

PROGRAM OPERATIONS MANUAL SYSTEM
Part 05 - Supplemental Security Income
Chapter 005 - Eligibility
Subchapter 02 - SSI Alien Eligibility
Transmittal No. ##, mm/yyyy

Audience

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Upon Receipt

Background

On September 30, 2008, the President signed into law “The SSI Extension for Elderly and Disabled Refugees Act” (P.L. 110-328). This legislation temporarily extends the 7-year SSI eligibility period for certain refugees, asylees, and other humanitarian immigrants, including victims of human trafficking, to 9 years. The 2-year extension applies to those aliens who were suspended or terminated due to the expiration of the 7-year eligibility period during the time period from August 22, 1996, to September 30, 2008.

Summary of Changes

SI 00502.107 Supplemental Security Income (SSI) Extension for Elderly and Disabled Refugees Act

This section was revised and provides additional processing instructions and clarifies several aspects of P.L. 110-328, as follows:

- Provides full processing instructions based on the alien status as of 10/01/08: Those aliens who were suspended or terminated prior to 10/01/08; those aliens whose benefits were continued as of October 1, 2008 or later; and new applications taken as of 10/01/08, or later.

- Explains the eligibility requirements for the extension, including verification of alien status as of 10/01/08, and how to verify pending applications for naturalization.
- Provides instructions on verification of alien eligibility for the extension.
- Clarifies processing instructions for beneficiaries who are age 18, age 70 or over, or those who applied for naturalization after 10/01/08.
- Provides instructions on processing and storage of the good faith declaration to pursue U.S. citizenship.
- Provides instructions for treatment of disability issues.
- Provides instructions on how to address overpayments.
- Provides systems instructions on how to process cases in N13, T30, T31, and T33.
- Provides instructions on treatment of couple cases and IAR.
- Explains the basics of the Kaplan class action court case and its potential effect on SSI beneficiaries who have pending applications for naturalization or adjustment of status with the U.S. Citizenship and Immigration Services.
- Clarifies who is a Cuban/Haitian entrant per SI 00502.108 (SSI Eligibility for Cuban/Haitian Entrants).
- Provides exhibits of the SSA-795 OP-1 Good Faith Declaration, and the Notice to be mailed to potentially eligible beneficiaries.
- Provides clarifications and language on award, denial and reinstatement notices.

00502.107 Supplemental Security Income (SSI) Extension for Elderly and Disabled Refugees Act

A. Background for P.L. 110-328, The SSI Extension for Elderly and Disabled Refugees Act

On September 30, 2008, the President signed into law “The SSI Extension for Elderly and Disabled Refugees Act” (P.L. 110-328). This legislation temporarily extends the 7-year SSI eligibility period for certain refugees, asylees, and other humanitarian immigrants, including victims of human trafficking, to 9 years. The 2-year extension applies to those aliens who were suspended or terminated due to the expiration of the 7-year eligibility period during the time period from August 22, 1996 to September 30, 2008.

The legislation also provides an additional third year of eligibility to aliens with an application for citizenship pending with the Department of Homeland Security (DHS), or who are approved for naturalization and are waiting to be sworn in as a U. S. citizen.

Additional benefits are payable under this law **ONLY** during the period October 1, 2008, through September 30, 2011.

B. Policy on eligibility for the benefit extension

1. Procedures for determining eligibility for aliens affected by this legislation depend on the alien's status as of 10/01/08

a. Aliens whose benefits were suspended or terminated before 10/01/08

The 2-year extension applies to aliens who were suspended or terminated and whose seven-year eligibility period expired during the time period from August 22, 1996 to September 30, 2008. After eligibility for the extension has been determined, SSI benefits will be paid for 2 years beginning October 1, 2008, or whenever the beneficiary meets all requirements for eligibility, whichever is later. No benefits under the extension will be paid after September 30, 2011.

b. Aliens receiving benefits on 09/30/08 or later

For those qualified aliens whose benefits were continued as of September 30, 2008, the 7-year eligibility period is extended up to 9 years during the period **October 1, 2008** through **September 30, 2011**. Effective **October 1, 2011**, the time limit reverts to 7 years.

c. New applications on or after 10/01/08

For any new application filed by those aliens who may qualify under the new legislation, the time-limited eligibility period will be 9 years through **September 30, 2011**. Effective **October 1, 2011**, the time limit reverts to 7 years. In addition, only those applicants whose date of alien status attainment is less than 9 years from the date of the application can qualify for the extension.

REMINDER: This law only applies **October 1, 2008**, through **September 30, 2011**, so the 7-year time limit will again apply after **September 30, 2011** even if the alien has a citizenship application pending at that time.

2. Additional requirements for two-year extension

An alien who was subject to the 7-year limit on SSI eligibility (SI 00502.106 (Time Limited Eligibility for Certain Aliens)) and an alien who is a victim of human trafficking may be paid two additional years of benefits IF he or she also:

- a. has been a lawful permanent resident (LPR) for less than 6 years (as of 10/01/08) and that status has not been abandoned, rescinded, or terminated through removal proceedings; or
- b. has applied for status adjustment to become LPR within 4 years from the date he or she began to receive SSI and such application is still pending; or

- c. is a Cuban/Haitian entrant as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (SI 00502.108 (SSI Eligibility for Cuban/ Haitian Entrants)); or,
- d. has had his or her deportation withheld by the Secretary of Homeland Security under sections 243(h) of the Immigration and Nationality Act (INA) or whose removal is withheld under Section 241(b)3 of such Act; or
- e. has not attained age 18 as of 10/01/08; or
- f. has attained age 70.

IMPORTANT: An alien meeting one of these conditions **must** also complete a declaration stating that he or she is making or has made a good faith effort to obtain U. S. citizenship unless the alien is under age 18. See SI 00502.107C. (in this section) for more information about the declaration.

NOTE: Aliens also must meet **all** applicable SSI eligibility requirements, including continued disability, and income and resource limitations.

3. Extension of time-limited eligibility for aliens who have pending applications for citizenship or are waiting to be sworn in as U.S. citizens

Aliens previously subject to the 7-year time limit are exempt from the time limit on eligibility during the period October 1, 2008, through September 30, 2011, if they have a naturalization application pending, or if they have been approved for naturalization and are awaiting the citizenship swearing-in ceremony.

NOTE: Aliens who do not have citizenship applications pending can only receive two additional years of benefits under this new legislation.

