



## **Growth of the Social Security Earnings Suspense File Points to the Rising Cost of Unauthorized Work To Social Security**

By Mary Johnson, Social Security and Medicare Policy Analyst

for The Senior Citizens League, March 2014

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*Summary*

An inconsistency between U.S. immigration law and Social Security policy threatens to add substantial new long-term costs to Social Security at the same time lawmakers are considering major changes that would reduce benefits of U.S. seniors and future beneficiaries. This policy benefits undocumented immigrants who have worked using stolen, fraudulent, or invalid Social Security numbers (SSNs). When determining entitlement and when calculating the initial retirement benefit, the Social Security Administration (SSA) uses *all* reported earnings from covered employment, *even if the earnings were from “unauthorized” work* and fraudulent SSNs were used by undocumented immigrants.<sup>1</sup>

Current law requires undocumented immigrants to have a valid SSN and work authorization at some point, in order to become entitled to Social Security benefits.<sup>2</sup> Thus, unauthorized immigrants who obtain legal status to work in this country — whether under immigration rule changes, reform, or amnesty — may eventually claim benefits if they meet other qualifications.

Although law forbids work without authorization, immigrants use invalid SSNs to get jobs. When employers provide W2s in which the name and SSN do not match those in the SSA’s records, the wage report is held in the Earnings Suspense File (ESF) until the discrepancy can be corrected. Since 2000, SSA has received, on average, more than 9.1 million suspicious wage reports annually.

Data indicates that, in recent years, the ESF grew at an unprecedented pace. Cumulative wages since 1990 now total more than \$1,022.5 trillion unadjusted for inflation. Although immigration reform advocates point to this as evidence that undocumented workers will not benefit from paying into the system, this ignores the effect of immigration reform. A significant portion of these wages could later be reinstated to valid SSNs if immigrants working illegally gain work authorization, and have kept copies of their W2s or other evidence of earnings.

Because earnings are used to determine entitlement, this poses a substantial long-term liability to the Social Security Trust Fund and would worsen solvency. It’s widely anticipated that Social Security benefits will be cut, perhaps significantly, at some point in the relatively near future. This inconsistency between Social Security policy and immigration law suggests that newly work-authorized immigrants may benefit in the future based on their unauthorized work, at least to some extent, at the expense of other workers who paid into the system legally over their entire working careers.

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<sup>1</sup> Statement of the Honorable Patrick P. O’Carroll, Inspector General, Social Security Administration Before the Subcommittee on Social Security of the House Committee on Ways and Means, March 02, 2006.

<sup>2</sup> “Social Security Benefits For Noncitizens,” Congressional Research Service, July 20, 2006, RL32004.

## **Immigration Reform Would Potentially Provide Access to Social Security Benefits Based On Earnings Using Fraudulent Documents**

Immigration reform legislation under discussion in Congress would provide work authorization, and with it valid Social Security numbers (SSNs), to an estimated 11.7 million immigrants in this country illegally.<sup>3</sup> A key issue affecting Social Security is whether people who worked without legal authorization would be able to benefit based on earnings from jobs worked prior to obtaining legal status.

Work authorization — not citizenship — is the key requirement for noncitizens to become entitled to Social Security benefits when other program qualifications are met. Even “limited” immigration changes that provide only permission to work in this country would come with a significant long - term price tag. Under current law benefits would be based, at least in part, on all earnings, including earnings from jobs worked without authorization under invalid and fraudulent documents.

In 2004, Congress passed the Social Security Protection Act (P.L. 108-203) requiring immigrants to have work authorization at *some point*, in order to become entitled to Social Security benefits.<sup>4</sup> Despite tightening the law, Congress did not fix a policy loophole that would have significant long-term impact on Social Security’s future liabilities under immigration reform. When determining entitlement for insured status, and in calculating the initial retirement benefit amount, the Social Security Administration uses all reported earnings from covered employment in the United States, even when the earnings are from unauthorized jobs worked using invalid, fraudulent or stolen SSNs.

