CONSORTIUM FOR CITIZENS WITH DISABILITIES

STATEMENT FOR THE RECORD

Hearing before the
House Ways and Means Committee
Subcommittee on Human Resources

Protecting the Safety Net from Waste, Fraud, and Abuse
June 3, 2015

Statement submitted by the Co-Chairs of the
Social Security Task Force,
Consortium for Citizens with Disabilities

Submitted on behalf of the Co-Chairs of the Co-Chairs of the
Social Security Task Force, Consortium for Citizens with Disabilities:

Kate Lang, Justice in Aging
Jeanne Morin, National Association of Disability Representatives
Webster Phillips, National Committee to Preserve Social Security and Medicare
TJ Sutcliffe, The Arc of the United States
Ethel Zelenske, National Organization of Social Security Claimants' Representatives

Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee, we are submitting this Statement for the Record as Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force, on "Protecting the Safety Net from Fraud, Waste, and Abuse."

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability programs and the Title XVI Supplemental Security Income (SSI) program.

The focus of this hearing is extremely important to people with disabilities. SSI cash benefits, along with the related Medicaid benefits, are the means of survival for over 8 million individuals

with severe disabilities. SSI benefits help people with significant disabilities meet their basic needs for housing, food, and clothing, and secure essential services and medical care. SSI benefits also play a central role in helping people with significant disabilities live in the community, rather than in restrictive, costly institutions.

Proper and timely application of the SSI financial eligibility criteria is important. The SSI program is a very complex program to administer.

Proper administration of SSI benefits is critical and has long been of interest to the CCD Social Security Task Force.

The SSI program is very complex and benefits can change each month due to income and resource fluctuations and changes in living arrangements. There are complex program rules and delays in receiving income data. The agency has struggled over the years to improve its accuracy rate for SSI payments – both for overpayments and for underpayments. Yet, the vast majority of payments are free of an overpayment or underpayment. Given the complexity of the statutes governing the disability programs and the volume of work, some overpayments are unavoidable. The complexity of the return-to-work provisions is exacerbated when a beneficiary receives both SSDI and SSI, because the beneficiary is subject to two different sets of rules. More than 30 percent of Title XVI beneficiaries aged 18-64 also receive Title II benefits.[1]

While the Social Security Administration (SSA) recognizes that the SSI program rules are challenging for administrators of the program, we believe that the program is much more difficult for SSI beneficiaries to understand and follow accurately. SSI applicants and beneficiaries are under tremendous financial stress when they apply for SSI and while they are using SSI benefits (the maximum federal SSI benefit of $733 per month pays only about 75 percent of the federal poverty level for an individual). They often experience other stressful situations, including food insecurity, possible homelessness, and personal and family crisis due to economic hardship. For some, the very disability for which they have turned to the SSI program adds its own pressures to the situation and, in some cases, makes navigating the complexity of the SSI program extremely difficult.

For these reasons, we believe that SSA must exercise caution to ensure that beneficiaries are protected, particularly where they are unable to navigate the system and need assistance in correcting errors. While there may be ways to improve the process from the perspective of the Administration, the bottom line evaluation must be how the process affects the very claimants and beneficiaries for whom the system exists. We believe that the critical measure for assessing initiatives for achieving administrative efficiencies must be the potential impact on claimants and beneficiaries. Proposals for increasing administrative efficiencies must bend to the realities of beneficiaries' lives and accept that people face innumerable obstacles when they apply for and rely upon disability benefits. SSA must continue, and improve, its established role in ensuring that beneficiaries are fully protected in the process and must design its rules and procedures to reflect this administrative responsibility.

[1] Table V.F1. Percentage of SSI Federally-Administered Recipients in Current-Payment Status with Participation in Selected Programs Based on SSA Administrative Records, December 2013. Social Security Administration, *2014 Annual Report of the SSI Program*, http://www.socialsecurity.gov/oact/ssir/SSI14/V_F_OtherPrograms.html.
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Update the SSI asset and savings limits

For many years, the Task Force has recommended that Congress increase the SSI asset limit and income disregards and index them annually for inflation. The monthly unearned income disregard for an individual has remained at $20 and the earned income disregard for an individual has remained at $65 plus one-half of remaining earnings since the inception of the SSI program in 1972.[2] Similarly, the SSI asset limit of $2,000 for an individual or $3,000 for a couple has not changed since 1989. Neither the income disregards nor the asset limit are indexed for inflation.

The extremely low income disregards mean that many SSI beneficiaries' earnings trigger an overpayment for even relatively modest amounts of work. Nearly half (about 43 percent) of SSI beneficiaries who work earn less than $200 per month.[3] Increasing the earned income disregard and indexing it for inflation would help beneficiaries and make it easier for them to work. For SSA, it has the potential to reduce the agency's administrative workload for these low-wage earners, reduce overpayments, and perhaps lead to administrative savings.

Raising the asset limit and income disregards will also provide working beneficiaries the opportunity to save for home ownership, education, or retirement, and will protect their access to Medicaid.

For these reasons, we recommend raising both the asset limit and income disregards to the amounts that they would have been if indexed since their inception. A recently introduced bill, H.R. 2442, the "Supplemental Security Income Restoration Act of 2015" would increase the resource limit and income exclusions for SSI beneficiaries.

Adequate resources for program integrity activities

The integrity of the Social Security and SSI disability programs must be protected and cases of true fraud should be uncovered. However, we are always concerned about the potential effect that major changes in the SSI and Title II disability programs would or could have on people with disabilities, particularly those with cognitive or mental impairments. In the fraud and abuse context, our concern is that claimants and beneficiaries must be treated fairly and be given consideration whenever their impairments might influence their understanding of their actions or the consequences of their actions. It is with those concerns in mind that we approach all proposals addressing fraud and abuse

SSA must have sufficient resources to meet the service needs of the public and ensure program integrity. SSA's administrative budget is less than 1.3 percent of benefits paid out each year.[4] With the baby boomers entering retirement and their disability-prone years, SSA is experiencing dramatic workload increases at a time of diminished funding and staff. Over Fiscal Years (FY) 2012-2013, Congress appropriated $421 million less for SSA's program integrity efforts (such as

[2] U.S. House of Representatives, Committee on Ways and Means (2008) *Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means.*

[3] Table 46. Blind and disabled recipients who work and their average earnings, by selected characteristics. Social Security Administration, December 2013. *2014 Annual Report of the SSI Program,* http://www.socialsecurity.gov/policy/docs/statcomps/ssi_asr/2013/sect07.html#table46.

[4] Source: http://ssa.gov/budget/FY16Files/2016BO.pdf, p.7.

medical and work Continuing Disability Reviews and Title XVI redeterminations) than the Budget Control Act of 2011 (BCA) authorized. Over the last three years, SSA has received nearly $1 billion less for its Limitation on Administrative Expenses (LAE) than the President's request, and by the end of FY 2013 lost over 11,000 employees since FY 2011. In FY 2015, SSA received $218 million less for LAE than the President requested.[5] This lack of funding has significant implications for SSA's ability to perform its program integrity and other workloads. The President's FY 2015 budget request would have allowed SSA to complete 98,000 more Continuing Disability Reviews (CDRs) and 367,000 more SSI non-medical redeterminations this fiscal year than the agency now plans to perform.[6]

Adequate LAE is essential to preventing service degradation and ensuring that SSA can provide timely and accurate payments and perform necessary program integrity work. While we support bills that increase the amount of program integrity work that SSA will perform, it is necessary to increase the funding SSA receives by a commensurate amount in order to prevent further degradation of SSA's customer service due to trade-offs that would need to be made to accommodate a growing program integrity workload. We have significant concerns about provisions that increase the program integrity workload without providing SSA increased resources to complete those activities.

Pending legislation

Several recently introduced bills were discussed at the hearing. We have concerns about the possible negative impact these bills could have, if enacted, on people with disabilities who are applying for or receiving Title II benefits or SSI disability benefits. Our concerns include, but are not limited to, the following.

- **H.R. 918: The "Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2015"**

Members of CCD and other organizations have expressed opposition to proposals to eliminate or reduce concurrent Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) benefits, including H.R. 918.[7]

SSDI and UI are vital insurance systems established for different purposes. Receiving UI and SSDI concurrently is legal and appropriate. This has been the long-standing position of the Social Security Administration and of the courts. Individuals qualify for SSDI because they have significant disabilities that prevent work at or above Social Security's Substantial Gainful Activity level (earnings of $1,090 per month, in 2015). At the same time, the Social Security Act encourages SSDI beneficiaries to attempt to work, and those who have done so at a low level of earnings but have lost their job through no fault of their own may qualify for UI. As highlighted in a 2012 Government Accountability Office report, less than one percent of individuals served by SSDI and UI receive concurrent benefits, and the average quarterly concurrent benefit in fiscal year 2010 totaled only about $3,300 (or an average of $1,100 per month).

[5] Source: http://ssa.gov/budget/FY15Files/2015BO.pdf, p. 8, and http://ssa.gov/budget/FY16Files/2016BO.pdf, p.8.
[6] Source: http://ssa.gov/budget/FY15Files/2015BO.pdf, p. 9 and http://ssa.gov/budget/FY16Files/2016BO.pdf, p.9.
[7] See http://www.c-c-d.org/fichiers/CCD-Letter-DI-UI-03-17-15FINAL.pdf.

These extremely modest benefits can be a lifeline to workers with disabilities who receive them, and their families – and as permitted by law are neither "double-dipping" nor improper payments. We are deeply concerned by any prospect of worsening the economic security of workers with disabilities and their families.

In addition, proposed cuts to concurrent benefits single out SSDI beneficiaries with disabilities, treating them differently from other workers under the UI program.

Finally, proposed cuts to concurrent benefits create new disincentives to work for SSDI beneficiaries, by penalizing individuals who qualify for both SSDI and UI because they have attempted to work, as encouraged by law. The creation of a new work disincentive runs directly counter to our shared goal of expanding employment opportunities for people with disabilities.

- **H.R. 2511: The "School Attendance Improves Lives (SAIL) Act"**

This bill would suspend SSI benefits for SSI childhood disability beneficiaries who are 16 and 17 years old if they miss a specified amount of school without appropriate medical documentation. The SAIL Act would require SSA to evaluate school attendance on a monthly basis, providing exceptions only for good medical cause. Youth who receive SSI may experience school absences for many legitimate reasons, and could experience significant hardship due to loss of benefits under the SAIL Act.

We are troubled that the bill does not take into account a number of concerns, including: (1) the impact of any benefit cuts on children receiving SSI; (2) reasons why these children receiving SSI benefits might have difficulty documenting excused absences as required by the bill; (3) additional reasons children might not attend school; and (4) the administrative burden the bill would place on SSA.

- **H.R. 2504: The "Control Unlawful Fugitive Felons (CUFF) Act"**

This bill would prevent individuals from receiving Social Security or SSI benefits if there is an outstanding arrest warrant for (1) alleged commission of a felony or a crime punishable by imprisonment of more than one year; or (2) alleged violation of a condition of probation or parole.

Currently, law enforcement agencies provide information to the SSA Office of Inspector General (OIG) on people who have outstanding felony arrest warrants for escape, flight to avoid prosecution, or flight-escape or who have violated conditions of probation or parole. SSA then compares the information to its files of people receiving SSI and Social Security benefits. If there is a match, the OIG works with law enforcement to attempt to locate the person and refers to SSA cases for suspension of benefits.

Suspension and/or denial of benefits based on an outstanding arrest warrant was SSA's previous policy implementing the SSI prohibition (enacted in 1996) and the Title II prohibition (enacted in 2004). Litigation challenging the agency's policy of relying on an arrest warrant ultimately resulted in court decisions finding the policy illegal and led to a change to comply with the court orders. If Congress enacts H.R. 2504, it would return SSA to a policy that was overly broad and led to much unintended harm to elderly and disabled beneficiaries.

SSA's initial implementation of the benefits suspensions was overly broad and likely more inclusive in its reach than originally intended. Of the more than 100,000 SSI beneficiaries affected (prior to the 2004 extension to Title II beneficiaries), a disproportionate number of them had serious mental impairments. Also, many were homeless. For people with mental impairments, including cognitive limitations, the beneficiary may not be aware of the violation, may not have understood the terms of parole or probation, or may have other misunderstandings about his/her legal status. A significant percentage of these cases involved relatively minor crimes that were committed many years ago and which prosecutors had no intention of pursuing.

