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## LOSS OF SSI AID IS IMPOVERISHING THOUSANDS OF REFUGEES Congress Could Prevent Further Hardship

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Thousands of refugees and other legal immigrants who were permitted to relocate permanently to the United States because they face persecution in their home countries now confront destitution as a result of losing federal subsistence aid. Extremely poor refugees and other humanitarian immigrants who are unable to work because they are elderly or have disabilities are eligible for subsistence aid under the Supplemental Security Income (SSI) program. But under restrictions enacted a decade ago, their eligibility for such aid is limited to seven years, unless they become naturalized citizens. The Social Security Administration estimates that as a result of the time limit approximately 12,000 refugees and other humanitarian immigrants have already lost SSI benefits and another 40,000 such needy individuals will lose benefits over the next decade. (See Table 1.) Congress should prevent this extremely vulnerable group from suffering further hardship by eliminating the time limit on SSI benefits for refugees and other humanitarian immigrants who are elderly or have disabilities. Bipartisan legislation that is consistent with an Administration proposal to temporarily extend the time limit has been introduced and at the very least Congress should immediately enact such legislation as a stopgap measure.

### Who Is Affected by the Time Limit?

The United States admits immigrants for long-term residence for three main types of reasons. Most legal immigrants enter to be reunified with family members who are already here. Others fill specific labor-market needs. About 10 percent of the legal immigrants admitted each year are allowed to remain for humanitarian reasons — for example, to escape persecution on the basis of race, religion, nationality, political opinion, or membership in a particular social group. Such humanitarian immigrants include refugees,

#### KEY FINDINGS

- Approximately 12,000 impoverished refugees and other humanitarian immigrants who are elderly or have disabilities have lost subsistence aid as a result of the seven-year time limit on eligibility for SSI benefits; SSI constituted the sole source of income for most of these individuals.
- If Congress does not act, an estimated 40,000 more refugees and other humanitarian immigrants will lose their subsistence aid over the next decade.
- Congress should help this extremely vulnerable group by eliminating the time limit on SSI benefits for refugees and other humanitarian immigrants who are elderly or have disabilities.
- At the very least, as a stopgap measure, Congress should extend the time limit because it is difficult or impossible for many refugees and other humanitarian immigrants to become citizens within seven years and retain their SSI eligibility; bipartisan legislation that is consistent with an Administration proposal to temporarily extend the time limit has been introduced but not enacted.

persons granted asylum (“asylees”), certain Cubans and Haitians with refugee-like status, and certain victims of trafficking in persons.<sup>2</sup>

These individuals have often faced violence or torture before arriving in the United States. Many have no relatives here and arrive with little more than the clothes on their backs. Humanitarian immigrants are allowed to work and more than two-thirds of refugees earn enough to support themselves.<sup>3</sup> But some individuals are granted their status as a humanitarian immigrant because of the persecution they face in their countries of origin even when it is clear that they will be unable to work.<sup>4</sup> If these humanitarian immigrants are elderly or have permanent disabilities and meet the other strict requirements of the SSI program, they can qualify for subsistence aid (small monthly cash payments) for up to seven years prior to becoming U.S. citizens. Those humanitarian immigrants who qualify for SSI are generally unable to work and generally do not qualify for other retirement benefits.

**Table 1**  
**Refugees and Other Humanitarian Immigrants Losing Benefits**

<b>Year</b>	<b>Number of Humanitarian Immigrants Who Are Elderly or Have Disabilities Losing SSI Benefits as a Result of The Seven-Year Limit</b>
2003	866
2004	2,091
2005	2,483
2006	6,613
<b>Total to Date</b>	<b>12,053</b>
2007	4,500
2008	4,000
2009	4,000
2010	4,000
2011	4,000
2012	4,000
2013	4,000
2014	4,000
2015	4,000
2016	4,000
Source: Social Security Administration estimates. <sup>5</sup>	
Note: The actual number of humanitarian immigrants who are no longer receiving SSI benefits as a result of the time limit is likely modestly lower than these figures. The estimates for 2003-2006 do not capture individuals who lost SSI benefits but later qualified for SSI benefits based on having attained citizenship or based on their work history. In addition, the estimate for 2006 does not take into account circumstances unrelated to the time limit that would have affected eligibility, such as death or marriage.	

