

June XX, 2017

Dear Members of Congress:

On behalf of the undersigned organizations, we **urge you to oppose** efforts to cut Supplemental Security Income (SSI) to offset the costs of the Maternal, Infant, and Early Childhood Home Visiting Program (MIECHV program).

H.R. 2824 would reauthorize the MIECHV program, which funds voluntary, evidence-based home visiting programs for at-risk pregnant women and parents with young children up to kindergarten entry. The current MIECHV program has demonstrated beneficial outcomes associated with improved maternal and child health, including increased access to screening and early intervention for childhood disabilities.

Unfortunately, H.R. 2824 proposes to pay to extend this valuable maternal and child home visiting program by cutting off SSI entirely for certain adolescents and adults with disabilities, as well as seniors.

H.R. 2824 would **revive an old, failed policy** that had catastrophic effects for many people with disabilities and seniors, employing procedures that did not withstand judicial scrutiny. The Social Security Act currently prohibits SSI payments to individuals fleeing from law enforcement to avoid prosecution or imprisonment. The existing system is already working to ensure that those who shouldn't be paid SSI benefits don't receive them.

The proposed cut, Section 201 of H.R. 2824, would bar payment of SSI benefits to people with an outstanding arrest warrant for an alleged felony or for an alleged violation of probation or parole. Most of the warrants in question are decades old and involve minor infractions, including warrants routinely issued when a person was unable to pay a fine or court fee, or a probation supervision fee.

Based on prior experience with SSA's failed former policy, the people who would be affected are **those whose cases are inactive and whom law enforcement is not pursuing**. Many people are not even aware that a warrant was issued for them, as warrants are often not served on the individual. A very high percentage of people who would lose benefits have mental illness or intellectual disability. Many are unaware of the violation, may not have understood the terms of parole or probation, or may have other misunderstandings about their case.

Warrant databases are notoriously inaccurate. Fourteen percent of the arrest warrants processed by the federal Warrant Information Network in 2004 were later dismissed by the court or returned unexecuted.¹ The state of Alabama, even with an audit mechanism

¹ Brief for Petitioner at 35, *Herring v. United States*, 555 U.S. 135, No. 07-513 (2009) (citing U.S. Dep't of Justice, Bureau of Justice Statistics, *Compendium of Federal Justice Statistics*, 2004, at 16 (2006)).

in place, reported a 13% error rate in its arrest warrant databases.² Due to these kinds of inaccuracies, some people will have their SSI benefits cut off as a result of mistaken identity, or paperwork errors, which can take months or even years to resolve.

When this failed policy was previously implemented by SSA, many of those who had their benefits cut off had no arrest warrant outstanding against them. For example, Rosa Martinez, the lead plaintiff in *Martinez v. Astrue* was, in 2008, a 52-year old woman who received notice from SSA that she was losing her disability benefits because of a 1980 arrest warrant for a drug offense in Miami, Florida. Ms. Martinez had never been to Miami, never been arrested, never used illegal drugs, and is eight inches shorter than the person described in the warrant. Despite an obvious case of mistaken identity, Ms. Martinez was left without her sole source of income. It was only after filing a lawsuit in federal court that Ms. Martinez was able to have her benefits restored.

Resolving outstanding warrants can be very difficult and costly. People often must go before a judge in the issuing jurisdiction, and typically need counsel to assist them in navigating the process. Often, people have moved in the intervening years and live far away from the issuing jurisdiction. The proposed offset would cut off all SSI income. Losing this income will cause many people to become homeless and unable to meet their basic needs – much less resolve a warrant, a case of mistaken identity, or an error in the warrant database. Completely cutting off SSI benefits will leave people with little recourse to resolve an outstanding warrant, representing a step backward in bipartisan efforts towards criminal justice reform.

By relying on databases of outstanding arrest warrants, this proposal seeks to punish people by presuming their guilt, undermining the presumption of innocence that is the bedrock of our criminal justice system. The existence of an arrest warrant does not establish that any criminal conduct has occurred. Many arrests do not result in criminal charges, or the charges are eventually dismissed.³ Even if an individual is charged and subsequently prosecuted, he or she is presumed innocent until proven guilty.

The proposed offset also will have a **disproportionate impact on people of color**. People who are on probation are particularly susceptible to having an outstanding arrest warrant. Parolees and probationers are disproportionately people of color – in 2015, 13% of adults on probation were Hispanic, and 30% of adults on probation were African American.⁴

² Wayne A. Logan and Andrew Guthrie Ferguson, “Policing Criminal Justice Data,” 101 *Minn. L. Rev.* 541, 600 n.357 (citing Transcript of Oral Argument at 26, 45–47, *Herring v. United States*, 555 U.S. 135, 154 (No. 07-513) (2009)).

³ See Thomas H. Cohen and Tracey Kyckelhahn, U.S. Department of Justice, Bureau of Justice Statistics, *Felony Defendants in Large Urban Counties, 2006*, at 10, Table 11 (2010), <http://bjs.ojp.usdoj.gov/content/pub/pdf/fdluc06.pdf> (reporting that in the 75 largest counties in the country, nearly one-third of the felony arrests did not result in a conviction because the charges against the defendants were dismissed).

⁴ U.S. Department of Justice, Bureau of Justice Statistics, *Probation and Parole in the United States 5* (2015), online at <https://www.bjs.gov/content/pub/pdf/ppus15.pdf>.

Finally, the proposed offset could harm some of the very same children who we seek to help through home visiting. In any given month, approximately 2.7 million children are estimated to live with a family member who is a senior or adult with a disability who receives SSI.⁵ These children's families are overwhelming the same types of families served by the MIECHV program: over 3 in 5 families with a SSI recipient age 18 or older have a total family income below 150% of the federal poverty level, and SSI makes up on average about 40 percent of these families' income.⁶ Cutting off SSI income would put families at risk of being unable to keep a roof over their heads, put food on the table, and meet other basic needs – including children's and mothers' health needs.

H.R. 2824 would also harm Social Security beneficiaries – since over half of SSI recipients who are elderly, and almost one-third of SSI recipients with disabilities, are Social Security beneficiaries.⁷

In closing, we reiterate that although the MIECHV program has demonstrated beneficial outcomes, and reauthorization must be a priority, it should not come at the expense of cuts to SSI, which would harm seniors, adolescents and adults with disabilities, and their families, and should not be raided as a pay-for for an unrelated program. We urge the U.S. Congress to reject any proposals to offset the costs of reauthorizing the MIECHV program by cutting SSI benefits.

Sincerely,

Easterseals
Justice in Aging
The Arc of the United States

⁵ Center on Budget and Policy Priorities analysis of Census Bureau data for 2014 from the March Current Population Survey; corrections for underreported benefits from U.S. Department of Health and Human Services/Urban Institute TRIM model.

⁶ Table 12 and Table 11 in Michelle Stegman Bailey & Jeffrey Hemmeter, *Characteristics of Noninstitutionalized DI and SSI Program Participants, 2013 Update*, Social Security Administration, Research and Statistics Note No. 2015-02 (Sept. 2015), <https://www.ssa.gov/policy/docs/rsnotes/rsn2015-02.html>.

⁷ Table V.F1. Percentage of SSI Federally Administered Recipients in Current-Payment Status with Participation in Selected Programs Based on SSA Administrative Records, December 2015, in *Annual Report of the Supplemental Security Income Program*, Social Security Administration (2016), https://www.ssa.gov/oact/ssir/SSI16/V_F_OtherPrograms.html#1049334.