Also, the agency's prior "bright line" approach, i.e., suspending payment of benefits solely on the basis of an outstanding warrant, was subject to procedural irregularities in many field offices around the country. There were many reports from advocates that beneficiaries were discouraged from filing appeals or outright denied the right to appeal by field office workers because the beneficiaries were presumptively deemed ineligible because of the mere existence of the outstanding warrant. While we recognize that denying these important due process rights is not consistent with SSA policy, the adoption of the "outstanding warrant" standard did play a role in the improper denial of appeal rights.

Conclusion

We look forward to continuing to work with the Members of the Human Resources Subcommittee to explore ways to improve the SSI program and to protect the vital income support function the program provides for some of the most vulnerable Americans.

Submitted on behalf of the Co-Chairs of the Co-Chairs of the
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Ethel Zelenske, National Organization of Social Security Claimants' Representatives

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

STATEMENT FOR THE RECORD

House Committee on Ways & Means
Hearing of Subcommittee on Human Resources
"Protecting the Safety Net from Waste, Fraud and Abuse"
June 3, 2015

Statement Submitted on Behalf of Justice in Aging

Justice in Aging (formerly known as the National Senior Citizens Law Center) is a national organization that advocates for the interests of low income older Americans. Ever since our founding in 1972 this has included a strong focus on the Social Security and Supplemental Security Income (SSI) programs which provide the core financial support for older Americans.

We submit this statement to express our concern about H.R. 2504, the "Control Unlawful Fugitive Felons (CUFF) Act" and the inevitable harm that would result to hundreds of thousands of seniors and people with disabilities if it were to become law. The bill would essentially legalize the former policy of the Social Security Administration (SSA) to suspend or deny benefits to anyone with an outstanding warrant for a felony or for an alleged violation of probation or parole.

Justice in Aging was counsel to plaintiffs in several successful court challenges to SSA's former policy including *Martinez v Astrue* and *Clark v Astrue*, the two class actions that required the agency to change its policy. It is important to look closely at the results of this litigation. There are two parts to the legislation that established the so-called "fugitive felon"[1] program. One part allows SSA to provide information to law enforcement on the whereabouts of people with outstanding warrants. When we filed these cases we decided not to challenge this part of the legislation as we had no interest in hampering the work of law enforcement and were only interested in preventing the loss of essential benefits for people who, for the most part, had few other resources. That part of the law is still in effect and, as far as we know, the SSA Office of Inspector General is still doing the data match and forward information to law enforcement when it makes the match.

[1] Most of the affected individuals are neither fugitives nor felons.

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The other part of the law, as currently written, provides for benefits suspension when someone is fleeing to avoid prosecution for a felony or is violation of probation or parole. In *Martinez*, we agreed to exclude three National Crime Information Center (NCIC) warrant codes from the settlement because each of these NCIC codes involved an element of "escape" or "flight" and were thus the ones that were likely to be fugitives.

The CUFF act would do nothing to assist law enforcement, while at the same time it would result in a significant increase in administrative costs for SSA. It would do nothing for law enforcement because the only people who would lose benefits would be those who law enforcement has decided not to pursue after being told where the individual resides. That means they tend to be people accused of minor offenses or offenses from many years ago or for which it is clear that law enforcement does not have sufficient evidence. A significant number of those whose benefits would be suspended are people who don't have the money to pay a fine or increasingly common probation supervision fees. They are also often in distant jurisdictions. Cutting off essential benefits will not help people resolve these outstanding warrants.

In addition to our work in *Martinez* and *Clark* we provided important advice and support to attorneys all across the country who were representing individuals in similar cases. We also came to be contacted directly by many affected individuals, especially in connection with our representation in *Martinez* and *Clark*. In this role we learned something much more important than our legal expertise. We came to see the terrible human impact that this policy has.

There were the multiple calls from a homeless veteran in Nevada wondering when his benefits would be restored so he could find a place to live.

There was the single father in Florida who was working and raising two children on his own until he was stuck by a car while crossing the street and left paralyzed. He ended up in a nursing home. Fortunately his parents were available to take care of his children and he received a monthly Social Security Disability Insurance (SSDI) benefit that he was able to give to his parents to pay for part of the cost of caring for the children. This was hard enough for all concerned, but the situation became far worse his SSDI was stopped because of an old warrant he knew nothing about, dating back to when he was a college student in Massachusetts. In this instance the result was catastrophic for three generations, two young

children, the father and the grandparents who thought they were going to have a financially secure retirement.

In another case Judge Mary Morgan of San Francisco County Superior Court reported a case brought before her involving a 50 year old AIDS patient for whom a bench warrant had been routinely issued when he failed to appear for a court date. Medical records indicated that he had been in a coma not long before the warrant was issued. He was able to breathe only with a long plastic tube surgically inserted in his throat and connected to an oxygen tank attached to his wheelchair. By time the case was brought before her his SSI and his SSI-linked Medicaid had been suspended for several months and the medical supply company indicated they would no longer supply the equipment if he was not able to pay for it.

JH is a young man in California with an intellectual disability and other mental impairments whose SSI benefits were stopped because of an Ohio warrant issued when he was 12 years old and running away to escape an abusive stepfather. The 4'7" tall, 85 pound boy was charged with assault for kicking a staff member at the detention center where he was being held until his mother could pick him up. He had no recollection of the incident.

In another case in California, a man in San Francisco had his SSI benefits stopped because of an old warrant from South Carolina for the "crime against nature."

Some of the warrants are extremely old. TG in Oregon had his Social Security Old Age benefits suspended because of a warrant issued in Los Angeles when he was a teenager for unauthorized possession of a motor vehicle. The underlying offense had actually been cleared up years ago. In another case, a Los Angeles man faced loss of his Social Security benefits because of an Ohio warrant from the 1950s.

A common scenario was where benefits were suspended because a warrant was issued after criminal charges were filed for a bounced check. In these cases, the individual was usually unaware that the charges had been filed until many years later when their Social Security or SSI benefits were suspended. In one such case an Arkansas woman reported that her SSI benefits were stopped because of a bounced check written in Washington State in the 1970s on a joint account with her ex-husband. Her SSI-linked Medicaid benefits were also stopped and her

inability to receive medical care may have contributed to her becoming blind in one eye. She too knew nothing about the criminal charges.

In another case, MD, a Connecticut resident had her SSI benefits stopped because of an 18 year old warrant she knew nothing about which had been issued when she was in a Job Corps program in Massachusetts. The charge was "assault with a shod foot" for kicking a Job Corps counsellor who was trying to restrain her.

In short the result of passage of the CUFF Act would be irreparable injury to some of the very people that the Social Security and SSI programs were designed to benefit. At the same time there would be no benefit to law enforcement which already gets the information it needs to pursue people if it is interested. In the meantime considerable additional administrative expenses would be placed on an already overburdened Social Security Administration.

An Appendix is attached with additional examples illustrating the impact of suspending benefits on the basis of an outstanding arrest warrant. This was previously submitted as an appendix to a statement submitted to the Senate Committee on Finance when it was considering the Social Security Protection Act (HR 743) in 2003.

APPENDIX

"FUGITIVE FELON" EXAMPLES

1. **Flight to a Nursing Home** - In April, 1978, J.B. of Macon, Georgia, was sent to Seattle, WA as part of his job as a telephone installer/repairer. After he settled into his motel his employer notified him that the job fell through and that he would not receive the advance pay he had been told he would receive. He had no money to pay the motel bill and the innkeeper seized all his belongings when he left to go to his next assignment in Portland, OR. As far as he was concerned, that was the end of the unpleasant episode. What he did not realize was that in August, 1978, long after he left Seattle, the motel owner filed criminal charges for fraud against an innkeeper for his failure to pay the bill and that in August, 1978 a Seattle Justice Court issued a warrant for his failure to appear on the charge. He was not aware of the warrant or the criminal charges filed against him until October, 2001, by which time he was residing in a nursing home. At that time, both his SSI and Social Security[1] benefits were terminated because he was allegedly fleeing to avoid prosecution. He was also sent an overpayment notice for all benefits received since October, 1998. In January, 2002, he obtained representation from a legal services office, which, in turn, contacted the Office of the King County Public Defender. The public defender brought the matter to the attention of the court in Seattle, which then dismissed the charges in February, 2002. SSA then agreed to restore benefits prospectively, but refused to concede entitlement to benefits for the period before dismissal of the charges and continued to pursue the overpayment. In September, 2002, an ALJ reversed the determination finding that J.B. was not notified of the criminal case and found there was justification for his conduct in leaving Washington.

2. **Flight to Care for an Ailing Grandfather** - M.G. of Richmond, CA is a California native who receives SSI on the basis of the combined effects of a developmental disability and mental illness. In 1981, at age 14 she moved to Virginia with her mother who was transferred there by the U.S. Navy. She remained there until June, 1990 when she moved back to California with her mother who needed to return to care for M.G.'s ailing 86 year old grandfather, whose wife had just died. However, in May, 1990, before she left Virginia, she was charged with unauthorized use of a motor vehicle. After her arrest, there was a fire in the courthouse resulting in the courthouse being closed because of asbestos contamination on the day later in May when she was scheduled to appear. She then moved to California in June and states that she did not receive notice of a new court date. In December, 2001 she was notified that her benefits would be terminated. She requested reconsideration by means of a formal conference at which she would be able to present witnesses, cross-examine adverse witnesses and see any documentary evidence the agency has. However, she was denied her right to a conference. Instead SSA just sent her a Notice of Reconsideration affirming the original decision without stating any reasons. Her benefits were then discontinued in February, 2002. On April 26, 2002 an ALJ reversed the agency's decision to terminate benefits, stating that he found the facts in her case to be "compelling" and noting that she had a reason for returning to California and was now experiencing "considerable hardship." Nevertheless the Appeals Council took the case on own motion review and in July, 2002 reversed the ALJ decision. The Appeals Council cited undisclosed "Social Security Administration

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[1] Title II benefits are not covered by the current fugitive felon provisions and those benefits were soon restored after a legal services office in Georgia intervened.

guidelines" for the proposition that whenever there is an active felony warrant, "the claimant is assumed to be a fugitive felon." M.G. has now been without benefits for a full year and has had to rely on the kindness of members of her church. She has appealed her case to the U.S. District Court, but a determination is not likely before summer. M.G. has no money to be able to return to Virginia to defend the charges.

3. **Mistaken Identity** - J.G. is a severely ill AIDS patient in San Diego, CA who is unable to leave his home because of severe respiratory problems. He has an extremely common name which also happens to be the name of a serial offender in Los Angeles who was born on the same day he was. J.G. is a Mexican immigrant who has never had criminal charges filed against him either in Mexico or in the United States. He has also never been to Los Angeles which is where all the offenses have occurred. When his benefits were terminated, it was ascertained that all of the offenses were alleged to have taken place in Los Angeles and that the defendant, while having the same name and birth date, had a different Social Security number. Nevertheless, he was told that the warrant would have to be satisfied for benefits to be restored. Fortunately for him, the police in Los Angeles did catch up with the other J.G. and put him behind bars for a period, thus causing the warrant to be recalled. SSA then restored benefits to J.G. in San Diego. However, J.G. in Los Angeles is apparently on the loose again and J.G.'s benefits in San Diego have once again been terminated.

4. **Mistaken Identity** - G.A., a Mexican-American woman from California, had her SSI benefits terminated based on a warrant from Massachusetts although she had never been to the East Coast. With the assistance of a public defender working with a legal services lawyer in California, benefits were restored when it was established that the defendant in Massachusetts, who had the same name, was Puerto Rican and was in fact a different woman.

5. **Shoplifting** - J.G., a Connecticut resident, returned to his native Georgia for his mother's funeral over ten years ago. At the time he was drug addict and his life was a shambles. He had no money and nothing to eat. He was charged with shoplifting. However, he was unable to stay to respond to the charges because he had no place to stay and no money to live on. Instead he returned to Connecticut. In the intervening decade he has become a different person and has kicked his drug habit. However, he has AIDS and is unable to work and was receiving SSI because of his AIDS diagnosis. His SSI benefits were terminated last year because of the pending Georgia warrant. He is waiting for an ALJ hearing and still has no benefits. He is financially unable to return to Georgia to defend the charges.

6. **Hazy Memories of a Visit to New York** - L.G. is a Texas resident who had her benefits terminated in early 2002 based on a warrant from New York City. She clearly recalled visiting New York over twenty years ago but her serious mental limitations made her a very poor historian and she was unable to recall anything about the alleged incident. However, a dogged pro bono attorney in a law firm in Houston enlisted the assistance of a Legal Aid Society lawyer in New York and they discovered that the underlying charge from over twenty years ago was for fourth degree larceny involving an undisclosed item valued at $7.00 and that the charge was not a felony. Thus it clearly does not fall within the purview of the statute. However, that did not end the matter. The attorney representing L.G. reports that it took over a month of persistent haggling to finally restore benefits in November, 2002.

