

Statement for the Record of Health & Disability Advocates

Joint Hearing on the

Work Incentives in the Social Security Disability Programs

Before the Human Resources and Social Security Subcommittees of

the United States House of Representatives

Committee on Ways and Means

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Health & Disability Advocates is a national policy and advocacy group headquartered in Chicago, Illinois. HDA provides direct technical assistance to Medicaid Infrastructure Grants in 30 of the 42 states through their TA Center – the National Consortium for Health Systems Development (NCHSD) which is dedicated to working with states to build sustainable workforce policies and programs that support competitive, integrated employment.

Work Incentives for Social Security Disability Beneficiaries

The Social Security Disability Insurance (SSDI) and the Supplemental Security Income (SSI) programs 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. Evaluation of the success of the current programs designed to assist disability beneficiaries work efforts must be take that fact, the fractured systems of supports and services for people with disabilities, and the current state of the economy, into account to be accurate.

Health & Disability Advocates applauds Chairman Johnson and Chairman Davis for holding a hearing on the important topic of the Social Security work incentives and the Social Security Administration's administration of the programs. For those individuals with disabilities receiving benefits whose health and other circumstances make work an option, these programs can be an integral part of success. 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 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.

Return to Work Is Unlikely for Many Beneficiaries

Although many people with disabilities receiving Social Security disability benefits have work as a goal, it is important to remember that work isn't always attainable for many beneficiaries. Applying for disability benefits is usually the last resort of a person with a disability, after they have exhausted their savings and other resources. Many have worked for years since the onset of their condition and continued to do so until their health has deteriorated to the point where they no longer could. It is important to remember that a person will only be

approved for benefits if the Social Security Administration finds that they are have a work-limiting impairment so severe that **they cannot do any job that exists in the national economy** in sufficient numbers. Unlike other income support programs, disability benefits, both SSDI and SSI, are programs for people whose injuries, illness or chronic conditions are so severe that they prevent the individual from working. Any evaluation of the success of return to work efforts must be completed with this fact in mind. It also means that reforms made to other income support programs to encourage recipients to work that have been successful are likely not translatable to SSI and SSDI beneficiaries.

There are a number of factors that make working for many SSDI and SSI beneficiaries difficult. First, by the time a person with a disability is approved for benefits, sometimes as long as two years after application, the individual is often in very bad health. For example, forty-six percent of people receiving SSDI benefits in a recent National Beneficiary Survey categorized their health as being poor or very poor.¹ Generally, the health of people receiving benefits also gets worse each year. Nearly 1 in 2 beneficiaries reported that their health had declined over the past year in that same survey.² Fifteen percent (1 in 7) of SSDI beneficiaries die within 37 months of receiving benefits. Very ill beneficiaries, like people with advanced stage cancers, severely debilitating arthritis, cardiac failure, and end stage renal disease are not likely candidates for going to work. So although there are many beneficiaries who could work if their health improved after they were awarded benefits (and the services and supports they need to assist them are available), work is simply not an option for many people receiving benefits.

In addition, even though many disability beneficiaries are still in what is considered their “work years,” most beneficiaries tend to fall toward the older end of that age range. In 2009, nearly 70% of all SSDI disability beneficiaries were over age 50 and 30% were over 60.³ People applying for and being awarded benefits are also older, with just under 60% of newly awarded benefits in 2009 going to people over 50 and 13% over age 60.⁴ Forty-five out of one-hundred disabled workers receiving benefits qualified for benefits based on an age related-impairment, impairments which are likely to worsen rather than improve over time.

Low educational attainment also limits the employment potential of many disability beneficiaries.

According to the National Beneficiary Survey, 67% of SSDI beneficiaries have a high school diploma or less (and 30% did not finish high school).⁵ Combined with their advanced age and health status, this low educational attainment makes work unlikely for many disability beneficiaries.

People Don't Choose Benefits

Disability benefits are modest and many people with disabilities continue to live in poverty even when their disability benefit is taken into account. Most people with disabilities have done everything they can and exhausted their savings before submitting a disability application. Nobody wants to live on the benefits received through the disability programs. The benefit amounts are different in SSI and SSDI but both are modest. The maximum federal benefit for 2011 for SSI is \$674/month for an eligible individual and \$1011/month for an eligible individual with an eligible spouse. If both spouses are eligible, they can receive \$12,132 per year.

