The original documents are located in Box 27, folder "7/8/75 HR1649 Relief of Howard D Harden" of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

Exact duplicates within this folder were not digitized.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 3 1975

Posted 7/9
To archives 7/9

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1649 - For the relief of Howard D. Harden
Sponsor - Rep. Railsback (R) Illinois

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Relieves Mr. Harden of liability for the repayment of $3,746.80, representing an overpayment of social security benefits.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval [redacted]

Discussion

H.R. 1649 would relieve Howard D. Harden, of Roseville, Illinois, of liability of $3,746.80 for disability payments from September 1967 to November 1969 paid to him following a diagnosis of a malignant lymphoma. The benefits were retroactively denied him because he had advised the Social Security Administration that he was attempting to perform some of his farmwork despite his disabilities.

In July 1967, the Social Security Administration (SSA) determined that Mr. Harden was eligible for social security disability benefits on the basis of a medical diagnosis that he had what appeared to be terminal cancer. Accordingly, disability insurance benefits were paid to Mr. Harden and child's insurance benefits were paid to his daughter beginning in September 1967.

Mr. Harden had no further communication with SSA until two years later in November 1969 when he contacted his local social security office to inquire whether or not the correct decision had originally been made on his initial 1967 claim. Mr. Harden thought that SSA knew he was continuing to operate his farm at the time he filed his disability application and that he had continued to operate it, although in a limited capacity.

SSA suspended Mr. Harden's benefits after obtaining a description of his involvement in the farm operation and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. In April 1970, Mr. Harden was notified that the benefits paid to him and his daughter constituted overpayments and that he was responsible for refunding the overpayments of $3,746.80.

Although an SSA hearing examiner and an Appeals Council review of the case found Mr. Harden "not without fault" in failing to report promptly his return to work, HEW, in its report on an identical earlier bill (H.R. 2640, 93rd Congress) stated that it would not oppose enactment if Congress found that the relief provided in the bill would not be incompatible with applicable law and regulations. The HEW report stated:

> "At the time Mr. Harden filed his application for benefits, his condition was thought to be terminal. This consideration apparently resulted in less careful development of the claim than is normally undertaken, and there is evidence that in this instance the claimant was not fully informed of his responsibility for reporting any future work, earnings, and any changes in his medical status. Because of these unusual circumstances, we believe that the Congress might find that this bill is not incompatible with the intent of the provisions of the social security law and the regulations governing the waiver of overpayments. If the Congress so finds, we would not oppose the enactment of H.R. 2640."

In view of the particular circumstances described by HEW, we recommend approval of H.R. 1649.

Acting Assistant Director
for Legislative Reference

Enclosures

ACTION

THE WHITE HOUSE

WASHINGTON

Last Day: July 9

July 7, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: JIM CANNON

SUBJECT: H.R. 1649 - For the Relief of Howard D. Harden

Attached for your consideration is H.R. 1649, sponsored by Representative Railsback, which relieves Howard D. Harden of liability for the repayment of $3,746.80 representing an overpayment of social security benefits.

Additional information is provided in OMB's enrolled bill report at Tab A.

OMB, Max Friedersdorf, Phil Buchen (Lazarus) and I recommend approval of the enrolled bill.

RECOMMENDATION

That you sign H.R. 1649 at Tab B.

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 3 Time: 300pm

FOR ACTION: Art Quern
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 7 Time: 300pm

SUBJECT:

H.R. 1649 - For the Relief of Howard Harden

ACTION REQUESTED:

____ For Necessary Action

_x_ For Your Recommendations

____ Prepare Agenda and Brief

____ Draft Reply

_x_ For Your Comments

____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

K. R. COLE, JR.
For the President

To J. Connor 7-3-75 1:30 p.m.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 3 1975

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill H.R. 1649 - For the relief of Howard D. Harden
Sponsor - Rep. Railsback (R) Illinois

Last Day for Action

July 9, 1975 - Wednesday

Purpose

Relieves Mr. Harden of liability for the repayment of $3,746.80, representing an overpayment of social security benefits.

Agency Recommendations

Office of Management and Budget	Approval
Department of Health, Education, and Welfare	Approval ~~(Informally)~~

Discussion

H.R. 1649 would relieve Howard D. Harden, of Roseville, Illinois, of liability of $3,746.80 for disability payments from September 1967 to November 1969 paid to him following a diagnosis of a malignant lymphoma. The benefits were retroactively denied him because he had advised the Social Security Administration that he was attempting to perform some of his farmwork despite his disabilities.

