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Social Security Act, title XVI (42 U.S.C. 1381). Mathews v. Diaz, 426 U.S. 67 (1976). 8 U.S.C. 1182. 8 U.S.C. 1251.

Although the Immigration and Nationality Act has provisions directed at preventing newly arrived aliens from receiving public assistance, many do receive assistance, including Supplemental Security Income (SSI). About 37,500 newly arrived aliens in five States receive about \$72 million in SSI benefits annually, and about \$16 million of this is paid to refugees who are exempt from the act's public charge provisions. Findings/Conclusions: The SSI program does not have a residency requirement for aliens. Newly arrived aliens need only to be admitted for permanent residency or to be refugees in order to receive SSI. In most cases, aliens apply for SSI because their sponsors, who promised in affidavits of support to keep them off public assistance, do not keep their promises. Sponsors cannot be forced to pay for assistance because the courts have ruled that the affidavits are unenforceable. Aliens are deportable as public charges only if assistance is not repaid on demand. However, repayment is not required under the SSI program and other assistance programs. Better screening of visa applicants, stricter income criteria for judging the ability of the sponsor to support the alien, and increased coordination concerning the alien's overseas assets could reduce the number of newly arrived aliens receiving SSI. Recommendations: The Secretary of State, in coordination with the Secretary of Health, Education, and Welfare, should develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant. Congress should enact legislation: establishing a residency requirement to prevent assistance payments to newly arrived aliens if the condition upon which eligibility is established existed before entry; making the affidavit of support legally binding; and making aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entry (RRS)

3505

REPORT TO THE CONGRESS



*BY THE COMPTROLLER GENERAL
OF THE UNITED STATES*

Number Of Newly Arrived Aliens Who Receive Supplemental Security Income Needs To Be Reduced

About \$72 million in Supplemental Security Income is provided annually to newly arrived aliens in five States. In most cases, this and other public assistance is supplied because aliens' sponsors fail to keep their promises of providing support. Administrative and legislative changes are needed to reduce these payments.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

3-164031(4)

To the President of the Senate and the
Speaker of the House of Representatives

This report discusses administrative and legislative changes needed to reduce expenditures of Supplemental Security Income and other public assistance for newly arrived aliens. Because of anticipated early action on pending legislation concerning this matter, we did not take the additional time needed to obtain written agency comments. The matters covered in the report, however, were informally discussed with agency officials, and their comments are incorporated where appropriate.

We made our review at the request of Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs. Also, Congressman Richard A. Gephardt subsequently requested a similar review. We are sending copies of this report to the Acting Director, Office of Management and Budget; the Attorney General; the Secretary of Health, Education, and Welfare; and the Secretary of State.

A handwritten signature in black ink, reading "Luther B. Stroh".

Comptroller General
of the United States

D I G E S T

About 37,500 newly arrived aliens (those in the United States for 5 years or less) in five States annually receive about \$72 million in Supplemental Security Income benefits. About \$16 million of this is paid to refugees. (See ch. 2.)

The Immigration and Nationality Act provides that aliens likely to require public assistance for their support are to be denied admission into the United States. The act also states that aliens who become public charges within 5 years of entry from causes arising before entry may be subject to deportation. These provisions are generally not applied to refugees. (See p. 5.)

The Supplemental Security Income program authorized in the Social Security Act does not have a residency requirement for aliens. Newly arrived aliens need only be admitted for permanent residency or be refugees. (See p. 3.)

The Department of State and the Immigration and Naturalization Service obtain affidavits of support from persons willing to sponsor aliens who lack sufficient means to support themselves when applying for permanent residency in the United States. These are used as evidence that the alien is not likely to become a public charge. State Department and Immigration Service officials do not have information on the number of affidavits accepted. However, one Department official said many aged and disabled aliens appear likely to become public charges and cannot qualify to immigrate without these affidavits.

Most newly arrived aliens identified in our review who receive Supplemental Security Income had been sponsored with affidavits of support. Their sponsors, who agreed to provide necessary support and guaranteed that the aliens would not become public charges, did not fulfill their promises.

Sponsors cannot be held liable because courts have ruled their promises are not legally binding. (See ch. 3.)

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if they fail to repay public assistance upon demand. However, repayment is not required under the Supplemental Security Income program and other public assistance programs. (See p. 12.)

Better screening of visa applications, use of more stringent income criteria for judging sponsors' ability to provide support, and increased coordination between the Immigration Service and Social Security on aliens' overseas assets may prevent some newly arrived aliens from receiving Supplemental Security Income. Social Security is reviewing whether the asset information should be routinely obtained from the Immigration Service. (See ch. 4.)

GAO believes legislation is needed before any significant reduction in public assistance to newly arrived aliens will be realized. Several bills introduced in the 95th Congress would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance. (See p. 17.)

RECOMMENDATIONS TO THE
SECRETARIES OF STATE AND
HEALTH, EDUCATION, AND WELFARE

GAO recommends that the Secretary of State:

- In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant.
- Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

GAO recommends that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from the Immigration Service for reducing aliens' eligibility for Supplemental Security Income benefits.