Many attorneys and other advocates report similar experiences with clients whose severe impairments prevent them from providing an adequate account of the circumstances surrounding the warrant.

7. **No knowledge of charges** - C.C. is a Cambodian refugee who arrived in the United States in 1981 and settled in Allston, Massachusetts. He remained there until 1985 when he and his family moved to San Francisco. Their departure 18 years ago was a case of flight to escape the cold winters of the Northeast. He began receiving SSI in 1989 and now resides in Antioch, CA, outside of San Francisco. He was unaware of any criminal charges until he received a notice dated June 26, 2002 telling him his benefits would be terminated because he was a fugitive felon. Benefits were terminated on July 1 without any opportunity for reconsideration.

With the assistance of both a public defender and a legal services lawyer in Massachusetts, documentation was obtained from the Brighton Municipal Court where the charges were filed. The court records show that the charges were for welfare fraud and were filed on September 1, 1988, three years after C.C. left Massachusetts. The reason given for issuance of the warrant was that the prosecutor had indicated that the defendant "may not appear unless arrested."

C.C. requested reconsideration of SSA's decision in July. SSA promptly responded with a notice stating "we are not reconsidering your claim since the principal issue is that we received an Office of Investigations notification that you are a fugitive felon." The notice goes no to state "you will need to clear up this warrant before SSI benefits are reinstated." He has had no benefits since June of last year and has no funds to return to Massachusetts to respond to the charges. He is currently awaiting an ALJ hearing.

8. **No criminal charges** - C.B. is a Los Angeles resident who lost his SSI benefits because he is alleged to be a "fugitive felon" on the basis of a warrant in a child support case in Chicopee, Massachusetts. Since child support proceedings are not criminal proceedings, they clearly do not fall within the statute and the matter should be resolved.

9. **Contract dispute** - J.G. is a 69 year old man currently residing in California who lost his SSI benefits in September, 2001 because he was determined to be a fugitive felon. He had been receiving benefits on the basis of disability since 1996. He lived in Nebraska in 1992 and that year entered into a contract to do some carpentry work for which he was given a $2,000 advance. In the fall of that same year he moved to Colorado prior to completing the work. However, before he left Nebraska, he met with the property owner and a friend of his who agreed to complete the work. The three of them agreed to the terms and he paid the friend the $2,000 advance and left for Colorado. In May, 1997 the owner of the property wrote to him in Colorado alleging that the work was never completed and that J.G. owed him $2,000. J.G. agreed to pay $75 per month with the understanding that criminal charges would not be filed. He was only able to continue this for a few months on his limited SSI income. It was only when his SSI benefits were stopped in 2001 that he learned that criminal charges that had been filed against him in Nebraska on Dec. 29, 1993, more than a year after he left the state.

After spending a year without SSI benefits, J.G. received an ALJ decision restoring his

benefits in September, 2002. The ALJ noted that J.G. was unaware of the criminal charges, that the County Attorney's office in Nebraska had declined extradition and that J.G. could not afford to travel to Nebraska to defend the charges.

10. **Flight to a Nursing Home** - L.B. has had three heart attacks and is another nursing home resident in Macon, Georgia. She was threatened with termination of benefits in July, 2001 for failure to appear on a charge of filing a false instrument in Elmira, NY that dated to 1979. Prompt coordinated action by a legal services lawyer in Georgia, and the public defender and the District Attorney in Elmira resulted in a judge promptly dismissing the charges in the interests of justice in August, 2001 and benefits continuing.

11. **Flight to a Nursing Home** - In yet another case of flight to a nursing home, also in Macon, Georgia, M.F. had been accused of fleeing to avoid prosecution for an eleven year old burglary charge in Texas. A legal services advocate in Georgia obtained verification that the charges in Texas had been dismissed and benefits were promptly restored.

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6-15-15

To: House Ways and Means Committee

Re: Hearing, Social Security Administration's management of earning reports.

To whom it may concern,

I'm concerned about the hearing that is scheduled on June 16, 2015. Before the Ways and Means committee makes a recommendation regarding work incentives and benefit reporting, maybe you should know what really goes on.

First, let me tell you what my vested interest is in this hearing. I am a Supported Employment Coordinator/Supervisor for a program that provides assistance to adults with mental illness who wish to return to work. My program follows the Evidence Based Individual Placement and Support program. Our program has an extremely high placement rate. Out of the 135 people that we have served since the inception of our program in 2011, we have a 47% placement rate.

Of the 47% who have become employed there has been only two incidents of payback. These paybacks occurred, not because of time worked or income made, but because of other issues related to something other than employment.

We can account for our success of no paybacks because myself and my staff have taken benefits training which includes SSA work incentives, Ticket to Work and all Dept of Human Service changes that they can expect such as Freedom To Work Medicaid.

Upon meeting with new enrollees into our program, my staff explain to the new enrollees that one of the supports that we provide to them is to help them to report to Social Security and DHS once they become employed. This way, there are no paybacks.

Roadblocks to successful return to employment come from two sources, the Social Security Administration and the lawyers hired to help individuals receive disability benefits. I have spoken to several SSDI and SSI recipients who have told me that they have been told by SSA workers not to work more than 20 hours a week or to stay just before Substantial Gainful Activity of $1070 so that their SSDI isn't suspended. This is

wrong. Many of our consumers feel that it is their path to recovery to become free from disability payments. They know that if they become sick that there is an accelerated process for them to return to full benefits. Along with SSA telling our consumers not to work full time, we have Disability lawyers who discourage our consumers from working during their disability appeal process. I have been present when they have told SSA judge that their client is incapable of working and that they believe that this will be a lifelong disability. I personally wish that the SSA judges would call the lawyers out on their blatant lies.

So how do we fix the problem that is occurring at SSA? We need to continue to encourage disabled people to work and provide more monetary supports to programs such as my own to help with the reporting process.

Respectfully Submitted,

Mary Mingus, LMSW

Employment Solutions, Employment Coordinator/Supervisor

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June 17, 2005

U.S. House Ways and Means Committee Human Resources Subcommittee:
Protecting the Safety Net from Waste, Fraud, and Abuse:
June 3, 2015 Hearing

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Statement of Stephen A. McFadden, M.S., Bethesda, MD

Texas DDS State Agency Medical / Psychological Consultants' Piece Rate Compensation Violates Many Social Security Disability Claimants' U.S. Constitutional and Civil Rights to Due Process and Equal Protection of the Laws:

I. Introduction:

I appreciate the Subcommittee on Human Resources holding this hearing "Protecting the Safety Net from Waste, Fraud, and Abuse." I testify here today on behalf of myself, a former student who worked in U.S. nuclear fuels and weapons labs, about how I feel operation of the Texas Disability Determination Services (DDS), which determines disability claims on behalf of the Social Security Administration (SSA) at the initial and reconsideration levels for all Texas claimants at their central office in Austin, has over the past 3 decades systematically prejudiced determinations they make on Social Security disability claims, and further compromised the evidentiary basis for subsequent determinations made by SSA Administrative Law Judges (ALJs) at its Offices of Hearing and Appeals (OHAs) in Texas. More on that later, because I'd like to start with my key point:

II. Piece Rate Compensation of Texas State Agency Consultants Violates Due Process:

The piece rate compensation pay structure for Texas DDS State Agency Medical Consultants (SAMCs) and State Agency Psychological Consultants (SAPCs) of a small fee paid per claim or file evaluated or determined at the initial and reconsideration levels leads to biases in disability determination which violate many Texas Social Security disability claimants' U.S. Constitutional and Civil Rights to due process and equal protection of the laws.

I'll use old data because that is what is available, and the piece rate pay structure-started at the Texas DDS in 1998-is the issue. In the 2003-5 era the Texas DDS piece rate SAMC/SAPC compensation rate was $13 per claim or file.[1] The Texas Historically Underutilized Businesses (HUB) web site retrospectively lists Texas state contractors paid over $100,000,[2] while the Texas Department of Assistive and Rehabilitative Servies (DARS), and its predecessor agency the Texs Rehabilitation Commission (TRC) prospectively lists contracts, often biennial, that may exceed $100,000, including many DDS contractors.[3]

Texas DDS SAMC "S.S.," one of about 40 TRC-DDS consultants budgeted to earn more than $100,000 during that era, was paid $357,889 in FY 2004,[4] but we note the HUB Report payments for FY 2002 of $303,376.50 and FY 2003 of $296,966; they were a contractor at the Texas DDS as of 2015. SAMC

1 Texas Public Information Act (TPIA) Rq DARS Resp October 2004: 2003 SAMC contract, current FY 2005.
2 Search "538" at: http://comptroller.texas.gov/procurement/prog/hub/
3 http://www.dars.state.tx.us/business/consumer_contracts.shtml . As of 2015, 65 are listed.
4 TPIA Rq DARS Resp April 2005: SAMC/SAPC incomes and fee schedule.

"M.D." earned $341,196 in FY 2004; their FY 2003 HUB Report payment was $321,050.50; they last contracted at the Texas DDS in 2010. This suggests that these SAMCs were evaluating or determining around 22-26,000 claims or files per year during this era. If they worked a typical 2080 hour year without overtime or bonuses, they probably were evaluating one claim about every 5-6 minutes.[5]

When the SAMC or SAPC determining Social Security disability claims for a State Agency spends an average of 5 or even 10 minutes per claim file while processing tens of thousands of claims over the course of a year, there are certain biases that may develop. These include biases against claims for complex, chronic, or the combination of multiple medical conditions; claims with medical evidence that is uncommon, difficult to interpret, or requires the association of multiple test results of different types or over time; claims for conditions whose origin is obscure or unknown or effects subtle; claims which involve functional or vocational factors; claims with multiple treatment sources; claimants who reopen claims; and a bias against large claim files in general. In short, the piece rate compensated SAMC physician or SAPC psychologist, when faced with a large claim file—perhaps hundreds of pages, may be tempted to simply check a box or scrawl on the determination sheet "not severe" or "insufficient evidence through DLI" (Date Last Insured) to earn their few dollars and go on to the next claim, thus depriving the claimant with a large file of the substantive due process required under the Social Security Act.

This also means that claims are developed—which is what they call the process of creating the claim file, including requesting medical records, receiving, sorting, and prioritizing them, and possibly culling those they deem unimportant—by State Agency Disability Examiners ("DEs") with no medical background and about six weeks of training. It is a reasonable inference, given the case flow, that State Agency Consultants may often not see the file until it has been prepared by these non-medical personnel and is ready for determination—as that might result in another consulting fee expense.

The file of a claimant who appeals an initial denial is typically seen 2-3 times in total by State Agency Consultants—once by a SAMC for a Medical Evaluation (ME) at the initial level—when often much evidence has not arrived or when the claimant is still undergoing medical diagnostics, and again at the reconsideration level, plus maybe once by a SAPC for a Psychological Evaluation (PE).

Now, the process may have changed when the system moved to electronic records, but back in the 2000 era with paper files there was at times an issue with document destruction—medical records known to have been sent to and received by the Texas DDS—such as brain scans—would be found missing from the claim file when it was later transferred to the SSA OHA on ALJ Appeal. In such cases, the State Agency MEs by SAMCs and PEs by SAPCs may have been compromised by prior evidence destruction at the Texas DDS during development.[6] This might for instance have been to effect the historical non-statutory practice at the Texas DDS of placing the "objective" test on the evidence itself[7] instead of the

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5 For context, one might consider Goodnight v. Apfel: "The Goodnight class action was principally oriented toward alleged deficiencies in Utah Disability Determination Services (DDS) actions and procedures. … Plaintiffs then proceeded with discovery and identified two Utah DDS medical advisers who were signing decisional documents prepared by disability examiners without having reviewed the claim files between 1991 and 1993." http://www.ssa.gov/OP_Home/hallex/I-05/I-5-4-61.html

6 The Houston Chronicle stated in 2001 that "Many people in the appeals process complain that the Social Security agency loses records … ," quoting the transcript of a disability hearing of a Pro Se claimant with fibromyalgia. "Disability hearings can leave applicants baffled, frustrated / Lost medical records among the problems." Alan Bernstein, Houston Chronicle, 03-11-01 A.20 Note that if key medical evidence is missing from the case file, then the MEs and PEs are compromised, which Pro Se claimant can hardly remedy on appeal.

