205 W. Randolph St, Suite 510, Chicago, IL 60606
312-223-9600 | TTY: 866-584-8750 | FAX 312-223-9518
www.hdadvocates.org

Statement for the Record: Encouraging Work Through the Social Security Disability Insurance Program

Hearing before the Social Security Subcommittee of the House Committee on Ways and Means
June 19, 2013

Contact:
Barbara Otto
Chief Executive Officer
Health & Disability Advocates
Phone: 312-223-9600
Email: botto@hdadvocates.org

Health & Disability Advocates promotes income security, enhances work and educational opportunities and improves healthcare access and services for children, people with disabilities and low-income older adults.

Encouraging Work Through the for Social Security Disability Insurance Program

The Social Security Disability programs (Social Security Disability) Insurance (SSDI) and the Supplemental Security Income (SSI)) are a vital safety net for adults and children with disabilities. The income support received through these programs prevents millions of Americans from living lives of abject poverty and homelessness. The importance of these programs to one of our nation's most vulnerable populations cannot be overstated. The basic structure of both of these programs is sound and should not be altered. Although more could be done to assist adults with disabilities receiving SSDI or SSI benefits to go to work, or divert more workers with disabilities from applying for benefits to begin with, returning to work at a self-supporting level is not likely for many disability beneficiaries.

Health & Disability Advocates (HDA) applauds Chairman Johnson and Ranking Member Becerra for holding a hearing on the important topic of Encouraging Work Through the Social Security Disability Insurance program. HDA is a national policy and advocacy group headquartered in Chicago, Illinois, that builds better federal, state and local policies that promote economic and health care security for people with disabilities. For more than 20 years, HDA has been working at the intersection of health and economic security, focusing on employment and health related employment supports.

For those individuals with disabilities receiving benefits whose health and other circumstances make work an option, HDA supports all efforts to ensure that the Social Security disability system supports any and all work efforts of beneficiaries. Ensuring adequate services and supports are available at the time that a person is ready to try to work, including benefits planning and counseling services such as those available through the Work Incentives Planning and Assistance (WIPA) program, can make the difference between an individual becoming self-

sufficient and continuing to receive benefits. It is essential that these services continue to be provided and ought to be expanded to allow more individuals to receive services. HDA encourages Congress to permanently authorize and provide adequate funding for the WIPA program.

Encouraging Work Through A Path to Health Care Security

HDA fully supports the recommendations made by the Consortium for Citizens with Disabilities (CCD) in testimony provided at the hearing but provides the following additional recommendations for your consideration. As CCD outlined in its testimony, many factors must be present for an individual with a significant disability to obtain and maintain employment. All of those factors are definitely important but HDA believes that uninterrupted access to affordable and adequate health care coverage is essential. Health care security and economic security for people with significant disabilities are intrinsically linked. If a person with a disability jeopardizes her access to health care coverage by having earnings or sees that working will result in inadequate or unaffordable coverage options, she is unlikely to attempt to work or stay at work. With this in mind, HDA makes the following recommendation for your consideration.

National Medicaid Buy-In Program

Medicaid is the only affordable option to access long-term services and supports for millions of people with significant disabilities. As you know, Medicaid is the payer of last resort and provides long-term services and supports only to individuals who are both medically AND financially needy. Standard health insurance policies do not offer coverage for the long-term services and supports required for individuals with disabilities to live in the community. The Affordable Care Act will provide access to affordable health care coverage for many people with

disabilities, policies available through the Exchanges, will NOT provide long-term services and supports just like other private health insurance policies do not. And, although private long-term care insurance coverage does exist, it is not a realistic option for working age individuals with disabilities. People with disabilities are either denied coverage outright or offered coverage with premiums that are cost prohibitive. In addition, the coverage terms (restrictions on provision of benefits to an institutional setting for example) or the duration of covered benefits (often only 2 years) are inadequate to meet the needs of working-aged individuals with significant disabilities.

In 1997, Congress passed the Balanced Budget Act, and subsequently passed the Ticket to Work & Work Incentives Improvement Act of 1999, which gave states the option to create Medicaid Buy-In (MBI) programs. The MBI programs are the first and only Medicaid option that allowed individuals to "buy into" Medicaid much like a traditional insurance program. This allows individuals to participate Medicaid at higher income and asset levels than ever before available. Forty-six states currently have MBI programs and a more than 200,000 workers with disabilities are currently working and receiving needed long-term services and supports as result of this option. The MBI programs provide the only avenue working-age people with disabilities have to maintain access to services and supports desperately needed to live independently in the community while keeping them from applying for or allowing them to earn their way off of income support programs. While the MBI programs have been vastly beneficial to the individuals enrolled in them, we urge Congress to rectify a number of policy issues that prevent many people from working and increasing their self-sufficiency and have created significant barriers to utilization. We also urge Congress to make the MBI a mandatory Medicaid eligibility category with consistent asset and income limits across the United States.

