

a citizen or national of the United States, taking up residence in a country to which payments are withheld by the Treasury Department (Treasury) under 31 U.S.C. 3329. If a disqualifying event occurs and we have not yet found you qualified for SVB, we will deny your SVB claim. If we found you met all the requirements for SVB when the disqualifying event occurs, we will suspend your SVB payments.

Suspension and Termination of SVB

Section 810(d) of the Act authorizes the Commissioner of SSA to prescribe appropriate regulations for suspending SVB payments and terminating SVB entitlement. Once you are qualified for SVB, we will suspend your SVB payments if:

- You are no longer residing outside the United States;
- You fail to give us information we need in connection with your claim;
- We are unable to locate you;
- The amount of your other benefit income increases so that it exceeds the maximum SVB payable (75 percent of the SSI Federal Benefit Rate (FBR) payable to an individual);
- You are removed (including deported) from the United States pursuant to section 237(a) or 212(a)(6)(A) of the Immigration and Nationality Act;
- You are fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the United States or the jurisdiction in the United States from which you fled, for a crime or an attempt to commit a crime that is a felony under the laws of the place from which you fled, or in the case of the State of New Jersey, is a high misdemeanor;
- You violate a condition of probation or parole imposed under Federal or State law; or
- You are not a citizen or national of the United States and begin residing in a country to which payments to residents of that country are withheld by the Treasury Department under 31 U.S.C. 3329.

We will terminate your SVB entitlement for any one of the following reasons:

- Your benefit payments are suspended for 12 consecutive calendar months;
- You file a written request that we terminate your entitlement; or
- You die.

Overpayments and Underpayments

Section 808 of the Act deals with overpayments and underpayments under the SVB program. With respect to overpayments, section 808 authorizes

the Commissioner to recover an SVB overpayment by reducing the amount of any future SVB payments you are due unless you refund the full amount of the overpayment to us. If we are unable to recover the overpayment by direct refund or benefit withholding (for example, because your SVB payments are in suspense), section 808 authorizes us to adjust the amount of any social security benefits you receive under title II of the Act. We will also notify the Secretary of the Treasury to withhold the overpayment from any Federal income tax refund you may be due in the future, as authorized under 31 U.S.C. 3720A. Section 808(c) of the Act further stipulates that there will be no adjustment of benefits or other overpayment recovery if you were without fault in creating the overpayment and adjustment or recovery would defeat the purpose of title VIII or be against equity and good conscience. If you die and have an outstanding SVB overpayment, we will seek refund of the overpayment from your estate.

With respect to underpayments, section 808 specifies that, if you are living at the time we take action on the underpayment, we will pay the amount due directly to you or to your representative payee, if one has been appointed. If you die before we make the payment to you, the amount due reverts to the general fund of the United States Treasury.

Determinations and the Administrative Review Process

Section 809 of the Act gives you the right to request that we review our determinations about your qualification for or entitlement to or the amount of your SVB payments. We also give you the right to request review of certain other determinations we make that you disagree with. We refer to determinations on which you may request administrative review as "initial determinations." Our administrative review process consists of several steps, which usually must be requested within certain time periods and in the following order:

- Reconsideration;
- Hearing before an administrative law judge (ALJ); and
- Appeals Council (AC) review.

These are the same steps we provide for review of initial determinations under the titles II and XVI programs.

Claimant Representation

Titles II and XVI of the Act contain detailed provisions on claimant representation that give individuals the right to select another person (including

an attorney) to represent them in their dealings with us and that regulate many aspects of that relationship. Though title VIII contains no specific provisions on claimant representation, we propose to extend to the SVB program by regulation many of the rules we follow on claimant representation in the SSI program. Specifically, we believe the SSI rules on the appointment, authority, conduct, and standards of responsibility of a representative should also apply to the SVB program. We also believe that the SSI rules we follow when a representative violates any of these requirements, rules, or standards should apply to a representative under the SVB program. However, we do not plan to extend to the title VIII program the SSI rules that apply to fees a representative may charge.

Federal Administration of State Recognition Payments

Section 810A of the Act authorizes SSA to enter an agreement with any State (or one of its political subdivisions) that provides cash payments (referred to as State recognition payments) on a regular basis to individuals who are entitled to SVB under which SSA will make the payments on behalf of the State. Under section 810A, any State that enters into an agreement must pay to SSA an amount equal to the recognition payments made on its behalf as well as a separate fee to cover SSA's costs of administering the State program.

Explanation of New Subparts

We are adding six new subparts to part 408 of our regulations and reserving an additional subpart for future use. Following is a list of the proposed subparts that includes a brief description of each proposed section in the subpart. We are also revising § 408.101 to add these new subparts to the overview of part 408.

Subpart F—Reserved for Future Use

We propose to reserve for future use subpart F in part 408 for our rules on representative payment of SVB. We plan to issue those proposed rules at a later date.

Subpart G—Reports Required

This subpart would explain which events you must report to us after you file for SVB, what information your reports must include, and when your reports are due. Specifically:

- Section 408.701 provides an overview of what subpart G is about.
- Section 408.704 explains that you are responsible for making your own reports if you receive your own benefits.