In July 1967, the Social Security Administration (SSA) determined that Mr. Harden was eligible for social security disability benefits on the basis of a medical diagnosis that he had what appeared to be terminal cancer. Accordingly, disability insurance benefits were paid to Mr. Harden and child's insurance benefits were paid to his daughter beginning in September 1967.

Mr. Harden had no further communication with SSA until two years later in November 1969 when he contacted his local social security office to inquire whether or not the correct decision had originally been made on his initial 1967 claim. Mr. Harden thought that SSA knew he was continuing to operate his farm at the time he filed his disability application and that he had continued to operate it, although in a limited capacity.

SSA suspended Mr. Harden's benefits after obtaining a description of his involvement in the farm operation and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. In April 1970, Mr. Harden was notified that the benefits paid to him and his daughter constituted overpayments and that he was responsible for refunding the overpayments of $3,746.80.

Although an SSA hearing examiner and an Appeals Council review of the case found Mr. Harden "not without fault" in failing to report promptly his return to work, HEW, in its report on an identical earlier bill (H.R. 2640, 93rd Congress) stated that it would not oppose enactment if Congress found that the relief provided in the bill would not be incompatible with applicable law and regulations. The HEW report stated:

> "At the time Mr. Harden filed his application for benefits, his condition was thought to be terminal. This consideration apparently resulted in less careful development of the claim than is normally undertaken, and there is evidence that in this instance the claimant was not fully informed of his responsibility for reporting any future work, earnings, and any changes in his medical status. Because of these unusual circumstances, we believe that the Congress might find that this bill is not incompatible with the intent of the provisions of the social security law and the regulations governing the waiver of overpayments. If the Congress so finds, we would not oppose the enactment of H.R. 2640."

In view of the particular circumstances described by HEW, we recommend approval of H.R. 1649.

Acting Assistant Director
for Legislative Reference

Enclosures

☆ U. S. GOVERNMENT PRINTING OFFICE: 1969-333-155

6

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 3 Time: 300pm

FOR ACTION: Art Quern
Max Friedersdorf
Ken Lazarus ✓

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 7 Time: 300pm

SUBJECT:

H.R. 1649 - For the Relief of Howard Harden

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
x For Your Comments
x For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

No objection. -- Ken Lazarus 7/3/75

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

☆ U.S. GOVERNMENT PRINTING OFFICE: 1969—339-156

6

THE WHITE HOUSE

ACTION MEMORANDUM WASHINGTON LOG NO.:

Date: July 3 Time: 300pm

FOR ACTION: Art Quern
Max Friedersdorf
Ken Lazarus

cc (for information): Jim Cavanaugh
Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: July 7 Time: 300pm

SUBJECT:

H.R. 1649 - For the Relief of Howard Harden

ACTION REQUESTED:

____ For Necessary Action
____ Prepare Agenda and Brief
x For Your Comments
x For Your Recommendations
____ Draft Reply
____ Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Honorable James T. Lynn
Director, Office of Management
and Budget
Washington, D. C. 20503

JUL 3 1975

Dear Mr. Lynn:

This is in response to Mr. Frey's request of June 27, 1975, for a report on H.R. 1649, an enrolled bill "For the relief of Howard D. Harden."

The bill would relieve Mr. Harden of liability for the repayment of $3,746.80 in overpayments of social security benefits. The circumstances of Mr. Harden's case are discussed in the Department's report to the Committee on the Judiciary of the House of Representatives on H.R. 2640, a bill identical to the enrolled bill which was introduced in the Ninety-third Congress. A copy of that report is enclosed.

The Department's report on H.R. 2640 notes that there are unusual circumstances involved in Mr. Harden's case and states that the Congress might find that enactment of the bill would not be incompatible with the intent of title II of the Social Security Act. The report concludes that if Congress did so find, the Department would not oppose enactment of the bill. The Department continues to adhere to this position and recommends that the bill be signed into law.

