

# ***The Social Security Fraud and Error Prevention Act of 2014 (H.R. 4090)***

***The Honorable Xavier Becerra (D-CA)***

## ***Section-by-Section Description***

### **Section 1. Short Title**

Provides that the bill will be cited as “The Social Security Fraud and Error Prevention Act of 2014.”

### **Section 2. Fraud and Error Prevention**

- (a) Inserts a new section in the Social Security Act to provide guaranteed annual funding to fight Social Security fraud and errors (the new section replaces an obsolete section)
  - (1) Provides guaranteed, dedicated funding to increase the amount of fraud and error prevention the Social Security Administration (SSA) can do, as a supplement to SSA’s general operating budget.
    - A. Directly appropriates investments for fraud and error prevention (activities listed below), without need for annual appropriation
    - B. Directly appropriates the amount of Social Security civil and criminal fraud penalties available for reinvestment in specified fraud and error prevention activities
  - (2) In addition to the reinvested penalties,
    - A. provides \$1.75 billion in FY 2015,
    - B. \$1.8 billion in 2016-2020, and
    - C. Adjusts \$1.8 billion for inflation using the CPI-U in future years.
  - (3) Limits use of the newly-provided investments to the following activities, which have demonstrated effectiveness in fighting fraud and reducing improper or incorrect payments:
    - A. Medical continuing disability reviews (CDRs) – reviews of current beneficiaries to ascertain whether a beneficiary’s medical condition has improved enough that the individual is no longer eligible for benefits
    - B. Supplemental Security Income (SSI) income redeterminations – reviews to determine whether income exceeds program limits
    - C. Work continuing disability reviews – reviews of current beneficiaries who have earnings to determine whether the individual is able to engage in substantial gainful activity and therefore is no longer eligible for disability benefits
    - D. Establishment or expansion of Cooperative Disability Investigations Units (CDIs) – SSA fraud-fighting teams that include investigators from the Office of Inspector General, front-line SSA staff, and state and local law enforcement partners
    - E. Pre-payment reviews to ensure accuracy of initial disability determinations before the first benefit payment is made
    - F. Quality reviews of administrative law judge decisions, prior to issuing benefit payments, to ensure compliance with Social Security program rules
    - G. Recovery of overpayments

- H. Recovery of and civil monetary penalties
  - I. Prosecuting Social Security fraud
- (4) Requires the Commissioner of Social Security to submit a plan (described below) and report on past work to fight fraud and errors before any of the new investments are available to be spent
- (5) At least 60 days before the start of the fiscal year, requires the Commissioner of Social Security to submit the following report to the Committees on Ways and Means and Finance and to the Office of Management and Budget. The report must include:
- A. SSA's plan for conducting high-impact fraud and error prevention activities (including those funded out of the general operating budget) for the upcoming fiscal year, which would include:
    - i. Dollar amounts SSA plans to spend on each activity in paragraph (3)
    - ii. Estimated long-term savings to Social Security and Treasury, and estimated benefits that eligible individuals receive solely because of improved payment accuracy
    - iii. Performance targets for each activity in paragraph (3)
    - iv. A certification from Social Security's Chief Actuary that the overall plan will improve the actuarial status of the Trust Funds.
  - B. A report on SSA's performance in preventing fraud and errors in the most recently-completed fiscal year which includes:
    - i. Dollar amounts spent on each activity in paragraph (3)
    - ii. Estimated long-term savings to Social Security and actual benefits that eligible individuals receive solely because of new investments in payment accuracy
    - iii. An assessment of the extent to which performance targets for the year were met
    - iv. A corrective action plan for any failure to meet targets
    - v. An assessment of whether that year's funding was adequate to protect the Social Security trust funds, an explanation of any unspent funds, and recommendations for any needed adjustments to funding levels or additional cost-effective activities which should receive special investments
- (6) Requires SSA to continue current levels of general operating budget (Limitation on Administrative Expenses, or LAE) investment in program integrity and use the new investment to increase and expand fraud fighting and error prevention. Current spending includes
- A. Required base funding for medical continuing disability reviews (medical CDRs) and Title XVI redeterminations, as specified in the Budget Control Act of 2011 (\$273 million)
  - B. Fiscal Year 2013 spending from the Social Security Administration's general operating budget (LAE) for the specified activities

### **Section 3. Expansion of Cooperative Disability Investigations Units**

Requires the Commissioner of Social Security to establish Cooperative Disability Investigations Units which cover all 50 states, the District of Columbia, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, and the U.S. Virgin Islands by October 1, 2017.

### **Section 4. Codification of Requirement to Conduct Quality Reviews of Hearing Decisions**

Requires the Commissioner of Social Security to conduct pre-payment quality reviews of hearing decisions in order to ensure compliance with Social Security program rules, in accordance with current regulations which protect decisional independence for Administrative Law Judges and beneficiary rights. The Commissioner would also be required to submit an annual report to the Committees on Ways and Means and Finance on the number of cases selected for review and the number of such cases which were remanded or for which the decision were modified or reversed by the Appeals Council.

### **Section 5. Report on Work-Related Continuing Disability Reviews**

Requires the Commissioner of Social Security to submit an annual report on work CDRs that is similar to the currently-required report on medical CDRs. The report would include the total number of earnings reports received by Social Security, the number of reports that triggered a work CDR, waiting times and completion rates for work CDRs, the number of reviewed beneficiaries who were using Social Security work incentives or other return-to-work supports, and the total savings generated by the reviews.

### **Section 6. Coordination of Reports Related to Disability Benefits**

Allows the Commissioner of Social Security the option of consolidating required reports on medical CDRs, work CDRs, pre-effectuation reviews, quality reviews of administrative law judge decisions, and the report required in Section 2 into one report.

### **Section 7. Increased Penalties in Certain Cases of Fraud.**

- (a) Creates a specific felony for conspiracy to commit Social Security benefit fraud, punishable by fines and up to 5 years in prison.
- (b) Creates a new felony for individuals in positions of trust (such as claimant representatives, doctors and other health care providers, translators, current or former SSA employees, etc. ) who use their specialized knowledge to conspire to defraud Social Security, punishable by fines and up to 10 years in prison.
- (c) Increases the maximum civil monetary penalty SSA can levy against an individual in a position of trust to \$7,500 per knowingly false statement (general penalty is up to \$5,000 per false statement).
- (d) Updates the prohibition against falsely representing yourself as Social Security for the purpose of advertising or solicitation, to clarify that the prohibition includes electronic and Internet communications.

- (e) Increases the maximum civil monetary penalty Social Security can levy against an individual for making or causing to be made a knowingly false statement by adjusting it for inflation once every four years, similar to the inflation adjustment made for other civil monetary penalties under the Federal Civil Penalties Adjustment Act of 1990.

#### **Section 9. Exclusion of Certain Medical Evidence in Disability Cases**

Requires the Commissioner of Social Security to bar medical evidence provided by a physician or other health care provider who has been suspended from practice in any state, or has been assessed a penalty for Medicare or Social Security fraud, unless the Commissioner determines there is good cause for allowing the evidence. This provision becomes effective with the publication of a final regulation, which must be within one year of the bill's enactment.

#### **Section 10. Repeal of Certain Adjustments to Discretionary Spending Limits**

Repeals the Budget Control Act provision which authorized the Appropriations Committee to provide SSA with additional appropriated funding for specific program integrity activities above the annual cap on discretionary spending, since those activities will now be funded under Section 2.