Most of the humanitarian immigrants who are affected by the seven-year SSI eligibility limit are from Russia or the former Soviet Union and Eastern Europe, including Russian Jews who fled the former Soviet Union and former Yugoslavs displaced by the Balkan war; other recent groups of humanitarian immigrants include Iraqi Kurds fleeing persecution under the Saddam Hussein regime, Cubans fleeing the Castro regime, Hmong immigrants from the highlands of Laos who served on the side of the United States military during the Vietnam War, and persecuted minorities from Somalia.<sup>6</sup> The majority of refugees settle in states with relatively large foreign-born populations, but recently pockets of refugees have emerged in smaller places scattered around the country like Fargo,

North Dakota or Des Moines, Iowa.<sup>7</sup> Charitable organizations (often churches) typically assist refugees when they first arrive in the United States and are able to help refugees resettle even in areas that do not have a strong infrastructure of services for recent immigrants.

## **SSI Benefits Can Prevent Destitution**

The SSI program provides modest monthly income support to meet basic needs for food, clothing, and shelter to people who have little or no income and are age 65 or over, have a severe disability, or are blind. In 2007 the maximum SSI monthly federal benefit is \$623 for an individual and \$934 for a couple. Most states supplement these amounts.

Federal SSI benefits alone are not enough to lift recipients out of poverty. An individual relying solely on the federal SSI benefit would have income at 73 percent of the poverty line and a couple relying solely on the federal SSI benefit would have income at 82 percent of the poverty line. In combination with other income, SSI benefits do edge some recipients over the poverty line. For others, SSI benefits reduce the depth of their poverty and make it more possible for them to afford basic necessities.<sup>8</sup>

The SSI program has strict eligibility criteria and serves individuals who are extremely poor because they are too disabled to work or because they are elderly and have little or no retirement income. To be considered disabled for SSI purposes, a person must show that he or she is unable to engage in any substantial gainful employment as a result of a medically determinable disability which can be expected to result in death, or has lasted, or can be expected to last, for a continuous period of at least 12 months. SSI also has strict income and asset limits. Nearly one-third of recipients have no other income. Roughly another third of recipients are elderly individuals who receive tiny Social Security retirement benefits that are supplemented by SSI. Those who do have other income receive reduced SSI benefits and would have income well below the federal poverty line without SSI. Individuals who qualify for SSI may have no more than \$2,000 in additional resources (such as a checking account or retirement savings) and couples may have no more than \$3,000.

Prior to 1996, legal immigrants, including humanitarian immigrants, were eligible for SSI on the same basis as U.S. citizens.<sup>9</sup> As part of the 1996 welfare law, Congress made nearly all legal immigrants ineligible for SSI, except for humanitarian immigrants who were allowed to receive SSI during their first *five* years in the United States. In 1997, in response to significant, bipartisan concern about the effects of these eligibility restrictions, Congress restored eligibility for some groups. Congress preserved SSI eligibility for some broader categories of legal immigrants (such as those who had been receiving SSI benefits when the welfare law was enacted) and extended the eligibility period for humanitarian immigrants for to up to *seven* years after entry. As a result of the interactions among these changes, some humanitarian immigrants who arrived in the United States before the 1996 welfare law was adopted are eligible for SSI regardless of their length of residency in the United States, whereas newer humanitarian immigrants face the seven year limit.<sup>10</sup>

The legislative history makes clear that Congress extended the eligibility period for humanitarian immigrants out of a concern that humanitarian immigrants continue to receive benefits while waiting to naturalize and a recognition that five years would not provide sufficient time for such individuals to naturalize.<sup>11</sup> According to Ron Haskins, the Republican majority staff director of the House Ways and Means Subcommittee on Human Resources from 1995 to 2000, “The intent of Congress,

## Medicaid Eligibility

In most states, SSI recipients automatically qualify for Medicaid. Especially for people with disabilities, this health coverage can be critical. When an individual loses SSI benefits, he or she also loses automatic eligibility for Medicaid, although some remain eligible for coverage under Medicaid's separate eligibility rules.

The vast majority of the refugees and other humanitarian immigrants who lose SSI would remain eligible for Medicaid under separate eligibility rules. States have the option under federal law to deny Medicaid eligibility to humanitarian immigrants who have lived in the United States more than seven years, but most states have not exercised that option. Of the seven states that have such Medicaid eligibility restrictions, only Texas has a significant number of humanitarian immigrants. Of the states that have not exercised that option, many provide Medicaid coverage to individuals who are elderly or have disabilities and whose income is below the poverty line (or a fraction of the poverty line that is still higher than the SSI income limit), including the states with the majority of humanitarian immigrants affected by the SSI time limit. Humanitarian immigrants losing SSI benefits, who had to have had income below these levels to receive SSI, would remain eligible for Medicaid.