Sincerely,

Caspar W. Weinberger
Secretary

Enclosure

Calendar No. 234

94TH CONGRESS
1st Session

SENATE

REPORT
No. 94–239

HOWARD D. HARDEN

JUNE 24 (legislative day, JUNE 6), 1975.—Ordered to be printed

Mr. EASTLAND, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1649]

The Committee on the Judiciary, to which was referred the bill (H.R. 1649) for the relief of Howard D. Harden, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to relieve Howard D. Harden, of Roseville, Ill., of liability of $3,746.80 for disability payments from September 1967 to November 1969 paid to him following a diagnosis of a malignant lymphoma, which benefits were retroactively denied him because he had advised the Social Security Administration that he was attempting to perform some of his farmwork despite his disabilities.

STATEMENT

The facts of the case as contained in House Report No. 94–84 are as follows:

> The Department of Health, Education, and Welfare in its report on an earlier bill stated it would not oppose enactment of a bill.
>
> As is set forth in the memorandum accompanying the report of Health, Education, and Welfare, on April 6, 1967,

38–007

Howard D. Harden, a self-employed tenant farmer, social security number 361-18-5140, filed an application for social security disability insurance benefits, stating that he became disabled in February 1967 due to lymphoma. Based on medical evidence from a highly reputable source indicating a diagnosis of malignant lymphoma, along with other information submitted, the Social Security Administration determined in July 1967 that, as of February 22, 1967, Mr. Harden had become disabled within the meaning of the law. Benefits were awarded to Mr. Harden and his dependent daughter, who was a full-time student. Beginning September 1967, Mr. Harden received $98.50 monthly, which was increased to $111.40 monthly, beginning February 1968, as a result of a general increase in benefits. He received benefits on behalf of his daughter in the amount of $49.30 monthly, beginning September 1967, which were increased to $55.70 monthly, beginning February 1968. Benefits were paid to Mr. Harden through November 1969. Benefits were paid to his daughter through November 1968, when her status as a full-time student ended.

After the application was filed and benefits were awarded, there were no contacts between Mr. Hardn and the Social Security Administration until November 1969. At that time he contacted the social security office in Galesburg, Illinois, upon receiving with his monthly benefit check an informational notice (frequently referred to as a check stuffer) from the Social Security Administration regarding the general eligibility requirements for continuing to receive disability insurance benefits. Mr. Harden inquired, after receiving the check stuffer, as to whether or not the correct decision had originally been made on his claim when he was awarded disability benefits in 1967. In an interview he reported that he was operating the farm at the time he filed his disability application and had continued this operation, although in a very limited capacity.

The Social Security Administration suspended his benefits for months after November 1969, after obtaining a description of his involvement in the farm operation, and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. It was further determined that Mr. Harden had been incorrectly paid disability benefits for September 1967 through November 1969 ($2,943.30) and that he had been incorrectly paid benefits on behalf of his daughter for September 1967 through November 1968 ($803.50), constituting a total benefit overpayment of $3,746.80. In April 1970, Mr. Harden was notified that the initial finding of disability was in error, that the benefits paid to him and his daughter constituted overpayments, and that he was responsible for refunding the amount of such overpayments.

The Department states that when Mr. Harden filed for benefits, he stated that he did not know what would be done with the farm and that he had earned nothing in the current year (1967). At the time Mr. Harden filed his application for disability insurance benefits, his condition was thought to be terminal. Information that came to the attention of the Social Security Administration after the review by the Appeals Council on September 21, 1970, indicates that there is good reason to believe that this consideration may have resulted in less careful and detailed development of the claim than the Social Security Administration normally makes, and that under the circumstances an explanation of the responsibility of the claimant for reporting any future work, earnings, and any changes in his medical status was not given the usual emphasis. The manager of the social security office servicing Mr. Harden's locality has presented statements to the effect that the circumstances surrounding Mr. Harden's application for benefits were such that a full understanding as to his responsibilities as a beneficiary was unlikely. It is the manager's belief that Mr. Harden was not fully informed by the Social Security Administration as to his specific responsibilities as a social security beneficiary and that, consequently, he did not understand the importance and necessity of reporting his subsequent activities in his farming operation until he received the check stuffer.

In its report, the Department stated that in view of the unusual circumstances the Congress might find that relief as provided in the bill would not be incompatible with applicable law and regulations, and that if the Congress so found, the Department would not oppose enactment.

