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New Treasury Rule Protects Social Security, VA, Other Federal Benefits

National Consumer Law Center Advocate Applauds New Rules

WASHINGTON, D.C. – A federal rule issued today that strengthens protections for bank accounts used to collect federal benefits is welcome news for retirees, veterans and disabled persons, according to a lawyer for the National Consumer Law Center.

The “interim final” rule, which will take effect on May 1 but is still open for public comment, will limit creditors’ ability to freeze and take funds from accounts that contain Social Security, Supplemental Security Income (SSI), VA and other federal benefits. These benefits, which are legally protected from court-issued garnishment orders, are critical to the survival of many recipients.

“We applaud the work of the Treasury Department and the other agencies to safeguard these essential benefits, and the leadership of Sen. Max Baucus on this issue,” said Margot Saunders, an attorney with the Center. “All too often, elders, veterans, and disability benefit recipients who rely on these benefits for their basic needs have been unable to access them for extended periods because of creditor-imposed garnishment freezes.”

Social Security, Supplemental Security Income (SSI), VA, and similar federal benefits are intended to meet beneficiaries’ daily needs. Federal law makes these funds immune from seizure by creditors.

But in practice, creditors frequently obtain court garnishment orders so that banks then freeze bank accounts containing protected funds. A beneficiary may be unable to access urgently needed funds for weeks or months. Often, the paperwork and procedures needed to end an illegal freeze prove too daunting for a recipient, so that a bank turns over supposedly “untouchable” funds to a creditor.

The new rule prohibits the practice of denying beneficiaries access to these essential funds in bank accounts. It requires all banks to determine whether an account contains protected funds. If an account contains protected funds, the bank is required to protect two months of benefit payments from garnishment. Protection of more than two months of benefit payments requires additional court filings by the beneficiary.

In announcing the rule, the agencies stated that its framework could be expanded in future years to protect other federal payments such as military retirement.

“There are still many other steps that need to be taken to make bank accounts safe,” Saunders said. “But this new rule will give peace of mind to many elders, veterans, and disability benefit recipients.”

Comments on the new rule may be filed by May 24, 2011, by going to www.regulations.gov and entering “3206-AM17” in the keyword field.

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