7 The Texas DDS under Albert F. Vickers, M.D., Chief SAMC during at least 1974-1989, who may have been Acting or Emeritus Chief SAMC through 1997, and who worked as a SAMC till 2003, selected and directed Consulting Examiners to report "**only on objective evidence"** [SIC, underlines were bold]. TRC Psychiatric, Neurological, Musculoskeletal, & Internal Medicine "Examination Guidelines for Consultative Examiner Physicians," February 1979; Albert F. Vickers, M.D., Chief Medical Consultant et al. Texas State Library and Archives Commission (TSLAC) Archives. Chief SAMC Albert F. Vickers, M.D. gave a presentation to the

claimant, e.g. throwing away results for tests not considered by the Texas DDS to have a clear "objective" interpretation; to effect one of the laundry list of biases at the Texas DDS, e.g. against conditions that are purportedly psychoneurotic[8] using terms such as non-"objective," "somatoform,"[9] "iatrogenic,"[10] or of re-classifying "somatoform with some physical findings" as "depression";[11] or they might have simply culled records that they did not know how to interpret. Significantly, the DDS and SSA emphasis on decision "accuracy" rates provides a perverse incentive to cull evidence contrary to the chosen decision in order to preclude reversal on appeal and improve personal, unit, and agency statistics.[12] [13]

TRC Board at a day-long "working session on DDD" on May 15, 1986, where he promulgated the Texas DDS' non-statutory definition of disability in Transparency #1 as:

"medically determinable objective physical and/or mental findings of impairment",

whereas the statutory language in 42 U.S.C. 416(i), 423(d), and 1382c(a)(3) is:

"medically determinable physical or mental impairment"

Dr. Vickers' definition adds two words--"objective" and "findings"--to the statutory one, which adds a test that applies to the medical evidence, whereas in the statutory definition the "objective" test is implicit in that it applies to the existence of the claimant's medical condition itself, namely that of a "Medically Determinable Impairment" as interpreted on the evidence as a whole. Albert F. Vickers, M.D. spoke again to TRC Board at its "Work Session: Disability Determination Services Program" on November 16, 1989 about the Texas DDS Medical Consultant Services, according to his notes in Attachment #8 of the meeting minutes. Dr. Vickers stated: **"You have already seen the detailed definition of disability for the program and heard from operations staff regarding the sequential analysis of a case. Such a sequence must be medically supportable by objective physical or mental data. A claimant incurs a measurable impairment. It then varies from program to program whether this impairment equates to a 'disability'."** In fact, the first step in the disability process is not that "A claimant incurs a measurable impairment." Measurability is not requirement for disability under the Social Security Act, although "medical evidence" must be shown in order demonstrate the objective existence of an underlying Medically Determinable Impairment (MDI). Nor need a disability be "medically supportable by objective physical or mental data," once the existence of an underlying MDI has been shown. In particular, "objective" is not a required screening test for evidence considered in the determination of disability under the Social Security Act, and it is certainly not the basis to destroy evidence (e.g. brain scans) whose interpretation is seen by the Texas DDS as unclear. Quotes from TSLAC Archives.

8 e.g. a bias against occupational injuries in the oil industry, such as back "pain" and solvent neurotoxicity "cognitive effects". "Asked why the Texas Rehabilitation Commission has the lowest initial approval rate in the nation, agency spokesman Glenn Neal Promised the Chronicle a full answer. A few days later, he said the Social Security Administration had asked to speak on the issue for the commission. **Wesley Davis, a spokesman in the Dallas regional office, essentially said the rate stems from misunderstandings by blue-collar workers. He said the reason starts with an abundance in Texas of under-educated manual laborers in the oil industry and elsewhere. They commonly get injured on the job but don't understand that their condition is not total disability, which is required for Social Security aid, he said."** From: Social Insecurity: Local Judges Prove Stingy in Deciding Appeals Cases, Alan Bernstein, Houston Chronicle, 3-11-01 A.1.

9 Conditions that might have been considered to be non-"objective" or psychoneurotic e.g. "somatoform disorder" in the past might include Chronic Fatigue Syndrome (SSR 14-1p), Fibromyalgia (SSR 12-2p), Interstitial Cystitis (SSR 15-1p), and Post-Polio Syndrome (SSR 03-1p).

10 Some ALJ's at Texas OHAs have written decisions which allege the claimant's illness is "iatrogenic"--caused by the doctor, because they supposedly had "somatoform disorder" and the doctor told them they were sick.

11 Fabrication of allegations of depression against claimants whose condition the Texas DDS considers non-"objective" was policy at the Texas DDS. "Disability Determination Services Program/Policy Memorandum No. 95-13" dated April 28, 1995 to All POMS Holders and SAMCs titled "Notes from Mental ROMC Visit" states: "**Cases of severe somataform [SIC] disorders with some physical findings may be best evaluated under Listing 12.04 since these individuals are often depressed and have been diagnosed with depression. If an impairment would be an allowance under listing 12.07 (somatoform disorders), except that there are physical findings, then it should be an allowance under a different listing."**

12 **"Quality … must be maintained at 92.00 percent."** Texas DARS DDS SAMC/SAPC contract 2003-5.

13 According to TRC Board meeting minutes, SSA Region VI Commissioner Horace Dickerson told the Board on September 20, 2001 that **"Texas DDS is ranked thirteenth accuracy of adjudications … nationwide."** TSLAC archives, Austin TX. In fact, in 2000 Texas DDS had the lowest "initial approval rate" in the nation" &

The compromise of Texas State Agency ME and PE evaluations--which are summaries of the claimant's medical condition that document the evidentiary basis for the decision, by cursory consideration if not outright document destruction, not only compromises the determination of disability by the State Agency, it also compromises subsequent determinations by SSA ALJs at the OHAs. A SSA ALJ is generally not a medical expert;[14] they rely on these State Agency ME's and PE's for evidence to support their decisions.

These 5-10 minute non-examining case file evaluations done by State Agency consultants at the Texas DDS are worthy of, and merit, no legal weight in comparison to treating source medical opinions where personal physicians have worked with claimants for years. But the Texas DDS and SSA Region VA, perhaps in the service of regional actuarial[15] or state political goals,[16] often fail to comply with many of the 1996 SSA "Process Unification" rulings like SSR 96-2p, "The Treating Physician's Rule," and those cursory Texas DDS ME and PE evaluations are stand as the presumptive "decision of the Commissioner," and under SSR 96-8p must be "treated as expert opinion evidence of non-examining sources" on appeal.

In short, the Texas DDS has for decades processed somewhere around 220-330,000 claims per year—said to be about 8% of the SSA workload, for what was in the 2000 era somewhere in the neighborhood of $275-350 per claim, and has since 1998 used a piece rate SAMC/SAPC compensation scheme. The DARS web site list the Texas DDS SAMCs & SAPCs with contracts over $100,000 and Texas HUB Report lists their payments. The most prolific of these contractors have earned millions of dollars over the years, some apparently processing around 20-25,000 claims a year, about a hundred a day, apparently spending an average of 5-10 minutes per claim determined. On the order of 4-5 million claimants have had their claims subjected to this piece rate State Agency Consultant compensation scheme since 1998, their futures often determined by consultants who may spend on average only 5-10 minutes per claim decision, their claim files having been prepared by a DE with no medical background and only 6 weeks of training, their subsequent OHA ALJ appeals potentially compromised by flawed ME & PE evaluations.

The U.S. Public would, in the wake of the 2008 housing & financial crisis, recognize the situation at the Texas DDS since 1998 as a centralized industrial-scale robo-signing paperwork mill, in the manner in which some U.S. banks used so-called "Vice Presidents" to sign paperwork for hundreds of foreclosures per day for submission to courts in asset-separation schemes they effected "under color of law."

III. Beginning of the Piece Rate Compensation System for Consultants at the Texas DDS:

Texas Rehabilitation Commission (TRC), formed September 1, 1969, was the predecessor parent agency of the Texas DDS before it was "dissolved" on March 1, 2004[17] with the creation of Texas Department of Assistive and Rehabilitative Services (DARS) as the new parent agency. TRC had a lot of problems running the Texas DDS, most publicly during the 2000-4 era, an era when the agency was under-funded by SSA during 1998-2001[18] and developed a backlog of up to 75,000 claims,[19] had, according to news

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a widespread failure to do Vocational Evaluations (VE's); the "initial approval rate" increased about 25% from the 3 years before to the 4 years after 2000 when this was publicized in the media. SSA "accuracy" statistics have an internal bias from the self-fulfilling effect of a state DDS agency denial on subsequent SSA ALJ appeal.

14 For citations that an ALJ is not a medical expert, see note 19 in Windus v. Barnhart (USDC EDWI 2004); 345 F. Supp. 2d 928; 2004 U.S. Dist. LEXIS 23827.

15 We have no data on the actuarial forces that determine SSA disability policy nationally or regionally, e.g. any SSA influence producing the low approval rate at the Texas DDS 1994-2000, the lowest in the nation in 2000. A factor could be reduced tax revenue due to low wages & income earned by minorities & immigrants.

16 See reference to SSA Region VI spokesman quote blaming laborers "in the "oil industry and elsewhere" for Texas having the lowest "initial approval rate" in the nation in 2000 (29%), above.

17 TPIA Rq DARS Resp July 2004. See by HB2292, 78th Leg., 2003.

18 TRC Board meeting minutes of September 20, 2001: Social Security Administration Region VI Commissioner Horace Dickerson gave "an update on SSA's review of TRC." **"Commissioner Dickerson stated that over the last two and a half years, SSA has not been able to provide all the funding needed by DDSs to process all of the claims that they have received. He acknowledged that this has resulted in backlogs this fiscal year across the nation, as well as in Texas."** TSLAC archives, Austin, TX.

reports, the lowest "initial approval rate" in the nation in 2000—a 29% approval rate compared to about 45% nationally,[20] had an overall combined DDS/SSA psychiatric disability approval rate of about 2/3 of the national average in 1999,[21] was the subject of about 45 newspaper articles, mostly written by reporter Alan Bernstein, in the Houston Chronicle in 2001-3, processed 12,000 claims on the second tier "waiting list" in the overtime processing "fake examiner" code name scandal,[22] had a widespread failure to properly do Vocational Evaluations (VEs) and to consider vocational factors,[23] reimbursed selected hospitals for Consultative Examinations (CEs) by physicians on claimants in excess of SSA rates,[24] had an ALJ sue for failure to do CEs on indigents (e.g. mental cases) on remand to the Texas DDS needed to obtain evidence to support a claim approval without reversal,[25] saw the picketing of the home of an ALJ in Houston,[26] saw the use of ruse interview tactics by a "fraud" unit against some Houston claimants,[27] and was required to file reports with the Texas Legislative Budget Board on a quarterly basis during 2001-3 under "Rider 7", events on which several others have previously commented.[28] [29] After its creation, Texas DARS operated without a Board or public Board meetings for several years.

Historical context on the employment of State Agency Consultants at the Texas DDS is found in a presentation of Chief SAMC Albert F. Vickers, M.D. to the TRC Board on November 16, 1989:

"For many years we could not find enough available consultants, more recently we have a waiting list in some fields. Earlier we contracted only with physicians who were locally active in private office practice and in organized and specialty medical organizations. As our needs expanded this limitation became impractical. … Later we also became dependent on new hire retirees to get adequate numbers and needed specialty distribution as well."

TRC began compensating State Agency Consultants as independent contractors on a piece rate basis on October 1, 1997.[30] The TRC Medical Consultation Advisory Committee (MCAC)[31] then set medical policy at TRC. The minutes of the September 16, 1998 of the TRC MCAC meeting records the presentation of TRC Deputy Commissioner for DDS Dave Ward reviewing the change to a piece rate

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19 Houston Chronicle, 5-3-01 A.1.

20 TPIA Rq DARS Resp October 2004: Texas DDS initial approval rates were: **FY 1998: 29.7%; FY 1999: 29.8%; FY 2000: 29.0%; FY 2001: 37.3%; FY 2002: 39.7%; FY 2003: 38.5%; FY 2004: 36.7%.**

21 A letter to the editor by Leslie Gerber, director of public policy, Mental Health Association, Houston stated of Social Security disability recipients in Texas that **"in 1999, only 22.8 percent had a psychiatric disability, compared to the national average of 32.1 percent, which is nearly one and a half times higher."** Houston Chronicle, 3-18-01 C.3.

22 Houston Chronicle, 9-9-01 A.1, A.20.

23 Houston Chronicle, 10-18-01 A.29.

24 SSA OIG: "The Administrative Costs Claimed by the Texas Disability Determination Services," Audit Report A-15-02-12051, March 2004.