Nonetheless, humanitarian immigrants who lose SSI eligibility may not realize that they remain eligible for Medicaid and that they have to reapply. The Medicaid program has an affirmative obligation to maintain Medicaid coverage for individuals who lose SSI but remain eligible for Medicaid. (See 42 C.F.R. 435.930.) But those who reapply for Medicaid coverage may encounter case workers who don't realize that there is an alternative basis for Medicaid eligibility. To mitigate the hardship associated with the SSI time limit, caseworkers need to take this obligation seriously and former SSI recipients must be educated about the possibility of continuing to qualify for Medicaid.

plain to all who worked on the provision and a matter of public record, was to ensure that asylees and refugees who met the requirements for citizenship in a timely fashion would be able to continue their welfare benefits as long as they continued to otherwise qualify for various welfare programs. In this sense, the 7-year provision is nothing more than a means to an end, inserted in the statutes by Congress because all the information available to us at the time (1997) was that the additional 2 years allowed plenty of time for these aliens to become citizens.”<sup>12</sup>

News accounts have described the impact that losing SSI can have on humanitarian immigrants who are elderly or have disabilities, many of whom are unable to work and have little or no other income or relatives to turn to for help.<sup>13</sup> Without SSI benefits many such immigrants may have no cash income and may not be able to meet their most basic needs, including paying for rent and essential medications. When humanitarian immigrants become destitute, the burden of providing emergency services is likely to fall on state and local governments, as well as charitable organizations. But most importantly, the human toll is profound; after the enactment of the 1996 restrictions, newspapers reported that some immigrants who were facing loss of their SSI benefits committed suicide and the recent SSI losses have once again raised the prospect of suicides.<sup>14</sup>

## Refugees and Other Humanitarian Immigrants Should Receive SSI on the Same Basis as Citizens

There is no sound rationale for conditioning humanitarian immigrants' eligibility for SSI on their length of residence in the United States or on whether they have become naturalized citizens. Such immigrants have been admitted to the United States and permitted to remain permanently precisely

because of the violence, persecution, and resulting hardship they could face if they returned to their home country. Humanitarian immigrants who are aging or have disabilities are permitted to remain in the United States by the government even when it is clear that they are unlikely to be able to work.

To allow such immigrants to remain in the United States but deny them subsistence aid when they are too disabled to work or are elderly and have little or no work history in the United States sends an inconsistent message and puts them at risk of becoming utterly destitute. Placing a time limit on refugees' eligibility for public benefits also appears to be inconsistent with the 1951 Convention Relating to the Status of Refugees, an international treaty signed by the United States and 141 other nations. The Convention provides that "The Contracting States shall accord to refugees lawfully staying in their territory the same treatment with respect to public relief and assistance as is accorded to their nationals."<sup>15</sup>

The case against placing time limits on refugees' eligibility for public benefits was succinctly stated in a report on refugee policy issued by the bipartisan U.S. Commission on Immigration Reform in 1997 after the restrictions were put in place. In the report, the Commission called time limits on the eligibility of refugees for public benefits "inappropriate" and explained that:

...many elderly and some disabled persons will have great difficulty passing the naturalization requirements. Refugees are not subject to public charge grounds for exclusion and many do not have family sponsors to provide support. Providing continuing coverage under SSI, food stamps, and other means-tested federal benefit programs to elderly and disabled refugees would strengthen the U.S. capacity to offer resettlement to some of the world's most vulnerable refugees — the aged and disabled.<sup>16</sup>

Even advocates calling for more restrictive immigration policies support lifting the seven-year limit. Mark Krikorian, executive director of the Center for Immigrant Studies, one of the leading organizations calling for reductions in immigration, has said that immigrant eligibility rules in SSI unfairly affect legal immigrants, explaining in a news story that "[w]hen we admit people lawfully, the idea of applying different welfare rules to them just doesn't make sense . . ."<sup>17</sup>

Not only is the policy of linking SSI eligibility to duration of residence inhumane, but it creates an undesirable incentive to naturalize to avoid economic hardship rather than to naturalize as a result of a sincere wish to become a United States citizen. The bipartisan U.S. Commission on Immigration Reform opposed linking benefit eligibility to naturalization for any legal immigrants for this reason, stating that:

Basing eligibility for assistance on citizenship debases citizenship. We encourage immigrants to become citizens in order to participate fully in the civic life of the country. We do not want immigrants to become citizens solely because the alternative is the serious economic hardship that may result if benefits are lost or unavailable.<sup>18</sup>

Humanitarian immigrants, in particular, may hope to return to their country of origin if the situation there were to change sufficiently that they could return without facing persecution. These individuals may not wish to make the permanent commitment to the United States that citizenship entails.

For these reasons, *no other federal means-tested benefit program requires humanitarian immigrants to become United States citizens to remain eligible for benefits.* Although for several years the Food Stamp Program had a seven-year limit on eligibility for humanitarian immigrants, Congress changed the law in 2002 to make such immigrants eligible for food stamp benefits regardless of their length of residence in the United States and their citizenship status. The retention of a naturalization requirement in SSI is particularly onerous given that SSI benefits are only available to persons who are elderly or have disabilities and thus are likely to experience much greater difficulties naturalizing than other legal immigrants (as discussed further below).