RECOMMENDATIONS TO THE CONGRESS

GAO recommends that the Congress:

- Establish a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.
- Make the affidavit of support legally binding on the sponsor.
- Make aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entering the United States.

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ABBREVIATIONS

AFDC	Aid to Families with Dependent Children
GAO	General Accounting Office
INS	Immigration and Naturalization Service
SSA	Social Security Administration
SSI	Supplemental Security Income

CHAPTER 1

INTRODUCTION

Members of Congress, the public, and the news media have recently expressed concern about aliens who receive public assistance soon after arriving in the United States. On April 20, 1977, Senator Charles H. Percy, Ranking Minority Member of the Committee on Governmental Affairs, asked us to:

- Determine how many newly arrived legal aliens (those in the United States 5 years or less) were receiving Supplemental Security Income (SSI) benefits and how much they were receiving.
- Review the effectiveness of the Social Security Administration's (SSA's), the Department of State's, and the Immigration and Naturalization Service's (INS') handling of aliens receiving these benefits.
- Identify legislative and administrative improvements needed to reduce Federal public assistance expenditures in this area.

On May 20, 1977, Congressman Richard A. Gephardt requested similar information.

IMMIGRATION AND NATIONALITY ACT

The Immigration and Nationality Act (8 U.S.C. 1101) prescribes the conditions for admission and stay of aliens in the United States. The act defines aliens as persons who are not U.S. citizens or nationals.

The act states that aliens likely to require public assistance for their support are to be denied admission into the United States. Aliens can prove they are not likely to receive public assistance by demonstrating that permanent employment providing adequate income is available upon their arrival, that they have adequate funds to support themselves, or that someone in the United States promises to provide necessary support. If these conditions cannot be met, a bond, commonly called a public charge bond, must be posted to reimburse public funds spent if the alien becomes a public charge. Aliens who become public charges during the first 5 years of residence in the United States from causes arising before entry may be subject to deportation.

The Secretary of State and the Attorney General--INS-- are responsible for administering and enforcing the act.

SUPPLEMENTAL SECURITY INCOME

The SSI program was established under title XVI of the Social Security Act (42 U.S.C. 1381) to provide cash assistance to the needy aged, blind, and disabled. The program, which became effective on January 1, 1974, replaced former grant-in-aid programs to the States for assisting the aged, blind, and permanently and totally disabled.

In 1976 the highest Federal basic monthly benefit was \$167.80 for one person and \$251.80 for a couple. Presently, the maximum Federal benefits are \$177.80 and \$266.70, respectively. Larger monthly payments are made in States that supplement SSI payments. Many State supplements are administered for the States by SSA.

SSA administers the SSI program at its headquarters in Baltimore, at 10 regional offices, and at over 1,300 district and branch offices throughout the Nation. SSI funds are appropriated from general revenues. For fiscal year 1977, \$4.7 billion was appropriated for payments to recipients. SSA estimates that federally administered State supplemental payments totaled about \$1.5 billion for the same period. About 4 million persons presently receive SSI benefits.

OTHER FEDERALLY FUNDED PUBLIC ASSISTANCE

Newly arrived aliens also receive benefits under other public assistance programs, including the Medicaid and Aid to Families with Dependent Children (AFDC) programs. Although our review focused on the SSI program, chapter 2 discusses the impact of newly arrived aliens on the Medicaid and AFDC programs in California.

Medicaid (title XIX of the Social Security Act) is a program designed to provide medical assistance to SSI and AFDC recipients and other medically needy persons. The AFDC program (title IV of the Social Security Act) was established to enable States to furnish cash assistance and other services to needy dependent children and their parents or relatives with whom they are living. Both programs are State administered, with funding shared by the Federal and State governments.

RESIDENCE REQUIREMENTS FOR ALIENS

Length of residence is normally not a prerequisite for aliens to receive public assistance. In a 1971 case, the Supreme Court ruled that provisions of State law conditioning benefits on citizenship and imposing residency requirements for aliens violated the equal protection clause of the Constitution. The Court concluded that State residency requirements for aliens encroached upon the exclusive Federal power over aliens.

In June 1976 the Supreme Court in Mathews v. Diaz, 426 U.S. 67 (1976) decided that the Congress could make duration of residency a prerequisite for an alien's eligibility for public assistance. The Court, in upholding a 5-year residency requirement in the Medicare program--which provides health insurance for the aged--reasoned that the Congress has no constitutional duty to provide all aliens the benefits provided to citizens. The Court added that:

"The decision to share * * * [the] bounty with our guests may take into account the character of the relationship between the alien and this country. Congress may decide that as the alien's tie grows stronger, so does the strength of his claim to an equal share of that munificence."

In its decision, the Court pointed out many ways in which citizens and aliens are treated differently.

There is no residency requirement in the SSI legislation specifically for aliens. An alien need only be lawfully admitted for permanent residency or residing under color of law. 1/ SSI payments to aliens and citizens who are outside the United States for more than 30 days are stopped and are not resumed until they have been back in this country for 30 consecutive days. Consequently, aliens are not considered eligible for SSI until they have been in the United States for 30 days.

