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THE PRESIDENT'S PROPOSAL TO EXTEND SSI ELIGIBILITY FOR REFUGEES AND OTHER HUMANITARIAN IMMIGRANTS

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Many elderly and disabled refugees, asylees, and Cubans and Haitians with refugee-like status — all of whom have fled persecution, often including violence and torture, in their home countries — are subject to a provision in the 1996 welfare law that limits their eligibility for Supplemental Security Income (SSI) to their first seven years in the United States unless they are able to become naturalized citizens.¹ SSI benefits constitute the sole source of income for most of these individuals, who are generally unable to work and rarely eligible for Social Security or other retirement benefits. According to estimates by the Social Security Administration (SSA), as of September 30, 2003, more than 1,500 refugees were ineligible for SSI because of the limit and several thousand more will likely lose SSI eligibility this year.

The President's budget proposal for fiscal year 2005 acknowledges that the seven-year limit on refugees' eligibility for SSI is flawed and proposes a short-term extension of benefits for some refugees. Under the proposal, refugees would be able to receive SSI for their first *eight* — rather than the current seven — years in the United States.² As proposed, this policy change would take effect in fiscal year 2005 (which starts September 30, 2004) and expire at the end of fiscal year 2007. In fiscal year 2008, refugees and asylees would again be subject to a seven-year limit. As a rationale for the change, the Administration notes that “some

Impact of Seven-Year Cut-off

*Number of Refugees Ineligible for SSI as of
September 30, 2003: 1,562*

*Number of Refugees Projected to Reach Seven-
Year Expiration Point by Year:*

2004:	8,523
2005:	7,133
2006:	7,604
2007:	9,042
2008:	5,851
2009:	4,066

The actual numbers of refugees who will lose SSI eligibility each year depends on how many refugees are able to naturalize before hitting the limit.

Source: Social Security Administration, September 2003.

¹ This analysis uses the term “refugee” to refer to all of the categories of humanitarian immigrants affected by the seven-year limit, including asylees, Cuban-Haitian entrants, and some Amerasians. Unlike most other legal immigrants who come to the United States to join family members or for employment, refugees and most other humanitarian immigrants are granted entry because they have a well-founded fear of persecution in their home countries.

² The Administration's budget documents make clear that refugees and asylees are covered by the proposal. Although the documents do not mention the other categories of humanitarian immigrants described in footnote 1, presumably they also will be covered by the proposal.

individuals have been unable to obtain citizenship within seven years due to a combination of processing delays, and for asylees, statutory caps on the number who can become permanent residents.”

If enacted, the President’s proposal would offer important short-term relief for some of the refugees and other humanitarian immigrants who will lose eligibility as a result of the seven-year limit. Humanitarian immigrants who have hit the seven-year cut-off point but have lived in the United States for no more than eight years would remain eligible for SSI until they reach the end of their eighth year in the United States. However, because the proposal simply changes the seven-year limit to an eight-year limit, it would not help many refugees who have already lost eligibility or who will lose eligibility in fiscal year 2004, even if they have been unable to naturalize because of delays in the processing of their applications by the federal government.

SSA estimates show that as many as 1,500 refugees are ineligible for SSI because they hit the seven-year limit at some point prior to September 30, 2003. All of these refugees will have lived in the United States for more than eight years by the beginning of fiscal year 2005 and will not be helped by the proposal. For those refugees who would be helped by the proposal, the assistance would be temporary. Refugees would lose SSI eligibility as soon as they reached the end of their eighth year in the United States. After fiscal year 2007, refugees would lose SSI eligibility if they have lived here for more than seven years.

To obtain U.S. citizenship, refugees must first become lawful permanent residents (LPRs). After living for five years in the United States as LPRs, they are eligible to *apply* for citizenship. Thus, it is technically possible for humanitarian immigrants to obtain U.S. citizenship within seven to eight years. As a practical matter, however, for many refugees obtaining citizenship within this time frame is extremely difficult or impossible. Even if a refugee applies as soon as he or she becomes eligible for citizenship, processing times average three or four years in some federal immigration offices.

In addition, there are a number of formal and informal barriers to citizenship that may make it difficult or impossible to complete the citizenship process within the first seven or eight years in the United States, even if the federal government is able to process their application quickly. The application process involves multiple steps including a lengthy application, an in-person interview, a test of English proficiency and civic knowledge, and fingerprinting. Applicants also must pay a \$250 fee. Waivers of some of these requirements are available in certain cases, but they are often difficult to obtain and have their own set of paperwork requirements.

For some refugees and asylees, the additional year of eligibility will provide sufficient time for the federal government to complete processing of their naturalization applications. For others, however, more time will be needed to overcome processing delays and other barriers to naturalization. Finally, it must be recognized that some elderly and disabled refugees and asylees may never be able to naturalize or will take more than eight years to complete the process. As an example, because the number of asylees currently waiting to obtain LPR status (a prerequisite to applying for citizenship) far exceeds the annual number of LPR slots that can be provided to asylees under federal law, many asylees subject to the limit may have to wait 10 or more years before they are even able to apply for citizenship.

To provide a certain and long-term solution to the problems created by the current policy, Congress should eliminate the seven-year limit on elderly and disabled refugees' eligibility for SSI. There is no sound rationale for conditioning refugees' eligibility for SSI on their length of residence in the United States or whether they have naturalized.³ In fact, *no other means-tested federal program requires refugees to become U.S. citizens to remain eligible for benefits.* Although the food stamp program had a seven-year limit on eligibility prior to 2002, Congress recently changed the law to make refugees eligible for food stamps regardless of their length of residence in the United States and their citizenship status. The use of a naturalization requirement in SSI is particularly anomalous given that SSI benefits are only available to persons who are elderly or disabled and that elderly and disabled refugees are likely to experience much greater difficulties naturalizing than other legal immigrants.

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 after the refugee eligibility restrictions were put in place.⁴ In the report, the Commission called time limits on the eligibility of humanitarian immigrants 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.⁵

Regardless of whether Congress adopts a long-term or short-term solution to the problem, it should act as quickly as possible. Recent news accounts have documented the impact that this restriction is beginning to have on elderly and disabled refugees⁶ and SSA data shows that thousands of refugees could lose SSI eligibility over the next several months.

³ Some might argue that the seven-year limit provides an incentive to naturalize. This assumes that an individual's decision to naturalize is appropriately driven by economic concerns, such as maintaining eligibility for public benefits, rather than a sincere desire to become an American citizen.

⁴ See U.S. Commission on Immigration Reform, *Becoming an American: Immigration and Immigrant Policy* (1997) and U.S. Commission on Immigration Reform, *U.S. Refugee Policy: Taking Leadership* (1997).

⁵ Placing a time limit on refugees' eligibility for public benefits also appears to be inconsistent with the Refugee Convention of 1951, an international treaty signed by the United States and 141 other nations. Article 23 of the Refugee Convention provides that "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.*"

⁶ See, e.g., "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.