SSDI benefit amounts, on the other hand, are based on the workers previous earnings. SSDI benefits only replace a percentage of the workers previous earnings and, especially for low and moderate earners, are also quite modest. The average monthly benefit in August 2011 for a SSDI program beneficiary was only \$1,070 per month, an annual income of just \$12,840.⁶ It is important to keep in mind for comparison purposes that a person working full-time 40 hours per week and earning the federal minimum wage of \$7.25/hour earns \$15,080 annually.⁷ As a matter of fact, nearly one-third of the people receiving SSDI live in households with total household income below 100% of the federal poverty level.⁸ People with work limiting disabilities, despite the availability of SSI and SSDI, are 4.5 times more likely to live in chronic poverty than people without disabilities.⁹ Forty-seven percent of those living in poverty overall are people with disabilities and 65% of people living in long-term poverty are people with disabilities.¹⁰

Increased Program Participation Reflects Demographic and Economic Realities

Health & Disability Advocates understands the concern regarding the status of the SSDI trust fund and the increase in expenditures from the general fund to pay for SSI. However, major demographic and economic factors outside of the structure of the disability programs are in large part responsible for the increase in participation

seen in recent years. They have also contributed to seeing less people receiving disability benefits returning to the workforce. First, a significant part of the increase in applications and participation in the disability programs is attributable to the aging of the United States population, as the baby boomers have entered their “high disability” years. People are twice as likely to be disabled at age 50 as they are at age 40 and twice as likely as to be disabled at age 60 as they are at age 50.¹¹

Second, the influx of women into the workforce since the 1970s has meant that more women have paid into the SSDI program and are eligible for benefits when they become disabled. In 1990, men receiving disability benefit at a percentage twice as high as women.¹² In 2009, when many more women workers had worked long enough to be covered by SSDI on the basis of their own earnings, 47% of the disabled workers receiving benefits were women.¹³ This change in the nature of the workforce, and the corresponding increase in the **total number of people eligible to apply for benefits** when one becomes disabled, has significantly contributed to the increase in participation rates in the DI program.

These demographic changes have been accompanied by changes in the US labor market that make it more difficult for people with disabilities to become employed and retain employment when they acquire a disability or an existing disability worsens. First, available job opportunities are increasingly more likely to require skilled and educated workers. As discussed earlier, two out of three people receiving SSDI benefits have no more than a high school diploma. SSI beneficiaries tend to be even less educated and have no or very little work history primarily because of their significant health care needs and lack of access to affordable services and supports.

Finally, the recession has made it more difficult for workers with disabilities to become employed or keep their jobs when an illness or injury causes them to become disabled. People with disabilities are often the “last hired and first fired” in times of economic downturn. It is no surprise then that applications for SSDI increase during recessions.¹⁴ Employers are often less likely to accommodate a worker with a disability when there is an abundant supply of labor and the employer can choose between an otherwise equally qualified person with a disability and a large number of their non-disabled peers.¹⁵ This certainly appears to be the case in the current

downturn with the unemployment rate hovering right around 9% overall and near double for people with disabilities with attachment to the workforce (at 16.1%).¹⁶

Current Work Incentives Should Be Maintained and Expanded

Whether a person's work limiting impairment prevents the person from obtaining or maintaining employment is influenced by many factors and the environment in which the person lives. The person's overall health, beyond just the specific disability for which the person was approved for disability benefits, can have a significant impact on whether a person can work at a given time. For example, a person approved for benefits due to having an advanced stage cancer might be dealing with multiple and significant side effects (e.g. fatigue, inability to concentrate, weakness) from their treatment and course of chemotherapy that will restrict their ability to work. The person might later be able to work if the cancer is in remission and they have recovered from the side effects of treatment but the status of their health will determine whether work is an option.