Although immigration law forbids work without authorization, undocumented immigrants use illegally obtained SSNs to get jobs. Employers withhold payroll taxes and report earnings to the Social Security Administration. Currently there is no official published data on the amount of money paid into the Social Security system by immigrant workers, whether legal or illegal.<sup>5</sup> Social Security’s Chief Actuary, Stephen C. Goss, however, has been quoted in the news media as saying that about three-quarters of “other-than-legal” immigrants pay payroll taxes.<sup>6</sup>

False and invalid SSNs are supplied to employers with no serious or immediate consequence for doing so. Unauthorized immigrants work using numbers belonging to another person, numbers that have been made up, expired visas, or “non-work” SSNs like individual taxpayer identification numbers (ITINs), which look similar to SSNs.

Immigration reform advocates point to the payroll taxes that are withheld from the paychecks of illegal workers, saying that they have little chance of benefiting. Advocates also point out that the unclaimed revenues have helped prolong Social Security’s solvency. The unauthorized wages reported under invalid SSNs, however, represent a rapidly growing long-term future benefit liability even under limited immigration reform.

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<sup>3</sup> “Unauthorized Immigrants: 11.7 Million in 2012,” Pew Hispanic Center, September 2013.

<sup>4</sup> “Social Security Benefits For Noncitizens,” Congressional Research Service, July 20, 2006, RL32004.

<sup>5</sup> “Social Security Benefits for Noncitizens: Current Policy and Legislation,” Congressional Research Service, July 20, 2006, RL32004.

<sup>6</sup> “Illegal Immigrants Are Bolstering Social Security With Billions,” Eduardo Porter, *The New York Times*, April 5, 2005.

In addition, an entire category of unauthorized immigrant workers exists who are not affected by the 2004 Social Security Protection Act. Individuals in that category received Social Security numbers issued prior to 2004, and could legally claim Social Security even if he or she never received work authorization. In other words, benefits could be based entirely on illegally performed work.<sup>7</sup>

### **The Potential Cost of Benefits Based on Unauthorized Work is Growing**

To date, no government agency has released an estimate of the potential cost of unauthorized work to the Social Security Trust Fund. The best indication is contained in the Social Security Administration's "earnings suspense file" (ESF).

Each year the Social Security Administration processes approximately 240 million W2s from employers annually.<sup>8</sup> The agency uses the earnings information to calculate benefits amounts for all types of beneficiaries. When Social Security receives a name or SSN on a W-2 that does not match the agency's records, the wage report goes into the ESF while attempts are made to reconcile the discrepancy.

From 2000 to 2009, the ESF grew at an unprecedented pace—the fastest since the inception of Social Security in 1937. By 2009 and through 2011, however, fewer "mismatched" wage reports were received, corresponding with the high unemployment spanning that period (for details see Table 2).

The data since 2000 indicate that there has been a significant jump in both the number of these mismatched reports and the value of wages reported. SSA Inspector General Patrick P. O'Carroll stated in 2006 testimony before Congress that "we believe the chief cause of wage items being posted to the [earnings suspense file] instead of an individual's earnings record is unauthorized work by noncitizens."<sup>9</sup>

From 2000 - 2011, the total number of mismatched wage reports has doubled, jumping from about 52 million reported from 1990 - 1999 to 109.7 million from 2000 - 2011. The number of mismatched wage reports received annually peaked in 2006 at 10.9 million, averaging 9.1 million per year during the period.

The amount of average annual wages has also grown considerably since the 1990s — about 60% through 2011 after adjusting for inflation. During the 1990s, wages averaged \$5,702 per work report per year (adjusted to 2014 dollars), compared to an average of \$8,948 in the period from 2000 -2011. The higher wages suggests a more experienced and older work force, implying that unauthorized workers may be living and working in the U.S. for longer periods and not returning home. This also suggests higher potential future payouts for benefits, because wages determine the amount of the benefit.