### **Is Seven Years Enough Time for All Refugees and Other Humanitarian Immigrants Who Are Elderly or Have Disabilities to Naturalize?**

The median number of years between legal immigration and naturalization has been eight years for individuals who became US citizens in 2002 through 2005. But the process is likely to take longer for humanitarian immigrants.<sup>19</sup> For some humanitarian immigrants, it is not possible to obtain citizenship within seven years. For others obtaining citizenship within this timeframe is possible, but as a practical matter, extremely difficult.

First, humanitarian immigrants must obtain status as “lawful permanent residents” (LPRs or “green card” holders) in the United States before they may apply for citizenship. As explained below, it may take so long to obtain LPR status that little or no time remains within the seven-year SSI window to apply for citizenship.

- Before submitting a citizenship application, refugees must both obtain status as “lawful permanent residents” (LPRs) in the United States *and* reside continuously in the United States for at least five years. Refugees are able to adjust automatically to LPR status after one year in the United States. But even if they adjust to LPR status as soon as they are eligible to do so, they would have only *two years* between the time they are eligible to apply to naturalize (five years after arrival) and when they lose their SSI eligibility.
- For asylees, the situation is more complicated. First, like refugees, they must wait for at least one year after being granted asylum before adjusting to LPR status. However, until May 2005, the number of asylees that could adjust to LPR status each year was capped at 10,000 regardless of the number of individuals that actually had been granted asylum.<sup>20</sup> As a result of the cap and processing delays, a backlog of adjustment applications formed. According to the United States Citizenship and Immigration Services (USCIS, formerly INS), as of April 2006 nearly 113,000 asylees were awaiting processing of their applications to adjust to LPR status.<sup>21</sup> USCIS estimated that for applications that already have been submitted, the wait for processing could exceed four years, though the agency intends to process applications submitted after April 1, 2007 within six months.<sup>22</sup> After having adjusted to LPR status, to apply for citizenship, asylees must have resided continuously in the United States with LPR status for at least four years.<sup>23</sup>

For any asylee who has to wait more than two years for an application to adjust to LPR status to be approved, naturalizing within the seven year limit on SSI eligibility will be impossible. Such an asylee must wait one year to apply to adjust to LPR status, then waits two years for the adjustment to be approved, and then must have LPR status for four years before applying for citizenship, by which point SSI eligibility would have expired. For asylees who are fortunate enough to be able to

adjust to LPR status more quickly, and for refugees, naturalization within the seven-year SSI limit is possible, but very difficult.

Moreover, the naturalization process itself can be quite arduous and lengthy. The process involves fees and multiple steps including a detailed application, an in-person interview, background checks, tests of English language proficiency and U.S. history and civics, and fingerprinting. For the reasons explained below, many humanitarian immigrants are unable to obtain citizenship within the two years or less of SSI eligibility that remain once they have become eligible to apply to become naturalized citizens. In addition, children who are humanitarian immigrants must wait until they turn 18 to naturalize unless they have a parent who has naturalized. Such children with severe disabilities could lose SSI benefits while waiting for a parent to naturalize or waiting to turn 18.

- **Fees.** Applicants must pay \$400 in fees. (USCIS recently proposed increasing the fees associated with naturalization by two-thirds to \$660.<sup>24</sup>) For an individual relying solely on federal SSI benefits, the current fees alone amount to nearly two-thirds of one month's income (the proposed fee would exceed monthly federal SSI benefits for an individual). Although partial fee waivers are available at the discretion of USCIS, as a practical matter it is difficult for humanitarian immigrants to apply for fee waivers without the assistance of an aid organization or attorney. Many humanitarian immigrants are not aware that fee waivers are available and the waiver request must include an affidavit, which is difficult to prepare properly without assistance.
- **Backlogs.** Backlogs in processing citizenship applications caused by increases in the number of applications, computer problems, insufficient staffing levels in some areas, and lengthy background checks put in place after the September 11 attack led to significant delays. As of July 2006, USCIS acknowledged a backlog of over 1.1 million naturalization applications (down from a high of 3.8 million in 2004).<sup>25</sup> Of those applications, 140,000 cases were considered under USCIS' control. The nearly one million remaining applications included cases considered outside USCIS' control because the agency was waiting for the Federal Bureau of Investigation to complete a name check. The FBI has acknowledged that USCIS' name check requests outpace the FBI's available resources for name checks.<sup>26</sup> Although applications are being processed more promptly now, for many immigrants who were able to meet the various citizenship requirements in recent years, it generally took more than a year for the USCIS to complete processing of the citizenship application.
- **Limited Literacy.** The English language and civics test presents a significant barrier to citizenship for humanitarian immigrants, many of whom have low education levels and limited or no proficiency in English. Some even lack literacy in their own language. Census data show that immigrants who are eligible to naturalize but have not yet become citizens have more limited English skills and lower levels of education than those who have become citizens.<sup>27</sup> Many humanitarian immigrants fled their homelands after suffering great physical deprivation and psychological trauma, and in some cases, torture, rape, or other forms of physical violence. Health problems and lack of social support may prevent these immigrants from attending English language classes, traveling to and from the USCIS office to take the required tests, or even understanding the naturalization process. Immigrants who are elderly or have disabilities face additional challenges, especially those with mental disabilities. Naturalization applicants who have disabilities may request a waiver of the civics and English proficiency requirements. But the waiver process is relatively recent and complicated. In order to obtain a waiver the