Many other factors in the person's environment can also impact their ability to work. The lack of accessible transportation and/or supportive services (like personal attendant care for a person with a physical disability) in the area where the person lives can significantly restrict the ability of a person with a work limiting impairment to obtain employment. Employment opportunities in the area are a key factor as well. Not just whether there are any opportunities but also the nature of the jobs. Lacking the education or skills to be qualified for any job opening is a significant factor in the inability of a person with a work limiting impairment to work. The level of support from family and friends can also be an important part of the equation.

The fractured system of services and supports for people with disabilities has resulted in numbers of individuals attempting return to work only to be cut off the long-term services and supports required to live independently in the community and maintain employment. These fractures have resulted in a negative message to people with disabilities regarding return to work. Because Medicaid is the only option for access to long-term services and supports individuals are only willing to earn high enough to maintain connectivity to the program that allows them to survive. Enhancing the ability to streamline opportunities to return to work without jeopardizing care is the only way to build a bridge to employment. Eliminating access to SSI would result in greater

numbers of individuals being forced into institutionalized care which costs exponentially more in comparison and vastly eliminates any possibility of return to work. Over the last 20 years all data, research, and policy innovation has been to transition people from institutionalized care to community approaches and living. Removing SSI as an income support would vastly increase costs and stifle work attempts by disability beneficiaries.

The totality of a person's situation must be examined when one considers whether a person with a disability is able to work. The SSI and SSDI programs cannot provide everything a person with a work limiting impairment might need to maintain or obtain employment. All of these factors can and do change over time. The health of a person with a work limiting impairment can improve or they might qualify for a transportation subsidy that they were on a waiting list for that will allow them to get to a job. Ensuring that the infrastructure and supportive services necessary to help them return to work are available **at the time** that the person decides that they are able to attempt to work is vital.

An essential part of that infrastructure is benefits planning and work incentives information. When an individual with a disability who is receiving public benefits considers entering the workforce, it is important for that person to understand the effect that employment will have on those benefits. Beneficiaries are fearful of making a work attempt because losing access to healthcare as result of working jeopardizes the ability to live independently in the community. Reviewing and analyzing an individual's benefits is what's known as "benefits planning" so that people with disabilities who work or increase their income are not placed in jeopardy as higher income levels trigger different reactions in different public benefits programs (such as food stamps, housing or Medicaid).

Lack of knowledge and/or misconceptions about how benefits will be affected by work serve as powerful barriers to workforce participation by people with disabilities. If the people providing services to people with disabilities are not well versed in the safety net created by the work incentives, they will not be able to counsel the people they serve regarding either their availability or their use. The lack of knowledge and expertise of service providers (State, private, and non-profit) around the work incentives serves as a systemic barrier to not

only the increased utilization of the work incentives but to the employment of people with disabilities more generally.

Benefit planning services continue to be needed by people with disabilities as they consider entering the workforce. Training and technical assistance to employment service providers regarding work incentives must be a substantial part of this effort. The need for benefits planning services is ongoing. Each person with a disability considering making a work attempt needs access to timely and accurate information about how working will affect benefit eligibility. Changes to state and Federal benefit program rules, such as those created by implementation of the Patient Protection and Affordable Care Act of 2010 and work incentive changes being considered by the Social Security Administration, will make the continued availability of benefit planning professionals even more essential.

Benefits planning services result in increased work and earnings for people who receive these services. One study found that people who received benefits planning services were nearly 20% more likely to be employed than those who did not.¹⁷ Another evaluation showed a positive correlation between increases in earnings and the receipt of benefits planning services.¹⁸ Benefits planning services result in more people receiving SSI and SSDI becoming employed and increasing their earnings.

The Work Incentives Planning and Assistance (WIPA) program should be reauthorized. The availability of accurate and timely information is critical to SSI and SSDI beneficiaries successfully returning to work. It is especially important now that the Medicaid Infrastructure Grant (MIG) program established by the Ticket to Work and Work Incentives Improvement Act of 1999 is due to sunset at the end of this calendar year. MIG programs have been providing additional funding for training of benefits planning professionals and the establishment of benefits planning infrastructure in many states. WIPA programs have relied on this funding to help meet the extensive benefit planning needs of SSI and SSDI beneficiaries. In fact, 33 of the WIPA projects were provided with additional resources by the MIG grantee in their state and 10 projects received more than 75% of their funding from sources other than WIPA grants. It is vital that the WIPA program continue to make benefits counseling available once the MIG funding has ended.