C. Policy on effort to pursue citizenship

In order to be eligible for the temporary extension, an alien must prove that he or she has applied for naturalization or sign, under the penalty of perjury, a declaration that he or she has made or is making a good faith effort to pursue U.S. citizenship.

Declaration of Good Faith: Aliens under age 18 and those who have already applied for naturalization or are awaiting the oath of citizenship do not need to sign the declaration.

The good faith declaration states:

“It is my intention to become a citizen of the United States if and when I am permitted by law to do so. And that I have made a good faith effort to pursue United States citizenship by filing and pursuing timely application for naturalization, lawful permanent residence, and/or such other benefit under the immigration laws that may lead to United States citizenship.”

The declaration language is overprinted onto an SSA-795-OP-1 (Statement of Claimant or Other Person) and is available through the

Forms Inventory Control System (FICS). The overprinted SSA-795 also contains the penalty clause and the privacy act statement. You can download the form using this link: <http://ssa.host.ba.ssa.gov/oplm/opum/PDFs/ssa795op.pdf> and reproduce it locally as needed. A copy of the form is also contained in SI 00502.107K.1 (in this section).

D. Process description of reinstatements under interim instructions

1. Aliens who were suspended or terminated prior to October 2008

Aliens who terminated between 08/22/96 and 09/30/08 and asked for the extension under P.L. 110-328 were screened to determine if they met most of the criteria for the extension and, if eligible, were reinstated under interim instructions. However, the reinstatements were done without obtaining the declaration of good faith mentioned in SI 00502.107C. (in this section) and without an assessment of continued disability. Now they must be re-contacted to verify their eligibility for the extension. FOs will receive a list of the aliens in their service areas who must be re-contacted.

NOTE: Many of the aliens who were suspended or terminated prior to October 2008, have not applied for reinstatement. Central Office will send notices to as many beneficiaries as we can identify; informing them about the potential for extended benefits, and ask them to contact SSA to set up an appointment with their local field offices. See SI 00502.107K.2. (Notice to Terminated Beneficiaries) for a copy of that notice. Since we may not send notices to all potentially eligible aliens, you should develop for eligibility for the extended benefits for any beneficiary who was previously entitled to SSI under a time-limited alien category.

2. Aliens whose 7-year eligibility period ended in October or November 2008

Central Office previously provided lists to the Regions of beneficiaries whose benefits were scheduled to end in October and November 2008. Benefits to these aliens were manually reinstated through force due procedures under the interim processes and instructions. However, the reinstatement was done without verifying their eligibility for the extension. The reinstatement was also done without obtaining the declaration of good faith mentioned in SI 00502.107C. (in this section) and without an assessment of continued disability. These aliens must be recontacted to verify their eligibility for the extension. FOs will receive a list of the aliens in their service areas who must be re-contacted.

3. Aliens whose 7-year eligibility period ended on or after December 1, 2008

Beginning December 2008, Central Office suppressed the suspensions for expiration of the 7-year period. Because the suspensions were automatically suppressed, payments were continued without verifying eligibility for the extension, without obtaining the declaration of good

faith mentioned in SI 00502.107C. (in this section), and without an assessment of continued disability. Field offices must contact those aliens whose suspensions were suppressed to verify their eligibility for the extension. FOs will receive a list of the aliens in their service areas who must be re-contacted.

E. Procedure for developing eligibility for the extension—aliens whose 7-year eligibility periods ended prior to 10/1/08 and were manually reinstated

1. Contact the beneficiary

If the beneficiary's payments were reinstated per SI 00502.107D. (in this section), contact the beneficiary and set up an appointment to have him or her submit the documentation that was not obtained at the time of reinstatement. Send an SSA-L8003 (Supplemental Security Income Request for Information), using the following language as a guide:

“When we started your SSI payments again, we told you that we were going to recontact you to verify that you were eligible to receive the 2-year benefit extension. Please call our office to schedule an appointment. The phone number is at the top of this letter. When you come in, please bring your immigration documents or citizenship application receipt and this letter with you.”

Follow the guidelines in SI 02306.020 (SSA-L8003-U2 and SSA-L8004-U2, Supplemental Security Income Request for Information – Posteligibility) and SI 02301.235 (Failure to Provide Information (N20)) and ask the beneficiary to respond within 30 days. Send a follow-up request after 15 days. If the beneficiary does not respond after 30 days, force due benefits to zero effective with 10/01/08 (or the reinstatement date if it is later than 10/01/08) and deny the claim as N13. Process any overpayment under current guidelines in SI 02220.000.

NOTE: Follow the guidelines in SI 00502.107G.(in this section) for aliens who have not been reinstated and who come into the office as a result of the direct mailing.

2. Verify citizenship

If the alien has attained citizenship, verify per GN 00303.300E. and complete an unscheduled RZ (SI 02305.022), if appropriate. To initiate payment, T33 and Start Date the record via SSA-450SI to continue benefits (MSOM MSSICS 007.003). Code the AR field as “C” on the new SD record.

NOTE: If the citizenship attainment date is AFTER 10/01/08, follow the instructions in the SI 00502.107E.3. (in this section) to determine if the person can be paid under the rules for the extension prior to the citizenship attainment date.

3. Verify eligibility for the extension

- a. Determine if the alien is in one of the categories covered by the legislation

These aliens should already have had their alien status verified and that they met all other factors of eligibility. If it appears that alien status was not verified, check the SSR to determine if the person is eligible for the extension under this legislation.

Review the AR code in the PRSN segment of the alien's SSR (see SM 01601.475C.9.). If the AR code is **not** J, X, F, L, or 3, the alien is NOT eligible for the 2-year extension. Be alert to situations where the recorded is miscoded.

NOTE: Code victims of trafficking beneficiaries as refugees (AR code "F").