1/ Aliens residing under color of law include those who entered the United States before July 1948 and refugees granted conditional entry after fleeing Communist countries because of persecution or fear of persecution due to race, religion, or political opinion or granted temporary residence for emergency reasons.

PREVIOUS GAO WORK

From 1973 through 1977 we reviewed a wide range of immigration matters. A series of reports based on this work (see app. I) pointed out the need for the Congress and executive branch agencies to totally reassess U.S. immigration policy to adequately cope with all immigration problems. One of these reports--issued in July 1975--discusses the need for curbing the adverse economic impact of newly arrived aliens receiving public assistance. In this report, we recommended that INS and the Department of State improve immigrant screening procedures and increase the use of public charge bonds. We also recommended that the Congress clearly define the term "public charge" and make sponsors' promises to support aliens legally binding.

SCOPE OF REVIEW

We reviewed the Immigration and Nationality Act and the Social Security Act as they pertain to aliens who receive public assistance, and we examined the policies and procedures implementing the acts. We also interviewed State Department and INS officials responsible for immigration and SSA officials responsible for the SSI program.

We visited SSA and INS district offices in Illinois, California, and New York to obtain information on newly arrived alien SSI recipients and to review coordination between the two agencies in the field. SSA and INS helped us to estimate the number of newly arrived aliens and the magnitude of SSI benefits paid to them. We were able to make estimates in California, Florida, Illinois, New Jersey, and New York.

CHAPTER 2

ALIENS RECEIVE PUBLIC ASSISTANCE NOTWITHSTANDING

OBJECTIVE OF U.S. IMMIGRATION LAW

Although the Immigration and Nationality Act has provisions directed at preventing newly arrived aliens from receiving public assistance, including SSI, many receive assistance. We estimate that about 37,500 newly arrived aliens in five States receive about \$72 million in SSI benefits annually. About \$16 million of this is paid to refugees who are exempt from the act's public charge provisions.

PROVISIONS AGAINST PAYING PUBLIC ASSISTANCE TO ALIENS

Two Immigration and Nationality Act provisions are aimed at preventing newly arrived aliens from receiving public assistance. The first states that aliens are:

"* * * ineligible to receive visas and shall be excluded from admission into the United States * * * [if] in the opinion of the consular officer at the time of application for a visa, or in the opinion of the Attorney General at the time of application for admission, * * * [they are] likely at any time to become public charges * * *." (8 U.S.C. 1182)

The second provision provides that any alien in the United States:

"* * * shall, upon the order of the Attorney General, be deported * * * [if] in the opinion of the Attorney General, [he/she] has within five years after entry become a public charge from causes not affirmatively shown to have arisen after entry * * *." (8 U.S.C. 1251)

Neither provision has successfully prevented newly arrived aliens from receiving SSI and other public assistance.

HOW MANY NEWLY ARRIVED ALIENS RECEIVE SSI BENEFITS?

To determine the number of newly arrived aliens receiving SSI benefits, we asked SSA to review and give us selected information on aliens in its SSI quality assurance files for:

July 1 through December 31, 1976. These files represent a statistical sample of about 23,000 recipients selected randomly from about 4.2 million receiving benefits during this period. Of the recipients in the sample, 1,084 were aliens. It was determined from information at INS that 885 aliens had been in the United States more than 5 years and 199 were newly arrived. Based on this information, we estimate that about 214,000 aliens receive SSI, of which about 42,000 are newly arrived.

The newly arrived aliens in the sample resided in 25 of the 50 States. (See app. II.) However, a statistically reliable projection of the number of newly arrived aliens receiving SSI could only be made for California, Florida, Illinois, New Jersey, and New York, where 148 of the 199 aliens resided. The estimated annual SSI benefits paid, as shown in the following table, were projected based on the actual benefits paid to the 148 newly arrived aliens in these States.

<u>State</u>	<u>Estimated number of newly arrived aliens receiving SSI</u>	<u>Estimated amount paid annually to newly arrived aliens</u> (millions)
California	12,027	\$31.6
Florida	12,342	19.5
Illinois	2,980	4.5
New Jersey	3,718	5.4
New York	<u>6,444</u>	<u>11.3</u>
	<u>a/37,511</u>	<u>a,b/\$72.3</u>

a/We estimate that our statistics on the total number of newly arrived aliens in these States receiving SSI are accurate within plus or minus 6,787 and that the total amount of benefits paid aliens during this period is accurate within plus or minus \$14.9 million at the 95-percent level of confidence. These amounts include Federal SSI benefits and federally administered State supplementation.

b/The public charge provisions of the Immigration and Nationality Act generally are not applied to refugees. Refugees currently residing in the United States are from Cuba, Vietnam, Russia, and other countries. We estimate that of the \$72 million in SSI benefits paid annually to newly arrived aliens, \$16 million (or about 22 percent) was provided to refugees.

How soon after arrival do they apply?