In view of the foregoing, the committee secured additional information concerning the present circumstances of the beneficiary named in the bill. On the basis of that information, the committee has concluded that repayment would impose a further unfair hardship on him, and that under all the circumstances, relief is merited. The committee was advised that Mr. Harden quit farming in 1971 and sold everything in order to pay his debts. As a tenant farmer, he only rented the farmland. The committee was advised that he is now only able to do light work at a nursing home and is paid $35 a week. He only works 16 hours doing maintenance work. He was hospitalized in December of 1974, when a malignant tumor was removed. He had Blue Cross/Blue Shield and still owes about $500.

It is recommended that the bill be considered favorably.

In agreement with the views of the House of Representatives the committee recommends favorable consideration of H.R. 1649.

Attached to and made a part of this report is the report of the Department of Health, Education, and Welfare.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
October 3, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 6, 1973, for a report on H.R. 2640, a bill "For the relief of Howard D. Harden."

The bill would provide that Mr. Harden of Roseville, Illinois, be relieved of the liability for repayment of $3,746.80, representing an overpayment of social security benefits. The facts upon which this private relief bill is based, as they related to Mr. Harden's status with respect to social security benefits, are stated in the accompanying memorandum.

In brief, the Department determined in July 1967 that Mr. Harden became unable in February 1967 to engage in any substantial gainful activity by reason of serious extended illness and therefore was disabled within the meaning of the social security law. Disability insurance benefits were paid to him, and child's insurance benefits were paid to his daughter, beginning September 1967. In late 1969, an inquiry from Mr. Harden concerning his eligibility for benefits prompted an investigation of the matter. From the investigation it was concluded that he had been engaging in substantial work as a tenant farmer continuously from February 1967 up to the time of the investigation. Further, it was held that the 1967 decision was an erroneous determination and that benefits should not have been paid to Mr. Harden and his daughter. As a result, the social security benefits already paid, totaling $3,746.80, constituted an overpayment.

It was determined that Mr. Harden was not without fault with regard to the overpayment of disability benefits and that there is no way under existing social security law or regulations for overpayment recovery to be waived.

A social security beneficiary is responsible for furnishing full and accurate information affecting his basic right to benefits and for complying with reporting requirements about any work he may have done, income he may have earned, or, in disability benefit cases, a change in his medical status. Also, he is responsible for repayment of a benefit overpayment unless it can be established that he was without fault in causing the overpayment. If it is determined that a beneficiary is without fault, recovery of the overpayment can be waived if recovery would be against equity and good conscience, or would defeat the purposes of the program.

As explained in the enclosed memorandum, unusual circumstances were involved in the development and decision in Mr. Harden's claim for benefits and the resulting overpayment. At the time Mr. Harden filed his application for benefits, his condition was thought to be terminal. This consideration apparently resulted in less careful development of the claim than is normally undertaken, and there is evidence that in this instance the claimant was not fully informed of his responsibility for reporting any future work, earnings, and any changes in his medical status. Because of these unusual circumstances, we believe that the Congress might find that this bill is not incompatible

with the intent of the provisions of the social security law and the regulations governing the waiver of overpayments. If the Congress so finds, we would not oppose the enactment of H.R. 2640.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER, *Secretary.*

Enclosure.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 2640

On April 6, 1967, Howard D. Harden, a self-employed tenant farmer, social security number 361–18–5140, filed an application for social security disability insurance benefits, stating that he became disabled in February 1967 due to lymphoma. Based on medical evidence from a highly reputable source indicating a diagnosis of malignant lymphoma, along with other information submitted, the Social Security Administration determined in July 1967 that, as of February 22, 1967, Mr. Harden had become disabled within the meaning of the law. Benefits were awarded to Mr. Harden and his dependent daughter, who was a full-time student. Beginning September 1967, Mr. Harden received $98.50 monthly, which was increased to $111.40 monthly, beginning February 1968, as a result of a general increase in benefits. He received benefits on behalf of his daughter in the amount of $49.30 monthly, beginning September 1967, which were increased to $55.70 monthly, beginning February 1968. Benefits were paid to Mr. Harden through November 1969. Benefits were paid to his daughter through November 1968, when her status as a full-time student ended.