25 Cause no. 03:01CV816, Williams v. Massanari, et al. U.S. District Court, Dallas Texas, filed 04-30 2001.

26 Houston Chronicle 7-25-2002 A.19.

27 Houston Chronicle 3-2-2003 A.1.

28 Lawrence A. Plumlee, M.D.: Lack of Due Process and Equal Protection of the Laws in the Determination of Social Security Disability in Texas: The Urgent Need for Reform: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Hearing on the Social Security Administration's Management of the Office of Hearings and Appeals," September 25, 2003, Serial No. 108-40, pages 149-156 https://bulk.resource.org/gpo.gov/hearings/108h/99662.txt (Includes citations of 45 news articles in the Houston Chronicle 2001-3 on problems with the determination of Social Security disability in Texas.)

29 Statement of Laurie L. York, Austin, Texas: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Commissioner of Social Security's Proposal to Improve the Disability Process," September 30, 2003, Serial No. 108-64. https://bulk.resource.org/gpo.gov/hearings/108h/99682.txt

30 TPIA Rq DARS Resp October 2004.

31 TPIA Rq DARS Resp July 2004: The MCAC "was disbanded with the repeal of 40 TAC Sec 116.4 on March 31, 2002. The board has been replaced by professional service contracts with a panel of specialists who provide consultation and advice to the Medical Director and executive management." See 27 TxReg 2539 3/29/2002.

SAMC/SAPC compensation system at the Texas DDS:

"TRC/DDS looked into a new pay system for State Agency Medical Consultants (SAMCs) as a response to a state audit. But what DDS did is make it much in line with a consultant process or a services process. It changed to a fee per case system as opposed to an hourly system, allowing more flexibility with the per fee case scenario. This has also increased the DDS production capacity. Doctors are more willing to communicate over the phone with the DE and actually conduct medical evaluations/reports over the phone, which speeds up the process. There are currently 55 medical consultants that work with DDS, and the requirement is that a DE and a SAMC sign off every disability decision."[32]

The minutes of the September 18, 1999 meeting of the TRC MCAC records the presentation of Elizabeth Gregowicz on SAMC compensation:

"Commissioner Arrell raised the question about our payment of State Agency Medical Consultants (SAMC), indicating that TRC-DDS recently made a change in how we do that. Ms. Gregowicz noted that our budget from SSA has been shrinking in the last 10 or so years, and consequently, DDS' have been looking for ways to enhance operational efficiencies. Texas implemented a "pay-per-case" concept versus "pay-per-hour" for SAMC services. It appears that productivity has increased and there is increased efficiency. Dr. Vickers said he initially thought quality would suffer, but notes this has not happened. The Disability Examiners are more thorough and quality has improved. The SAMCs are contract workers and pay their own social security and income tax. There are no "employee" benefits since the SAMCs are not employees."[33]

The Texas DDS piece rate State Agency Consultant compensation scheme was thus set by an agency beset by under-funding, backlogs, and low approval rates, that was "dissolved" on March 1, 2004.

IV. SSA Region VI & Texas DDS on 'PUTT,' Pain & Cognitive: Non-Severe/Non-Combination:

The video of the April 22, 2004 Texas DDS half hour "Brown Bag Session" lecture[34] by Texas DDS SAMC neurologist Scott Spoor, M.D. on "PUTT"[35] to DDS claims examiners, taken at face value, promulgated an "oral" policy from SSA headquarters in Baltimore through the SSA Region VI ROMC (Regional Office Medical Consultant) in Dallas to the Texas DDS in Austin on determining claims for physical conditions involving "pain" or "cognitive complaints." Dr. Spoor stated in the beginning:

"There is some new news from Baltimore. I wish I had something in print to hand you, but it's not in print. It's oral history. It's information passed orally from Headquarters down to Dallas, down to us. Nothing is yet in print. We're going back up to Dallas next month some time to get more news, orally, that we can pass it on to you, orally. [Many attendees laughing, as if to an inside joke.] That's the way it goes some times." Dr. Spoor then gave a legal disclaimer that he is a M.D. and not a policy expert.

Dr. Spoor's "Brown Bag" session was apparently intended to direct Texas DDS claims examiners on how to handle claims of claimants with physical medical conditions but also "pain" or "cognitive complaints" from having those symptoms lost from reporting under the Texas DDS system. SSR 96-3p was not referenced.[36] The direction was to NOT refer the claim for a psychiatric PE by a SAPC, but rather to capture these complaints on the Residual Functional Capacity (RFC) form at Step five, late in the physical disability

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32 TRC Medical Consultation Advisory Committee (MCAC) meeting September 16, 1998 p4. TPIA Rq DARS.

33 TRC Medical Consultation Advisory Committee (MCAC) meeting September 18, 1999 p4. TPIA Rq DARS.

34 Texas DDS Videotape R-008: 'PUTT – Pain – Spoor': Brown Bag Session April 22, 2004 by Scott Spoor, M.D. TSLAC Archives, Austin, TX.

35 PUTT revers to "Process Unification Task Teams", a mid-1990s SSA redesign program which led to the publication of the "Process Unification" Social Security Rulings of 1996 intended to harmonize the disability program vertically and horizontally. See http://www.ssa.gov/OP_Home/rulings/di/01/SSR-DI01toc.html

36 SSR 96-3p: Policy Interpretation Ruling: Titles II and XVI: Considering Allegations of Pain and Other Symptoms in Determining Whether a Medically Determinable Impairment is Severe.

determination process. These claims would never be reviewed by a psychiatrist, there would be one less evaluation, one less piece rate fee, the claim could not be approved as a mental condition (e.g. "somatoform disorder") at the Texas DDS, and there would be no PE form to assist an OHA ALJ on appeal.[37] This added documentation on the RFC form would help keep such claims approved at the Texas DDS from being rejected during pre-effectuation review at the SSA Region VI headquarters or above, protecting the Texas DDS's "accuracy" rating while approving such claims.[38] Dr. Spoor continued:

Well, here's the new news. Again, it's not in print anywhere, I can't point to anything in POMS or anywhere. We've been instructed from Baltimore through the head ROMC at Dallas to capture these complaints. We've been told that if it's primarily a physical case, capture these cognitive complaints on the RFC. We've been not told how to do that [many attendees laughing], we've been just told to do that [few attendees laughing]. So, somehow capture these cognitive complaints on the RFC. I would encourage you to use the word cognitive instead of mental so you'll stay out of the quagmire of "is it an MDI or not?". Just use the word "cognitive". And I use that word in a broad sense.

"MDI" refers to Medically Determinable Impairment, the statutory requirement for a claim to be approved. Avoiding "the quagmire of 'is it an MDI or not'" means avoiding considering those symptoms when considering the claim for approval as a physical or mental condition. The RFC (Residual Functional Capacity form) is an evaluation done at step five, late in the determination process. Dr. Spoor is instructing his SAMCs how to shepherd claims involving pain (e.g. oil roughneck back injuries), cognitive complaints (e.g. oilfield chemical/solvent/fume injuries) and MDI-"related symptoms" through the system—putting them on the RFC form at Step five late in the medical disability evaluation process and NOT on a Psychiatric Evaluation form, so that a finding of mental disorder, which could result in an approval, could not be made. After discussing the example of a "failed" back pain claimant on opiates, he continued:

"Now, using your imagination, expand this same concept to other conditions. Crohn's disease, for example. It's very hard to meet the listings for crohn's. But kind of a chronic, smoldering crohn's patient may be chronically ill. Near the table for weight loss, for example, mildly anemic, perhaps. Chronically ill, tired, weak and fatigued. They too may be tired and weak and not able to sit and attend chronically. This might be the kind of RFC that might work for them. Fibromyalgia, the same kind of thing. This might be the RFC that might work for that person. The kidney patient, you all know on the kidney listings, the person, eh, hemodialysis, is almost, you can go along, go along, don't meet the listings, don't meet the listings, on until you go on hemodialysis, then boom, you meet the listings. Well, they can feel pretty bad up until they meet the listing, they're chronically ill, but they don't .. quite .. fit .. the listing criteria till they just go on hemodialysis. This might be a way to do that. You know, they're chronically tired, they're weak, they're anemic, but they're getting treatment for the anemia, so their crit is not yet to listing .. level yet. Well, call them up, ask them about their ADL's, ask them about what they do, how they feel over the course of the day and the work week. And et cetera."

What this policy fails to do is to consider pain, cognitive complaints, & MDI related symptoms at step 2 of the process, when considering if the condition is "severe".[39] It is a de-facto "non-severe"/"non-combination" policy. As it appears that documentation requirements to justify a decision drove the disability determination process at the Texas DDS at this time (e.g. decision-justifying claim development), there is a problem directing DEs to consider combined physical and mental factors on the RFC, because the RFC form is not prepared until step five of the process, and only a prior finding of severity at step two of the process, so pain and cognitive complaints would not be evaluated at step two.

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37 Several years prior, (e.g. in 1999), the overall approval rate for psychiatric claims in Texas was about two-thirds of the national average.

38 Texas DDS DEs and consultants face a disincentive to approving claims for controversial medical conditions, because the Regional Office may kick them back in pre-effection reviews, impacting their "accuracy rate."

39 This is covered by the current POMS DI 24515.061 How We Evaluate Symptoms, Including Pain, which is not limited to "severe" cases or the only the RFC. https://secure.ssa.gov/poms.nsf/lnx/0424515061

This video was made less than two months after the creation of DARS, following the "dissolution" of TRC after a laundry-list of scandals, an agency that had long selected and directed Consultative Examiners to produce only objective evidence, used a non-statutory definition of disability which placed an "objective" test on each piece of evidence, and in the wake of the 1990-1 Persian Gulf War had driven the "initial approval rate" during 1994-2000 down so low that by 2000 it was reported to have the "lowest initial approval rate in the nation," whereupon the SSA Region VI Spokesman blamed that low rate on laborers "in the oil industry in elsewhere."

One may compare this policy at the Texas DDS to SSA's "non-severe"/"non-combination" policy effected at the New York State DDS during the 1980's, as described in Dixon v. Shalala (2nd Cir., 1995)[40], a policy which was effected in nonacquiescence with the Second Circuit Court of Appeals. Dixon states:

"This appeal involves litigation initiated more than a decade ago on behalf of more than 200,000 claimants whose applications for benefits were denied on the basis of what the trial court found to be systematic and covert misapplication of the disability regulations. ..." (1020/2)

"Plaintiff's, who were denied disability benefits on the grounds that their impairments were found to be "not severe", brought this class action in 1984 to challenge what they alleged was a policy by the Secretary to heighten the threshold standards for benefits. In the 1992 Opinion, the district court found that the Secretary and Social Security [*1021] Administration ("SSA") adjudicators, between June 1976 and July 1983, engaged in systematic and clandestine misapplication of disability regulations [3] concerning "severe" impairments and illegally implemented a policy involving "noncombination" of impairments, causing plaintiffs' disabilities to be classified as "non-severe" and their applications to be denied without full review. Because the court found the agency's misapplication of the regulations to be covert as well as illegal, it concluded that disability claimants could not reasonably have been expected to know the practice. Consequently, the court equitably tolled the statute of limitations governing appeals of disability denials, allowing claimants to appeal their denials..." (1020-1/2-3)**

"We are painfully aware that no judicial pronouncement may at this late date make whole the hundreds of thousands of disabled individuals who comprise the plaintiff class, and that the choices before us are among perhaps equally unhappy alternatives. After full consideration of the Secretary's contentions, however, we remain unconvinced that the trial court abused its equitable discretion or committed reversible error. Accordingly, we affirm the judgment of the district court in its entirety. ..." (1021/5)

"2. Misapplication of the Severity Regulation Prior to April 1981" (1026/23)

"Statistical evidence concerning annual Step Two denial rates, showing that denials at this step climbed precipitously in the late 1970s. Step Two denials climbed from 8.4 percent rate of total OASDI denials in 1975, to 24.8 percent in 1977, to 41.6 percent in 1979, and remained at this elevated level into the early 1980s, when the POMS and SSR were issued. ..." (1027/25)

"3. The Noncombination Policy

The court next examined the Secretary's policy, implemented between December 1978 and December 1, 1984, of prohibiting adjudicators from considering the combined impact of non-severe impairments on a claimant's ability to perform work-related functions. The policy was incorporated in the 1978 DISM and later in the SSR, and was abandoned in 1985, pursuant to SSR 85-28. Relying on settled precedent in this and other circuits, the court concluded that the policy violated the Act and resulted in the denial of potentially meritorious claims. Id. At 956-57." (1027/26)

"In conclusion, ... The claimants here were denied the fair and neutral procedure required by the statute and regulations, and they are now entitled to pursue that procedure." (1038/68-9)

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40 54 F.3d 1019; 1995 U.S. App. LEXIS 9025.