The brief period between when aliens enter the United States and when they apply for SSI further demonstrates that the act's public charge provisions are not effective. We estimate that 63 percent ^{1/} of the newly arrived aliens receiving SSI in the five States mentioned above were in the United States for 1 year or less when they applied for SSI. The following table shows how soon after arrival these aliens applied for SSI benefits.

<u>Length of time</u>	<u>Estimated number of newly arrived aliens receiving SSI between July 1 and December 31, 1976</u>	<u>Percent of total</u>	<u>Cumulative percent of total</u>
Less than 1 month	3,035	8	8
1 to 6 months	12,399	33	41
6 months to 1 year	8,169	22	63
1 to 3 years	12,409	33	96
3 to 5 years	<u>1,499</u>	<u>4</u>	100
	<u>37,511</u>	<u>100</u>	

HOW MANY AGED ALIENS ENTERING THE UNITED STATES APPLY FOR SSI SOON AFTER ARRIVAL?

The public charge provisions of the Immigration and Nationality Act are ineffective in screening out aged (age 65 or older) aliens who may need SSI assistance soon after arrival in the United States. We estimate that 34 percent of the aged aliens who entered the United States during fiscal years 1973-75 were receiving SSI at the end of December 1976.

To determine how many of these aliens applied for SSI soon after entry, we compared INS figures on the number of aged aliens entering the United States with the estimated number receiving SSI. The estimates shown in the following table are based on the sample discussed on page 6.

^{1/}This estimate is subject to an 8.8-percent sampling error at the 95-percent confidence level.

Entry dates (note a)	Aged aliens who entered the United States (note b)	Estimated number receiving SSI (note c)	Percent receiving SSI
July 1, 1972 to June 30, 1973	11,228	3,323	29.6
July 1, 1973 to June 30, 1974	11,042	5,025	45.5
July 1, 1974 to June 30, 1975	<u>12,051</u>	<u>3,451</u>	28.6
Total	<u>34,321</u>	<u>11,799</u>	34.4

a/The information for this analysis was available only for these periods.

b/Based on 1975 Annual Report: Immigration and Naturalization Service, page 53.

c/We did not determine the statistical reliability of these estimates.

IMPACT OF NEWLY ARRIVED ALIENS ON OTHER PUBLIC ASSISTANCE PROGRAMS

Our review was not directed at public assistance programs other than the SSI program. However, we reported to the Congress in July 1975 ^{1/} that newly arrived aliens received AFDC benefits. Also, because SSI and AFDC recipients are often eligible for Medicaid benefits, we believe that substantial Medicaid benefits are paid to newly arrived aliens receiving SSI and AFDC payments.

In our July 1975 report, we pointed out that newly arrived aliens were receiving AFDC, Old Age Assistance, and Aid to the Totally Disabled benefits. For example, of a randomly selected sample of alien welfare cases in Los Angeles County, 44 percent had applied for assistance within 5 years of entry into the United States. Sixty percent of them were AFDC recipients. We estimated that newly arrived aliens and their families were paid \$19.6 million annually under these three programs in this county.

^{1/}"Need To Reduce Public Expenditures for Newly Arrived Immigrants and Correct Inequity in Current Immigration Law" (GGD-75-107, July 15, 1975).

We did not review Medicaid benefits provided SSI and AFDC recipients nationally. However, we estimate that in California in fiscal year 1976, newly arrived aliens on SSI received about \$10 million in Medicaid benefits. This estimate is based on the average Medicaid cost for all SSI recipients in California.

CHAPTER 3

FAILURE TO HONOR SUPPORT AGREEMENTS

IS PRIMARY CAUSE OF

NEWLY ARRIVED ALIENS RECEIVING SSI

Most newly arrived aliens receiving SSI apply because their sponsors, who agreed in affidavits to provide necessary support and guaranteed that the aliens would not become public charges, do not fulfill their promises. Sponsors cannot be held liable because the courts have ruled that the support agreements are not legally binding.

AFFIDAVITS OF SUPPORT

Affidavits of support have been used since 1931 for aliens who wish to immigrate to the United States but lack sufficient means to support themselves here. The Department of State consular offices and INS obtain affidavits of support from persons willing to sponsor aliens applying for permanent residency in the United States. In the affidavit, the sponsor states his reasons for sponsoring the alien and provides asset and income information to demonstrate that he can fully support the alien. Affidavits are used as evidence that the alien is not likely to become a public charge.

Department of State and INS officials do not have information on the number of affidavits accepted. However, one State Department official indicated that most aged and disabled aliens, such as those on SSI, are sponsored. He added that many could not qualify to immigrate without affidavits of support.

A review of INS files showed that most newly arrived aliens in the sample of SSI recipients (see p. 6) required affidavits of support to qualify for permanent residency in the United States. Of the 199 newly arrived aliens in the sample, 37 were refugees who did not need affidavits of support. INS could not locate the files on 25 others. Of the remaining 137, 113 (about 82 percent) had affidavits on file at INS. Of the affidavits, 70 had been submitted by relatives, including aliens' children.

