

issued an SSN if the person is not otherwise eligible for one as a condition of receiving a license. This interpretation of 42 U.S.C. 666(a)(13) is also held by the Department of Health and Human Services, Office of Child Support Enforcement (OCSE), which enforces this statutory provision. See the memorandum from the Commissioner of OCSE, dated July 14, 1999 at <http://www.acf.dhhs.gov/programs/cse/pol/piq-9905.htm>.

Comment: Numerous commenters expressed their concerns that aliens without work authorization often have difficulties obtaining goods or services without an SSN. Specific concerns mentioned by commenters include difficulty in obtaining cell phones, credit cards, mortgages, bank accounts, marriage and professional licenses, various forms of insurance, admission to academic institutions and financial aid for student loans.

Response: None of the concerns raised by these commenters are affected by this rule change, as none of these examples previously represented a "valid nonwork reason" for obtaining an SSN.

We understand that some States and private entities sometimes request or require an SSN for the various services mentioned by the commenters. However, as described in our response to the previous set of comments above, the primary use of SSNs is for SSA to track earnings over a worker's lifetime.

In-Person Interview

Comment: One individual commented that age 12 is too young for a child to appear for a personal interview. The commenter indicated that the Bureau of Citizenship and Immigration Services does not require children under age 14 to be fingerprinted. In addition, the Legal Aid Foundation of Los Angeles said that the proposal to require minors age 12 and up to appear for an in-person interview was inappropriate because a minor was unlikely to have personal knowledge as to why an SSN was not issued earlier or to otherwise properly represent themselves in an interview setting. Additionally the Legal Aid Foundation of Los Angeles indicated that not all children had photo identification or other documents that could be used as evidence of identity.

Response: We are lowering the mandatory interview age because our data suggest that some SSNs assigned prior to age 18 are at higher risk for fraud. By establishing the need for additional development and documentation at an earlier age, we will eliminate this opportunity for fraud.

SSN fraud 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.

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. In setting the age 12 threshold, we considered that it was rare for individuals to obtain an SSN for the first time as late as 12 years of age because children must have SSNs to be shown as dependents on Federal Income Tax Returns and to receive most Federal and State benefits. 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 have been overly burdensome on the children and unproductive for SSA, even with the parent in attendance. Furthermore, while the commenter states that a child would not have the knowledge to answer these questions, we anticipate that these interviews will be conducted with the parent/authorized representative and the child.

We acknowledge that children are not required to appear in person when applying for a U.S. passport when they are under age 14. However, a U.S. passport is generally not required to function in U.S. society, while an SSN is generally needed shortly after birth to be listed as a dependent on a Federal Income Tax Return or to obtain general public assistance benefits. Therefore, we believe that it is appropriate to require additional screening when a 12-year-old has not obtained an SSN previously.

Relative to evidence of identity, we agree that not all children will have photo identification. We do not require that individuals provide photo identification to obtain an SSN. Very young children may have clinic or hospital records, church or daycare records or records from a social services organization which can be used to establish identity. Furthermore, parents are offered the opportunity to apply for the SSN during the birth registration process at the hospital or with the midwife. In this scenario, the parent does not have to do or provide anything other than his or her acceptance for an SSN to be assigned.

Other Comments

In response to one comment suggesting that our proposed language in § 422.104(a)(3)(i) and (ii) lacked specificity, we added the word "otherwise" prior to the phrase "established entitlement." This change

clarifies that the alien requires an SSN to fully establish entitlement and that merely meeting the other established criteria is not sufficient to receive the benefit. Additionally, we rewrote some of the language in § 422.104(a)(3) to improve clarity but did not change the substance. We also added the phrase "such as" prior to "NOT VALID FOR EMPLOYMENT" in § 422.104(a)(3)(b) to allow for future changes in the precise language of the legend. We also changed the name "Immigration and Naturalization Service" to "Department of Homeland Security" to reflect the new organization that administers immigration matters. Finally, we added information throughout the preamble to more fully explain our proposed rule changes.

Changes in the Final Rules

Other than the changes described under "Other Comments" above we have made no changes from the proposed rules.

Regulatory Procedures

Executive Order 12866, as Amended by Executive Order 13258

The Office of Management and Budget (OMB) has reviewed these rules in accordance with Executive Order 12866 as amended. We have also determined that these rules meet the plain language requirement of Executive Order 12866.

Regulatory Flexibility Act

We certify that these rules would not have a significant economic impact on a substantial number of small entities because they would affect only individuals. Thus, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

Federalism

We have reviewed these regulations under the threshold criteria of Executive Order 13132 and have determined that they would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As noted above, we will continue assigning SSNs for State general assistance benefit-related purposes. The impact is limited to those States that have not developed an alternative system for identifying individuals who are seeking drivers' licenses and are not eligible for SSNs.

Paperwork Reduction Act

These rules contain reporting requirements in § 422.107. We have been collecting this information under