

TESTIMONY OF

ANN P. ROBERT, PRESIDENT-ELECT

NATIONAL COUNCIL OF DISABILITY DETERMINATION DIRECTORS

To the

SUBCOMMITTEE ON OVERSIGHT AND THE SUBCOMMITTEE ON SOCIAL
SECURITY

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Chairman Boustany, Chairman Johnson, Mr. Lewis, Mr. Becerra, members of the Subcommittees, my name is Ann Robert. I am honored to have this opportunity to appear on behalf of the National Council of Disability Determination Directors (NCDDD) to comment on the role of the state Disability Determination Services (DDS) relative to the accuracy of payments made by Social Security Administration (SSA). I am President-Elect of the NCDDD and the DDS Administrator for the Illinois DDS.

The National Council of Disability Determination Directors (NCDDD) is a professional association composed of the Directors and managers of the Disability Determination Services (DDS) agencies located in each state, the District of Columbia, and Puerto Rico. Collectively, members of the NCDDD are responsible for directing the activities of approximately 14,500 state employees who process nearly 4.3 million claims per year for disability benefits under the Social Security Act. NCDDD goals focus on establishing, maintaining and improving fair, accurate, timely and cost-efficient decisions to persons applying for disability benefits. The mission of NCDDD is to provide the highest possible level of service to persons with disabilities, to promote the interests of the state operated DDSs and to represent DDS directors, their management teams and staff.

The DDSs are state agencies 100% federally funded by SSA. The DDSs make complex medical determinations for the Social Security disability programs pursuant to Federal Regulations. The majority of DDS staff are state employees subject to the individual state personnel rules, governor initiatives and state mandates with the remainder of staff under state contract to provide services to the DDS. The DDSs adjudicate various disability claims including initial applications,

reconsiderations of those initial applications, and continuing disability reviews (CDRs). While the DDSs are state agencies, their funding and workload targets are determined by SSA.

The DDSs work in partnership with SSA to provide public service to individuals applying for disability benefits while also balancing stewardship commitments. One goal of the SSA Strategic Plan 2008-2013 is *Preserve The Public Trust in Our Program*. An objective of that goal is to curb improper payments. The DDSs have a role in assisting SSA with that objective. The DDSs evaluate CDRs requiring medical review for SSA, ensuring that only those individuals who are eligible, continue to receive benefits. SSA estimates that every dollar spent on CDRs yields \$10 in lifetime program savings. Unfortunately, budget constraints have forced a reduction in this integrity workload. The DDSs can also assist in curbing improper payments by identifying fraud in the disability application process. The detection and prevention of improper payments further enhances the integrity of the program.

NCDDD appreciates that Congress has recognized that funding for the disability program is necessary to meet the needs of the public. We sincerely thank you and your colleagues for the previous funding that has assisted the DDSs in providing the necessary service to those Americans reaching out for help in desperate and difficult times. In previous years when initial disability applications were increasing significantly, Congress provided funding to address this workload. However, the funding previously provided was not sufficient to address the Continuing Disability Review (CDR) backlog at the same time. Funding the various workloads to provide a balance of program service and stewardship is challenging at best, and even more so now, as we experience difficult economic times. DDS staffing is critical to the processing of all disability claims. Nationally, DDS examiner attrition fiscal year to date (FYTD) is 12.8%. SSA

has imposed a hiring freeze on all DDSs due to funding limitations. The continued inability to hire in the DDSs will severely limit the ability to process initial and reconsideration cases and restrict any additional CDR work, resulting in significant backlogs nationally.

A Continuing Disability Review is a review of continued eligibility for disability benefits previously awarded at any level of the decision making process including, initial, reconsideration, Administrative Law Judge or Appeals Council decisions. The Social Security Administration is required by law to conduct CDRs periodically. The Social Security Administration is required under Section 221(i) and 1614(a)(3) of the Social Security Act (Act) to review the continuing eligibility of disabled beneficiaries with nonpermanent impairments at least once every three years and review continuing eligibility of beneficiaries with permanent impairments at such times as are considered appropriate. In addition, Sections 223(f)(1) and 1614(a)(4) of the Act require that before benefits can be ceased, medical improvement since the last medical decision must be found and the medical improvement must be related to the ability to work. The purpose of these reviews is to ensure that only those who are eligible continue to receive benefits. Investment in this integrity workload to ensure payment accuracy and program savings is necessary and judicious. Both SSA and DDS conduct these reviews. The DDSs play an important role in addressing this workload with the responsibility of performing reviews on the CDRs that require a medical review. The SSA provides budget and corresponding workload targets to the DDSs each year that include targets for initial and CDR cases.

The CDR process begins with SSA. SSA determines the number of CDR cases to be worked by the DDSs each year. SSA uses technology to identify those individuals with a higher likelihood

of medical improvement and sends those cases to a DDS for a full medical review. Once the DDS receives the case, the Disability Examiner (DE) evaluates the case to determine if medical improvement has occurred. This evaluation can include a request for current medical evidence or the necessity of scheduling the claimant for a consultative examination to evaluate the severity of the claimant's current condition. Although case adjudication is a complex task at all levels, the CDR review requires additional expert judgment and the CDR is assigned, in most DDSs, to senior examiners. When the case arrives in the DDS, the senior disability examiner (DE) begins the complex process requiring a side-by-side analysis of the documentation of the prior allowance decision to the current evidence. If there is medical improvement, the DE must evaluate vocational factors relative to the beneficiary's ability to work. If medical improvement is documented along with the beneficiary's ability to work, the CDR case will be ceased. The ceased beneficiary has the right to appeal this decision. A beneficiary files an appeal through SSA and the case is forwarded to the DDS as a Prehearing (reconsideration of the CDR decision). The DDS has the responsibility to have a different review team look at the case. That review team could reverse the determination to a continuance (allowance) or if the case is not reversed, the case moves to the DDS Disability Hearings Unit. A DDS Disability Hearings Officer (DHO) begins the administrative hearing process. This phase involves a face-to-face hearing and complex decision-making process. The hearings often involve travel for the beneficiary, witnesses, family members of the beneficiary and the DHO. After a complete and detailed hearing, the DHO renders a decision. If the DHO decision does not reverse the cessation, the beneficiary can further appeal to the SSA Administrative Law Judge.

