



COMMITTEE ON WAYS AND MEANS

CHAIRMAN DAVE CAMP

Background and Explanation of the *Stop Disability Fraud Act of 2014* (H.R. 5260) July 2014

Short Summary

Every worker in America pays a portion of their hard-earned wages to the Social Security Disability Insurance (DI) program for promised benefits if he or she becomes too disabled to work. Unfortunately, recent DI fraud scandals have revealed significant vulnerabilities in the program that have resulted in lost taxpayer dollars, which have consequently put at risk the benefits upon which millions of disabled Americans rely. Due to poor oversight, badly outdated rules and the DI program's "pay first" culture, Social Security has awarded benefits to those who are not truly disabled. Additionally, Social Security's complex application and disability determination process makes it nearly impossible for many claimants to apply without paid professional help. Through common sense and fair changes, the *Stop Disability Fraud Act of 2014* (H.R. 5260) seeks to combat fraud and better protect taxpayers and beneficiaries.

Key Problems with the Current System

A shadow industry of doctors, lawyers, and facilitators has found that it pays to break the law. Recent scandals in Puerto Rico, West Virginia, and New York have highlighted the DI program's growing vulnerability to sophisticated fraud rings:

- **In August 2013, authorities arrested 74 individuals involved in a disability fraud conspiracy in Puerto Rico.** Under this scheme, a non-attorney fraudster helped claimants file DI applications and, with the assistance of a conspiring doctor, provide fraudulent medical evidence. Beneficiaries received over \$5.7 million in fraudulent benefits.
- **In October 2013, the Senate Homeland Security and Governmental Affairs Committee concluded a bipartisan investigation into how a West Virginia law firm, judge, and several doctors colluded to award benefits to hundreds of applicants.** Disability attorney Eric Conn hired doctors with ethical problems to provide favorable medical evidence for his clients. Administrative Law Judge (ALJ) David Daugherty based his decisions for Mr. Conn's clients solely on these falsified medical opinions. In the years before his retirement, Judge Daugherty awarded more than \$2.5 billion in lifetime benefits to over 8,000 individuals, approving over 99 percent of the cases before him in some years. This case is still under investigation.
- **In January 2014, the New York County District Attorney's Office announced the indictment of 106 defendants, including many former New York Police and Fire Department employees, for their alleged involvement in a decades-long scheme to defraud the DI program.** In exchange for payments of up to \$50,000, the scheme's four facilitators coached applicants on how to falsely show symptoms of mental disorders in order to obtain disability benefits. Many of the defendants falsely claimed to suffer from mental illnesses as a result of the September 11, 2001 terrorist attacks. So far, 134 arrests have been made as a result of this investigation, which has uncovered almost \$30 million in benefits paid.

Disability decisions rely on outdated program rules and policies, creating a benefit determination process that is overly complex, inconsistent, and subjective.

- **Decision makers utilize tens of thousands of pages of instructions to decide who should receive Social Security benefits, including 37-year old medical criteria, 35-year old vocational criteria, and 23-year old guidelines to determine what jobs exist for individuals with disabilities.** It's no wonder that today 74 percent of claimants are represented by an attorney when appealing their denied claim before an ALJ, double the 37 percent rate in 1977. Last year, claimants paid \$1.5 billion in fees to these representatives.
- **Social Security disability programs have become vulnerable to abuse by not keeping pace with advances in medicine, rehabilitation, and assistive technology** and, as a result, have spent the last decade on the nonpartisan Government Accountability Office's high-risk list for fraud and abuse.
- **Where a case is decided and by whom matters a lot, suggesting too much inconsistency and subjectivity.** In 2010, DI applications were approved 59 percent of the time in New Jersey (the State with the highest rate), versus 34 percent of the time in Tennessee (the State with the lowest rate). Similarly, among ALJs with significant caseloads, award rates in 2013 ranged from a high of 84 percent to a low of 21 percent.

What the Stop Disability Fraud Act Does

The *Stop Disability Fraud Act of 2014* takes key steps towards strengthening and restoring public confidence in the Social Security Disability Insurance program by:

- **Combating conspiracy fraud** by expanding fraud-preventing Cooperative Disability Investigation units; stopping evidence from sanctioned or unlicensed doctors from being used to determine disability; creating new felony charges for conspiracy to commit fraud; increasing criminal and civil penalties for those in positions of trust who defraud the program; requiring new sanctions for claimant representatives who violate Social Security law and regulations; requiring fraudsters to pay full restitution; expanding penalties for electronic misuse of Social Security symbols to include Internet communications and expanding penalties for concealing work activity; and mandating Inspector General reviews of the highest earning claimant representative firms' compliance with Social Security policies.
- **Strengthening program protections** by requiring quality reviews of ALJs; requiring standard qualifications for decision makers and their advisors; increasing transparency through the publication of decision maker statistics; and standardizing data to improve coordination among human service programs.
- **Modernizing disability programs** by updating medical and vocational guidelines used to determine disability; developing objective instruments to measure a person's ability to function; assessing how the modern workplace can help those with disabilities stay on the job; referring denied applicants for rehabilitation services; and creating online tools so those who want to work may assess the impact of their earnings on other Federal and State benefits.