The affidavits of support are not being honored by sponsors of aliens on SSI. Various courts have ruled that the affidavits are unenforceable as contracts between the sponsor and the Government and are only moral obligations. These

rulings were based on the fact that the Immigration and Nationality Act does not authorize any Federal executive or administrative official to require a contract of support. One court stated that, for the affidavit to be made legally binding, a statute would have to be enacted giving the sponsor notice that he is undertaking a legal obligation. In this court's opinion the statute would need well-defined limits on the amount, duration, and other conditions to be legally enforceable. Despite this, however, the State Department and INS continue to request affidavits of support.

The following are examples of newly arrived alien SSI recipients whose affidavits of support are not being honored.

- A 76-year-old alien entered the United States in March 1977 and applied and became eligible for SSI benefits in April. Before she immigrated, her daughter and son-in-law had signed an affidavit of support promising she would not become a public charge. They cited a combined annual income of about \$17,100 and a net worth of about \$62,000 as evidence of their ability to provide support. The alien indicated on her SSI application that the daughter did not provide any financial assistance.
- A 72-year-old alien and his 70-year-old spouse entered in November 1976. Their daughter and son-in-law signed an affidavit of support in October insuring the alien couple would not become a public charge. The couple applied for SSI less than 3 months after their arrival and began receiving monthly benefits of \$338.08 in February 1977. The son-in-law stated at the time the couple applied for SSI that he had been supporting them but would stop doing so when they began receiving SSI benefits. The son-in-law discontinued assistance in March 1977, and as a result, the couple's SSI benefits were increased to \$522 per month.
- In July 1976 a 64-year-old alien entered the United States. His daughter signed an affidavit of support in which she cited an annual salary of \$25,000 and assets valued at about \$130,000. The alien applied for SSI in November 1976--four months after his arrival and 17 days before his 65th birthday. As of July 1977 the alien and his wife, who had immigrated earlier, were receiving SSI benefits of \$557 per month.

FEW NEWLY ARRIVED ALIENS ARE
DEPORTED AS PUBLIC CHARGES

Aliens are seldom deported as public charges even though many receive public assistance. Between 1971 and 1975, only 17 of the 93,009 aliens deported were deported as public charges.

In our July 1975 report (see p. 8), we stated that aliens were usually granted public assistance because of physical disabilities and inadequate resources existing before entry or because sponsors failed to honor their support agreements. We note that newly arrived aliens continue to receive public assistance for causes arising before entry. Of the 199 newly arrived aliens in the sample, 38 were disabled. We reviewed medical information for 17 of the 38. 1/ Twelve were receiving benefits because of disabilities arising before entry and five became disabled after entry.

In 1948 the Department of Justice's Board of Immigration Appeals, in accordance with court decisions, established that before deporting an alien who receives public assistance, a determination must be made by the Government that the assistance program requires repayment, a demand for repayment was made, and there was a failure to repay. Since the SSI program and other public assistance programs do not require a recipient to repay the Government for assistance provided, aliens are not deportable for receiving benefits under these programs.

1/Of the other 21 cases, 12 were converted from State grant-in-aid programs when the SSI program began in 1974 and sufficient medical information was not on file at SSA to determine when the disability arose, 6 could not be found, 1 lacked sufficient information to make a determination, and 2 were not traced.

CHAPTER 4

LEGISLATION RATHER THAN ADMINISTRATIVE

IMPROVEMENTS NEEDED TO REDUCE ALIEN

ELIGIBILITY FOR PUBLIC ASSISTANCE

Present legislation and applicable Department of State and INS procedures established to prevent newly arrived aliens from receiving public assistance are not effective. In addition, SSA's eligibility determinations for SSI do not fully consider all resources that an alien may own. Although certain administrative improvements may reduce the number of aliens receiving SSI, legislation is needed before any significant reduction can be realized.

ADMINISTRATIVE IMPROVEMENTS MAY REDUCE THE NUMBER OF NEWLY ARRIVED ALIENS RECEIVING SSI

Administrative improvements--better screening of visa applications, more stringent income criteria for judging sponsors' ability to provide support, and more comprehensive SSI eligibility reviews--could prevent some newly arrived aliens from receiving SSI.

Improved screening

In our 1975 report (see p. 8), we concluded that better screening of aliens' visa applications could help reduce the number of aliens likely to need public support. In our opinion, improvements in the application screening process are still needed. Newly arrived aliens continue to apply for SSI because of conditions existing before they enter the United States.

The following are examples of newly arrived aliens who appeared likely to become public charges when applying for entry.

- In August 1976, a naturalized citizen requested and was granted approval to have her mother, father, 6 brothers, and 2 sisters admitted to the United States. A sister and a brother, aged 29 and 36, respectively, indicated that they did not work, and a 16-year-old brother said he was a student. These three underwent medical examinations before entry and were found to have a progressive spinal disease which

paralyzes the lower extremities and limits the use of the upper extremities. The younger brother entered the United States in September 1976; his brother and sister entered in November. In December all three applied for SSI as disabled individuals, stating that they never worked; had no cash, income, or resources; and were living with their father, mother, and other brothers and sisters. From February through July 1977 the three received SSI payments totaling \$3,086.71, and currently they are receiving \$349.17 monthly.