After the application was filed and benefits were awarded, there were no contacts between Mr. Harden and the Social Security Administration until November 1969. At that time he contacted the social security office in Galesburg, Illinois, upon receiving with his monthly benefit check an informational notice (frequently referred to as a check stuffer) from the Social Security Administration regarding the general eligibility requirements for continuing to receive disability insurance benefits. Mr. Harden inquired, after receiving the check stuffer, as to whether or not the correct decision had originally been made on his claim when he was awarded disability benefits in 1967. In an interview he reported that he was operating the farm at the time he filed his disability application, and had continued this operation, although in a very limited capacity.

The Social Security Administration suspended his benefits for months after November 1969, after obtaining a description of his involvement in the farm operation, and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. It was further determined that Mr. Harden had been incorrectly paid disability benefits for September 1967 through November 1969 ($2,943.30) and that he had been incorrectly paid benefits on behalf of his daughter for September 1967 through November 1968 ($803.50), constituting a total

benefit overpayment of $3,746.80. In April 1970, Mr. Harden was notified that the initial finding of disability was in error, that the benefits paid to him and his daughter constituted overpayments, and that he was responsible for refunding the amount of such overpayments.

On May 1, 1970, Mr. Harden requested a hearing on this determination and on July 30, 1970, the Department Hearing Examiner (now called "Administrative Law Judge") affirmed the revised determination. In addition, the Hearing Examiner found that Mr. Harden was not without fault in incurring the benefit overpayment. The Hearing Examiner based this latter finding on the agreement made by Mr. Harden at the time of filing his application for disability benefits that he would report promptly any return to work. During the hearing, Mr. Harden testified that he was aware of his responsibility to report work activity, but thought that the Social Security Administration had been fully apprised of his ongoing farming operation, and that there had been nothing to report since his medical status had not changed.

On August 26, 1970, Mr. Harden requested an Appeals Council review of the Hearing Examiner's decision, including the finding that he was not without fault in incurring the overpayment. Mr. Harden advised the Appeals Council that at the time he filed the application for benefits he believed that he had made the Social Security Administration aware that, although his activities were restricted, he was still managing the farm. On September 21, 1970, the Appeals Council determined that the Hearing Examiner's decision was correct and that further review of this decision, if desired, would have to be initiated within 60 days through civil action. Although Mr. Harden requested and was granted an extension (through December 31, 1970) to initiate civil action, there is no information indicating that a civil action has ever been filed.

Information relating to Mr. Harden's case shows that he advised the Social Security Administration, upon filing an application for benefits, that he did not know what would be done with the farm and that he had earned nothing in the current year (1967). At the time Mr. Harden filed his application for disability insurance benefits, his condition was thought to be terminal. Information that came to the attention of the Social Security Administration after the review by the Appeals Council on September 21, 1970, indicates that there is good reason to believe that this consideration may have resulted in less careful and detailed development of the claim than the Social Security Administration normally makes, and that under the circumstances an explanation of the responsibility of the claimant for reporting any future work, earnings, and any changes in his medical status was not given the usual emphasis. The manager of the social security office servicing Mr. Harden's locality has presented statements to the effect that the circumstances surrounding Mr. Harden's application for benefits were such that a full understanding as to his responsibilities as a beneficiary was unlikely. It is the manager's belief that Mr. Harden was not fully informed by the Social Security Administration as to his specific responsibilities as a social security beneficiary and that, consequently, he did not understand the importance and necessity of reporting his subsequent activities in his farming operation until he received the check stuffer.

O

94TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPORT No. 94-84

HOWARD D. HARDEN

MARCH 19, 1975.—Committed to the Committee of the Whole House and ordered to be printed

Mr. FISH, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 1649]

The Committee on the Judiciary, to whom was referred the bill (H.R. 1649) for the relief of Howard D. Harden, having considered the same, report favorably thereon with amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Page 2, line 10: Strike "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation, as amended, is to relieve Howard D. Harden, of Roseville, Illinois, of liability of $3,746.80 for disability payments from September 1967 to November 1969 paid to him following a diagnosis of a malignant lymphoma, which benefits were retroactively denied him because he had advised the Social Security Administration that he was attempting to perform some of his farmwork despite his disabilities.

STATEMENT

The Department of Health, Education and Welfare in its report on an earlier bill stated it would not oppose enactment of a bill.