- b. If the alien alleges having a pending application for naturalization, verify the status of the naturalization application:
 - Obtain a copy of the DHS form I-797 "Notice of Action," which is the receipt for the naturalization application. You may accept other official correspondence from the United States Citizenship and Immigration Service (USCIS) as proof if it contains a receipt number, the A-file number, and provides details on the status of the application.
 - Verify the pending application by querying the USCIS website at: <http://www.uscis.gov/portal/site/uscis>. Enter the receipt number (found in the top left corner of the I-797) in the "Help With: Check Case Status" block. The receipt number is a 13 character number (a 10-digit number preceded by a three letter code). Input the entire letter-number combination as shown on the receipt.
 - If the action code = @BA, @BC, AA, ABA, ABB, ACA, ACB, ADA, BC, HA, or IK, the application for citizenship is pending.
 - Document the EVID screen with the statement "Citizenship application or swearing in ceremony pending," the date of the pending application, the receipt number, the action code and the A-file number.
 - If the action code = AFAC or there is no record, follow the instructions in SI 00502.107E.3.c. (in this section).
 - If the alien files for citizenship after 10/01/08, develop eligibility for the extension under the guidelines in SI 00502.107E.3.c (in this section). If you cannot establish eligibility for the extension, the alien can only be paid as of the date the application is filed with USCIS. Prorate the first month's payment, see SI 02005.008 (Proration After Period of Ineligibility).
- c. If the alien has not filed for naturalization, or does not have an I-797, or you cannot verify the application is pending via the USCIS website,

obtain the good faith declaration (unless the individual is under age 18):

- Advise the alien he or she can be paid for up to 2 additional years (but no later than 09/30/2011), if he or she made or is making a good faith effort to apply for US citizenship.
- Explain the necessity for the declaration using this language: “You must be trying to become a U.S. citizen to get the 2-year extension. If you can’t qualify for citizenship now, you must be planning to become a U.S. citizen when the law allows you to do so. If you do not sign this statement or you cannot sign the statement because you are not planning to become a U.S. citizen, we will not be able to pay you the benefits for the two additional years.”
- Explain to the alien the provisions of the Kaplan class action lawsuit and that he or she may qualify for expedited processing and a waiver of the naturalization application fee (see EM-08056). If the alien has a Form I-485 or Form N-400 pending with USCIS and has received or is receiving SSI benefits, he or she may call the USCIS I-800 number, 1-800-375-5283, and request Expedited Processing. Expedited Processing may also be requested in writing or by going to the local USCIS office. You may also give the alien the Internet address for USCIS, at www.uscis.gov/portal/site/uscis.
- Print the good faith declaration from FICS: (<http://ssahost.ba.ssa.gov/oplm/opum/PDFs/ssa795op.pdf>), read it to the alien, and have him or her sign it.
- Fax the form into the eDib folder or NDRED. Return the original to the person.
- If the alien does not sign the SSA-795, stop his or her benefits (N13) as of the date alien status is no longer met, whether such status was effective with 10/01/08 or the date of reinstatement or a later continuance date. If the case is in M02, force to zero. Process any overpayment under current guidelines.

4. Verify other non-medical factors of eligibility

These aliens should have had a redetermination when their benefits were resumed if the record was terminated (T30, T31, T33). If the SSR was in suspense (N13) when benefits were reinstated, no RZ was needed. However, income and resources should have been updated at that time. If a redetermination was not done, conduct an unscheduled redetermination per SI 02305.022 A.5.

5. Verify continued disability if alien is DI/DS or BI/BS

- a. If the alien is age 55 or older, assume he or she continues to be disabled. Let payments continue without obtaining any additional documentation of continuing disability.
- b. If the alien is a DI/DS or BI/BS and under age 55, check the medical reexam (MR) diary date (shown in the DISB segment on the SSR; see SM 01601.595 (Disability Data – DISB)).
 - If the MR diary is already established with future date, assume the alien continues to be disabled. Let payments continue without any additional documentation of continuing disability.

NOTE: If the SSR was Start Dated in order to reinstate the claimant, the MR diary on the terminated SSR should have been brought forward to the Start Dated (SD) record. If this was not done on the SD record, add the MR diary date to the SD record.

- If medical reexam diary date has matured, ask the alien if his or her disability continues. Obtain the answers to the questions on the SSA-455. (see exhibit DI 13004.020)
 - If the alien answers question 1 “no,” question 2 “same” or “worse,” and question 3 “no,” the alien continues to be disabled. Let payments continue without any further documentation. Fax a copy of the SSA-455 into the eDib folder or NDRED.
 - Do not update the Disability Control File (DCF).
- c. If the alien answers question 3 “yes” or in some other way suggests he or she may no longer be disabled, continue payments and initiate a medical continuing disability review (CDR).
 - Establish the CDR on the DCF (see MSOM CDR 001.016).
 - Obtain an SSA-454 and sufficient SSA-827s.
 - Obtain the folder containing medical evidence for the last favorable medical decision.
 - Establish eCDR, per DI 81010.230.
 - Send the case to the DDS for a medical decision as priority per current instructions on CDR processing (DI 13005.001 and EM-07082 SEN).
 - When DDS makes the decision, process as any other CDR. Continue or cease payments effective with the medical cessation date as appropriate.
 - d. If the claimant was entitled as a disabled child (DC) and is now over age 18, continue payments and initiate the age 18 redetermination.
 - Process as a priority per EM-07082 SEN.
 - Establish age 18 Redetermination on DCF (MSOM CDR 001.016).

- Locate the Comparison Point Decision (CPD) folder containing medical records for last favorable medical decision.
- Obtain an SSA-3368 and sufficient SSA-827s.
- Establish EDCS eCDR and transfer to the DDS. (See DI 81010.230).
- When the DDS makes the disability determination, process as any other CDR. Continue or cease payments effective with the medical cessation date as appropriate.

6. Payment processing

These aliens are already in M02 payment status; allow that status to continue.

7. Documentation

a. Document the EVID screen with:

- The remark “Citizenship application or swearing in ceremony pending,” the date of the pending application, include the I-797 receipt number and the A-file number; OR
- LPR Adjustment Date, the remark “Good Faith Established,” and A-file number; OR
- Pending LPR Adjustment date, the remark “Good Faith Established,” and the A- file number.

b. Check the SSR to verify that the:

- CG filed contains code “2608,”
- Remarks field is annotated “Paid according to the provisions of P. L. 110-328,”
- AT diary has been set for 09/01/2010 (no citizenship pending) or 09/01/2011 (citizenship is pending).

If the SSR does not contain these entries, input them.

NOTE: If FOs put the record in M02 first without making the CG field and Remarks entries, updating the CG field and remarks via MSSICS will generate the MSSICS reject: **"R FC Alien data only compatible with N13 but denial code (DADJ)/payment status (CPAY) not N13"**. These entries must be input using 1719b procedures, which kicks the record out of MSSICS.