--A 68-year-old alien entered in June 1976. She applied for SSI 9 days after her arrival and began receiving benefits of \$220.07 a month in July. Her monthly benefits were later increased to \$257.07, retroactive to July, when a medical examination verified that she was legally blind.

Deciding whether an applicant is likely to be supported at public expense is difficult and involves considerable subjective judgment. The consular officer must consider many factors other than the alien's potential earning capacity, including the intent of the alien and his sponsor. Despite these difficulties, we believe improved screening can reduce the number of newly arrived aliens receiving SSI.

A State Department official said that making management improvements that reduced consular officers' routine administrative workload and increasing the number of consular officers have helped improve screening. While agreeing that there is still room for improvement, the official believed most aliens who receive SSI do so because sponsors fail to provide support. In his opinion, improved screening would not solve this problem.

More stringent income criteria needed

The criteria used by the State Department and INS to evaluate a sponsor's ability to provide financial support do not exclude some sponsors who have limited income and probably cannot provide adequate support. The State Department and INS use the Department of Health, Education, and Welfare's Community Services Administration "Income Poverty Guidelines" as criteria for evaluating a sponsor's ability to provide support. These guidelines provide national income levels below which families are considered in poverty.

The following are examples of sponsors the State Department judged capable of providing support using the guidelines but whose income does not appear sufficient to provide adequate support.

--A 65-year-old alien entered in March 1976. The alien's 35-year-old daughter, a legal permanent resident, had previously signed an affidavit of support indicating that she had two dependents, earned \$100 per week as a housekeeper, and had a savings account balance of \$639.46. According to then-current guidelines, a non-farm family of four (including the alien mother) should have an annual income of \$5,050 in the continental United States. The alien applied for SSI less than 3 months after arrival and began receiving monthly benefits of \$206.44 effective May 1976. If the daughter had provided equivalent support, she would have had \$227 a month for supporting herself and her two dependents, which is \$126 a month below the income poverty level for a nonfarm family of three.

--A 66-year-old alien and his 69-year-old spouse entered in July 1976. An affidavit of support signed in November 1975 by their immigrant daughter stated that she had an annual salary of \$7,654 and a savings account balance of \$1,027. The affidavit also indicated that she had four children who depended on her as their sole or principal means of support. According to then-current guidelines, a nonfarm family of seven (including the alien couple) should have an annual income of \$7,510 in the continental United States. The alien couple applied for SSI about 4 months after their arrival and began receiving monthly benefits of \$514.50 effective November 1976. If the daughter had provided equivalent support, she would have had \$123 per month for herself and her four children, which is \$366 a month below the income poverty level for a nonfarm family of five.

If the State Department and INS used more stringent income criteria that took public assistance benefit levels into account, we believe aliens in such circumstances would be judged likely to become public charges and would be denied entry. This would reduce the number of newly arrived aliens that need public assistance, but it would not solve the problem of sponsors with adequate resources who fail to honor their support agreements.

State Department officials admitted that more stringent income criteria were needed. However, they said that attempts to develop such criteria have been complicated by the varied amounts of public assistance provided by Federal, State, and local governments.

Failure to disclose overseas assets

In several cases aliens had failed to disclose to SSA overseas assets that might have disqualified them for SSI. Individuals with more than \$1,500 (and couples with more than \$2,250) of countable resources are ineligible for SSI. The following are examples of aliens receiving SSI who had assets exceeding those standards.

--A 68-year-old alien entered the United States in March 1975. He applied for SSI benefits and began receiving monthly payments of \$206.44 effective May 1976. In March, in a sworn statement on his visa application to the American embassy, he indicated that he had real estate overseas worth about \$13,000. When applying for SSI benefits less than 2 months later, however, he stated that he did not have any property and had not sold property to any person during the previous 12 months.

--A 71-year-old alien entered in December 1976 and applied for SSI in February 1977. She received \$226 per month in February and March and began receiving benefits of \$276 per month in April. In a written statement made in conjunction with her SSI application, she indicated that she had come to this country with only \$800 and had \$400 left. She also said that she had not given away any money or sold any property during the previous 12 months. However, about 5 months earlier she had submitted a sworn statement to an American consul indicating she had overseas bank deposits of approximately \$8,200.

Information on overseas assets of aliens is contained in INS files. Although the Social Security Act authorizes access to these files for verification purposes, SSA district offices do not routinely request overseas asset information. As a result, aliens with overseas assets exceeding the SSI resource standards may be receiving SSI benefits.

We could not statistically estimate how much in SSI benefits is paid to newly arrived aliens who have assets exceeding the SSI resource standards. However, after we brought this

matter to SSA's attention, it began including resource information from INS on selected alien SSI recipients as part of its ongoing review of the SSI program. An SSA official told us that if the results indicate overseas assets are significant, INS files would be reviewed routinely for newly arrived aliens who apply for SSI.

