

1994. Additionally, SSNs generally are required for the receipt of government aid or assistance. Children who have not been claimed on tax returns or have not received any government assistance, may have needed SSNs for medical insurance purposes, savings accounts or other financial instruments, often within a short time after birth. Because most children generally will have an SSN before their first birthday, we believe that lowering the age for a mandatory interview is in accord with our goals for fraud prevention because an explanation is needed when a child does not obtain an SSN at a very early age.

Furthermore, available SSA data suggest that some individuals assigned SSNs prior to age 18 have obtained those SSNs fraudulently because we sought no additional development and documentation before assigning an SSN. Lowering the age at which additional documentation is required should limit further occurrences of fraudulently attained SSNs for children. This form of SSN misuse can impact all levels of government in the form of illegal employment and fraudulent entitlement to government benefits and services. In addition, an SSN improperly assigned could be used to defraud creditors and other businesses.

Evidence of Identity

Evidence of identity is required for all SSN applicants, regardless of age. We propose to eliminate the provision to waive the requirement for evidence of identity for children under age 7 when an original application for an SSN is filed. Thus, an SSN will not be assigned to a child under age 7 without all the evidentiary requirements being met. Such evidence requirements also have a direct correlation with the prevention of fraud. Through convincing documentary evidence of identity, the individual's continued existence is established in our records, thus limiting opportunities for fraud, such as identity theft.

We intend to clarify that the identity document should contain sufficient biographical or physical information to identify the applicant (e.g., contain the applicant's name plus age, date of birth, or parents' names and/or a photograph or physical description). Identity documents containing biographical or physical data can be used for comparison with data SSA already has or with other documents the applicant may submit in connection with the application for an SSN card. A birth record is not sufficient evidence to establish identity. In a 2000 audit, SSA's Inspector General indicated that SSA assigned SSNs to individuals whose

U.S. birth certificates were counterfeit. Individuals typically posed as the mothers of nonexistent children and presented counterfeit birth certificates as evidence. This audit can be found at <http://www.ssa.gov/oig/ADOBEPDF/A-09-98-41009.pdf>. Requiring an identity document other than a birth certificate will make it harder for fraudulent applicants to obtain SSNs under a fictitious identity because they must obtain additional evidence. This requirement should not unduly burden legitimate applicants because sufficient proof of identity, such as a medical record or school record, will normally exist, even for the very young.

The pilot project on providing replacement SSN cards by telephone, which we were conducting on the issuance of duplicate SSN cards for U.S. citizens, has been completed. Therefore, we propose to remove the rules pertaining to this pilot.

422.104 Who Can Be Assigned a Social Security Number

We also propose to amend § 422.104 of our regulations to define what we consider to be a valid "nonwork reason" for assigning an SSN to an alien who does not have evidence of authority permitting him or her to work. This proposal defines the only valid nonwork reasons for assigning an SSN to such an alien as:

- To satisfy a Federal statute or regulation that requires the alien to have an SSN in order to receive a Federally-funded benefit (such as Temporary Assistance to Needy Families) to which the alien has established entitlement; or
- To satisfy a State or local law that requires an alien who is legally in the U.S. to have an SSN in order to receive general public assistance benefits (such as state-funded General Assistance) to which the alien has established entitlement.

Thus, under the clarification that we are proposing, State and local entities would be able to continue to require individuals to disclose their already assigned SSNs for purposes of receiving benefits or services. However, we would no longer assign an SSN to an alien for any nonwork purpose other than to receive Federal, State or local benefits as described in the proposed changes to § 422.104.

Advance Notice of Proposed Rulemaking

We received several comments in response to the ANPRM we published on October 12, 1999 (64 FR 55217) regarding SSNs for nonwork purposes. Most of the commenters expressed general support for the proposed change

in regulations contained in the ANPRM. Many of the commenters, however, did recommend revisions in the rule.

The proposed rules in this NPRM incorporate changes made in response to these comments.

Comment: Several commenters expressed concern that the rule change proposed in the ANPRM regarding SSNs for nonwork purposes could have a potential impact on access to public assistance programs.

Response: We agree with these commenters. Hence, the changes that we are now proposing maintain our policy of issuing SSNs when a State or local law requires the alien to have an SSN in order to receive general public assistance benefits to which the alien has established entitlement.

Comment: Some commenters indicated that our proposed change did not go far enough and that SSNs should only be assigned for SSA programmatic purposes.

Response: Limiting assignment of SSNs for only SSA programmatic purposes is not legally permissible. Section 205(c)(2)(B)(i)(II) of the Social Security Act requires us to assign an SSN to any individual who is an applicant for or recipient of a benefit funded in whole or in part with Federal funds.

Furthermore, there are also State laws that require individuals to have SSNs to receive benefits or services. While there is no federal mandate for us to assign SSNs for those purposes, the Social Security Act does permit the States to use the SSN in the administration of their tax, general public assistance, drivers' licenses or motor vehicle laws. In the past, we assigned SSNs for those purposes. Once the IRS began issuing ITINs, the need for SSNs for State tax purposes was eliminated as States accept ITINs in lieu of an SSN. While we could also have decided to stop assigning SSNs for general public assistance benefits, we propose to continue to assign SSNs when required for State public assistance in order to allow States to provide needed assistance to non-citizens and because experience shows that SSNs assigned for such programs have not resulted in significant SSN misuse.

Comment: Several commenters expressed concern that the elimination of drivers' licenses and motor vehicle registration as valid nonwork reasons for assigning an SSN would have a negative impact on the ability of States to track problem drivers.

Response: We recognize that our change in policy may present some challenges to State motor vehicle administrations that identify all drivers