applicant must provide a doctor's statement confirming that the individual has an impairment that renders the applicant unable to learn English or the required civics material.<sup>28</sup> Anecdotal accounts suggest that the waivers are difficult to obtain and that few immigrants are aware of the availability of waivers. Moreover, processing of the waiver application itself can lengthen the naturalization process. No similar waiver exists for elderly humanitarian immigrants who might also have difficulty learning English or civics material.<sup>29</sup>

- **Misunderstanding.** Some humanitarian immigrants receiving SSI may not know that the seven-year limit applies to them. In addition, some immigrants have been afraid to apply for citizenship, mistakenly believing that they would be denied or even deported because they are receiving public assistance.

### **Congress Should at Least Extend SSI Eligibility Beyond Seven Years**

If Congress is unwilling at this time to completely delink SSI eligibility from citizenship for refugees and other humanitarian immigrants who are elderly or have disabilities, as a stopgap measure Congress could extend the seven-year limit on eligibility to prevent an estimated 4,500 vulnerable immigrants from losing their subsistence aid this year and another 4,000 from losing aid next year.<sup>30</sup> Although seven years may sound like plenty of time in which to complete the naturalization process, as explained in the previous section, in fact it is difficult or impossible for many humanitarian immigrants to become naturalized citizens within seven years of their arrival for a variety of reasons, some of which are entirely beyond their control.<sup>31</sup>

For these reasons, in each of its last four budgets the Administration has proposed temporarily extending the SSI eligibility limit for humanitarian immigrants who are elderly or have disabilities from seven years to eight years.<sup>32</sup> Bipartisan legislation that would temporarily have extended the seven-year limit to nine years, has been introduced on multiple occasions but was never enacted.<sup>33</sup> The Senate Finance Committee, while under the leadership of Senator Charles Grassley (R-IA), also reported out legislation extending the time limit, but this too was not enacted.<sup>34</sup>

To be clear, a short-term extension of the seven-year SSI eligibility limit would not address the underlying inequity of time-limiting SSI eligibility for humanitarian immigrants who are elderly or have disabilities. Nor would it help many of the individuals who have already lost SSI benefits or will lose them once the seven-year limit resumes. But a short-term extension would alleviate hardship for a group of extremely vulnerable individuals. Thus, if Congress is unwilling to eliminate the time limit immediately, at the very least it should extend the seven-year limit on SSI eligibility for humanitarian immigrants who are elderly or have disabilities.

### **Conclusion**

Refugees and other humanitarian immigrants are admitted to the United States and permitted to remain permanently because they face violence and persecution in their home countries. When such immigrants are impoverished and elderly or too disabled to work, they should be provided with benefits through the SSI program to meet basic living expenses. This subsistence aid should not be time-limited, as it is under current law. Congress should eliminate the seven-year time limit on SSI eligibility for refugees and other humanitarian immigrants who are elderly or have disabilities. At a minimum, Congress should provide immediate relief by extending the eligibility period beyond the

seven years currently allowed, which is not long enough for many humanitarian immigrants to become citizens even if they do their best to naturalize.