Limited use of public charge bonds

When a question exists about the likelihood of a visa applicant becoming a public charge, admission to the United States may be granted if a bond is posted. The bond can be used to reimburse public funds spent if the alien becomes a public charge. In our July 1975 report, we pointed out that consular and INS officers rarely required bonds because they were (1) viewed as an undue hardship for many aliens and their sponsors, (2) seldom collected, and (3) administratively time consuming. We recommended that the Attorney General and Secretary of State require bonds for every visa applicant for whom a reasonable doubt existed about whether he or she would become a public charge.

According to INS officials, public charge bonds still are not frequently used because they are difficult to administer. They believed that using bonds was a much less desirable alternative than making the affidavit of support a legally enforceable contract. INS and State Department officials recognize that bonds could be useful when an affidavit of support or an applicant's planned employment in the United States may not be sufficient to fully protect the Government's interest; however, they believed the use of bonds should be the exception rather than the rule.

Bonds may still serve a useful purpose in cases in which reasonable doubt exists about the likelihood of a visa applicant becoming a public charge. We believe, however, that legislation of the type discussed below is needed before any significant impact will be made in preventing newly arrived aliens from becoming eligible for public assistance.

LEGISLATIVE PROPOSALS FOR REDUCING THE NUMBER OF ALIENS RECEIVING SSI

Several bills have been introduced in the 95th Congress to reduce newly arrived aliens' eligibility for public assistance. For purpose of discussion these legislative proposals can be grouped as follows:

- Establish residency requirements for SSI and other federally funded assistance programs except when eligibility results from causes arising after entry.
- Make the sponsor's affidavit of support a legally enforceable contract and define "public charge" in the Immigration and Nationality Act as a recipient of public assistance.
- Consider sponsors' income and resources in determining an alien's SSI eligibility.

Establishing residency requirements

There is no residency requirement for aliens to be eligible for SSI. Aliens can receive SSI benefits within 30 days of arrival. In our view a residency requirement would be the best way of preventing large expenditures of SSI funds for newly arrived aliens.

Several bills would require 1 to 5 years residency in the United States before an alien could qualify for SSI benefits. The residency requirements, however, generally would not be applicable if the alien became eligible for SSI from causes arising after entry.

The only program authorized under the Social Security Act that has an alien residency requirement is the Medicare Supplemental Medical Insurance program. Under this program lawfully admitted aliens who are 65 years of age or older would be denied benefits unless they had been in the United States for at least 5 years. According to SSA, it could enforce a similar 5-year residency requirement for the SSI program without an increase in administrative costs. However, some added cost may result because of the need to determine whether an alien was eligible for SSI based on causes arising after entry.

Legalizing the affidavit of support and defining a public charge

Pending legislation would make the affidavit of support legally binding on the alien's sponsor and would define a public charge as an alien who receives public assistance. The affidavit would be enforceable as if it were a contract between the United States and the sponsor, and the Federal, State, and local governments could recover any public assistance provided to an alien. In addition, the present repayment test for a public charge, which precludes deportation

for receipt of most forms of public assistance, would no longer be applicable. We, INS, SSA, and the Department of State believe that these two legislative changes are necessary to reduce the likelihood of newly arrived aliens receiving public assistance.

Considering sponsors' income
in determining SSI eligibility

The Social Security Act requires that:

- Income and resources of an applicant's spouse living in the same household be considered when determining SSI eligibility and benefits for a married applicant.
- Income and resources of an applicant's parents living in the same household be considered when determining SSI eligibility and benefits for an applicant under age 21.

Proposed legislation contains a similar provision which would require that a sponsor's income and resources be considered when determining an alien's SSI eligibility.

SSA believes that the proposed provision will cause administrative difficulties. According to SSA:

"The provisions of present law which require the deeming of income from one person to another apply only in certain cases where the SSI recipient lives with the person from whom income is deemed (usually a spouse or parent). This would not necessarily be the case for the alien and the sponsor. We would have to consider the income and resources of a sponsor who could live very distant from the alien. Also, if the sponsor refused to furnish information concerning his income and resources, the alien could be disadvantaged for actions beyond his control."

We believe that considering a sponsor's income and resources would not be an effective method of reducing public assistance payments to newly arrived aliens. Imposing a residency requirement, making the affidavit of support enforceable, and defining public charge would more effectively resolve the problem.

CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

Restrictions in the Immigration and Nationality Act and the Social Security Act are not preventing newly arrived aliens from receiving public assistance. This is evidenced by the large sums of money paid to newly arrived aliens under the SSI and other public assistance programs.

In most cases, aliens apply for SSI because their sponsors, who promised in affidavits of support to keep them off public assistance, do not keep their promises. The sponsors cannot be forced to pay for assistance because the courts have ruled that the affidavits are unenforceable moral commitments.

Newly arrived aliens are seldom deported as public charges even though many receive public assistance for causes that arose before entry. Because of court rulings and Department of Justice decisions, aliens are deportable as public charges only if such assistance is not repaid on demand. However, repayment is not required under the SSI program and other assistance programs.