As is set forth in the memorandum accompanying the report of Health, Education, and Welfare, on April 6, 1967, Howard D. Harden, a self-employed tenant farmer, social security number 361-18-5140, filed an application for social security disability insurance benefits, stating that he became disabled in February 1967 due to lymphoma. Based on medical evidence from a highly reputable source indicating a diagnosis of malignant lymphoma, along with other information submitted, the Social Security Administration determined in July 1967 that, as of February 22, 1967, Mr. Harden had become disabled within the meaning of the law. Benefits were awarded to Mr. Harden and his

dependent daughter, who was a full-time student. Beginning September 1967, Mr. Harden received $98.50 monthly, which was increased to $111.40 monthly, beginning February 1968, as a result of a general increase in benefits. He received benefits on behalf of his daughter in the amount of $49.30 monthly, beginning September 1967, which were increased to $55.70 monthly, beginning February 1968. Benefits were paid to Mr. Harden through November 1969. Benefits were paid to his daughter through November 1968, when her status as a full-time student ended.

After the application was filed and benefits were awarded, there were no contacts between Mr. Harden and the Social Security Administration until November 1969. At that time he contacted the social security office in Galesburg, Illinois, upon receiving with his monthly benefit check an informational notice (frequently referred to as a check stuffer) from the Social Security Administration regarding the general eligibility requirements for continuing to receive disability insurance benefits. Mr. Harden inquired, after receiving the check stuffer, as to whether or not the correct decision had originally been made on his claim when he was awarded disability benefits in 1967. In an interview he reported that he was operating the farm at the time he filed his disability application and had continued this operation, although in a very limited capacity.

The Social Security Administration suspended his benefits for months after November 1969, after obtaining a description of his involvement in the farm operation, and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. It was further determined that Mr. Harden had been incorrectly paid disability benefits for September 1967 through November 1969 ($2,943.30) and that he had been incorrectly paid benefits on behalf of his daughter for September 1967 through November 1968 ($803.50), constituting a total benefit overpayment of $3,746.80. In April 1970, Mr. Harden was notified that the initial finding of disability was in error, that the benefits paid to him and his daughter constituted overpayments, and that he was responsible for refunding the amount of such overpayments.

The Department states that when Mr. Harden filed for benefits, he stated that he did not know what would be done with the farm and that he had earned nothing in the current year (1967). At the time Mr. Harden filed his application for disability insurance benefits, his condition was thought to be terminal. Information that came to the attention of the Social Security Administration after the review by the Appeals Council on September 21, 1970, indicates that there is good reason to believe that this consideration may have resulted in less careful and detailed development of the claim than the Social Security Administration normally makes, and that under the circumstances an explanation of the responsibility of the claimant for reporting any future work, earnings, and any changes in his medical status was not given the usual emphasis. The manager of the social security office servicing Mr. Harden's locality has presented statements to the effect that the circumstances surrounding Mr. Harden's application for benefits were such that a full understanding as to his responsibilities as a beneficiary

was unlikely. It is the manager's belief that Mr. Harden was not fully informed by the Social Security Administration as to his specific responsibilities as a social security beneficiary and that, consequently, he did not understand the importance and necessity of reporting his subsequent activities in his farming operation until he received the check stuffer.

In its report, the Department stated that in view of the unusual circumstances the Congress might find that relief as provided in the bill would not be incompatible with applicable law and regulations, and that if the Congress so found, the Department would not oppose enactment.

In view of the foregoing, the committee secured additional information concerning the present circumstances of the beneficiary named in the bill. On the basis of that information, the committee has concluded that repayment would impose a further unfair hardship on him, and that under all the circumstances, relief is merited. The committee was advised that Mr. Harden quit farming in 1971 and sold everything in order to pay his debts. As a tenant farmer, he only rented the farmland. The committee was advised that he is now only able to do light work at a nursing home and is paid $35 a week. He only works 16 hours doing maintenance work. He was hospitalized in December of 1974, when a malignant tumor was removed. He had Blue Cross/Blue Shield and still owes about $500.

It is recommended that the bill be considered favorably.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
October 3, 1974.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of February 6, 1973, for a report on H.R. 2640, a bill "For the relief of Howard D. Harden."

The bill would provide that Mr. Harden of Roseville, Illinois, be relieved of the liability for repayment of $3,746.80, representing an overpayment of social security benefits. The facts upon which this private relief bill is based, as they related to Mr. Harden's status with respect to social security benefits, are stated in the accompanying memorandum.

