

*Questions for the Record
from the January 16, 2014 Hearing
on the Disability Fraud Scheme in New York*

- 1. Given that the President has signed into law the Consolidated Appropriations Act, 2014, (P.L. 113-76), which provides the full authorized amount of \$1.2 billion for Continuing Disability Reviews (CDRs) will you reinstate the requirement that the Social Security Administration (SSA) review disability claims every three years beginning in fiscal year (FY) 2014, after waiving the requirement in FY 2012 and 2013?**

No. While the money Congress provided for our program integrity activities in FY 2014 is a substantial investment—one without precedent in recent history—it is not enough to eliminate the backlog of CDRs and complete all of the cases coming due this fiscal year.

To provide some context, we expect to complete about 510,000 full medical CDRs this fiscal year, which is nearly a 20 percent increase from the FY 2013 level, but still well short of the 1.3 million cases currently backlogged.

With a multi-year commitment of adequate funding from the Congress, we believe we can eliminate the CDR backlog. Unfortunately, receiving nearly an average of a billion dollars less than what the President requested for our administrative budget over the past 3 years has resulted in the loss of nearly 11,000 employees. For this reason, FY 2014 is a transitional year in which we will rebuild our personnel capacity to complete increasingly higher levels of CDRs in future years to be able to ultimately eliminate the backlog. We anticipate having to defer cases until the year in which we are funded to become current with this workload.

- 2. Given that the recently appropriated \$1.2 billion are temporary funds, intended to eliminate the current backlog of CDRs and Supplemental Security Income redeterminations, please separately provide us with your specific plan for how these funds will be spent.**

On March 4, 2014, we submitted to the Congress our FY 2014 Operating Plan (Plan), as required by section 516 of the Consolidated Appropriations Act, 2014 (Public Law 113-76). The Plan includes details on our program integrity spending plans, and it is publicly accessible on our website at <http://www.ssa.gov/budget/FY14Files/2014OP.pdf>.

- 3. In 2011 the SSA had a medical CDR backlog of 1.4 million. In response to a question for the record you stated that with full funding for program integrity as authorized in the Budget Control Act (BCA) the SSA could catch up on Title II medical CDRs by 2016. For FY 2014 the SSA has now received the fully authorized amount. What is your plan now to complete and stay current on medical CDRs for Title II beneficiaries? Please give us detailed numbers of CDRs (mailers and medical reviews), planned hiring, costs of doing these reviews, and any updated ratios of program savings.**

Based on current estimates, we project that we will be able to eliminate our current backlog of Title II medical CDRs by the end of FY 2015, assuming the Budget Control Act of 2011

level of funding for program integrity in FY 2015. Current estimates suggest that, in the event funding were made available for the agency to become up to date on Title II medical CDRs, staying current (for both Title II and Title XVI) would require us to complete about 800,000 full medical CDRs per year.

In FY 2014, we plan to complete a total of 900,000 mailers and 510,000 full medical CDRs on both Title II and Title XVI beneficiaries, at a cost of about \$600 million. In FY 2015, with full funding of the President's Budget, we plan to complete a total of 1.1 million mailers and 888,000 full medical CDRs, at a cost of about \$1 billion. We are hiring staff in the State Disability Determination Services (DDS) this year to help us ramp up our cost-effective CDR efforts. We anticipate hiring a total of approximately 2,600 DDS employees in FY 2014, of which about 1,400 hires will be above replacement level for FY 2014 losses. We estimate that our FY 2015 program integrity fund will yield on average \$9 in net program savings over the next 10 years per dollar spent on medical CDRs, including Medicare and Medicaid program savings.

4. When a facilitator or claimant representative is formally accused of committing fraud, what are the procedures for quickly identifying other cases involving these fraudulent actors? How does the agency determine how far back case review will occur?

Section 205(u) of the Social Security Act (Act) requires the Commissioner to redetermine the entitlement of individuals if there is reason to believe that fraud or similar fault was involved in the individuals' applications. An exception may be made in cases in which a U.S. Attorney, or equivalent State prosecutor, with jurisdiction over the case certifies in writing that such action would jeopardize the criminal prosecution. When redetermining entitlement or making an initial determination of entitlement, the Commissioner must disregard the tainted evidence. If the Commissioner determines that there is insufficient evidence to support entitlement, the Commissioner may terminate entitlement and treat benefits paid on the basis of such insufficient evidence as overpayments. The Commissioner determines how far back the case review will occur based on reliable evidence of the scope and duration of the fraudulent activity. Data mining can help to uncover reliable evidence of the scope and duration of the fraudulent activity by identifying cases potentially related to the fraud for further investigation.

5. When a person, facilitator, claimant, or other individual, is suspected of committing fraud, is there an alert system to identify other cases these suspects may be involved in for review?

When there is suspicious activity related to a claim, our best and first lines of defense are DDS examiners, claims representatives, and other frontline employees. These employees are highly trained in the administration of the disability program rules and are dedicated to protecting the program from abuse. We train staff to be alert to indications of potential fraud, including contradictory statements, suspicious documents, and tips from members of the community. When such indicators are present, employees will attempt to verify information by requesting additional documentation, communicating with third parties, interviewing the sources of information, or any combination of these. Employees then refer cases of potential

fraud to our Office of the Inspector General (OIG). In FY 2013, our frontline employees made approximately 22,500 referrals of potential fraud to OIG, of which OIG opened about 5,300 cases. Of the approximately 5,300 cases opened, OIG referred over 100 to the U.S. Attorney's Office for criminal prosecution. In many States, Cooperative Disability Investigations (CDI) units (led by an OIG Special Agent) are available to investigate individual disability cases to identify applicants or beneficiaries who commit fraud and attorneys, doctors, translators, and other third parties who facilitate fraud.

We are able to support fraud investigations by using our electronic systems to identify cases potentially related to the suspected fraud, and we work with our Office of the General Counsel regarding specific action to take given the facts. We alert employees about representatives who have been suspended or disqualified, and we maintain a website of sanctioned representatives. We also publish instructions about specific situations through our administrative and emergency message process.

6. What have been the results of the reviews by Ms. Disman's staff of other cases from Puerto Rico that involved the same doctor, claimant representative or facilitator arrested in the investigation?

We are still in the process of conducting redeterminations under section 205(u) of the Act but do expect to complete the initial redetermination of those cases not decided by an administrative law judge soon. Due to the ongoing criminal investigation, we would be happy to provide you the results in a private briefing.

7. What would the cost be to make Cooperative Disability Investigation units available in every State?

There are currently 29 States without CDI units. Based on current estimates, the average one-time cost to open a new facility is approximately \$300,000 per CDI unit, so it would cost nearly \$9 million to fund the new infrastructure needed for 29 new units.

Based on actual experience, ongoing annual operating costs to staff and support CDI operations are approximately \$800,000 per CDI unit – which includes both SSA- and OIG-funded costs. These ongoing operational costs include law enforcement contracts, vehicles, IT equipment, supplies, facilities, and SSA and OIG staff salaries. Therefore, if we were to add 29 additional CDI units, the ongoing annual cost alone would be approximately \$24 million.

As mentioned in the anti-fraud report we submitted to the Subcommittee on February 14, 2014, we plan to expand the number of CDI units from 25 to 32 by the end of FY 2015. With sustained, adequate funding, we will be able to continue to increase the number of units in future years.

8. What is the cost of placing a Social Security attorney in a U.S. Attorney's office to help prosecute fraud?

We estimate that it would cost us roughly \$150,000 to place one of our attorneys in a U.S. Attorney's office as a fraud prosecutor. We currently have 12 attorneys serving as fraud prosecutors and plan to double that number.