ineligible for benefits under sections 1611 and 1619(a), and

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under

section 1611(b) for that month (if he or she were otherwise eligible for such payments); or 42 USC 1382.

"(ii)(I) on the basis of the same impairment on which his or her eligibility under such section 1619(b) was based becomes eligible under section 1619(b) for a month that follows a period during which the individual was ineligible under section 1611 and section 1619, and 42 USC 1382h.

"(II) has earned income (other than income excluded pursuant to section 1612(b)) for such month or for any month in the 12-month period preceding such month that is equal to or in excess of the amount that would cause him or her to be ineligible for payments under section 1611(b) for that month (if he or she were otherwise eligible for such payments); 42 USC 1382a.

shall, upon becoming eligible (as described in clause (i)(I) or (ii)(I)), be subject to a prompt review of the type described in section 1614(a)(5). 42 USC 1382c.

"(B) If the Secretary determines pursuant to a review required by subparagraph (A) that the impairment upon which the eligibility of an individual is based has ceased, does not exist, or is not disabling, such individual may not thereafter become eligible for a benefit under or pursuant to section 1611 or section 1619 until the individual has reapplied for benefits under section 1611 and been determined to be eligible for benefits under such section.".

(2) Section 1619 of such Act (as amended by subsections (a) and (b) of this section) is further amended—

(A) in subsection (a) by striking out "Any individual" and inserting in lieu thereof "Except as provided in section 1631(j), any individual", and

(B) in subsection (b) by striking out "For purposes of" and inserting in lieu thereof "Except as provided in section 1631(j), for purposes of". *Ante*, p. 3576.

(3) Section 1611 of such Act (42 U.S.C. 1382) is amended by adding at the end thereof the following new subsection:

"Application and Review Requirements for Certain Individuals

"(i) For application and review requirements affecting the eligibility of certain individuals, see section 1631(j).".

(d) CONFORMING AMENDMENTS.—

(1) Section 1611(e) of such Act (42 U.S.C. 1382(e)) is amended by striking out paragraph (4).

(2) Section 1614(a)(3) of such Act (42 U.S.C. 1382c(a)(3)) is amended—

(A) in subparagraph (D) by striking out ", except for purposes of subparagraph (F) or paragraph (4),", and

(B) by striking out subparagraph (F), and by redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively.

(3)(A) Section 1614(a) of such Act (as amended by paragraph (2)) is further amended by striking out paragraph (4) and by redesignating paragraph (5) as paragraph (4).

(B) Section 1631(j)(2)(A) of such Act (as added by subsection (c)) is amended by striking out "section 1614(a)(5)" and inserting in lieu thereof "section 1614(a)(4)".

SEC. 5. NOTIFICATIONS TO APPLICANTS AND RECIPIENTS.

Section 1631 of the Social Security Act (42 U.S.C. 1383) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"Notifications to Applicants and Recipients

Blind persons.
Ante, p. 3577.
42 USC 1382h.

"(k) The Secretary shall notify an individual receiving benefits under section 1611 on the basis of disability or blindness of his or her potential eligibility for benefits under or pursuant to section 1619—

"(1) at the time of the initial award of benefits to the individual under section 1611 (if the individual has attained the age of 18 at the time of such initial award), and

"(2) at the earliest time after an initial award of benefits to an individual under section 1611 that the individual's earned income for a month (other than income excluded pursuant to section 1612(b)) is $200 or more, and periodically thereafter so long as such individual has earned income (other than income so excluded) of $200 or more per month.".

42 USC 1382a.

SEC. 6. LOSS OF SSI BENEFITS UPON ENTITLEMENT TO CHILD'S INSURANCE BENEFITS BASED ON DISABILITY.

(a) IN GENERAL.—Section 1634 of the Social Security Act (42 U.S.C. 1383c) is amended by adding at the end thereof the following new subsection:

Blind persons.

"(c) If any individual who has attained the age of 18 and is receiving benefits under this title on the basis of blindness or a disability which began before he or she attained the age of 22—

"(1) becomes entitled, on or after the effective date of this subsection, to child's insurance benefits which are payable under section 202(d) on the basis of such disability or to an increase in the amount of the child's insurance benefits which are so payable, and

42 USC 402.

"(2) ceases to be eligible for benefits under this title because of such child's insurance benefits or because of the increase in such child's insurance benefits,

42 USC 1396.

such individual shall be treated for purposes of title XIX as receiving benefits under this title so long as he or she would be eligible for benefits under this title in the absence of such child's insurance benefits or such increase.".

42 USC 1383e note.
42 USC 1383c.
42 USC 1381.

(b) STATE DETERMINATIONS.—Any determination required under section 1634(c) of the Social Security Act with respect to whether an individual would be eligible for benefits under title XVI of such Act in the absence of children's benefits (or an increase thereof) shall be made by the appropriate State agency.