Issues to be resolved

The two primary criterions for enrollment in MBI programs are the applicant must be both disabled and working. Unfortunately, there is no flexibility for states to design MBI programs that reflect the reality that many working people with disabilities face. For many people with significant disabilities, their impairments and health conditions do not allow them to maintain continuous employment. Some people have disabilities that worsen and improve over time. Some people have symptoms that are improved by medication but the medication becomes ineffective over time and symptoms return. In both of these cases, the person may become unemployed for periods of time. Unfortunately, the authority give to states to create MBI programs under both the BBA and TWWIIAA legislation do not allow for grace periods from the work requirement for a medical setback or retirement. This can leave people without access to needed health care and services and supports because they also may no longer be eligible for Medicaid through traditional eligibility pathways due to resources accrued while participating in the MBI. The result has become a significant disincentive for individuals to save for either unemployment or retirement, but also undermines the image of return to work for individuals as it appears they are no longer eligible for other options of coverage when they need healthcare the most; at retirement or during temporary medical setbacks that result in unemployment.

In order to be eligible for the MBI program, individuals have to be eligible for the program under their state eligibility rules. Because MBI programs are state based, eligibility criteria vary greatly between states. For example, a state like Wyoming has income eligibility of less than 300% FPL or less than $35k in 2013 and an asset limit of $2000, while a state like

Massachusetts has an unlimited income and asset eligibility. This has created a wide range of enrollment and outcomes and effectiveness. A recent analysis shows that Massachusetts and Minnesota, two states that both have unlimited earned income eligibility, account for almost 30% of all MBI enrollees nationally who earn more than 250% FPL. These two states leave many others lagging behind.

Workers who have now gained skills and experience that make them valuable employees with opportunities in other states are feeling the sharp impact of the lack of consistency across MBI programs. The lack of consistency in eligibility rules and availability of MBI programs makes relocating for a better job a significant challenge, if not impossible. Employment simply is not an option for an individual who has an offer in another state that does not have an MBI program with similar income and asset eligibility. Transitioning from one state to another is a significant challenge even when another state has an MBI program. Individuals again find themselves eligible in one state, but ineligible in another based on their earnings amount alone. Also individuals who have accrued assets under the MBI program they are again ineligible to move to another state because of the lack of portability.

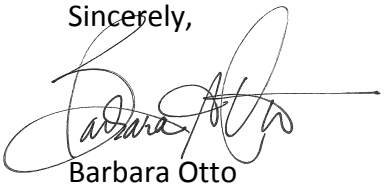
For all of the reasons above, HDA fully supports making the MBI a mandatory Medicaid eligibility category with no income or resource limit. This policy option will make work "pay" for people with significant disabilities and provide them with a path to affordable coverage with standard national income and asset rules that people without disabilities will have with the implementation of the Affordable Care Act. HDA also recommends that a national Medicaid Buy-In Program include the flexibility for grace periods for brief periods of unemployment, fully knowing that many individuals with disabilities have chronic conditions that result in higher frequency of medical setbacks.

HDA also proposes eliminating the earned income caps on the Medicaid Buy-in program, creating meaningful incentives for individuals to maximize earning potential, rather than staying under-employed just to access a path to adequate and affordable health coverage. We also propose eliminating maximum asset amount for savings accrued while working under a MBI, again to fully incentivize the greatest amount of self-sufficiency through working.

A mandatory national MBI program would allow individuals the portability to move between states without concerns about losing eligibility due to resources accumulated while participating in the MBI program. HDA also proposes a vesting option to allow individuals who have accumulated assets while enrolled in the MBI to be exempt from future Medicaid eligibility determinations for any eligibility category when working is no longer an option due to a medical setback or upon retirement. Such an exemption would incentivize savings and protect assets when an individual experiences defined periods of unemployment due to medical setbacks thus promoting greater financial security and self-sufficiency.

HDA strongly believes that supporting people with significant disabilities to work requires ensuring uninterrupted access to affordable health care and long-term services and supports. Although we know that the Social Security Subcommittee does not have jurisdiction over the Medicaid program, we believe a national MBI program as described in our statement must be an integral part of any efforts to encourage SSDI beneficiaries to work. Thank you for considering our comments. Please don't hesitate to contact me for additional information.

Sincerely,



Barbara Otto
Chief Executive Officer
Health & Disability Advocates