

- Cannot provide evidence of alien status, and regardless of residency, are entitled to federally funded benefits for which a Federal statute or regulation requires an SSN.

Examples of these benefits include Social Security benefits, Supplemental Security Income benefits, Medicaid, and Temporary Assistance for Needy Families.

Prior to March 1, 2002, our operational instructions permitted us to assign an SSN for a nonwork purpose to aliens who:

- Cannot provide evidence of alien status and, whether or not they reside in the U.S., are entitled to federally-funded benefits for which a Federal statute or regulation requires an SSN; or
- Are legally in the U.S., if there is a Federal, State, or local statute or regulation that requires them to provide SSNs to get a particular benefit or service.

In the case of such a State or local statute or regulation, the statute or regulation must be related to the administration of taxes, general public assistance, driver licensing, or motor vehicle registration (section 205(c)(2)(C)(i) of the Act). If entitlement to a State or local benefit or service is the alien's sole reason for requesting an SSN, the alien must submit documentation from the applicable government entity. We take great care to ensure that only eligible applicants are assigned SSNs and that our records accurately reflect the basis for assignment of the SSNs. Therefore, documentation must identify the alien, describe the State or local benefit/service for which an SSN is required, and confirm that the alien meets all requirements for the benefit/service except for providing an SSN.

If we issue an SSN to an alien for a nonwork purpose, the SSN card is marked with a nonwork legend that reads "NOT VALID FOR EMPLOYMENT." If earnings are reported to us on an SSN issued for a nonwork purpose, we provide the INS with information regarding the reported earnings pursuant to section 290(c)(2) of the Immigration and Nationality Act.

In July 1996, the Internal Revenue Service (IRS) began assigning Individual Taxpayer Identification Numbers (ITINs) for tax purposes to individuals who are not eligible for SSNs but who need to report income for tax purposes. This change in IRS policy eliminated one of the primary reasons that aliens not authorized to work had sought SSNs for nonwork purposes. On October 22, 1998, we published final rules at 63 FR 56552 that eliminated the references to IRS tax reporting purposes as a valid

nonwork reason for assignment of an SSN.

After the July 1996 IRS change, the remaining valid nonwork reasons for assignment of SSNs were generally limited to eligibility for federally-funded benefits and use of the SSNs by State governments to administer statutes governing the issuing of driver's licenses, registering of motor vehicles, and in administering general public assistance programs.

On October 12, 1999, we published an Advance Notice of Proposed Rulemaking (ANPRM) at 64 FR 55217 seeking comments on a proposal to further restrict the issuance to lawfully admitted aliens of SSNs for nonwork purposes. In the ANPRM, we proposed limiting assignment of nonwork SSNs to when there is a federal statute or regulation that requires the alien to furnish an SSN to receive a federally-funded benefit or service and the alien is legally in the U.S. but not under authority of law permitting him or her to work in the U.S.

Additional restrictions on assignment of SSNs for nonwork purposes are needed because available SSA data suggest that some individuals assigned SSNs for nonwork purposes, especially for driver's licensing, misuse those SSNs to work illegally in the U.S. Wages have been reported to us on SSNs assigned for nonwork purposes. SSN misuse can impact all levels of government in the form of illegal employment in the U.S. and fraudulent entitlement to Federal and State benefits and services. We have posted on our Web site a report from SSA's Inspector General entitled "Work Activity for Social Security Numbers Assigned for Nonwork Purposes in the State of Utah." The report can be found at www.socialsecurity.gov/oig/ADOBEPDF/A-14-01-11048.pdf.

We have, with the assistance of the American Association of Motor Vehicle Administrators and the support of the U.S. Department of Transportation, combined efforts to assist States that currently require SSNs for driver licensing and motor vehicle registration purposes to develop alternative identifier systems to accommodate individuals not authorized to work in the U.S. We understand that most States, though not all, have now completed arrangements for alternative identifier systems.

Explanation of Proposed Changes

422.107 Evidence Requirements

In-Person Interview

We propose to amend § 422.107 of our regulations to require an individual age

12 or older be present at an in-person interview before assignment of an original SSN. Furthermore, we will attempt to determine if an SSN had been previously assigned by asking additional questions of the applicant and, if a previously assigned SSN cannot be located, why an SSN was not obtained at an earlier time.

We believe that this measure offers necessary additional protection against fraud while minimizing the burden on the public because:

- At age 12, a child may have picture identification, such as a student identification card, which can be used for comparison purposes, or alternatively, a child age 12 or older should have other convincing documentary evidence of identity available.

- Although the parent or another adult will be in attendance, and may be the primary respondent, we believe that requiring SSN applicants age 12 or older to be interviewed in person will significantly reduce opportunities for fraudulent applications.

- A 12-year old may be able to provide answers to some questions without parental assistance.

- This measure will have limited applicability as generally it should be rare for a person to obtain an SSN for the first time as late as 12 years of age.

We believe that the proposed age 12 threshold for in-person interviews provides a balance between allowing us to screen effectively for a prior SSN without being overly burdensome on the children or their parents. When considering the age at which to set the in-person interview, we felt that it was rare for individuals to obtain an SSN for the first time as late as 12 years of age. However, we rejected setting the threshold at a younger age because we felt that requiring the presence of younger children at in-person interviews would be overly burdensome on the children and unproductive for us, even with the parent in attendance.

Section 11111 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508) amended the Internal Revenue Code (IRC) section 32 (concerning the earned income credit). The amendment requires individuals filing tax returns after December 31, 1991 to include the taxpayer identification number—usually the SSN—of each qualifying child age 1 or older. The Uruguay Round Agreements Act (Pub. L. 103-465) amended IRC section 6109 to generally require that individuals include the taxpayer identification number of each dependent for whom an exemption is claimed, regardless of age, for taxable years beginning after December 31,