(c) CONFORMING CHANGE.—Section 1920(a)(2) of such Act (42 U.S.C. 1396s(a)(2)) is amended—

(1) by inserting "(A)" before "Section", and

(2) by adding after and below subparagraph (A) the following new subparagraph:

"(B) Section 1634 of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to child's insurance benefits under section 202(d) of this Act).".

SEC. 7. MEDICAID ELIGIBILITY FOR CERTAIN RECIPIENTS OF CASH BENEFITS UNDER SECTION 1619.

(a) IN GENERAL.—Section 1619(b) of the Social Security Act (42 U.S.C. 1382h(b)) (as amended by section 4) is further amended by adding at the end thereof the following new paragraph:

"(3) In the case of a State that exercises the option under section 1902(f), any individual who— State and local governments. 42 USC 1396a.

"(A)(i) qualifies for a benefit under subsection (a), or

"(ii) meets the requirements of paragraph (1); and

"(B) was eligible for medical assistance under the State plan approved under title XIX in the month immediately preceding the first month in which the individual qualified for a benefit under such subsection or met such requirements, 42 USC 1396.

shall remain eligible for medical assistance under such plan for so long as the individual qualifies for a benefit under such subsection or meets such requirements.".

(b) CONFORMING AMENDMENT.—Section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (e) and section 1619(b)(3)". 42 USC 1382h.

SEC. 8. PAYMENT OF BENEFITS DUE DECEASED RECIPIENTS.

(a) IN GENERAL.—Section 1631(b)(1) of the Social Security Act is amended— 42 USC 1383.

(1) by inserting "(A)" after "(1)";

(2) by striking out "by recovery from" where it first appears in the first sentence and all that follows down through "The Secretary (A) shall make" and inserting in lieu thereof the following:

"by recovery from such individual or his eligible spouse (or from the estate of either) or by payment to such individual or his eligible spouse, or, if such individual is deceased, by payment—

"(i) to any surviving spouse of such individual, whether or not the individual's eligible spouse, if (within the meaning of the first sentence of section 202(i)) such surviving husband or wife was living in the same household with the individual at the time of his death or within the 6 months immediately preceding the month of such death, or 42 USC 402.

"(ii) if such individual was a disabled or blind child who was living with his parent or parents at the time of his death or within the 6 months immediately preceding the month of such death, to such parent or parents. Children and youth.

"(B) The Secretary (i) shall make";

(3) by striking out "and (B) shall in any event" and inserting in lieu thereof "and (ii) shall in any event";

(4) by striking out "(i) the amount" and "(ii) an amount" and inserting in lieu thereof "(I) the amount" and "(II) an amount", respectively; and

(5) by striking out "clause (B)" and "clause (A)" in the last sentence and inserting in lieu thereof "clause (ii)" and "clause (i)", respectively.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to benefits payable for months after May 1986. 42 USC 1383 note.

SEC. 9. TREATMENT OF CERTAIN COUPLES IN MEDICAL INSTITUTIONS.

(a) IN GENERAL.—Section 1611(e) of the Social Security Act is amended by adding at the end thereof the following new subsection: 42 USC 1382.

State and local governments.

"(5) Notwithstanding anything to the contrary in the criteria being used by the Secretary in determining when a husband and wife are to be considered two eligible individuals for purposes of this title 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 Act may (in the administration of such plan) treat a husband and wife sharing a room or comparable accommodation in a hospital, home, or facility described in paragraph (1)(B) as though they were an eligible individual with his or her eligible spouse for purposes of this title (rather than two eligible individuals), after they have continuously shared such a room or accommodation 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.".

42 USC 1382 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 10. EFFECTIVE DATES.

42 USC 1382h note.

(a) PERMANENT AUTHORIZATION.—The amendment made by section 2 shall become effective on the date of the enactment of this Act.

42 USC 1396a note.

(b) PROGRAM MODIFICATIONS.—

(1) Except as provided in paragraph (2), the amendments made by sections 3, 4, 5, 6, and 7 shall become effective on July 1, 1987.

State and local governments. 42 USC 1396.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation in order for the plan to meet the requirements imposed by the amendments made by section 3(b) and section 7 of this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet such additional requirements until 60 days after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

Approved November 10, 1986.

LEGISLATIVE HISTORY—H.R. 5595 (S. 2209):

HOUSE REPORTS: No. 99-893 (Comm. on Ways and Means).
SENATE REPORTS: No. 99-466 accompanying S. 2209 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 32 (1986):
Sept. 30, considered and passed House.
Oct. 8, considered and passed Senate, amended, in lieu of S. 2209.
Oct. 15, House concurred in Senate amendments with an amendment.
Oct. 16, House agreed to certain Senate amendment, to another with amendments.
Oct. 18, Senate concurred in House amendments.