In brief, the Department determined in July 1967 that Mr. Harden became unable in February 1967 to engage in any substantial gainful activity by reason of serious extended illness and therefore was disabled within the meaning of the social security law. Disability insurance benefits were paid to him, and child's insurance benefits were paid to his daughter, beginning September 1967. In late 1969, an inquiry from Mr. Harden concerning his eligibility for benefits prompted an investigation of the matter. From the investigation it was concluded that he had been engaging in substantial work as a tenant farmer continuously from February 1967 up to the time of the investigation. Further, it was held that the 1967 decision was an erroneous determination and that benefits should not have been paid to Mr. Harden and

his daughter. As a result, the social security benefits already paid, totaling $3,746.80, constituted an overpayment.

It was determined that Mr. Harden was not without fault with regard to the overpayment of disability benefits and that there is no way under existing social security law or regulations for overpayment recovery to be waived.

A social security beneficiary is responsible for furnishing full and accurate information affecting his basic right to benefits and for complying with reporting requirements about any work he may have done, income he may have earned, or, in disability benefit cases, a change in his medical status. Also, he is responsible for repayment of a benefit overpayment unless it can be established that he was without fault in causing the overpayment. If it is determined that a beneficiary is without fault, recovery of the overpayment can be waived if recovery would be against equity and good conscience, or would defeat the purposes of the program.

As explained in the enclosed memorandum, unusual circumstances were involved in the development and decision in Mr. Harden's claim for benefits and the resulting overpayment. At the time Mr. Harden filed his application for benefits, his condition was thought to be terminal. This consideration apparently resulted in less careful development of the claim than is normally undertaken, and there is evidence that in this instance the claimant was not fully informed of his responsibility for reporting any future work, earnings, and any changes in his medical status. Because of these unusual circumstances, we believe that the Congress might find that this bill is not incompatible with the intent of the provisions of the social security law and the regulations governing the waiver of overpayments. If the Congress so finds, we would not oppose the enactment of H.R. 2640.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CASPAR W. WEINBERGER, *Secretary.*

Enclosure.

MEMORANDUM TO ACCOMPANY THE REPORT OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE ON H.R. 2640

On April 6, 1967, Howard D. Harden, a self-employed tenant farmer, social security number 361–18–5140, filed an application for social security disability insurance benefits, stating that he became disabled in February 1967 due to lymphoma. Based on medical evidence from a highly reputable source indicating a diagnosis of malignant lymphoma, along with other information submitted, the Social Security Administration determined in July 1967 that, as of February 22, 1967, Mr. Harden had become disabled within the meaning of the law. Benefits were awarded to Mr. Harden and his dependent daughter, who was a full-time student. Beginning September 1967, Mr. Harden received $98.50 monthly, which was increased to $111.40 monthly, beginning February 1968, as a result of a general increase in benefits. He received benefits on behalf of his daughter in the amount of $49.30

monthly, beginning September 1967, which were increased to $55.70 monthly, beginning February 1968. Benefits were paid to Mr. Harden through November 1969. Benefits were paid to his daughter through November 1968, when her status as a full-time student ended.

After the application was filed and benefits were awarded, there were no contacts between Mr. Harden and the Social Security Administration until November 1969. At that time he contacted the social security office in Galesburg, Illinois, upon receiving with his monthly benefit check an informational notice (frequently referred to as a check stuffer) from the Social Security Administration regarding the general eligibility requirements for continuing to receive disability insurance benefits. Mr. Harden inquired, after receiving the check stuffer, as to whether or not the correct decision had originally been made on his claim when he was awarded disability benefits in 1967. In an interview he reported that he was operating the farm at the time he filed his disability application and had continued this operation, although in a very limited capacity.

The Social Security Administration suspended his benefits for months after November 1969, after obtaining a description of his involvement in the farm operation, and reopened the original determination on his disability claim. In the revised determination, it was concluded that he had not been under a disability and therefore had not been entitled to disability insurance benefits. It was further determined that Mr. Harden had been incorrectly paid disability benefits for September 1967 through November 1969 ($2,943.30) and that he had been incorrectly paid benefits on behalf of his daughter for September 1967 through November 1968 ($803.50), constituting a total benefit overpayment of $3,746.80. In April 1970, Mr. Harden was notified that the initial finding of disability was in error, that the benefits paid to him and his daughter constituted overpayments, and that he was responsible for refunding the amount of such overpayments.