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<sup>1</sup> This paper draws heavily, in places verbatim, on several earlier Center on Budget and Policy Priorities papers: Shawn Fremstad, “Thousands of Refugees Who Are Elderly or Disabled Could Lose Supplemental Security Income in the Coming Months — Many Could Lose Medicaid As Well — Congress Could Address Issue Before It Adjourns for the Year,” Center on Budget and Policy Priorities, revised November 14, 2003, <http://www.cbpp.org/11-13-03imm.htm>; John Springer, “SSI Benefits Being Cut Off for Many Refugees Who Are Elderly or Disabled,” Center on Budget and Policy Priorities, November 21, 2003, <http://www.cbpp.org/11-21-03imm-fact.htm>; Shawn Fremstad, “The President’s Proposal to Extend SSI Eligibility for Refugees and Other Humanitarian Immigrants,” Center on Budget and Policy Priorities, February 4, 2004, <http://www.cbpp.org/2-4-04imm.htm>; Shawn Fremstad, “The Impact on the Seven-Year Limit on Refugees’ Eligibility for Supplemental Security Income — Refugees from the Former Soviet Union and Eastern Europe Are Most Affected,” Center on Budget and Policy Priorities, May 17, 2004, <http://www.cbpp.org/5-17-04imm.htm>; and Eileen P. Sweeney and Shawn Fremstad, “Supplemental Security Income: Supporting People with Disabilities and the Elderly Poor,” Center on Budget and Policy Priorities, revised August 17, 2005, <http://www.cbpp.org/7-19-05imm.htm>.

<sup>2</sup> In the remainder of this paper, the term “humanitarian immigrants” is used to refer to refugees as well as the other categories of immigrants affected by the seven-year SSI limit, including asylees, Cuban-Haitian entrants, some Amerasians, and some victims of trafficking. Refugees apply for permission to enter the United States while still in their home countries. Individuals seeking asylum apply for permission to remain in the United States once they have arrived here. Both groups must demonstrate that they have experienced persecution or have a well-founded fear of persecution on account of race, religion, nationality, political opinion, or membership in a particular social group in their home country. Victims of trafficking include individuals subject to sex trafficking, slavery, involuntary servitude, and peonage. For more information on victims of trafficking, see “Trafficking in Persons— A Guide for Non-Governmental Organizations” United States Department of Justice Civil Rights Division, <http://www.usdoj.gov/crt/crim/wetf/trafficbrochure.html>.

<sup>3</sup> Audrey Singer and Jill H. Wilson, “From ‘There’ to ‘Here’: Refugee Resettlement in Metropolitan America,” The Brookings Institution, September, 2006, p. 5, [http://www.brookings.edu/metro/pubs/20060925\\_singer.htm](http://www.brookings.edu/metro/pubs/20060925_singer.htm).

<sup>4</sup> According to Lavinia Limón, former Director of the United States Department of Health and Human Services’ Office of Refugee Resettlement, under the criteria in the Refugee Act of 1980 (P.L. 96-212), “the United States regularly admits elderly and disabled refugees with full knowledge of Government officials and policy makers that these refugees and those granted asylum after entry might access public benefits, including Supplemental Security Income (“SSI”) benefits for the blind, disabled and elderly, and in essence become a ‘public charge’. This policy recognizes the humanitarian mission of the refugee program in contrast to other immigration policies affecting immigrants who are not refugees or asylees.” Declaration of Lavinia Limón, filed in *Kaplan, et al. v. Chertoff, et al.*, No. 2:06-cv-05304-ER (Eastern District of Pennsylvania), January 31, 2007, paragraph 5.

<sup>5</sup> For 2003-2005, see “Number of 7-Year SSI Noncitizens With Benefits Suspended Due to the Expiration of the 7-Year Eligibility Period, by Noncitizen Type, State and Year of Suspension,” Social Security Administration, December 2005. For 2006, see “Number of 7-Year SSI Noncitizens Receiving Benefits in December 2005, by Noncitizen Type, State and Estimated Year of Suspension of SSI Benefits,” Social Security Administration, December 2005. For 2007-2016, see “Estimated Numbers of SSI Noncitizen Recipients Whose Eligibility for SSI Payments Is Suspended Due to the Expiration of Time-Limited Benefits, Fiscal Years 2007-2016--INFORMATION,” Social Security Administration Memorandum, August 31, 2006.

<sup>6</sup> For more information on the national origin of humanitarian immigrants who would be affected by the SSI eligibility limit, see Fremstad, “The Impact on the Seven-Year Limit on Refugees’ Eligibility for Supplemental Security Income — Refugees from the Former Soviet Union and Eastern Europe Are Most Affected.”

<sup>7</sup> Singer and Wilson.

<sup>8</sup> For more information on SSI eligibility criteria and how SSI benefits alleviate poverty for people who are elderly or disabled, see Sweeney and Fremstad, “Supplemental Security Income: Supporting People with Disabilities and the Elderly Poor.”

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<sup>9</sup> Immigrants with individual “sponsors” in the United States were subject to “sponsor deeming” rules — meaning their sponsor’s income was counted as available to the immigrant when determining the immigrant’s eligibility for SSI — during their first three to five years in the United States. Sponsor deeming rules did not apply to humanitarian immigrants because they did not have individual sponsors.