By blaming the SSA Region VI ROMC for this non-statutory "oral" policy "from Baltimore", Dr. Scott Spoor, a contractor, serves to insulate himself against a state-law 1983 action for civil rights violations. Dr. Scott Spoor became Texas DDS Chief SAMC on October 1, 2004, and is still listed as a DARS contractor.

V. Claimant Harm at the Texas DDS:

I want to point out that, for SSDI claimants, an unjust disability denial may well destitute them and their family financially, eventually forcing them onto SSI. The Social Security Act requires in most circumstances that SSDI claimants have worked 20 out of the past 40 quarters to apply, and it takes about 5 years for a claimant to work through the disability system twice. A claimant who is truly disabled and cannot work again can thus never reapply for SSDI again because, unless they work for 5 years continuously, as they will fail the quarter test, and can apply only for SSI when they have no more assets. It may also severely impact their rights to old age and child benefits. It can be destitutional.

When the State Agency Consultant piece rate compensation scheme went into effect at the Texas DDS in FY 1998, the "initial approval rate" during FY 1998 through FY 2000 was in the 29's, while after it became a political issue when Texas was reported in the media to have the lowest "initial approval rate" in the nation in 2001, it rose into the 37's, 39's, 38's, and in 2004 the 36's, an increase of about 25%.[41]

In fact, the "allowance rate" at the Texas DDS—which is a slightly different thing--dropped far earlier than that. The public policy paper of N. Brook Campbell[42] of Texas State University-San Marcos has a graph on page 91 shows that the "allowance rate" was around 30% in 1990, went up to around 37% in 1991-2, then started dropping in 1993 till it hit around 26-7% in 1995-7 when it rose to 30-31% in 1998-2000. After the publicity in 2000, it went up to the 38-40 range 2001-2006, and up to 43-44% range 2007-9. The fact that the approval rates at the Texas DDS started dropping in 1993 and were lower during 1994-2000 than either before or after supports my thesis, argued in my prior 2003-4 testimony[43] [44] to the Subcommittee on Social Security, that the Texas DDS, given a non-statutory "objective" test on evidence and their biases against conditions that are supposedly non-"objective," purportedly "somatoform", "pain" e.g. back injury, and "cognitive" e.g. chemical injury, may have during that period systematically discriminated against claims for occupational injuries from the 1990-1 Persian Gulf War, against military veterans, defense contractors supporting the war, and Kuwait oil well firefighters e.g. from Houston.

These circumstances render the determination of disability in Texas to be an adversarial process in violation of the Social Security Act. They particularly prejudice the due process and equal protection rights of Pro Se claimants, who, without representation, may not be able to remedy such deprivation of rights, e.g. being framed by bad ME & PE evaluations submitted to SSA ALJs on appeal. The piece rate compensation scheme at the Texas DDS may also result in unequal treatment between claimants whose

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41 Per DARS, see above.

42 Campbell, Brook N.: "Texas Disability Determination Services: A Study of Unemployment Rates, Disability Application Rates, Allowance Rates, and Fraud Referrals Over Time" (2010). Applied Research Projects-Texas State University-San Marcos. Paper 344. http://ecommons.txstate.edu/arp/344

43 Stephen A. McFadden, M.S.: How the Operation of Texas Rehabilitation Commission (TRC) Disability Determination Services (DDS) Prejudices the Determination of Social Security Disability in Texas, Including Decisions by the Texas SSA Office of Hearings and Appeals (OHA). U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Hearing on the Social Security Administration's Management of the Office of Hearings and Appeals," September 25, 2003, Serial No. 108-40, pages 125-131 https://bulk.resource.org/gpo.gov/hearings/108h/99662.txt

44 Stephen A. McFadden, M.S.: Social Security's Future: The Need for Reform of Problems with Constitutional and Civil Rights to Due Process and Equal Protection of the Laws in the Determination of Social Security Disability in Texas 1996-2003: U.S. House of Representatives, Committee on Ways & Means, Subcommittee on Social Security, "Social Security's Future," January 26, 2004, Serial No. 108-45, https://bulk.resource.org/gpo.gov/hearings/108h/99667.txt

claims are evaluated by "high volume" as compared to "low volume" consultants[45] and claimants whose claims are evaluated by "high volume" consultants in Texas as compared to those in other states.

The U.S. Constitution speaks directly on a person's rights to due process with respect to the actions of the U.S. Government: **"No person shall be held ... be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."[46]**

The U.S. Constitution speaks directly on person's rights to due process and equal protection of the laws with respect to the actions of state governments: **"No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction equal protection of the laws."[47]**

Class action disability suits against Social Security[48] are difficult to plead and litigate under the strict limits of 42 U.S.C. 405(g), which precludes Federal Court discovery.[49] SSA holds that their civil rights procedures apply only to SSA employees, and that DARS employees (e.g. DEs and non-consultant administrators) are employees of the State of Texas for the purposes of civil rights actions.[50] State Agency Contractors (e.g. SAMCs & SAPCs) were (in 2003-5) per Texas DDS contract "not an employee of DDS for any purpose," and agree to "Indemnify and hold harmless … from all liability … damages … resulting … from the performance … of the Contractor."[51] The SSA POMS speaks on the potential state court liability of State Agency Contractors.[52]

VI. Conclusion:

In my opinion, the piece rate State Agency Consultant compensation scheme at the Texas DDS is the single biggest ongoing violation of the average Texas Social Security Disability claimant's rights to due process and equal protection of the laws. It was created by policy decisions made during a period of under-funding and undue stringency at the Texas DDS by a parent agency that was "dissolved" after a laundry-list of scandals, and renders the Texas DDS a centralized industrial-scale robo-signing paperwork mill where some high volume consultants have made millions doing cursory 5-10 minute evaluations of claims, sometimes 20-25,000 per year, evaluations which often stand as the "decision of the Commissioner" and may prejudice the rights of Pro Se claimants on appeal to SSA OHA ALJs--where those cursory evaluations must be "treated as expert opinion evidence of non-examining sources."[53]

My other concerns would be residual issues with the application of the historic non-statutory "objective" test on evidence effected at TRC—the former parent agency of the Texas DDS until 2004; the effects of decision-justifying and "accuracy"-protecting claim "development" and document destruction to support those policies—in my opinion, ALL claimant medical records should be preserved in the electronic case file for reference; and the de-facto "non-severe" / "non-combination" policy on "pain," "cognitive

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45 The 2003-5 Texas DDS SAMC/SAPC contract required contract consultants to adhere to a fixed schedule between 15 and 40 hours per week. Thus, to calculate production rate for other than full-time consultants, one would need to know how many hours they contracted to work per week.

46 Fifth Amendment to the Constitution of the United States.

47 Fourteenth Amendment to the Constitution of the United States, Section 1, sentence 2.

48 See Stieberger, Grant, and Goodnight at: http://www.ssa.gov/OP_Home/hallex/I-05/I-5-4.html

49 For example class actions, see the cases cited in the Stieberger non-acquiescence case. http://www.empirejustice.org/issue-areas/disability-benefits/litigation-legal-updates/class-actions/ http://www.empirejustice.org/issue-areas/disability-benefits/litigation-legal-updates/stieberger-manual.html

50 Texas generally has Sovereign Immunity from liability in its own courts unless the Legislature consents.

51 They are also required to be "licensed ... in the State of Texas."

52 https://secure.ssa.gov/poms.nsf/lnx/0439518055 https://secure.ssa.gov/poms.nsf/lnx/1502105053

53 SSR 96-6p: Policy Interpretation Ruling: Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.

complaints” & “related symptoms” promulgated by directing them to be put on the RFC at step five rather than giving them proper consideration at step two of the disability determination process.

I thank you for this opportunity to comment.

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June 17, 2015

Honorable Paul Ryan
Chair, U.S. Committee on Ways and Means
United States House of Representatives
1102 Longworth Hob,
Washington, D.C., 20515

Re: H.R. 2511, The "SAIL Act" (Rep. Tom Reed (R-NY)) – Oppose

Dear Chairman Ryan,

The Western Center on Law and Poverty represents California's poorest residents in policy and budget discussions affecting housing, health and public benefits. We are writing in opposition to the H.R. 2511 the "SAIL Act" (School Attendance Improves Lives Act),[1] which would establish new school attendance requirements for disabled children (ages 16 and 17) who receive SSI and sanction them if they fail to meet the definition of a full-time student.[2] We are in opposition because, this well-intentioned legislation seeking to reinforce the value of educating all of our children fails to address some of the real and systemic barriers to regular, full-time attendance for disabled and very ill children and would have the potential of pushing impoverished families with disabled children even deeper into poverty.

We understand that school non-attendance is a significant problem and one that disproportionately impacts poor children[3] and children with disabilities. We also understand that participation in school is one of the only ways that a low-income child has to exit poverty. However research has shown that school non-attendance penalties are applied unevenly and do not work to reduce attendance problems. No one benefits from increasing economic hardship in a home where the parent's income or wages are already insufficient to meet the basic needs of their children, especially when those children are disabled.

H.R. 2511 Would Make Some of America's Most Vulnerable Children Poorer

According to data concerning the SSI Recipients by State and County in 2013, provided by the US Social Security Administration's Office of Retirement and Disability Policy, the number of Blind and Disabled individuals Under 18 receiving SSI benefits in California as of December 2013 totaled

[1] The full text of the H.R. 2511 can be found at: https://www.congress.gov/bill/114th-congress/house-bill/2511/text

[2] A full-time elementary or secondary school student defined by section 202(d)(7) means: "an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner of Social Security (in accordance with regulations prescribed by the Commissioner)." "An individual shall be deemed to be a full-time elementary or secondary school student during any period of nonattendance at an elementary or secondary school at which he has been in full-time attendance if (i) such period is 4 calendar months or less, and (ii) he shows to the satisfaction of the Commissioner of Social Security that he intends to continue to be in full-time attendance at an elementary or secondary school immediately following such period."

[3] http://www.ojjdp.gov/dso/Truancy%20Literature%20Review.pdf

119,647. 38,529 of these recipients lived in Los Angeles County, 10,008 lived in San Bernardino County, 7,496 lived in Riverside County, 6,435 lived in San Diego County, 6,289 in Orange County, and 6,083 lived in Sacramento County.[4]

According to the United States Social Security Administration, "Children can get SSI if they meet Social Security's definition of disability for children," which means that the child must have a physical or mental condition(s) that very seriously limits his or her activities; and The condition(s) must have lasted, or be expected to last, at least 1 year or result in death. Additionally, their family must have little or no income and resources.[5] According to the World Institute on Disability's Disability Benefits 101, "Not everybody with a disability automatically gets benefits. You must also have no other way to pay for basic expenses like food, rent, and transportation. If you are under 18, SSI decides whether you need help by looking at the money you and your parents earn and the assets you and your parents have, including savings accounts, stocks, and real estate."[6]

The Lurie Institute for Disability found that of low-income families receiving the children's SSI benefits, 45 percent could not pay for all of their essential expenses, 21 percent could not pay rent, 42 percent could not pay their utility bills, and 24 percent could not access needed medical care. If a low-income family receiving SSI for a child who is disabled is struggling with their child's school absenteeism, we believe the appropriate intervention is to provide support, not to make them poorer and more vulnerable to homelessness and hardship.[7]

H.R. 2511 Blames Children & Overlooks Systemic Causes of Poor School Attendance

A July 2014 report on Student Absenteeism from Child Trends Data Bank found, "Students classified as having a disability are more likely than students without a disability to have missed three or more school days within the past month. In 2013, 27 percent of eighth-graders with a disability reported missing three or more school days within the past month, compared with 18 percent of students without a disability."[8] Disabled students who are receiving SSI face numerous additional barriers to attending and succeeding in school beyond those faced by students who are not disabled and/or who are not living in low-income families. Among these many barriers (which, it must be noted, are unique to every student) include: inadequate access to transportation, learning difficulties due to disability, inadequate access to school supplies and other resources for academic success, communication complications, etc.