High unemployment did not start affecting the number of wage reports until 2009, when 7.7 million reports were received, down from 9.5 million in 2008. The number continued to drop in 2011 to 7.1 million wage reports, mirroring the slow recovery in the job market.

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<sup>7</sup> "Social Security Benefits for Noncitizens: Current Policy and Legislation," Congressional Research Service, February 1, 2008, RL32004.

<sup>8</sup> Social Security Administration, February 6, 2013.

<sup>9</sup> Statement of the Honorable Patrick P. O'Carroll, Inspector General, Social Security Administration Before the Subcommittee on Oversight of the House Committee on Ways and Means, February 16, 2006.

Table 1  
**Number of Earnings Reports and Related Amounts in the ESF by Decade**

<b>Decade</b>	<b>Number of Reports (millions)</b>	<b>Uncredited Earnings (billions, not adjusted for inflation)</b>
1937-39*	8.9	\$0.6
1940-49	19.8	\$2.0
1950-59	22.2	\$3.6
1960-69	28.3	\$6.7
1970-79	44.4	\$22.7
1980-89	41.9	\$77.3
1990-99	52	\$188.9
2000-09	95.3	\$693.2
2010-11	14.4	\$140.4
<b>Total</b>	<b>327.2</b>	<b>\$1,135.4</b>

Source: GAO analysis of SSA data, February 2005, GAO-05-154. 2000-11 compiled, see footnote detail below.

Table 2  
**Earnings Suspense File 2000-2011 Annual Data**

<b>Year</b>	<b>Number of Reports* (millions)</b>	<b>Un-credited Earnings (billions) (not adjusted for inflation)</b>
2000	18.5	\$72.2 <sup>10</sup>
2001	8.0	\$47.0 <sup>11</sup>
2002	2.0	\$42.0 <sup>12</sup>
2003	9.0	\$57.0 <sup>13</sup>
2004	9.0	\$65.0 <sup>14</sup>
2005	10.0	\$75.0 <sup>15</sup>
2006	10.9	\$85.8 <sup>16</sup>
2007	10.7	\$89.7 <sup>17</sup>
2008	9.5	\$86.7 <sup>18</sup>
2009	7.7	\$72.8 <sup>19</sup>
2010	7.3	\$70.3 <sup>20</sup>
2011	7.1	\$70.1 <sup>21</sup>
<b>Totals</b>	<b>109.7</b>	<b>\$833.6 billion</b>

<sup>10</sup> Social Security Administration Benefits Related to Unauthorized Work, James G. Huse, Jr., Inspector General, Social Security Administration, March 2003, A-03-03-23053.

<sup>11</sup> "IRS Needs to Consider Options For Revision Regulations to Increase the Accuracy of Social Security Numbers on Wage Statements," Government Accountability Office, August 2004, GAO-04-712, page 6.

<sup>12</sup> "Better Coordination Among Federal Agencies Could Reduce Unidentified Earnings Reports," Government Accountability Office, February 2005, GAO 05-154, page 1.

<sup>13</sup> "Social Security Benefits for Noncitizens: Current Policy and Legislation," Congressional Research Service, July 20, 2006, RL32004.

<sup>14</sup> "Information About the Earnings Suspense File," email from Mark Hinkle, Social Security Administration, March 9, 2007.

<sup>15</sup> Earnings Suspense File Data for 2005, Social Security Administration, May 12, 2008.

<sup>16</sup> Earnings Suspense File Data through 2007, Social Security Administration, December 9, 2009.

<sup>17</sup> Ibid.

<sup>18</sup> Earnings Suspense File Data, Social Security Administration, March 2, 2012.

<sup>19</sup> Ibid.

<sup>20</sup> Earnings Suspense File Data, Social Security Administration, January 30, 2013.

<sup>21</sup> Earnings Suspense File Data, Social Security Administration, January 28, 2014.