F. Procedure for developing eligibility for the 2-year extension – aliens whose 7-year period expired 10/01/08 or later – case in current/force pay

IMPORTANT: Some of these aliens will be in payment status M02 and some will be in payment status C01, depending on when their 7-year period ended (see SI 00502.107D., in this section). The development steps for both groups are the same. Until additional systems changes are made, for cases with MSSICS pending records, it is important that you

do not do anything that would cause and update and change the current payment status unless you determine that the beneficiaries are not eligible for payment. For records with MSSICS pending records, any action in MSSICS that is sent to the SSR will place the record in N13. A 1719B input to update the SSR will not place the record in N13. Use the 1719B procedures to update information on these cases.

1. Contact the beneficiary using the appropriate listings

If the beneficiary's payment was continued per SI 00502.107D.2 and SI 00502.107D.3. (in this section), contact the individual and set up an appointment to have the beneficiary submit the documentation that was not obtained at the time of reinstatement. Send an SSA-L8003, using the following language as a guide:

"We previously told you we would stop your SSI payments at the end of your 7-year period of eligibility. Congress passed a law extending the 7-year period to 9 years for some people. We continued your benefits because you might be eligible for the extension. We now need to verify that you meet all the criteria for the benefit extension. Please call our office to schedule an appointment. The phone number is at the top of this letter. When you come in, please bring your immigration documents or citizenship application receipt and this letter with you."

Follow the guidelines in SI 02306.020 and SI 02301.235 and ask the beneficiary to respond in 30 days. Send a follow-up request after 15 days. If the beneficiary does not respond, suspend benefits effective with 10/01/08 (or the reinstatement date if later than 10/01/08). If the record is in M02, force to zero. If the record is in C01, suspend benefits using N13 retroactively as appropriate. Process any overpayment under current guidelines found in SI 02220.000.

2. Verify citizenship

If the alien has attained citizenship, verify per GN 00303.300, update the record and resume benefits under current guidelines in SI 00501.400.

NOTE: If the citizenship attainment date is AFTER 10/01/08, follow the instructions in the remainder of this section to determine if the person can be paid under the rules for the extension prior to the citizenship attainment date.

3. Verify eligibility for extension

a. Determine if the person is in one of the categories of aliens covered by the legislation

Review the AR and ASA coding in the PRSN segment of the alien's SSR (see SM 01601.475C.9.). If the AR code is other than J, X, F, L, or 3, the alien is NOT eligible for the 2-year extension. Be alert to situations where the record is miscoded.

NOTE: Code victims of human trafficking as refugees (AR code "F").

- b. If the alien alleges having a pending application for naturalization:
- Obtain a copy of the DHS Form I-797 “Notice of Action,” which is the receipt for the naturalization application. You may accept other official correspondence from USCIS as proof if it contains a receipt number, the A-file number, and provides details on the status of the application.
 - Verify the pending application by querying the USCIS website at: <http://www.uscis.gov/portal/site/uscis>. Enter the receipt number (found in the top left corner of the I-797) in the “Help With: Check Case Status” block. The receipt number is a 13 character number (a 10-digit number preceded by a three letter code). Input the entire letter-number combination as shown on the receipt.
 - If the action code = @BA, @BC, AA, ABA, ABB, ACA, ACB, ADA, BC, HA, or IK, the application for citizenship is pending.
 - Document the EVID screen with the statement “Citizenship Application or Swearing in Ceremony pending,” the date of the pending application, the receipt number, the action code and the A-file number.
 - If the action code = AFAC or there is no record, follow the instructions in SI 00502.107F.3.c (in this section).
 - If the alien files for citizenship after 10/01/08, develop eligibility for the extension under the guidelines in SI 00502.107F.3.c (in this section). If you cannot establish eligibility for the extension, the alien can only be paid as of the date the application is filed with USCIS. Prorate the first month’s payment (see SI 02005.008).
- c. If the beneficiary has not filed for naturalization, or does not have an I-797, or you cannot verify that the application is pending via the USCIS website, the alien may still be eligible for the extension if he or she is a qualified alien or victim of human trafficking who meets the criteria in SI 00502.107B.1 (in this section). To determine that:
- Check the date of birth on the SSR.

If the alien was under age 18 on 10/01/08, he or she may be entitled to the extension.

If the alien is age 70 or older, he or she may be entitled to the extension. If he or she attains age 70 AFTER 10/01/08, he may be eligible for the extension beginning the month after the month the alien attains age 70, but not any earlier.

- Check the AR code on the PRSN segment on the SSR.

If the AR code is X, the alien was admitted as a Cuban/Haitian and may be eligible for the extension. For the definition of Cuban/Haitian for SSI purposes, see SI 00502.108.

If the AR code is J, F, L, or 3, query SAVE to determine if the alien's status was adjusted to LPR. If the SAVE query does not provide verification, and the alien alleges adjustment to LPR, institute secondary verification with DHS by following established procedures found in SI 00502.115).

d. Determine if the alien meets LPR time frames

- If the alien has been LPR for less than 6 years as of 10/01/08, and has not had that status rescinded, he or she may be eligible for the extension.
- If the alien filed for adjustment to LPR within 4 years of the date he began receiving SSI and such status is pending or has been approved by DHS, he or she may be eligible for the extension.

e. If the alien has not filed for naturalization, or does not have an I-797, or you cannot verify the application is pending via the USCIS website, obtain the good faith declaration (unless the individual is under age 18):

- Advise the alien that he or she can be paid for two additional years (but no later than 09/30/2011), if he or she made or is making a good faith effort to apply for US citizenship.
- Explain the necessity for the declaration using this language: "You must be trying to become a U.S. citizen to get the 2-year extension. If you can't qualify for citizenship now, you must be planning to become a U.S. citizen when the law allows you to do so. If you do not sign this statement or you cannot sign the statement because you are not planning to become a U.S. citizen then we will not be able to pay you the benefits for the 2 additional years."
- Explain to the alien the provisions of the Kaplan class action lawsuit and that he or she may qualify for expedited processing and a waiver of the naturalization application fee (see EM-08056). If the alien has a Form I-485 or Form N-400 pending with USCIS and has received or is receiving SSI benefits, he or she may call the USCIS I-800 number, 1-800-375-5283, and request Expedited Processing. Expedited Processing may also be requested in writing or by going to the local USCIS office. You may also give the alien the Internet address for USCIS, at: www.uscis.gov/portal/site/uscis.
- Print the good faith declaration from FICS: (<http://ssahost.ba.ssa.gov/oplm/opum/PDFs/ssa795op.pdf>), read it to the alien, and have the alien sign it.
- Fax the form into the eDib folder or NDRED. Return the original to the beneficiary.
- If the alien does not sign the SSA-795, stop his or her benefits (N13) as of the date alien status is no longer met, whether such

status was effective with 10/01/08 or the date of reinstatement or a later continuance date. If the case is in M02, force to zero. Process any overpayment under current guidelines

4. Develop other non-medical evidence if needed

Since there was no interruption in payment, assume the person meets other eligibility factors unless there is evidence to the contrary or a non-medical review is needed for some other purpose (.e.g. attainment of age 18 – non-medical redetermination required.)