There are other ways in which the return to work efforts of SSI and SSDI beneficiaries can be supported by the Social Security Administration:

- Better tracking of earnings reports to reduce overpayments: SSDI beneficiaries are required to report any change in earnings to the Social Security Administration (SSA). If a person's earnings are not accurately reported to and recorded by SSA it can result in an overpayment in benefits to the working SSDI beneficiary. Overpayments to SSDI beneficiaries totaled \$1.4 billion in 2010.¹⁹ Fear of such an overpayment and the requirement to pay it back can create a significant disincentive to work attempts for many SSDI beneficiaries. Many beneficiaries indicate they report earnings but SSA either loses the report or fails to adjust the check appropriately. Creating a secure, online avenue for electronic earnings reports, for example, (as is available for reporting other changes) could potentially eliminate this disincentive. SSA could also do better data matching with other state (e.g. unemployment insurance) and Federal (e.g. Internal Revenue Service) data sources on income and earnings. Finally, forgiving overpayments that are not the fault of the beneficiary could also reduce that disincentive.
- Eliminate backlogs for processing disability applications: The length of time required to process an application for SSDI benefits can also have an impact on the work behavior of people with work impairments. In 2008, it took an average of 532 days for a person to receive a decision regarding their eligibility for disability benefits if they needed to appeal to an Administrative Law Judge. SSA had reduced that to an average of 353 days as of June 2011.²⁰ The delay between application and benefit receipt can make an SSDI beneficiary reluctant to attempt to work because they do not want to have to go through the process all over again if they try work and fail. Although there is a program rule designed to allow people an easy and quick return to benefits should a work attempt fail, eliminating the backlog in processing disability applications could increase the work behavior of SSDI beneficiaries. Recent cuts to the administrative budget

for the Social Security Administration might reverse that positive trend, leading to increases in the processing time for applications and an increased disincentive to work attempts.

- Ensure adequate healthcare coverage for people with disabilities: Adequate, accessible, and affordable health care is vital for people with disabilities. Prior to passage of the Patient Protection and Affordable Care Act (PPACA), people with disabilities faced significant discrimination in the private health insurance market, often being denied coverage due to a pre-existing condition or charged outrageous premiums which prevented them from purchasing the plan. The changes to insurance coverage rules and the opening of the insurance exchanges have the potential to ensure working people with disabilities have access to the affordable health care they need which could keep them in the workforce longer. But even passage and implementation of the PPACA is not a panacea for all the health care challenges people with disabilities face. People who receive SSDI also are eligible for health care coverage through Medicare but must receive benefits for 24 months before the coverage begins. If a person returns to work and loses their eligibility for SSDI benefits due to earnings, the person can continue to receive Medicare for 93 months. After 93 months, the person is no longer eligible for premium free Medicare. Fear of losing health care coverage can serve as a powerful work disincentive. Eliminating the 24 month waiting period and creating a permanent eligibility for Medicare could provide significantly encourage people with disabilities to work. Creating a national Medicaid Buy-In program could also assure access to working people with disabilities.
- Improvements to and simplification of the current work incentives: The disability programs do have a number of rules designed to encourage beneficiaries to work or at the very least not penalize them for doing so. These rules, however, are complex and in many cases do not completely eliminate the disincentives to making a work attempt. Making changes to those rules could assist those beneficiaries for whom working is an option to make a work attempt. These include eliminating the so- called “cash cliff” by creating a gradual reduction in benefits for earned

income rather than the current all or nothing benefit structure, creating a presumptive eligibility for benefits following a failed work attempt, and simplifying the process for determining which expenses can be used to offset earnings.²¹