Children recipients of SSI are also poor. According to a paper written by three professors at Brandeis University, "Households raising children with disabilities experience higher rates of income poverty compared to their non-disabled peers."[9] A 2013 report published by the Office of Attorney General

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[4] http://www.ssa.gov/policy/docs/statcomps/ssi_sc/2013/ca.html
[5] http://www.ssa.gov/disability/Documents/Factsheet-CHLD.pdf
[6] http://ca.db101.org/ca/situations/youthanddisability/benefitsforyoungpeople/program2c.htm
[7] Parish, S.L., Ghosh, S., & Igdalsky, L. (2013). *Hardship among Low-income US Families that receive Children's Supplemental Security Income (SSI)*. Brandeis University: The Heller School for Social Policy and Management. Retrieved from: http://lurie.brandeis.edu/pdfs/SSI%20hardship%20pol%20brief%20final.pdf
[8] *Student Absenteeism*: http://www.childtrends.org/?indicators=student-absenteeism
[9] Parish, S.L., Ghosh, S., & Igdalsky, L. (2013). *Hardship among Low-income US Families that receive Children's Supplemental Security Income (SSI)*. Brandeis University: The Heller School for Social Policy and Management. Retrieved from: http://lurie.brandeis.edu/pdfs/SSI%20hardship%20pol%20brief%20final.pdf

reported that poverty was a significant cause of poor school attendance.[10] The report cited homelessness, eviction, recent job loss or family illness as significant contributors to poor school attendance. Reducing a poor family's assistance because of attendance problems will only push them deeper into poverty, creating a cycle whereby poor attendance begets poor attendance. In fact, academic research conducted on a similar school attendance penalty provision in California's Temporary Aid to Needy Families (TANF) program found that attendance penalties failed to reduce truancy.[11] As a result, California's legislature passed bi-partisan legislation to repeal the penalty for most children and put into place a process to identify and support family instability for older children before enacting the penalty.[12]

H.R. 2511 is Medical Exemption Inadequate

The bill establishes an exemption, "where the Commissioner determines that the individual has good medical cause, corroborated by a treating physician." However, as Western Center on Law and Poverty also leads in advocacy on access to health care for low-income families, we can attest to the fact that low-income families are less-likely to have timely access to treating physicians and, even though it is not allowed under state law, some physicians, especially in rural areas, charge a fee for documents requested by patients. Additionally, the bill offers no details about the process that would be required to secure a determination of good cause by the Commission and what would qualify as good cause. The additional administrative burden on SSA offices to review and approve requests for determinations of good cause and to review appeals associated with these determinations could be significant and costly and, most importantly, would drive resources away from supporting families with an SSI-recipient child to achieve full-time school attendance and plan for the transition of that youth as they reach adulthood.

H.R. 2511 is Silent on School Environment Barriers to Attendance

While 2511 addresses school attendance barriers related to health issues, it completely overlooks school environments as a cause of poor school attendance. According to federal sources,[13] "Children with physical, developmental, intellectual, emotional, and sensory disabilities are more likely to be bullied than their peers. Any number of factors— physical vulnerability, social skill challenges, or intolerant environments— may increase their risk." When children are bullied, they are increasingly likely to miss, skip, or drop out of school.

According to Pacer's National Bullying Prevention Center, "Only 10 U.S. studies have been conducted on the connection between bullying and developmental disabilities, but all of these studies found that children with disabilities were two to three times more likely to be bullied than their nondisabled peers. One study shows that 60 percent of students with disabilities report being bullied regularly compared with 25 percent of all students. [In addition,] researchers discovered that students with disabilities were more worried about school safety and being injured or harassed by

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[10] "In School + On Track: Attorney General's 2013 Report on California's Elementary School Truancy & Absenteeism Crisis," Office of Attorney General Kamala Harris, Summer 2013 oag.ca.gov/truancy

[11] Harris, R., Jones, L., & Finnegan, D. Using TANF sanctions to increase high school graduation. *Journal of Sociology and Social Welfare*, 28 (3), 211-222. 2001. and Campbell, D. & Wright, J. The Merced County Attendance Project (MerCAP) Final Evaluation Report.

[12] AB 2382 (Bradford), Chaptered laws of 2014.

[13] www.stopbullying.gov

other peers compared to students without a disability." Pacer's research also shows that bullying that victimizes students with disabilities can lead to higher rates of avoiding school and school absenteeism among this population.

This statistically-proven information informs us that truancy among disabled students receiving SSI often results significantly from being bullied because of their disability and because of how said disability affects them. Being the victim of harsh bullying is a justifiable reason for a disabled student to dread going to school, and to inevitably stop showing up at all. When this is the case, threatening to cease granting SSI benefits to these disabled students is therefore just another way of punishing them because of and making their lives harder because of their disability. Instead of posing threats to this vulnerable population, we need to address the roots of why school absenteeism is so high among disabled students receiving SSI, and one of these reasons is high rates of being victimized by bullying.

Additionally, while disabled public school children who are receiving special education must each have an *Individualized Education Program (IEP)* to address barriers to education and unsupportive school environment, we have found that, without an outside advocate, the IEP process can be inadequate to meet the needs of children. Rather than threatening to take away students' SSI benefits, legislators who are concerned with school participation of child recipients of SSI should seek policies and funding to strengthen this existing mechanism and maximize the potential of IEPs to reduce student absenteeism among SSI recipients.

H.R. 2511 Doesn't Address Barriers & Costs Associated With Verifying Full-Time Student Status

In our advocacy work aimed at increasing life-opportunities of low-income children through reinforcing school attendance policies, such as free transportation, Western Center on Law and Poverty has learned that school attendance and enrollment systems vary significantly from district-to-district. In California alone, there are 1,028_school districts.[14] While data may be trued up and homogenized eventually for the purposes of reporting attendance for state and federal funding, it is not available in real time and is prone to errors. We can only anticipate that this lack of available real-time data that could inform SSI eligibility from month to month would be a problem experienced in most of the larger states if not all of them. Allowing the health and wellbeing of a disabled child to hinge on a data system that is untested for this type of effort is unconscionable. Additionally, the cost of complying with requests for this information would be a mandate to schools and may be significant.

Poor Families with a Child Recipient of SSI are Twice Penalized

In California, all children are required to attend school. Effective 2011, changes to the Education Code and Penal Code allow for financial and civil penalties for pupils and parents whose children are determined to be chronically truant.[15] Parents whose kids miss any more than 10 percent of their classes can be charged with a misdemeanor and a $2,000 fine or a yearlong jail sentence if, after being offered state support and counseling, their children fail to improve their attendance.

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[14] As of the 2013-14 school year, there were 1,028 school districts in California – 341 unified districts, 531 elementary districts, 77 high school districts, and 79 other. http://www.cde.ca.gov/ds/sd/cb/ceffingertipfacts.asp

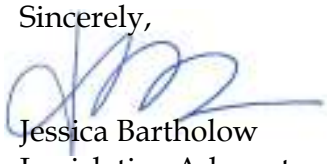
[15] California Education Code § 48263.6.

Families with an SSI recipient child would face a double penalty if H.R. 2511 were to be enacted. Not only is this penalty duplicative of existing state school attendance penalties and likely similar penalties in other states, but it works counter to the goal: to reduce dependency on the program and support participation in school.

We Oppose H.R. 2511, The "SAIL Act"

Western Center on Law and Poverty supports the concept that every child is deserving of a school education and is committed to reducing barriers to school participation for low-income children. While we believe that the intentions of H.R. 2511 sponsors are well intended, if enacted, this legislation will not achieve the intended goal and, instead, will undermine school attendance of vulnerable children by pushing their families deeper in to poverty and not addressing the underlining problems they face in ensuring regular school attendance.

Sincerely,



Jessica Bartholow
Legislative Advocate
Western Center on Law and Poverty

CC: Honorable Tom Reed, Member of the U.S. House of Representatives
Members of the California Congressional Delegation

May 21, 2015

The Honorable Paul D Ryan
Chairman, Committee on Ways and Means
House of Representatives
Washington, DC 20515

The Honorable Charles Boustany, Jr
Chairman, Subcommittee on Human Resources
Committee on Ways and Means
Washington, DC 20515

Dear Messrs. Chairmen:

In a comparatively recent development, some state governors have begun recommending that Medicaid recipients be required to work. This proposition relates closely to the role of the work opportunity tax credit in the nation's anti-poverty safety net because non-disabled and non-elderly adults in Medicaid households aren't currently eligible for WOTC.

Proponents say receipt of Federal benefits should be conditioned on commitment to work, as does the Chairman in his proposed reforms of the nation's anti-poverty spending programs. Others object that Medicaid should be premised on the need for health care alone, and not on a work requirement which might operate to reduce access to care.

We are writing to point out that the work opportunity tax credit can operate to help Medicaid recipients find work without reducing their access to care, and thus enable them to start their climb out of poverty and reliance on Medicaid.

The design of WOTC allows a worker to obtain employment in either of two ways: (1) by applying for a job directly to an employer who screens job applicants for WOTC using a simple, one-page, IRS-approved form and then requests a state workforce agency to certify eligible

hires for the credit; or (2) by a worker's receiving a "conditional certification" from a state workforce agency or other designated agency—such as a vocational rehabilitation agency—which they can give to an employer as evidence of their eligibility when applying for work; the employer then asks the state workforce agency for final certification, attaching the conditional certification as evidence. The "conditional certification" is like a hunting license for a job.

Both approaches have been widely used in the operation of WOTC—direct application to employers is used by most food stamp recipients and veterans, while conditional certification is used for disability and welfare recipients. Both methods are efficient and well integrated into WOTC's operations. Employment and Training Administration Form 9062 is used for conditional certification by agencies which have a case management system for their clients and thus have the necessary evidence for WOTC eligibility at their disposal.

ETA Form 9062 can be readily adapted for use by Medicaid recipients to find work. Medicaid agencies can issue conditional certifications to Medicaid recipients for use in their job search. While WOTC is only one factor in an employer's hiring decision, it is a strong factor because it impacts after-tax cash flow and earnings. WOTC puts employers in charge and impacts their demand for labor so that poor and near-poor workers, who are most likely to be Medicaid recipients, have greater opportunity in the labor market. With a conditional certification in hand, all an employer need do is obtain final certification from the state workforce agency and claim the credit on their tax return.

The integrity of the WOTC program is indisputable—with upfront verification by state workforce agencies and after-action verification by IRS audit, WOTC has remained one of the few Federal programs without any significant case of fraud or abuse. The cost-effectiveness of WOTC is also indisputable. Simply dividing the ten-year cost, calculated by Joint Committee on Taxation, by the number of job placements from Department of Labor data, shows that WOTC's average cost per placement of around $1,000 is lower than any direct expenditure jobs program. Every worker is certified, by name and social security number, by a state workforce agency as belonging to a poor or near-poor target group, so it's indisputable these workers have obtained employment—WOTC effectiveness in getting the poor into jobs, where they can begin their climb out of poverty, is proven.

In Fiscal Year 2013, the number of WOTC job certifications reached almost 1.6 million—90 percent of whom were poor because, except for some veterans, ex-offenders, and people with disabilities, the eligible target groups are defined by receipt of benefits that go mainly to the poor and near-poor—welfare, food stamps, and SSI recipients, residents of empowerment zones and other poverty areas. WOTC employment extends to every major sector of the economy, as will be shown by a Department of Labor report soon to be released. Reforming WOTC to add non-profit organizations to the list of eligible employers will open up jobs for low-income workers in the fast-growing sectors of health care and education. A WOTC Coalition study has shown that in health care alone, millions of jobs are open to workers with little more than high school education.

In coming tax reform, WOTC should be made permanent and include households receiving Medicaid as a WOTC target group. This will strengthen the social safety net and, along with the child and earned income tax credits, will anchor both the ability to work and the ability to make work pay. Direct expenditure training programs and welfare supports must culminate in a job if people are to rise from poverty, and there is much evidence of insufficient opportunity for the poor to obtain a job and escape poverty, especially after years living in poverty neighborhoods at poverty incomes. So long as millions are mired in poverty, WOTC is essential to provide greater equality of opportunity. In effect, WOTC helps offset the many cumulative and well-documented disadvantages of being poor.

Thank you for the opportunity to bring this matter to your attention. Should you have any questions, please contact us at 703-587-4566 or wotc@cox.net.

Sincerely,

PAUL E SUPLIZIO
President
Work Opportunity Tax Credit Coalition

Cc: 1. Fact Sheet On WOTC And The Poverty Safety Net
2. List of Organization Members Of WOTC Coalition
3. List of Founding Business Members Of WOTC Coalition

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SUBMISSION TO SENATE FINANCE COMMITTEE AND HOUSE WAYS AND MEANS COMMITTEE

WORK OPPORTUNITY TAX CREDIT AND THE POVERTY SAFETY NET

The Record

WOTC is a core component of the nation's anti-poverty safety net. In FY 2013, when 1.6 million workers certified for WOTC were an all-time high, 1.4 million or 90% met the poverty or near-poverty tests for SNAP, TANF, or SSI—1.24 million SNAP, 176,000 TANF, 16,500 SSI, and 43,500 ex-felons.(1) WOTC is also a key hiring incentive for veterans and people with disabilities, a large number of whom are poor and homeless, and assists recovery of high-poverty areas.