5. Determine if medical review is needed

- a. Since there was no interruption in payment, assume the beneficiary remains disabled. Allow any CDRs to mature as they come due. Do not initiate a CDR until it is direct released to the DCF.
- b. If the claimant was entitled as a disabled child (DC) and is now over age 18, continue payments and initiate age 18 redetermination.
 - Process as a priority per EM-07082 SEN.
 - Establish age 18 Redetermination on DCF (MSOM CDR 001.016)
 - Locate the Comparison Point Decision (CPD) folder containing medical records for the last favorable medical decision.
 - Obtain an SSA-3368 and sufficient SSA-827s.
 - Establish EDCS eCDR and transfer to the DDS. See DI 81010.230.
 - When DDS makes disability determination, process as any other CDR. Continue or cease payments effective with the medical cessation date as appropriate.

6. Payment processing

These aliens are already in payment status C01 or M02. Aliens whose 7-year period ended in October and November 2008 will be in M02 status. Aliens whose 7-year period ended in December 2008 and later should generally be in C01 status (some cases may also be in M02). Let the current payment status continue.

7. Documentation

- a. Document the EVID screen with:
 - The remark, “Citizenship Application or Swearing in ceremony pending,” the date of the pending application, the I-797 receipt number and the A-file number; OR
 - LPR Adjustment Date, the remark “Good Faith Established,” and the A-file number; OR
 - Pending LPR Adjustment date, the remark “Good Faith Established,” and the A-file number.

- b. Check the SSR to verify that the :
- CG filed contains code “2608”;
 - Remarks field is annotated “Paid according to the provisions of P. L. 110-328”; and
 - AT diary has been set for 09/01/2010 (no citizenship pending) or 09/01/2011 (citizenship is pending).

If the SSR does not contain these entries, input them.

NOTE: If FOs put the record in M02 first without making the CG field and Remarks entries, updating the CG field and remarks via MSSICS will generate the MSSICS reject: "**R FC Alien data only compatible with N13 but denial code (DADJ)/payment status (CPAY) not N13**". These entries must be input using 1719b procedures, which kicks the record out of MSSICS.

G. Procedure for developing eligibility for the 2-year extension —aliens whose 7-year period expired prior to 10/01/08 and have not been reinstated – Record is in PSY N13, T30, T31, or T33

NOTE: Most of the individuals will be contacting you as the result of a centralized direct mailing. (SI 00502.107K.2 (in this section) contains a copy of that letter). Others will be coming in at the direction of advocacy or community groups or on their own. Regardless of how they learned of the possibility of benefit extension, follow the procedures below to determine if they are eligible for the extension. If so, reinstate benefits effective October 1, 2008, or as of the date they meet all factors of eligibility, whichever is earlier.

For couples cases, where one member has remained eligible, but the other has been terminated, do an unscheduled RZ and Start Date a record to reestablish them as a couple. The SD month would be the same month as the T33 date of the continuing eligible member.

1. Verify citizenship

If the alien has attained citizenship, verify per GN 00303.300, take an application or do an unscheduled RZ if they have not been in suspense for 12 consecutive months or longer, and adjudicate benefits.

NOTE: If the citizenship attainment date is AFTER 10/01/08, follow the instructions in the remainder of this section to determine if the person can be paid under the rules for the extension prior to the citizenship attainment date.

2. Verify eligibility for extension

- a. Determine if the person is in one of the categories of aliens covered by the legislation

Review the AR code in the PRSN segment of the alien’s SSR (see SM 01601.475C.9.). If the AR code is **other than** J, X, F, L, or 3, the alien is

NOT eligible for the 2-year extension. Be alert to situations where the record is miscoded.

NOTE: Victims of human trafficking are coded as refugees (AR code “F”).

- b. If the alien alleges having a pending application for naturalization:
- Obtain a copy of the DHS Form I-797 “Notice of Action,” which is the receipt for the naturalization application. You may accept other official correspondence from USCIS as proof if it contains a receipt number, the A-file number, and provides details on the status of the application.
 - Verify the pending application by querying the USCIS website at: <http://www.uscis.gov/portal/site/uscis>. Enter the receipt number (found in the top left corner of the I-797) in the “Help With: Check Case Status” block. The receipt number is a 13 character number (a 10-digit number preceded by a three letter code). Input the entire letter-number combination as shown on the receipt.
 - If the action code = @BA, @BC, AA, ABA, ABB, ACA, ACB, ADA, BC, HA, or IK, the application for citizenship is pending.
 - Document the EVID screen with the statement “Citizenship application or swearing in Ceremony pending,” the date of the pending application, the receipt number, the action code and the A-file number.
 - If the action code = AFAC or there is no record, follow the instructions in SI 00502.107G.3. (in this section).
 - If the alien files for citizenship after 10/01/08, develop eligibility for the extension under the guidelines in SI 00502.107G.3.c (in this section). If you cannot establish eligibility for the extension, the alien can only be paid as of the date the application is filed with USCIS. Prorate the first month’s payment (see SI 02005.008).
- c. If the beneficiary has not filed for naturalization, or does not have an I-797, or you cannot verify that the application is pending via the USCIS website, the alien may still be eligible for the extension if he or she is a qualified alien or victim of human trafficking who meets the criteria in SI 00502.107B.1 (in this section). To determine that:
- Check the date of birth on the SSR.

If the alien was under age 18 on 10/01/08, he or she may be entitled to the extension.