**Table 3**  
**Earnings Suspense File Annualized Comparison by Decade**

<b>Decade</b>	<b>Average Annual Number of Reports* (millions)</b>	<b>Average Annual Uncredited Earnings (billions) (not adjusted for inflation)</b>
1937-39*	3	\$0.2
1940-49	2	\$0.2
1950-59	2	\$0.4
1960-69	3	\$0.7
1970-79	4	\$2.3
1980-89	4	\$7.7
1990-99	5	\$18.9
2000-09	9.5	\$69.3
2010-2011	7.2	\$70.2

\*Data rounded

**Fraudulent Use of Social Security Numbers is Not Penalized Under Current Law**

Mismatched earnings reports remain in the ESF until the Social Security Administration obtains evidence to link the unidentified earnings to a valid work authorized SSN — a process termed “earnings reinstatement.”<sup>22</sup> Reinstatements can occur any time, even years later.

Immigration reform initiatives that provide work authorization and a valid SSN, together with a pending Social Security totalization agreement with Mexico (if it takes effect), could mean that a very substantial amount of earnings in the ESF file could be claimed and reinstated at some point in the future. Because earnings are used both to determine the number of quarters of coverage worked for insured status, and to calculate the initial benefit, this poses a substantial long-term liability to the Social Security Trust Fund, worsening its solvency.

Once undocumented workers obtain legal work authorized SSN, they can later file a claim for benefits when other qualifications are met. No law prohibits the Social Security Administration from using unauthorized earnings in determining entitlement to Social Security, even when fraudulent documents were used to get jobs. Individuals can provide evidence of earnings, like W2s from unauthorized employment prior to receiving their SSN, and their earnings will be reinstated under their valid SSN.

**Recent Legislative Initiatives**

On June 27, 2013, the Senate passed S.744 — the Border Security, Economic Opportunity, and Immigration Modernization Act. The House is considering immigration legislation. The bill contained a provision that would prohibit the use of work credits from jobs performed without authorization from being used to determine entitlement to benefits and the benefit amount. The bill would further establish new

<sup>22</sup> “Better Coordination Among Federal Agencies Could Reduce Unidentified Earnings Reports,” GAO, February 2005, GAO-05-154, page 1.

criminal penalties for SSN and card fraud including fines, imprisonment or both. However, another provision of the same bill would potentially set up a major loophole.

The provision creates a new “Blue Card” status for undocumented workers who perform agricultural work. The provision specifically exempts those individuals from criminal liability for “deceiving SSA about their true identities or for using SSNs on the basis of false information given to SSA”. It is unclear how the SSA would interpret this provision in the context of using earnings under fraudulent SSNs for determining benefits should this provision be passed into law.

### **Conclusion: Determining Entitlement on Earnings under Fraudulent Social Security Numbers Undermines the Program**

In 2010, for the first time since 1983, Social Security started paying out more in benefits than it received in cash revenues. The federal government now borrows to cover payments to current beneficiaries, increasing the amount of the federal debt. The question of how long our government can continue to borrow to meet Social Security’s cash revenue shortfalls and fund the rest of the federal budget has been debated intensely ever since. In addition, the Congressional Budget Office recently forecast that the Social Security Trust Fund that pays disability benefits will be fully insolvent during the government fiscal year 2017, which starts October 1, 2016.<sup>23</sup>

The potential cost in benefits based on illegal work could add very substantial new future liabilities for the Social Security Trust Funds. Failure to address this inconsistency of law that allows Social Security benefits based on unauthorized work could result in newly legalized immigrants receiving benefits for earnings received while breaking U.S. laws, at the same time benefits are cut and taxes increased on workers who paid into the system legally over their entire careers.

Last updated: March 20, 2014

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<sup>23</sup> SS-SSTFBaseline-CBO020414 Combined Old Age, Survivors, and Disability Trust Funds, February 2014 Baseline, Congressional Budget Office, February 4, 2004.