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To: Interested Parties
From: Center for American Progress
Re: Putting Social Security at Risk, Failing to Provide Relief to Families: 8 Questions About President Trump's Misleading Executive Orders
Date: August 10, 2020

After failing to work with Congress to steer the country through a once-in-a-century-crisis, President Trump yesterday signed one executive order and three presidential memoranda that he boasted would "save American jobs and provide relief to the American workers." Despite having walked away from proposals that would have provided actual relief to workers, communities and families, Trump's hope was undoubtedly that he would get headlines about unilaterally protecting struggling Americans by extending unemployment benefits and cutting their taxes -- no matter how ineffective or insufficient they might be.

Indeed, even setting aside legal questions about whether Trump has the authority to take the actions he announced, the actions themselves would not do what he said they would do and would not provide meaningful relief for Americans. What his orders *will* do is put Social Security at risk and force states to take money away from urgent public health and education needs. Like past pronouncements and executive actions Trump has offered, what he announced on Saturday would fail to provide the help he is promising while resulting in harm to workers and families. On top of any legal or constitutional concerns, these actions raise the following questions and concerns which should be central in how Trump's actions are understood:

What will happen to Social Security after President Trump eliminates a major source of its funding?

President Trump made his intentions clear in his press conference on Saturday, and in the presidential memorandum he signed: his goal is to *permanently* cut the employee payroll tax, which -- alongside the employer-side payroll tax cut -- provides the vast majority of Social Security financing. "If I'm victorious on November 3rd, I plan to forgive these taxes and make permanent cuts to the payroll tax. So, I'm going to make them all permanent," Trump said. Both in his press conference and in the presidential memorandum -- which makes clear that the policy intent is for delayed payroll taxes to never be collected -- Trump was entirely silent on what this would mean to the future of the Social Security program. In contrast to past temporary payroll tax cuts which directed a transfer of general funds into the Social Security Trust Fund to make it whole[1], Trump neither has the authority to make the Trust Fund whole nor has he even proposed a mechanism to do so.

The Committee for a Responsible Federal Budget has estimated that Trump's memorandum will defer up to $150 billion in Social Security taxes - diverting that revenue from the program's

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[1] In addition, the CARES Act enacted in March, which allowed employers to defer payment of the employer share of Social Security taxes, included a provision holding Social Security harmless from even temporary reductions in revenue. CARES Act section 2302(e).

retirement and disability trust funds. A permanent tax cut would be much more costly for Social Security. Eliminating the employee side of the tax on wages under $100,000 would reduce the payroll tax revenue flowing into Social Security by roughly 35 to 45 percent, or $350 to 450 billion *per year*, weakening trust fund solvency.[2] Whether he realized it or not, the end result of Trump's actions would be to defund Social Security. And his comments on Saturday echo comments he made in Davos, Switzerland, in January, when he told an interviewer that Social Security and Medicare cuts would be on the table in his second term.

Is there any guarantee that workers will actually benefit from the payroll tax action this fall, during this dire economic crisis?

Even as Trump was clear about his intent to slash financing for Social Security, he would do so without making sure that workers -- and especially those who are struggling the most -- would get anything in the midst of this crisis. Unemployed workers, of course, would get nothing from the payroll tax cut. But even those workers who *are* employed might not benefit this fall, in the midst of the economic crisis. Absent Congressional action, employers -- who have the responsibility to withhold payroll taxes from employees and pass it on to the IRS -- will understandably need to assume this fall's payroll taxes will eventually be collected. Under the tax code, employers are liable for employees' share of payroll taxes - and the individuals responsible for withholding can even be held liable in their personal capacity. That means instead of increasing take-home pay for workers -- with the risk that they would later have to collect *extra* taxes next year, including from workers who they may no longer employ -- employers may well simply continue to withhold and keep the money on hand. The end result, as tax lawyers have pointed out: the memorandum could create a situation where a corporation can (at least temporarily) keep payroll taxes paid from workers from going to the Social Security Trust Fund and effectively get an interest-free loan, but workers won't see any benefit to help them during this period of economic crisis this fall.

How are unemployed workers expected to handle receiving $200 less every week -- and even if Trump's plan is workable, what would happen when the money he proposes using runs out in just a few weeks? Through the end of July, the CARES Act's boost of Unemployment Insurance by $600 was a lifeline for families and the economy. President Trump is now proposing to reduce by at least $200 weekly the amount workers and their families are receiving, even though the unemployment rate remains above 10 percent and those families still have the same rent to pay, the same bills due, and the same financial obligations. But not only is Trump choosing to cut benefits by at least $200 from what was in place in July and what the House voted to extend almost three months ago, his plan would likely only provide enough money to last a few weeks. Trump's presidential memorandum proposes using $44 billion in Federal dollars repurposed from disaster funding to cover $300 per week, topped off by $100 paid by the states (if states are even able to pay it). The Center for a Responsible Federal

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[2] The Social Security tax is evenly divided between employees and employers, with both paying 6.2 percent of wages up to a statutory maximum, which is $137,700 in 2020. Social Security payroll (FICA) tax revenue is projected to be $1.0 trillion in fiscal year 2021. Based on the most recent Social Security wage data, from 2018, workers earning under $100,000 accounted for roughly 70 percent of all wages subject to the Social Security tax, and wages up to $100,000 (including the first $100,000 of wages for higher earners) accounted for more than 90 percent of wages subject to the Social Security tax. Trump's executive order expressly calls for deferral of Social Security tax on wages for employees with gross biweekly pay of less than $4,000 or less, translating to about $100,000 per year - but it is unclear how it would apply to wages for higher earners.