Better screening of visa applicants, stricter income criteria for judging the ability of the sponsor to support the alien, and increased coordination between INS and SSA on aliens' overseas assets may reduce the number of newly arrived aliens receiving SSI. SSA is obtaining and reviewing asset information from INS on selected cases in which aliens receive SSI to determine the practicality of routinely obtaining this information for all aliens applying for SSI.

Several bills have been introduced in the 95th Congress that would strengthen the Government's ability to prevent many newly arrived aliens from receiving public assistance, including SSI benefits. We believe legislation is needed before any significant reduction in public assistance to newly arrived aliens can be achieved.

RECOMMENDATIONS TO THE
SECRETARIES OF STATE AND
HEALTH, EDUCATION, AND WELFARE

We recommend that the Secretary of State:

- In cooperation with the Secretary of Health, Education, and Welfare, develop more stringent income criteria for judging the ability of a sponsor to support a visa applicant. These criteria should take into consideration established welfare benefit payment levels as well as the Community Services Administration income poverty guidelines.
- Emphasize to consular officers the importance of screening aliens who may apply for public assistance.

We recommend that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to report to the Congress the results of its review on obtaining aliens' overseas asset information from INS and the future application of this mechanism for reducing aliens' eligibility for SSI benefits.

RECOMMENDATIONS TO THE CONGRESS

We recommend that the Congress enact legislation:

- Establishing a residency requirement to prevent assistance payments to newly arrived aliens, if the condition upon which eligibility is established existed before entry.
- Making the affidavit of support legally binding on the sponsor.
- Making aliens subject to deportation if they receive Federal, State, or local public assistance because of conditions existing before entry by defining public charge to include receiving any public assistance, regardless of whether repayment is required.

GAO REPORTS TO THE CONGRESS
ON IMMIGRATION MATTERS

<u>Title</u>	<u>Reference number</u>	<u>Date</u>
Impact of Illegal Aliens on Public Assistance Programs: Too Little Is Known	GGD-78-20	12/ 1/77
Domestic Resettlement of Indo- chinese Refugees--Struggle for Self-Reliance	HRD-77-35	5/10/77
Immigration--Need to Reassess U.S. Policy	GGD-76-101	10/19/76
Smugglers, Illicit Documents, and Schemes Are Undermining U.S. Controls over Immigration	GGD-76-38	8/30/76
Evacuation and Temporary Care Afforded Indochinese Refugees-- Operation New Life	ID-76-63	6/ 1/76
Need to Reduce Public Expendi- tures for Newly Arrived Immi- grants and Correct Inequity in Current Immigration Law	GGD-75-107	7/15/75
U.S. Provides Safe Haven for Indochinese Refugees	ID-75-71	6/16/75
Review of Preliminary Estimates of Evacuation Costs, Temporary Care and Resettlement Costs of Vietnamese and Cambodian Refugees	ID-75-68	5/27/75
Better Controls Needed to Prevent Foreign Students from Violating the Conditions of Their Entry and Stay While in the United States	GGD-75-9	2/ 4/75
More Needs to Be Done to Reduce the Number and Adverse Impact of Illegal Aliens in the United States	B-125051	7/31/73

STATE OF RESIDENCE FOR NEWLY ARRIVED
ALIEN SSI RECIPIENTS IDENTIFIED
IN QUALITY ASSURANCE SAMPLE

California (note a)	Massachusetts	Oregon
Delaware	Michigan	Pennsylvania
Florida (note a)	Minnesota	Rhode Island
Hawaii	Missouri	Virginia
Iowa	North Dakota	Vermont
Illinois (note a)	New Jersey (note a)	Washington
Indiana	Nevada	Wisconsin
Kansas	New York (note a)	
Louisiana	Ohio	

a/The number of newly arrived aliens receiving SSI was projected for these States.

PRINCIPAL OFFICIALS RESPONSIBLE
FOR ADMINISTERING ACTIVITIES
DISCUSSED IN THIS REPORT

Tenure of office
From To

DEPARTMENT OF JUSTICE

ATTORNEY GENERAL OF THE UNITED STATES:

Griffin B. Bell	Jan. 1977	Present
Richard L. Thornburgh (acting)	Jan. 1977	Jan. 1977
Edward H. Levi	Feb. 1975	Jan. 1977
William B. Saxbe	Jan. 1974	Feb. 1975

COMMISSIONER, IMMIGRATION AND NATURALIZATION SERVICE:

Leonel Castillo	Nov. 1976	Present
Leonard F. Chapman, Jr.	Nov. 1973	Nov. 1976

DEPARTMENT OF STATE

SECRETARY OF STATE:

Cyrus Vance	Jan. 1977	Present
Henry A. Kissinger	Sept. 1973	Jan. 1977

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SECRETARY OF HEALTH, EDUCATION, AND WELFARE:

Joseph A. Califano, Jr.	Jan. 1977	Present
David Mathews	Aug. 1975	Jan. 1977
Caspar W. Weinberger	Feb. 1973	Aug. 1975

COMMISSIONER OF SOCIAL SECURITY:

Donald I. Wortman (acting)	Dec. 1977	Present
James B. Cardwell	Sept. 1973	Dec. 1977