¹ Gina Livermore et al., Work Activity and Use of Employment Supports Under the Original Ticket to Work Regulations: Characteristics, Employment, and Sources of Support Among Working-Age SSI and DI Beneficiaries, Final Report, April 2009, p. 10, http://www.ssa.gov/disabilityresearch/documents/TTW5_2_BeneChar.pdf

² Livermore et al, page 10

³ Social Security Administration, *2010 Annual Statistical Supplement to the Social Security Bulletin*, February 2011, Table 5.D4, <http://www.socialsecurity.gov/policy/docs/statcomps/supplement/>

⁴ *Ibid*, Table 6.C2

⁵ *Ibid* xii, 8

⁶ Social Security Administration, Office of the Chief Actuary, <http://www.ssa.gov/OACT/ProgData/icp.html>, last accessed September 10, 2011. Average benefits for disabled women workers is even lower at \$935/month. *Ibid*.

⁷ See <http://www.dol.gov/dol/topic/wages/minimumwage.htm>,

⁸ Gina Livermore et al., Work Activity and Use of Employment Supports Under the Original Ticket to Work Regulations: Characteristics, Employment, and Sources of Support Among Working-Age SSI and DI Beneficiaries, Final Report, April 2009, p. 8, http://www.ssa.gov/disabilityresearch/documents/TTW5_2_BeneChar.pdf

⁹ Gina A. Livermore and Peiyun She, *Long-term Poverty and Disability Among Working Age Adults*, Research Brief, August 2006, <http://digitalcommons.ilr.cornell.edu/edicollect/1226/>

¹⁰ Livermore and She, *Long-term Poverty and Disability Among Working Age Adults*, Research Brief, August 2006, <http://digitalcommons.ilr.cornell.edu/edicollect/1226/>

¹¹ Kathy Ruffing, Center on Budget and Policy Priorities, *What the 2011 Trustees' Report Shows About Social Security*, May 24, 2011, 8, <http://www.cbpp.org/cms/?fa=view&id=3500>

¹² Kathy Ruffing, Center on Budget and Policy Priorities, *What the 2011 Trustees' Report Shows About Social Security*, May 24, 2011, 8, <http://www.cbpp.org/cms/?fa=view&id=3500>

¹³ Social Security Administration, *2010 Annual Statistical Supplement to the Social Security Bulletin*, February 2011, Table 5.D4, <http://www.socialsecurity.gov/policy/docs/statcomps/supplement/>

¹⁴ *Ibid* xiii, 16; see also Social Security Administration, Office of the Chief Actuary, <http://www.ssa.gov/oact/STATS/table6c7.html>, last accessed September 11, 2011 (showing that applications increase during times of economic downturn).

¹⁵ See Van Doorn Ooms; see also *NASI Balancing Security and Opportunity* 63

¹⁶ United States Department of Labor, Bureau of Labor Statistics, <http://www.bls.gov/news.release/empsit.t06.htm>, accessed September 11, 2011.

¹⁷ Sarah Wilhelm and Sarah McCormick, The Impact of a Written Benefits Analysis by the UBPAO/WIPA on Vocational Rehabilitation Clients' Outcomes, Center for Public Policy and Public Administration, University of Utah, 2011

¹⁸ Cynthia Gruman et al, Medicaid Infrastructure Grant: The Impact of Benefits Counseling and Vocational Rehabilitation on Earnings, Spring 2010

¹⁹ Government Accountability Office, *Disability Insurance: SSA Can Improve Efforts to Detect, Prevent, and Recover Overpayments*, GAO-11-724, July 27, 2011, available at <http://www.gao.gov/products/GAO-11-724>

²⁰ Michael J. Astrue, Testimony before the Committee on Ways and Means Subcommittee on Social Security and the Committee on the Judiciary Subcommittee on the Courts, Commercial and Administrative Law, Joint Oversight Hearing on the Role of Social Security Administrative Law Judges, July 11, 2011 available at http://waysandmeans.house.gov/UploadedFiles/Astrue_Testimony.pdf

²¹ For a complete list of options for work incentives reforms as well as other suggestions to improve employment outcomes for people with disabilities, see http://www.c-c-d.org/task_forces/employment/CCD-Emp-TF-Statement-of-Principles.pdf.