<sup>10</sup> Specifically, refugees and asylees who were already receiving SSI prior to August 22, 1996, as well as those who entered the United States prior to August 22, 1996 and are disabled, remain eligible for SSI benefits regardless of their length of residency in the United States. *Elderly* refugees and asylees who entered the United States prior to August 22, 1996 and *all* refugees and asylees who entered the United States on or after August 22, 2006 are generally eligible for SSI benefits only during their first seven years in this country. (A very small number of these humanitarian immigrants may be able to retain SSI eligibility if they have become legal permanent residents and can be credited with 40 quarters of work — including, under certain circumstances, work by spouses — in the United States.) For more detail, see Fremstad, “Thousands of Refugees Who Are Elderly or Disabled Could Lose Supplemental Security Income in the Coming Months — Many Could Lose Medicaid As Well — Congress Could Address Issue Before It Adjourns for the Year.”

<sup>11</sup> House of Representatives Report 105-149 accompanying the Balanced Budget Act of 1997 (P.L. 105-33), 8 U.S.C. § 1612(a)(2)(A).

<sup>12</sup> Declaration of Ron Haskins, filed in *Kaplan, et al. v. Chertoff, et al.*, No. 2:06-cv-05304-ER (Eastern District of Pennsylvania), January 31, 2007, paragraph 9.

<sup>13</sup> See, for example, “U.S. Sued Over Dropping of Benefits for Disabled,” *Washington Post*, December 21, 2006; Michael Vitez, “Waiting to Be a Citizen,” *Philadelphia Inquirer*, November 6, 2006; Karen Thomas, “Vanishing Safety Net — Refugees Who Don’t Become Citizens Lose Health Aid,” *Dallas Morning News*, January 22, 2006; “Elderly Refugees Facing Loss of Benefits,” *Waterloo-Cedar Falls Courier* (Iowa), January 25, 2004; “Older Refugees on Verge of Losing Federal Benefits,” *Chicago Tribune*, December 27, 2003; Suzanne Gamboa, “U.S. Cutting Off Disability to Refugees,” *Associated Press*, November 10, 2003; and Rona Marech, “Hundreds of Refugees are Losing Benefits, Government Payments Cut Off After Deadline for Citizenship Passed,” *San Francisco Chronicle*, November 11, 2003.

<sup>14</sup> See, for example, Robert Imrie, “WI: Elderly, Disabled Refugees Lose Benefits,” *Associated Press*, October 11, 2004; Tanya Weinberg, “Cutoff looms for S. Fla. refugees getting aid from federal government,” *Sun-Sentinel*, February 5, 2004; Jonathan Gramling, “Hmong Families Face Income and Benefit Cutoff,” *Madison Times*, November 28-December 4, 2003; Rona Marech, “Hundreds of Refugees are Losing Benefits, Government Payments Cut Off After Deadline for Citizenship Passed,” *San Francisco Chronicle*, November 11, 2003; Judith Davidoff, “The Unkindest Cut — Hmong Veteran Refugee Families Are Horrified: Their SSI Payments Are Ending,” *Capital Times* (Madison, WI), December 13, 2003; “Immigrant Welfare Benefits,” Public Policy Institute of California, December 1998 (describing reports of suicides by *Wall Street Journal* and other papers); and Bert Eljera, “Hmong Desperate on Welfare Reform: Suicides lead to a test case for welfare reform,” *Asian Week*, December 4-10, 1997 (describing suicides attributed to restrictions in California, New York, and Wisconsin), [http://www.asianweek.com/120497/cover\\_story.html](http://www.asianweek.com/120497/cover_story.html).

<sup>15</sup> 1951 Convention Relating to the Status of Refugees, Article 23, which also applies to refugees who arrived after 1950 under the 1967 United Nations Protocol Relating to the Status of Refugees, <http://www.unhcr.org/protect/PROTECTION/3b66c2aa10.pdf>.

<sup>16</sup> U.S. Commission on Immigration Reform, “U.S. Refugee Policy: Taking Leadership,” 1997.

<sup>17</sup> “Noncitizen Refugees Face Loss of Disability Aid,” *San Jose Mercury News*, April 27, 2004.

<sup>18</sup> U.S. Commission on Immigration Reform, “Becoming an American: Immigration and Immigrant Policy,” 1997.

<sup>19</sup> Jeanne Batalova, “Spotlight on Naturalization Trends,” Migration Policy Institute, September 1, 2006, <http://www.migrationinformation.org/USfocus/display.cfm?ID=421#14>.

<sup>20</sup> The REAL ID Act of 2005 (P.L. 109-13 § 101(g)) eliminated the cap.