If the alien is age 70 or older, he or she may be entitled to the extension. If he or she attains age 70 AFTER 10/01/08, he may be eligible for the extension beginning the month after the month the alien attains age 70, but not any earlier.

- Check the AR code on the PRSN segment on the SSR.

If the AR code is X, the alien was admitted as a Cuban/Haitian and may be eligible for the extension. For the definition of Cuban/Haitian for SSI purposes, see SI 00502.108.

If the AR code is J, F, L, or 3, query SAVE to determine if the alien's status was adjusted to LPR. If the SAVE query does not provide verification, and the alien alleges adjustment to LPR, institute secondary verification with DHS by following established procedures found in SI 00502.115)

d. Determine if the alien meets LPR time frames.

- If the alien has been LPR for less than 6 years as of 10/01/08, and has not had that status rescinded, he or she may be eligible for the extension.
- If the alien filed for adjustment to LPR within 4 years of the date he or she began receiving SSI and such status is pending or has been approved by DHS, he or she may be eligible for the extension.

e. If the alien does not have an application for citizenship pending or is under age 18, obtain a good faith declaration.

- Advise the alien that he or she can be paid for 2 additional years (but no later than 09/30/2011) if he or she made or is making a good faith effort to apply for US citizenship.
- Explain the necessity for the declaration using this language: "You must be trying to become a U.S. citizen to get the 2-year extension. If you can't qualify for citizenship now, you must be planning to become a U.S. citizen when the law allows you to do so. If you do not sign this statement or you cannot sign the statement because you are not planning to become a U.S. citizen then we will not be able to pay you the benefits for the 2 additional years."
- Explain to the alien the provisions of the Kaplan class action lawsuit and that he or she may qualify for expedited processing and a waiver of the naturalization application fee (see EM-08056). If the alien has a Form I-485 or Form N-400 pending with USCIS and has received or is receiving SSI benefits, he or she may call the USCIS I-800 number, 1-800-375-5283, and request Expedited Processing. Expedited Processing may also be requested in writing or by going to the local USCIS office. You may also give the alien the Internet address for USCIS, at:
www.uscis.gov/portal/site/uscis.
- Print the good faith declaration from FICS:
(<http://ssahost.ba.ssa.gov/oplm/opum/PDFs/ssa795op.pdf>), read it to the alien, and have the alien sign it.
- Fax the form into the eDib folder or NDRED. Return the original to the beneficiary.

- If the alien does not sign the SSA-795, prepare a manual denial notice using the language in SI 00502.107I. (in this section).

3. Develop other non-medical factors of eligibility

If the record is in a terminated status (T30, T31, T33), conduct an **unscheduled redetermination** according to the policy in SI 02305.022A.5. Obtain the evidence necessary to establish eligibility based on income and resources. If the record is in N13, update any information that has changes, by you need not do an unscheduled RZ (see SI 02305.022A.5.).

4. Determine if medical review is needed

- a. If the alien is age 55 or older, assume he or she continues to be disabled. Reinstate payments without obtaining any additional documentation of continuing disability.
- b. If the alien is a DI/DS or BI/BS under age 55 and was not previously entitled as a disabled child, check the medical reexam (MR) diary date (shown in the DISB segment on the SSR; see SM 01601.595).
 - If a MR diary is already established with future date, assume the alien continues to be disabled. Reinstate payments without any additional documentation of continuing disability. Input the established MR date to the new record.
 - If the MR diary date has matured, ask the alien if his or her disability continues. Obtain the answers to the questions on the SSA-455. (See DI 13004.020).
 - If the alien answers question 1 “no,” question 2 “same” or “worse,” and question 3 “no,” the alien continues to be disabled. Reinstate payments without any further documentation. Fax a copy of the SSA-455 into the eDib folder or NDRED.
 - Do not update the DCF.
- c. If the alien answers question 3 “yes” or in some other way suggests he or she may no longer be disabled, reinstate payments and initiate a medical CDR.
 - Establish the CDR on the DCF (see MSOM CDR 001.016).
 - Obtain an SSA-454 and sufficient SSA-827s.
 - Obtain the folder containing medical evidence for the last favorable medical decision.
 - Establish eCDR per DI 81010.230.
 - Send to the DDS for medical decision as priority per current instructions on CDR processing (DI 13005.001) and EM-07082 SEN.

- When DDS makes the decision, process as any other CDR. Continue or cease payments effective with the medical cessation date as appropriate.
- d. If the claimant was entitled as a disabled child (DC) and is now over age 18, resume payments and initiate age 18 Redetermination.
- Process as a priority per EM-07082 SEN.
 - Establish age 18 Redetermination on DCF (MSOM CDR 001.016).
 - Locate Comparison Point Decision folder containing medical records for last favorable medical decision.
 - Obtain an SSA-3368 and sufficient SSA-827s.
 - Establish EDCS eCDR and transfer to the DDS. See DI 81010.230.
 - When DDS makes a disability determination, process as any other CDR. Continue or cease payments effective with the medical cessation date, as appropriate.

5. Payment processing

If the record has terminated (T30, T31, T33), establish a start date record via SSA-450SI.

- Establish a start date record based on the information obtained during the redetermination and reinstate the alien according to the procedures in SI 02301.205B.
- Reinstate benefits by start dating the record with an effective date of 10/01/08 or the date the alien first meets the requirements for payment, whichever is later. Verify all income and resources retroactively to the beginning of that month.
- Establish the start date record using an SSA-450SI with a payment status code of **H80**.
- After the SSR has been established in H80, place the record in Force Due (PSY M02) and manually compute the payment amount due beginning with 10/01/08 or the date the alien first meets the requirements for payment, whichever is later. If IAR is involved, process according to SI 02003.025 - IAR Payment Processing.

NOTE: In couple's cases where one member has remained eligible, but the other has been terminated, you may need to terminate the current SSR and start date a new record via SSA-450SI to reinstate the terminated member. If that is needed, the start date month would be the same month as the T33 month. Place the record in H80 with the SSA-450SI input. Once the SD record is established, place the couple in H80 and then force due. Manually compute the reinstated member's benefits beginning with 10/08 (or the month he or she first meets the requirements for payment, whichever is later) and pay via AOTP. Force both members to the correct amount due.

NOTE: If FOs put the record in M02 first without making the CG field and Remarks entries, updating the CG field and remarks via MSSICS will generate the MSSICS reject: "**R FC Alien data only compatible with N13 but denial code (DADJ)/payment status (CPAY) not N13**". These entries must be input using 1719b procedures, which kicks the record out of MSSICS.