Tax reform should carefully evaluate each component of tax policy as it relates to the poverty safety net. The child tax credit, earned income tax credit, and work opportunity tax credit are the key triad of tax policy to support and improve opportunity and mobility for people in poverty. These anti-poverty measures are supported by conservatives and liberals alike because they operate through the marketplace to provide work and reward work.

WOTC complements direct expenditure programs for training of low-income or unemployed workers via the Workforce Investment Act, TANF, Social Security Act (for people with disabilities) and Veterans Readjustment Act (for veterans) because at the end of training there is still a road ahead to find employment, and the impediments borne by the poor and homeless (those in most severe poverty), the disabled, veterans, and ex-felons are severe and reflected in their above-average unemployment rates and low workforce participation rates. The hiring incentive for employers provided by WOTC helps offset these barriers, resulting in up to 1.6 million of these workers, specifically identified and certified by their State Workforce Agency, being hired. Employers remain free to make whatever hiring decisions they wish, and the Federal government achieves monetary savings (discussed below) of more than $3.4 billion a year from individuals transitioning from welfare and other public assistance into jobs.

WOTC supports the standard set most recently by Ways and Means Chairman Paul Ryan, "to require all able-bodied recipients to work or engage in work-related activities in return for aid."(2) This continues conservative policy set by President Reagan's passing of the targeted jobs tax credit and earned income tax credit in 1981, and Congressman Jack Kemp's making the jobs credit integral to empowerment zones for poor and depressed areas.

The work opportunity tax credit and earned income tax credit were designed to work together as core safeguards against poverty becoming entrenched, barring access to the middle class. WOTC lends an "extra boost" to the chance of being hired, and EITC supplements the income of the poor with dependents. Chairman Ryan agrees EITC should be continued as core safety net, and even expanded; it would be a mistake to do so without continuing WOTC's extra lift for the poor into jobs, which is the only real basis for exiting poverty.

Why has WOTC grown from a half million jobs in 1997 to 1.6 million today? The answer lies in the nation's population growth and economic conditions—the bottom quintile of the workforce has grown in size. Today, there are more people in poverty and total recipients of SNAP, TANF, and SSI has grown, enlarging the population of WOTC-eligible workers.

In any overhaul of anti-poverty policy accompanying tax reform, WOTC should be made permanent. WOTC could help more of the poor if eligibility were granted to the elderly on food stamps, youth who are out of school and out of work, SSDI and Medicaid recipients. (In WOTC, workers in poverty are identified by receipt of benefits, which makes it easy to verify their eligibility for the tax credit—a poverty income test is too difficult to administer.)

WOTC would be more effective providing jobs in growing occupations with good wages if private non-profit employers and firms with excess credits could claim WOTC against FICA tax, with Treasury reimbursing the Trust Funds.

WOTC Works Through The Marketplace and Has Strong Program Integrity

WOTC doesn't create new jobs—it gives the poor or near poor an extra boost when a private employer is looking to fill an existing job. Our country's larger employers know in advance whether a job applicant is WOTC-eligible because nowadays they require IRS Form 8850 from their job applicants. This one-page form couldn't be simpler—all the applicants do is report their age and check a box if they're SNAP, TANF, or SSI eligible, or are a veteran, formerly incarcerated, live in an empowerment zone or rural renewal county, or in the case of disability, are referred by a State Vocational Rehabilitation Agency or Employment Network.

If hired, the employer sends Form 8850 to their State Workforce Agency with a short DOL form with data on industry, occupation, and wage, requesting the SWA to certify the worker's eligibility for WOTC. *From application to hire, the entire hiring process occurs in the private market without interfering with employers' freedom to recruit and hire whomever they please.*

Because a worker's eligibility is verified by SWA before certifying the worker for WOTC, and claims for WOTC on an employer's tax return are backed by SWA certification and subject to IRS review upon audit, WOTC has strong program integrity that has been confirmed repeatedly by GAO. SWA's issued 1,590,000 certifications and 1,660,000 denials to employers in FY 2013, showing this watch-dog's effectiveness.(3)

WOTC Is Highly Cost-Effective

The data prove WOTC's effectiveness helping the poor obtain jobs—the 1.4 million poor or near-poor workers placed in jobs in FY 2013 are each verified by State Workforce Agencies to be eligible for the credit, down to their SSA wage record—WOTC works and new hires step into productive, tax-paying, private sector jobs.

Not only the unemployed, but also the working poor are aided. The working poor as a group experience low job tenure and sporadic work (4)—when unemployed, they fall back on welfare or food stamps, so WOTC is there for their next job—provided it's with a different employer.

But wouldn't these workers be hired anyway—without the tax credit? The employer will certainly fill the job vacancy but there's no assurance a poor worker will be hired. That would require a higher ratio of poor to non-poor in the pool of job applicants, but the poor are a minority of the workforce and in most labor markets more non-poor workers are applying for jobs. Employers have a choice, and the poor come with the impediments of poverty.

Picture a world without WOTC's market-based, private-sector incentive to hire a poor person looking for a job—left to chance, the poor will be hired less often, earn less income, spend more time in poverty, and have less upward mobility without the "extra boost" of WOTC.

WOTC is capped for most workers at a maximum credit of $2,400. Since employers must reduce their wage deduction by the amount of the credit, the real cost of a single hire to the Treasury is $1,560 for an employer paying a 35% tax rate. In effect, WOTC covers part of the "hiring wedge" of payroll taxes and mandated benefits that are added to wages—and are a proven deterrent to hiring—but the employer still pays the bulk of compensation costs. For a minimum wage hire at $7.50 an hour for 2,000 hours a year, the employer's wage payments alone are ten times the government's cost.

WOTC's efficiency can be seen in the welfare program (TANF), where Congress increased the tax benefit for hiring long-term welfare recipients—the most costly cases and the most difficult to place in jobs. The result was 103,000 long-term welfare recipients finding work during FY 2013, compared to 73,000 short-term recipients. WOTC adapted to the special needs of long-term welfare cases by employers boosting their hiring in response to the added benefit. With WOTC, it's not necessary for states to ask that welfare's work requirement be waived.

TANF provides employment and training grants to the states which are sometimes used to fund public sector or non-profit jobs for welfare recipients at the rate of around $12,000 per year per worker. In six months, a minimum wage WOTC worker will earn $7,500 in a private sector job at a cost to the Treasury of $1,560, while a public sector or non-profit job costs almost four times that. The less-costly WOTC route helps states economize their limited TANF funds, and results in a productive, tax-paying, private sector job.

Overall, WOTC's ten-year cost for permanent extension is given by the Joint Committee on Taxation as $17.485 billion for Fiscal Years 2016-2025 (5). Another $180 million of federal funds must be added for SWA administration, making the total $17.665 billion. The FY 13 rate of 1.6 million WOTC hires per year yields 16 million hires over the next ten years. This implies an average cost per hire of $1,100, which is below the $1,560 cost for the $2,400 credit due to the

lower job tenure of poor workers, many of whom work intermittently or quit to find higher wages or full-time jobs.

For small and medium-size employers who use WOTC, the entire tax saving is plowed back into their home state, and this saving in liquidity and after-tax earnings can be estimated by multiplying $1,100 times the number of state WOTC job certifications for the year. *We see every state's economy benefiting while a poor worker finds employment—a win-win situation!*

In an important study, Professor Peter Cappelli of the Wharton School has estimated TANF saving of $19,282 per WOTC job, and potentially higher savings for veterans and people with disabilities. Multiplying $19,282 by 175,683 TANF recipients in FY 2013 equals gross one-year saving of $3.4 billion on TANF alone, and similar saving would recur each year.(6) Over ten years, this is double the 10-year cost of WOTC given by the Joint Committee on Taxation.

Our conclusion is that WOTC is the most efficient, adaptable, and cost-effective of all Federal job programs. For questions or comments, please respond to wotc@cox.net.

Lists of organization and business members of WOTC Coalition are at www.wotccoalition.com.

FOOTNOTES:

1. U.S. Department of Labor, Employment and Training Administration, *WOTC Certifications by Recipient Group Regional and National Details For FY 2013*
2. Congressman Paul Ryan, House Budget Committee Discussion Draft, *Expanding Opportunity In America,* July 24, 2014
3. U.S. Department of Labor, Employment and Training Administration, op. cit.
4. U.S. Department of Labor, Bureau of Labor Statistics, *Profile of the Working Poor,* 2015
5. U.S. Congress, Joint Committee on Taxation, *Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2016 Budget,* JCX-50-15, Mar 6, 2015
6. Cappelli, Peter, *A Detailed Assessment of the Value of WOTC,* Wharton School, 04/2013

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LIST OF ORGANIZATION MEMBERS OF WOTC COALITION

American Association of Retired Persons
American Association of the Deaf-Blind
American Association of People with Disabilities
American Congress of Community Supports and Employment Services
American Council of the Blind
American Foundation for the Blind
American Health Care Association
American Hospital Association
American Hotel & Lodging Association
American Medical Rehabilitation Providers Association
American Staffing Association
AMVETS
Associated Builders and Contractors
Associated General Contractors
Autism Society of America
Best Buddys Jobs
Blinded Veterans Association
Building Service Contractors Association International
Children's Defense Fund
Community Service Society of New York
Consortium for Citizens With Disabilities
Council of State Administrators of Vocational Rehabilitation
Disabled American Veterans
Easter Seals
Epilepsy Foundation of America
Federation of American Hospitals
Food Marketing Institute
Goodwill Industries
International Association of Business, Industry and Rehabilitation
International Association of Jewish Vocational Services
International Association of Amusement Parks and Attractions
International Franchise Association
NISH-Creating Employment Opportunities for People With Significant Disabilities
National Association for the Advancement of Colored People
National Association of Chain Drug Stores
National Association of Convenience Stores
National Association of the Deaf
National Association of Governors Committees on People With Disabilities
National Association of Manufacturers
National Council of Chain Restaurants
National Council on Disability
National Council on Independent Living
National Council of La Raza
National Disability Rights Network
National Down Syndrome Congress
National Employment Network Association
National Franchisee Association
National Grocers Association
National Industries for the Blind
National Partnership for Women and Families
National Puerto Rican Coalition

National Retail Federation
National Restaurant Association
National Urban League
Paralyzed Veterans of America
Retail Industry Leaders Association
Service Station Dealers of America and Allied Trades
Society for Human Resource Management
The American Legion
The Arc of the United States
Tire Industry Association
Transition
United Cerebral Palsy
United Farm Workers of America, AFL-CIO
Veterans of Foreign Wars of the U.S.
Vietnam Veterans of America
Volunteers of America (California)
World Institute On Disability
Alliance for Retired Americans
Washington Maryland Delaware Service Station and Automotive Repair Association

FOUNDING BUSINESS MEMBERS OF THE WOTC COALITION

Ahold USA, Landover, MD
Chevron Texaco Corporation, Houston, TX
Food Lion, Charlotte, NC
Boddie-Noell, Rocky Mount, NC
Rite Aid Corporation, Camp Hill, PA
Goodwill Industries, Silver Spring, MD
Safeway, Pleasanton, CA
ConAgra Foods, Omaha, NE
Duckwall-Alco Stores, Abilene, KS
Hilton Hotels, Beverly Hills
Manor Care, Toledo, OH
PepsiCo, Cincinnati, OH
Archer Daniels Midland Company, Decatur, IL
The Kroger Co, Cincinnati, OH
ADP Payroll Services, Roseland, NJ
Randstad USA, Atlanta, GA
Kelly Services, Troy, MI
White Castle System, Columbus, OH
TaxBreak Credits, Gadsden, AL
Kum & Go, Des Moines, IA
The Pep Boys - Manny, Moe, & Jack, Philadelphia, PA
Bi-Lo, LLC, Greenville, SC
7-Eleven, Dallas, TX
Walton Management Services, Ocean, NJ
ABM Industries, NY, NY
Work Train USA, Birmingham, Al
G4S USA, Jupiter, FL
Hyatt Corporation, Chicago, IL
PepsiAmericas, Minneapolis, MN
MAMIMUS, Reston, VA
MARS/Stout, Missoula, MT
Darden Restaurants, Orlando, FL
Hromiko & Associates, CA