On May 1, 1970, Mr. Harden requested a hearing on this determination and on July 30, 1970, the Department Hearing Examiner (now called "Administrative Law Judge") affirmed the revised determination. In addition, the Hearing Examiner found that Mr. Harden was not without fault in incurring the benefit overpayment. The Hearing Examiner based this latter finding on the agreement made by Mr. Harden at the time of filing his application for disability benefits that he would report promptly any return to work. During the hearing, Mr. Harden testified that he was aware of his responsibility to report work activity, but thought that the Social Security Administration had been fully apprised of his ongoing farming operation, and that there had been nothing to report since his medical status had not changed.

On August 26, 1970, Mr. Harden requested an Appeals Council review of the Hearing Examiner's decision, including the finding that he was not without fault in incurring the overpayment. Mr. Harden advised the Appeals Council that at the time he filed the application for benefits he believed that he had made the Social Security Administration aware that, although his activities were restricted, he was still managing the farm. On September 21, 1970, the Appeals Council determined that the Hearing Examiner's decision was correct and that further review of this decision, if desired, would have to be initiated

within 60 days through civil action. Although Mr. Harden requested and was granted an extension (through December 31, 1970) to initiate civil action, there is no information indicating that a civil action has ever been filed.

Information relating to Mr. Harden's case shows that he advised the Social Security Administration, upon filing an application for benefits, that he did not know what would be done with the farm and that he had earned nothing in the current year (1967). At the time Mr. Harden filed his application for disability insurance benefits, his condition was thought to be terminal. Information that came to the attention of the Social Security Administration after the review by the Appeals Council on September 21, 1970, indicates that there is good reason to believe that this consideration may have resulted in less careful and detailed development of the claim than the Social Security Administration normally makes, and that under the circumstances an explanation of the responsibility of the claimant for reporting any future work, earnings, and any changes in his medical status was not given the usual emphasis. The manager of the social security office servicing Mr. Harden's locality has presented statements to the effect that the circumstances surrounding Mr. Harden's application for benefits were such that a full understanding as to his responsibilities as a beneficiary was unlikely. It is the manager's belief that Mr. Harden was not fully informed by the Social Security Administration as to his specific responsibilities as a social security beneficiary and that, consequently, he did not understand the importance and necessity of reporting his subsequent activities in his farming operation until he received the check stuffer.

H. R. 1649

Ninety-fourth Congress of the United States of America

AT THE FIRST SESSION

Begun and held at the City of Washington on Tuesday, the fourteenth day of January, one thousand nine hundred and seventy-five

An Act

For the relief of Howard D. Harden.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Howard D. Harden, of Roseville, Illinois, is relieved of liability to the United States in the amount of $3,746.80 representing disability payments from September 1967 to November 1969 paid to him following a diagnosis of a malignant lymphoma, which benefits were retroactively denied him because he had advised the Social Security Administration that he was attempting to perform some of his farmwork despite his disabilities. In the audit and settlement of accounts of any certifying or disbursing officer of the United States, credit shall be given for amounts for which liability is relieved by this section.

SEC. 2. The Secretary of the Treasury is authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to the said Howard D. Harden an amount equal to the aggregate of any amounts paid by him, or withheld from sums otherwise due him, with respect to the indebtedness to the United States specified in the first section of this Act: *Provided*, That no part of the amount appropriated in this Act shall be paid or delivered to or received by any agent or attorney on account of services rendered in connection with this claim, and the same shall be unlawful, any contract to the contrary notwithstanding. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Speaker of the House of Representatives.

Vice President of the United States and President of the Senate.

June 27, 1975

Dear Mr. Director:

The following bills were received at the White House on June 27th:

S.J. Res. 98	H.R. 1421	H.R. 3382
S. 2003	H.R. 1510	H.R. 3526
H.R. 1387	H.R. 1556	H.R. 5217
H.R. 1388	H.R. 1649	H.R. 6900
H.R. 1393	H.R. 2109	H.R. 7709
H.R. 1408	H.R. 2119	H.R. 8030
H.R. 1410	H.R. 2946	

Please let the President have reports and recommendations as to the approval of these bills as soon as possible.

Sincerely,

Robert D. Linder
Chief Executive Clerk

The Honorable James T. Lynn
Director
Office of Management and Budget
Washington, D. C.