In 1996, Public Law (P.L.) 104-121, the *Contract with America Advancement Act of 1996*, provided for an adjustment in the discretionary spending caps for increased funding for CDRs for FYs 1996 through 2002. Congress authorized 4.1 billion dollars over seven years to fund SSA's plan to conduct 8.2 million CDRs between 1996 and 2002. During this period, SSA authorized significant hiring in the DDSs. This specific funding and the SSA plan for the incremental increase in the CDR workload over that period allowed DDSs to efficiently hire, plan, and complete the additional workload. During this period, DDSs were also funded to maintain other workloads. SSA, with the assistance of the DDSs, successfully completed the plan for reduction of the CDRs. Between FY2000 through FY2002, the DDSs processed on average each year 889,792 CDR cases compared to an average of 319,518 CDRs each year for FY2008 through FY2010. Budget constraints since FY2002 have created a shortfall between the CDRs scheduled for review and those reviewed. Currently SSA faces a CDR backlog. This program integrity workload is a critical piece of SSA's public service commitment. Additional funding including immediate hiring is essential to prepare experienced examiners for this complex workload.

The DDS can further assist SSA with payment accuracy by identifying fraud in the disability application process. DDSs conduct training with their staff and medical consultants to develop an awareness of the potential for fraud in the process. The Cooperative Disability Investigations (CDI) Program is a joint effort among Federal and State agencies to effectively pool resources for the purpose of preventing fraud. These units utilize specific DDS staff that evaluate fraud referrals in the DDS and refer those cases to SSA OIG. There are 22 CDI units across the country. Four additional units are scheduled to open in FY 2011, bringing the total number to 26 units. There are plans to continue to expand the CDI units. If a DDS does not have a CDI unit,

the referral of potential disability fraud is directed to the SSA Regional Office for that DDS. Fraud detection and prevention is important to payment accuracy and should be encouraged in the DDS by allocating sufficient resources for CDI units.

Over the past few years, the DDSs have seen a significant increase in the filing of initial disability claims. Initial receipts in FY 2008 were 2,605,362 increasing to 3,024,415 in FY 2009 and 3,224,668 in FY2010. The SSA requested increased funding to address the escalating initial case receipts and Congress responded providing additional funding which allowed the DDSs to hire and process this increasing workload. However, the appropriation for SSA for FY2011 is almost \$1 billion less than the President's budget. As a result, DDS funding has been limited and since early in FY2011, the DDSs have been unable to hire staff due to the SSA imposed hiring freeze. Fiscal Year to date the DDSs nationwide have an attrition rate of 10.3% for all staff and 12.8% for disability examiners. Eleven DDSs have an attrition rate for disability examiners over 20%. Since the beginning of FY 2011 the DDSs have lost 1,102 staff, including 800 disability claims examiners. The impact of the inability to hire in the DDS is already evident in most DDSs and will have long-term consequences. The increasing complexity of the disability program criteria requires approximately 12-18 months of experience in the program for a disability examiner to become fully independent and productive. Therefore, hiring does not immediately translate to increased capacity and productivity. This initial learning curve, coupled with the current attrition in the DDSs, is a significant challenge for the state DDSs in maintaining a qualified and experienced workforce.

While overtime is currently authorized for the DDSs, overtime has limited value. Overtime can increase production on a short-term limited basis. Using overtime to compensate for the inability

to hire is not effective. Continued overtime can result in fatigue that can reduce production and increase attrition. Increased DDS staffing is necessary to handle all workloads in an efficient manner in order to address the public need.

Payment accuracy is an important goal for SSA to ensure the program stewardship. In partnership with SSA, DDSs further this goal by identifying potential fraud and adjudicating medical CDRs. Despite the complexity of the CDR workload, the DDSs national accuracy rate for CDRs is 98%. Medical CDR's yield \$10 in lifetime program savings for every dollar spent. The DDSs historically process their funded workloads. Between 1996 and 2002 when Congress allocated specific funding for CDRs, the DDSs increased hiring and processed the additional cases to meet the SSA targets. With adequate and timely funding the DDSs will continue to process all workloads. This workload processing requires staff. The continued loss of staff must be addressed with the ability to immediately hire in the DDSs. SSA and the DDSs must receive adequate resources to provide necessary staffing and funding for all workloads to address both program service commitments and stewardship. We acknowledge such a balance is difficult but critical to public service.

DDSs recognize Commissioner Astrue for his leadership during these unprecedented times in SSA and the DDSs. NCDDD stands ready to work cooperatively with the SSA in developing an efficient, consistent, and cost-effective operational plan that will ensure the success of addressing this important integrity workload and all workloads while continuing to provide quality public service and program stewardship.

Chairman Boustany and Chairman Johnson and members of the Subcommittees, on behalf of NCDDD, thank you again for the opportunity to provide this testimony. NCDDD has a long track record of success working with SSA to provide the highest level of service. I hope that this information is helpful to the Subcommittee. NCDDD is willing to provide any additional assistance you may need and I would be happy to answer any questions you may have.