6. Documentation

a. Document the EVID screen with:

- The statement, "Citizenship Application or Swearing in ceremony pending", the I-797 receipt number, or the A-file number and the date of the pending application; OR
- LPR Adjustment Date and the Remark "Good Faith Established"; OR
- Pending LPR Adjustment date and the Remark "Good Faith Established."

b. Document the case to identify it as being processed under this legislation:

- Input code "2608" in the first four positions of the CG field of the SSR. Move existing CG codes to the next available positions.
- Annotate the Remarks field, "Paid according to the provisions of P.L. 110-328."
- Establish an "AT" diary using the UDIA screen in the "Direct SSR Update" menu in MSSICS. Set the maturity date of the AT diary to 09/01/2010.
- If a citizenship application or the swearing-in ceremony is still pending, set the AT diary to 09/01/2011.

7. Notice

- a. If the alien qualifies for the extension, issue a manual reinstatement notice using an SSA-L8151 **and** include the paragraph for reinstatement notices "Reinstatement" found in SI 00502.107I. (in this section).
- b. If the alien does NOT qualify for the extension, issue a manual denial notice using an SSA-L8166 and include the paragraph for denial notices found in SI 00502.107I. (in this section).

H. Procedure for new applications

A qualified alien or victim of human trafficking who meets the criteria for the benefit extension may also be a new applicant for benefits. This includes those aliens who would not have been eligible because the 7-year time limitation expired before he or she was otherwise eligible for SSI as well as any other new applicants. The alien is still required to be

within 9 years from the date of attainment of status to qualify for the extension.

1. Obtain application

Complete either a full or deferred application according to local guidance. Follow the instructions in SI 00502.100, SI 00603.002, and SI 00603.004. Develop for evidence according to SI 00601.100.

2. Verify eligibility for extended benefits

a. Determine if the alien is in one of the qualifying categories described in SI 00502.106B or is a victim of human trafficking. If not, he or she is not eligible for the benefit extension.

If yes, then determine if the alien:

- has been a lawful permanent resident for less than 6 years (as of 10/01/08 or the date of application) and that status has not been abandoned, rescinded, or terminated through removal proceedings; or
- is a Cuban/Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (see SI 00502.108); or,
- has had his or her deportation withheld by the Secretary of Homeland Security under sections 243(h) of the Immigration and Nationality Act or whose removal is withheld under Section 241(b)3 of such Act; or,
- is certified as a victim of severe forms of trafficking (VSFT) by the Office of Refugee Resettlement; or
- has not attained age 18 as of 10/01/08 of the application date; or
- has attained age 70.

b. If the alien alleges having a pending application for naturalization:

- Obtain a copy of the DHS Form I-797 (Notice of Action), which is the receipt for the naturalization application. You may accept other official correspondence from USCIS as proof if it contains a receipt number, the A-file number, and provides details on the status of the application.
- Verify the pending application by querying the USCIS website at: <http://www.uscis.gov/portal/site/uscis>. Enter the receipt number (found in the top left corner of the I-797) in the “Help With: Check Case Status” block. The receipt number is a 13 character number (a 10-digit number preceded by a three letter code). Input the entire letter-number combination as shown on the receipt.
- If the action code = @BA, @BC, AA, ABA, ABB, ACA, ACB, ADA, BC, HA, or IK, the application for citizenship is pending.

- Document the EVID screen with the statement “Citizenship application or swearing in ceremony pending,” the date of the pending application, the action code and the A-file number.
 - If the action code = AFAC or there is no record, follow the instructions in SI 00502.107H.2.c.
- c. c. If the beneficiary has not filed for naturalization, or does not have an I-797, or you cannot verify that the application is pending via the USCIS website, obtain a good faith declaration unless the beneficiary is under age 18:
- Advise the alien that he or she can be eligible for payments up to 9 years from the date of status attainment if he or she made or is making a good faith effort to apply for US citizenship.
 - Explain the necessity for the declaration using this language: “You must be trying to become a U.S. citizen to get the 2-year extension. If you can’t qualify for citizenship now, you must be planning to become a U.S. citizen when the law allows you to do so. If you do not sign this statement or you cannot sign the statement because you are not planning to become a U.S. citizen then we will not be able to pay you the benefits for the 2 additional years.”
 - Print the good faith declaration from FICS:
(<http://ssahost.ba.ssa.gov/oplm/opum/PDFs/ssa795op.pdf>) read it to the alien and have the alien sign it.
 - Fax the form into the eDib folder or NDRED. Return the original to the alien.
 - If the alien does not sign the SSA-795, he or she cannot receive extended benefits. Send a denial letter using the language in SI 00502.107I. (in this section).

3. Send the case to DDS for medical determination

Follow current guidelines for requesting a medical decision (see DI 11005.000) if the person is seeking benefits based on disability or blindness.

4. DDS returns favorable medical decision

- a. Complete development of all other non-disability factors if a deferred application was taken or complete a PERC if a full application was taken and if 120 days have passed.
- b. Process payment
 - Input code “2608” in the first four positions of the CG field of the SSR. Move existing CG codes to the next available positions.
 - Annotate the Remarks field “Paid according to the provisions of P.L. 110-328.”

- Place the record in Force Due (PSY M02) using the “Direct SSR Update” menu in MSSICS and manually compute the payment amount beginning with the application effective date.
- Establish an “AT” diary using the UDIA screen in the “Direct SSR Update” menu in MSSICS. Set the maturity date of the AT diary to 09/01/2010.
- If a citizenship application or the swearing-in ceremony is still pending, set the AT diary to 09/01/2011.

REMINDER: No payment is due for the first month of SSI eligibility (E02 month).

NOTE: If FOs put the record in M02 first and do not input CG and Remarks in an RZ event or stand-alone PE event **prior** to the M02 input, FOs will get a MSSICS reject: "**R FC Alien data only compatible with N13 but denial code (DADJ)/payment status (CPAY) not N13**". The only way FOs can add the CG and Remarks after the record is in M02 is via 1719b which knocks the record out of MSSICS.

I. Notice language for manual notices

1. Reinstatement notices (SSA-L8151)

Include the following language under the caption, “Your Payment Is Based on These Facts”.

