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Hearing before the  
House Ways and Means Committee  
Subcommittee on Social Security  
June 27, 2012

#### The Social Security Disability Appeals Process

Statement of Linda Landry  
Disability Law Center  
July 11, 2012

Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee, thank you for this opportunity to provide a written statement for the record of the June 27, 2012, hearing on the Social Security disability appeals process.

I write to urge you to seriously consider the thoughtful testimony presented at the hearing by Ethel Zelenske for the Consortium for Citizens with Disabilities.

I am a Senior Attorney at the Disability Law Center where I have worked for 22 years. My practice has focused primarily on Social Security matters and the related health benefits. I have also served on the Advisory Committee of the Massachusetts Disability Determination Service for over 20 years. The Disability Law Center (DLC) is a non-profit 501(c)(3) organization functioning both as a public interest law firm, and as the designated Protection and Advocacy ("P&A") system for the Commonwealth of Massachusetts under federal authority. DLC's mission is to promote the fundamental rights of all people with disabilities to participate fully, equally and independently in the social and economic life of Massachusetts. Access to Social Security disability benefits and the related health coverage through Medicare and Medicaid is crucial for many to achieve this goal, as are the work incentives associated with the disability benefits.

The Protection and Advocacy System for Massachusetts



During my time at the DLC, and before that in a legal services program, I have observed the severe hardships that result when individuals who cannot work due to disability encounter delays in accessing the safety net of disability benefits. Often, individuals have struggled to hold onto jobs or have tried to manage with part-time work until they can no longer do it – or are let go. Without higher education or very desirable skills, individuals with disabilities often cannot get jobs that allow work at home or the flexibility in scheduling that may be needed to remain employed. Often, they've had no or inadequate health coverage and have not received optimal treatment. The stress of being unable to make ends meet also impacts health.

A case in point is “Joan.” Joan survived aggressive treatment for advanced cancer as a young woman. The treatment damaged her lungs, kidneys, and other internal organs. She recovered enough to eke out a living with her high school education in low level work in her small town, with occasional set backs, but was never again strong. The aging process exacerbated the damage to her organs such that, by her early fifties, she no longer had the stamina to tolerate even the part-time work to which she had had to resort. The work was worsening her condition and her doctor told her to stop. She had little financial cushion and was worried about how she would manage. She applied for Social Security disability benefits – but there was a delay in obtaining sufficiently explicit medical evidence of the nature of her condition. Fortunately for Joan, the delay did not outlast her modest resources or result in homelessness. Her benefit is just under \$1000 per month, less than what she had been earning, but she is grateful and her health has stabilized. Many applicants are not so lucky.

I agree with but will not reiterate all of Ms. Zelenske's points about the importance of retaining a full and fair administrative appeals process that is informal and non-adversarial for disability benefit applicants. I will emphasize that it is critical that the Social Security Administration have sufficient resources to properly manage its important and beneficial services. Social Security's disability standard is restrictive, difficult to meet, and requires complex analysis. Commissioner Astrue has made efforts to address capacity issues at the Administrative Law Judge hearing level, but budget cutting has also resulted in a lack of sufficient staffing at earlier levels. Many of Social Security's field offices are too short staffed to adequately meet service needs, including providing the assistance many individuals need in completing benefit applications. This gap is not being met by short-staffed state and other human service organizations. A complete and well prepared application is important to the ability of the Disability Determination Services (DDS), to properly obtain and analyze all the evidence against the disability standard. The DDSs are also trying to do more with fewer resources, but adjudication delays are growing at the Initial and Reconsideration levels. The DDSs need resources for fully developing the medical evidence, for sufficient, well-trained adjudication staff, for medical evaluations, and for the important outreach to hospitals, schools, and other sources of evidence. The earlier in the process that the evidence is fully developed and a well- considered decision is made, the better for both the applicant and the agency.

The Social Security Administration provides an important safety net for people with disabilities. It is critical that its application, adjudication and administrative appeals process be timely, fair, and well-functioning. Thank you for your consideration of these issues.

Respectfully Submitted,

/S/

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