Budget estimates that this funding would last only about five weeks, consistent with take-up from the UI boost before its expiration. Because the $600 boost already expired two weeks ago, that means the money Trump has said he is repurposing might not be sufficient to provide these UI benefits, even including the at least $200 cut, past the end of August. (Somewhat absurdly, the EO actually suggests states pay the *entire* cost of the UI program once Federal money expires -- which, given the fiscal constraints noted below, would be impossible.)

What does Trump intend for states to do if forced to repurpose already-insufficient money away from education or public health needs?

States are already facing a desperate fiscal situation as their tax revenues plummet as a result of the economic crisis, even while public health and other social service expenses rise. At a moment when states and localities face fiscal needs of as much as $1 trillion, Trump's presidential memorandum would *require* states to cover 25 percent of the cost of the $400 unemployment boost. (By contrast, the $600 boost that expired was covered completely by the Federal government, as it would be under the House bill.) Trump's presidential memorandum asks states to either use money from a $150 billion fund for states and localities that was already vastly insufficient for state needs, or repurpose money from elsewhere. With states already facing massive layoffs of teachers and other employees, as well as funding shortages for public health efforts, Trump is proposing to make their fiscal situations even worse. Indeed, within a day, the Administration had already appeared to backtrack – suggesting that states might not have to provide their own money, although likely with the consequence that the unemployment payments jobless workers get would shrink further to $300. Likewise, Trump is proposing to "rob Peter to pay Paul" by taking disaster relief money that has been appropriated by Congress to address past hurricanes, wildfires and floods -- and that could be needed for future disasters, right as we are in the height of hurricane season.

Moreover, while unemployment insurance (alongside other measures like direct payments) has provided a crucial boost to the macroeconomy, it has done so by providing *new* stimulus to the economy, to the tune of $15 billion a week in July. By simply trying to move money from one bucket of urgent need to another, Trump would -- rather than work with Congress to pass new money -- leave the economy with hundreds of billions of dollars less support during the next few months than it had in the spring and early summer

Is there any reason to believe that money through this emergency UI approach can actually get out the door?

Setting aside whether states have the money available to cover their required 25 percent match, it is unclear how the Administration envisions states would be able to stand up the systems to make the $400 payment possible. The strain on the existing Unemployment Insurance system has been well-documented, with payments delayed by weeks or even months for millions of recipients, and some struggling to get any money at all. But because of legal limitations on how FEMA money can be used for unemployment insurance, the EO that Trump signed does not actually continue a boost to UI payments, but instead instructs states to set up a new "lost wages assistance" program that would happen to go to people who are currently receiving UI. That leaves the same states who are struggling to manage their *existing* UI program to now identify the legal authority and/or pass bills through now-recessed legislatures to stand up this new parallel program at a moment when families are desperate for relief. While allowing the $600 boost to expire already meant that workers would see brief delays in getting payments if Congress extended them, there is reason to imagine that paying out this new, smaller payment could take far longer, if it is even legally permissible or administratively feasible for states to do at all.

How will borrowers access this new economic hardship deferment and what will it mean for borrowers seeking Public Service Loan Forgiveness? And why is the administration leaving nearly 8 million borrowers out of this assistance?

The memorandum on student loans is unclear if the new economic hardship deferment will be automatic for all borrowers or will require them to opt in. The latter would almost certainly cause millions of borrowers to fall through the cracks and create challenges to communicate. It is also unclear if borrowers who are hoping to get Public Service Loan Forgiveness (PSLF) will be able to use the months spent on the hardship toward the required 10 years of payments necessary to get their loan forgiven. If those months don't count, borrowers will be forced into choosing between extending their time until forgiveness or making payments they may not be able to afford.

The memorandum also only applies to loans held by the Department of Education. This leaves out nearly 8 million borrowers whose federal loans are held by private lenders or colleges. There is bipartisan support for helping these borrowers in future congressional action, but it is unclear why they are left out here.

How will the President's actions provide actual relief to renters, homeowners and the homeless during this crisis?

Rather than working with Congress to implement a national, comprehensive moratorium on evictions and foreclosures for all renters and homeowners, Trump issued an executive order that falls short. In it, the Secretaries of Housing and Urban Development and Treasury are urged to examine all ways to provide financial assistance to renters and homeowners while also identifying all legal actions to avoid evictions and foreclosures resulting from financial hardships brought about by COVID-19 -- but the order doesn't actually do anything to achieve those goals. The executive order as written will not bring necessary immediate relief to the millions of renters and homeowners struggling to stay in their homes. The president should return to negotiations with Congress to develop a comprehensive package that will support the nearly 40 million renters at risk for eviction by the end of the year.

Given the increased risks of contracting COVID-19 for individuals in congregate settings, what does this order do to add safe housing options for individuals facing homelessness?

The preamble in the eviction executive order acknowledges the increased health risks faced by individuals living in shelters but provides no concrete actions to address the problem. By doing nothing to help individuals experiencing homelessness, Trump's actions, in contrast to the proposals in HEROES Act, would leave more than half a million individuals without aid. Moreover, it provides no assistance to the estimated 1.4 million individuals who access emergency shelters or transitional housing each year. The HEROES Act proposed a minimum of $11.5 billion in Emergency Solutions Grants to aid and protect people experiencing homelessness during the pandemic - a vital boost to expand and enhance anti-homelessness aid and protection.