“We previously told you that your benefits were suspended because your 7-year period of eligibility ended. The law has changed. Congress enacted a new law entitled, “The SSI Extension for Elderly and Disabled Refugees Act, which extends benefit eligibility for certain aliens including asylees, and refugees for up to two years. You are now eligible to receive benefits for this additional period of time.”

2. Denial notices (SSA-L8030)

Use the notice in DPS titled, “Manual Denial-Not Eligible Alien.”

Add an additional sub-paragraph under the caption, “Alien Categories.” Use the following language:

“12. Aliens who are eligible under the law entitled, “The SSI Extension for Elderly and Disabled Refugees Act.” This law temporarily extends the 7-year eligibility limit for certain refugees, asylees, and other humanitarian aliens, to a maximum of 9 years during the period October 1, 2008, through September 30, 2011. Aliens whose naturalization application are pending or received a notice to appear at a naturalization ceremony are exempted from the 7-year eligibility limitation during this time period.

If you deny the claim because the individual is not making, or does not wish to make a good faith effort to pursue citizenship, add the following language:

“You are not eligible under this law because you chose not to pursue U.S. citizenship in good faith.”

3. Award notices (SSA-L8025)

Use the notice in DPS titled, “Award Letter – Seven - Year Alien and Amerasians”.

Under the caption, “Your SSI Eligibility As An Alien,” insert the following language:

“You are eligible for SSI as an alien under a law entitled “The SSI Extension for Elderly and Disabled Refugees Act’. Your SSI eligibility is limited to the first 9 years after you were admitted as a refugee, asylee, or under certain other alien categories. Under the alien categories, add an additional sub-paragraph. Use the following language:

“12. Aliens who are eligible under “The SSI Extension for Elderly and Disabled Refugees Act.” This law temporarily extends the 7-year eligibility limit for refugees, asylees, and certain other immigrants to a maximum of 9 years during the period October 1, 2008, through September 30, 2011.”

J. Instructions for 800 number agents

National 800 Number Network (N8NN) sites may experience an increase in the number of inquiries from the public due to the SSI Extension for Elderly and Disabled Refugees Act. Follow the instructions in the chart when addressing these inquiries.

IF the alien...	THEN...
Wants general information about “The SSI Extension for Elderly and Disabled Refugees Act”.	Use the information in the “Background” and “Policy” (in this section) for responding to the alien.
Is an alien who has never received SSI, alleges that he or she would be eligible for SSI due to this legislation, and wants to file.	Make an appointment to file following normal operating instructions in the Teleservice Center Operating Guide (TSCOG) and the Customer Help Information Program (CHIP).
Is an alien who indicates that his/her eligibility for SSI benefits will be terminated and the 7-year time limit expires in one month or less from today’s date.	Send a DW01 (MSSICS case) or MDW (non-MSSICS case) to the FO. Advise the FO that the alien wants “The SSI Extension for Elderly and Disabled Refugees Act” provisions applied to his or her case. Advise the alien that the FO will contact him or her.
Is an alien who indicates that his/her eligibility for SSI	Advise him or her to contact the FO one month before the termination date. Also,

IF the alien...	THEN...
benefits will be terminated and the 7-year time limit expires in more than one month from today's date.	provide the alien with the local FO address and business telephone number.
Is an alien whose SSI eligibility was suspended or terminated from August 22, 1996 thru September 30, 2008, the seven-year time limit has expired and the alien wants SSI benefits reinstated.	Send a DW01 (MSSICS case) or MDW (non-MSSICS case) to the FO, and explain that the alien wants "The SSI Extension for Elderly and Disabled Refugees Act" provisions applied to his or her case, and annotate the date that the alien's SSI eligibility was terminated or suspended on the DW01 or MDW, and advise the individual that the FO will contact him or her.

K. Exhibits

Exhibit 1 - Declaration of Good Faith

Graphic: G-SI_00502.107K-1



SSA-795-DHSFORM.
pdf

Exhibit 2 - Notice to Terminated Beneficiaries

Social Security Administration
Supplemental Security Income
 Important Information

123 Main Street,
 Anytown, PA 19406

Date: [mailing date]
 Claim Number: 123-45-6789

John Q. Public

PowderHouse Square
123 Main St.
Bldg. 9, Apt. 12
Valley Forge, PA 19406

We are writing to tell you some important information about the Supplemental Security Income (SSI) program. Due to a change in the law, you may be eligible to receive benefits for an additional period of time.

You May be Eligible for Two More Years of SSI Benefits

Congress recently enacted a law that affects SSI eligibility for aliens whose benefits have been stopped due to the expiration of their seven-year period of eligibility. Our records indicate that this law may apply to you.

The new law is known as “The SSI Extension for Elderly and Disabled Refugees Act.” This law temporarily extends the seven-year SSI eligibility period for certain aliens to nine years. The extension applies from October 1, 2008, through September 30, 2011.

Who Qualifies for Additional Benefits

To qualify for the benefit extension, you must have been eligible to receive SSI for up to seven years and the seven-year period has expired.

You must also meet the following requirements:

- you are a Cuban or Haitian entrant as defined in the Refugee Education and Assistance Act of 1980; or
- your deportation has been withheld under Sections 241 (b)(3) or 243 (h) of the Immigration and Nationality Act; or
- you have been a Lawful Permanent Resident for less than six years and have maintained such status in good standing; or,

- you have applied to be a Lawful Permanent Resident within four years from the date you began receiving SSI and such application is still pending; or,
- you are under age 18; or
- you are age 70 or older; or,

In addition, unless you are awaiting naturalization or are under age 18, you must submit to us a signed declaration indicating that you have made a good faith effort to pursue U.S. citizenship. You also must meet all other applicable SSI eligibility requirements, including income and resource limitations.

What You Need to Do to Get the Benefit Extension

If your SSI benefits have been stopped due to the expiration of the seven-year period and you think you may be eligible for this benefit extension, please call Social Security at 1-800-772-1213 (TTY 1-800-325-0778) or call or write your local Social Security office. The phone number and address are shown at top of this letter. We would be happy to schedule an appointment to speak with you. When you call or come in, please bring your immigration documents or naturalization certificate with you, along with this letter.

To learn more about SSI benefits for non-citizens, please call the Social Security Administration's toll free number or visit our websites at www.socialsecurity.gov and www.socialsecurity.gov/ssi/spotlights/spot-non-citizens.htm.

[name]
Regional Commissioner