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<sup>21</sup> U.S. Citizenship and Immigration Services, “Asylee or Refugee Seeking Lawful Permanent Resident (LPR) Status,” accessed January 31, 2007, <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=207796981298d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=3a82ef4c766fd010VgnVCM1000000ecd190aRCRD>.

<sup>22</sup> *Ibid.*

<sup>23</sup> Asylees are required to have had LPR status for five years before applying for naturalization. But there is a special rule that allows them to start counting their LPR status as having begun one year before the date on which their LPR application was approved. Thus, asylees must wait four years from the time their LPR application is approved before applying to naturalize. In addition, the naturalization application may be submitted 90 days before the date on which the asylee will have had LPR status for five years (refugees may also submit their applications 90 days before having been in the United States for five years). American Immigration Lawyers Association, “Some Common Questions about Naturalization,” accessed January 16, 2007, <http://www.aila.org/Content/default.aspx?docid=21334>.

<sup>24</sup> Federal Register, February 1, 2007, “Adjustment of the Immigration and Naturalization Benefit Application and Petition Fee Schedule,” Proposed Rule, <http://a257.g.akamaitech.net/7/257/2422/01jan20071800/edocket.access.gpo.gov/2007/pdf/E7-1631.pdf>.

<sup>25</sup> U.S. Citizenship and Immigration Services News Release, “USCIS Announces Elimination of Naturalization Application Backlog,” September 15, 2006, <http://www.uscis.gov/files/pressrelease/N400Bklg091506NR.pdf>.

<sup>26</sup> Supplemental Declaration of Michael A. Cannon, Section Chief of the National Name Check Program Section at the Federal Bureau of Investigation, filed in *Yakuba v. Chertoff*, No. 1:06-cv-3203-ERK-RLM (Eastern District of New York), August 31, 2006, paragraph 21.

<sup>27</sup> Michael Fix, et al., “Trends in Naturalization,” Urban Institute, September 2003.

<sup>28</sup> Melanie Nezer, “America’s Broken Promise: The Dire Consequences of Welfare Reform for Jewish Refugees,” Hebrew Immigrant Aid Society, Summer 2006, [http://www.hias.org/news/Pubs/hias\\_policy\\_2006.pdf](http://www.hias.org/news/Pubs/hias_policy_2006.pdf).

<sup>29</sup> The “Senior Citizenship Act of 2006” (H.R. 5819), introduced by Representative Nadler on July 17, 2006, would exempt individual over age 75 who have lived in the United States for five years from the English and civics test requirements for naturalization and would allow individuals over age 65 who have lived in the United States for five years to fulfill the civics requirements in a language other than English.

<sup>30</sup> “Estimated Numbers of SSI Noncitizen Recipients Whose Eligibility for SSI Payments Is Suspended Due to the Expiration of Time-Limited Benefits, Fiscal Year 2007-2016 — INFORMATION,” Social Security Administration Memorandum, August 31, 2006.

<sup>31</sup> When the seven-year limit was adopted, even proponents of restricting legal immigrants’ access to public benefits did not intend to restrict eligibility for humanitarian immigrants. As discussed on pages 3-4, they believed that all humanitarian immigrants could obtain U.S. citizenship (and thus retain SSI eligibility) within seven years, but that has not proven to be true.

<sup>32</sup> Budget of the United States Government, Fiscal Year 2005—Appendix, page 1078, <http://www.gpoaccess.gov/usbudget/fy05/pdf/appendix/SSA.pdf>; Budget of the United States Government, Fiscal Year 2006—Appendix, page 1110, <http://www.gpoaccess.gov/usbudget/fy06/pdf/appendix/ssa.pdf>; Budget of the United States Government, Fiscal Year 2007—Appendix, page 1102, <http://www.whitehouse.gov/omb/budget/fy07/pdf/appendix/ssa.pdf>; Budget of the United States Government, Fiscal Year 2008—Appendix, page 1024, <http://www.whitehouse.gov/omb/budget/fy2008/pdf/appendix/ssa.pdf>.

<sup>33</sup> H.R. 4035, “SSI Extension for Elderly and Disabled Refugees Act,” introduced March 25, 2004; H.R. 899, “SSI Extension for Elderly and Disabled Refugees Act,” introduced February 17, 2005; S. 2623, “SSI Extension for Elderly

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and Disabled Refugees Act,” introduced July 8, 2004; and S. 453, “SSI Extension for Elderly and Disabled Refugees Act,” introduced February 17, 2005.

<sup>34</sup> S.667, “Personal Responsibility and Individual Development for Everyone Act,” introduced March 17, 2005 (the provisions that had been included in earlier bipartisan Senate bills were incorporated into this bill, even though it was introduced by Senator Grassley (R-IA) alone, because it was seen as a legislative vehicle more likely to be enacted than the stand-alone bills that were pending).