Congress of the United States
U.S. House of Representatives
COMMITTEE ON WAYS AND MEANS
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June 18, 2010

The Honorable Timothy F. Geithner
Secretary of the Treasury
c/o Mr. Gary Grippo
Deputy Assistant Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, DC 20220

RE: Proposed Rule on Garnishment of Bank Accounts Containing Federal Benefit Payments
RIN Nos. 3206-AM17, 3220-AB63, 0960-AH18, 1505-AC20 and 2900-AN67

We write to express our appreciation for your responsiveness to the request by the Committee on Ways and Means (Committee) for this rulemaking. We also wish to submit our comments to the proposed rule, which will help ensure that federal benefits exempt from garnishment, levy, assignment, and other legal collection proceedings by federal law are not subject to bank freezes.

The Committee on Ways and Means Subcommittee on Social Security held a hearing on this issue in 2008 and has continued its oversight on the efforts made by the Department of the Treasury (Treasury) and the Social Security Administration in drafting this proposed rule. In May 2009, Chairman Rangel, Subcommittee Chairmen McDermott and Tanner, along with Chairman Frank of the House Committee on Financial Services, wrote to you to urge this rulemaking. Again, we thank you and your staff for your efforts.

The Social Security Act and other federal statutes explicitly protect Social Security, Supplemental Security Income, Railroad Retirement and certain Veterans benefits from debt-collection practices such as garnishment, levy, and assignment. Congress established these protections to ensure that these benefits always are available as basic income for retirees, survivors, people with disabilities, and aged or disabled veterans.

The practice of freezing accounts containing these benefits undermines the federal statutes, denies beneficiaries basic income, and often results in irreversible financial hardship due associated bank fees and penalties. Enforcement of the statutory protections generally has become the burden of individual beneficiaries, who are often indigent, disabled, or elderly and unable to effectively navigate the legal processes involved, which typically begin with a state court order to freeze their bank account.

The rule proposed by Treasury and the agencies that administer benefits will further protect beneficiaries and ensure greater compliance with the federal statutes exempting benefit funds from debt collection. We urge that the rule be made final as soon as possible, with a few improvements outlined below as follows:

1) The rule should explicitly provide that all exempt federal funds cannot be taken for bank fees or penalties arising from garnishment proceedings. Section 207 of the Social Security Act (42 U.S.C. 407) clearly bars any assignment of Social Security benefits. Therefore, any agreements between the beneficiary and a bank to allow the taking of fees from these amounts in response to a debt collection proceeding contravenes the intent of the statute.

2) The rule should extend the lookback period to longer than 60 days in order to ensure success in carrying out the intent of the rulemakers to protect two cycles of benefit payments. Annually, there are only two bi-monthly periods when the 60-day lookback period is sufficient to protect two months of benefits. All other times, a 60-day lookback period will usually result in only one month of benefits being protected. A longer period, such as 65 days, will not have this problem.

3) The rule should extend the "safe harbor" protection to financial institutions that release or refuse to freeze clearly exempt funds that are above the amount protected by this rule. Banks should be encouraged to release all exempt funds. Often beneficiaries receive large, lump-sum retroactive payments (e.g., for a disability claim with an onset date two years prior) and deposit these sums into a savings account, which is separate from the checking account in which their monthly benefits or other non-exempt funds are deposited. In such a case, the source of the funds in the savings account are easily determined by the financial institution and should not be frozen or made subject to garnishment or levy. A financial institution that releases these funds to a beneficiary, which are clearly exempt, should not be subjected to a frivolous challenge by the creditor or courts.

4) The rule should explicitly state that a determination by a bank that an amount is protected from freezing is also a final determination of exemption from garnishment, etc., and cannot be challenged by creditor as collectible. This explicit statement of the finality of this determination will protect beneficiaries and avoid needless legal proceedings against banks.

5) The rule should explicitly state that a beneficiary's access to the protected funds should not be hindered or otherwise restricted in any way. The proposed rule should provide sufficient clarity for how banks should respond to garnishment orders. Greater clarity is needed to ensure that financial institutions do not, for example, close beneficiaries' existing accounts or limit access solely through a single branch office. The Committee is aware that some banks have responded this way to prior garnishment orders under complicated structure of state- and court-ordered policies. Such practices contradict the intent of Section 207 and other federal statutes requiring that the beneficiary have full access to the basic income provided by the federal benefits.

We urge you to make these changes and finalize the proposed rule as soon as possible. Thank you for your consideration.

Sincerely,

Sander Levin
Chairman

John Lewis
Chairman
Subcommittee on Oversight

Jim McDermott
Chairman
Subcommittee on Income Security
and Family Support

Earl Pomeroy
Chairman
Subcommittee on Social Security