

**FIFTH IN A HEARING SERIES ON SECURING
THE FUTURE OF THE SOCIAL SECURITY
DISABILITY INSURANCE PROGRAM**

HEARING
BEFORE THE
SUBCOMMITTEE ON SOCIAL SECURITY
OF THE
COMMITTEE ON WAYS AND MEANS
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
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**FIFTH IN A HEARING SERIES ON SECURING
THE FUTURE OF THE SOCIAL SECURITY
DISABILITY INSURANCE PROGRAM**

FRIDAY, SEPTEMBER 14, 2012

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
SUBCOMMITTEE ON SOCIAL SECURITY,
Washington, DC.

The Subcommittee met, pursuant to call, at 9:30 a.m., in Room B-318, Rayburn House Office Building, the Honorable Sam Johnson [chairman of the subcommittee] presiding.

[The advisory of the hearing follows:]

HEARING ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

Chairman Johnson Announces the Fifth in a Hearing Series on Securing the Future of the Social Security Disability Insurance Program

Friday, September 7, 2012

U.S. Congressman Sam Johnson (R-TX), Chairman of the House Committee on Ways and Means Subcommittee on Social Security, today announced the fifth hearing in the series entitled “Securing the Future of the Disability Insurance (DI) Program.” This hearing will focus on key challenges facing the DI program and options to address those challenges. **The hearing will take place on Friday, September 14, 2012, in room B-318 Rayburn House Office Building, beginning at 9:30 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

BACKGROUND:

The Subcommittee’s hearing series has explored the challenges facing the Social Security Disability Insurance (DI) program, including the findings of the 2012 Annual Report of the Board of Trustees that DI revenues will cover only 79 percent of benefits beginning in 2016 due to the aging of the baby boomer workforce into their most-disability prone-years, the increased number of women in the workforce now eligible for benefits should they become severely disabled, decisions made by Congress regarding the financing of the DI Trust Fund and the eligibility criteria for benefits, and the recent economic downturn. The Congressional Budget Office projects that as a result of the recent recession and slow recovery, the number of disabled workers will continue to rise over the next few years.

The Social Security Subcommittee began its five-part series examining the DI program in 2011. The series’ first hearing provided an overview of the program, its history, the importance of its benefits, the growth of the program and the drivers of that growth along with the program’s current and future financing challenges. The second hearing focused on the Social Security Administration’s program integrity efforts to minimize improper payments and protect taxpayer dollars from waste, fraud, and abuse. The third hearing examined how disability eligibility decisions are made, including the definition of disability and the Federal-State relationship. The fourth hearing considered the Social Security appeals process including its history, legal requirements, and whether the current process provides fair, accurate, and consistent outcomes while balancing the needs of claimants and taxpayers.

In the hearing series, many questions have been raised about the current DI program. These include: is the concept of disability that prevailed at the start of the program in 1956 still appropriate today given advances in medicine, rehabilitation, and the workplace? Are there ways to better support individuals with disabilities to stay in the workplace? Can the decision-making process be strengthened so that, when appropriate, awards are made as early as possible and decisions on applications and appeals are made with greater accuracy and consistency?

Increasingly, experts are researching these questions and developing proposed solutions. Employers are also finding new ways to retain in the workforce those individuals with disabilities who want to work. The imminent fiscal challenge facing the DI program has made discussion of these issues both relevant and timely for the final hearing of this series.

In announcing the hearing, Social Security Subcommittee Chairman Sam Johnson (R-TX) said, **“We must and we will secure the future of this essential program for the millions of Americans who count on benefits. As we look at options to keep that promise, we must balance the needs of those with disabilities with the needs of workers who support the program. Striking that important balance will result in a program that makes the right decision as soon as possible, supports work, prevents fraud, and treats all workers fairly.”**

FOCUS OF THE HEARING:

The hearing will focus on options to address the key structural and fiscal challenges facing the disability program.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit for the hearing record must follow the appropriate link on the hearing page of the Committee website and complete the informational forms. From the Committee homepage, <http://waysandmeans.house.gov>, select “Hearings.” Select the hearing for which you would like to submit, and click on the link entitled, “Click here to provide a submission for the record.” Once you have followed the online instructions, submit all requested information. ATTACH your submission as a Word or WordPerfect document, in compliance with the formatting requirements listed below, **by the close of business on Friday, September 28, 2012**. Finally, please note that due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-package deliveries to all House Office Buildings. For questions, or if you encounter technical problems, please call (202) 225-1721 or (202) 225-3625.

FORMATTING REQUIREMENTS:

The Committee relies on electronic submissions for printing the official hearing record. As always, submissions will be included in the record according to the discretion of the Committee. The Committee will not alter the content of your submission, but we reserve the right to format it according to our guidelines. Any submission provided to the Committee by a witness, any supplementary materials submitted for the printed record, and any written comments in response to a request for written comments must conform to the guidelines listed below. Any submission or supplementary item not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All submissions and supplementary materials must be provided in Word or WordPerfect format and **MUST NOT** exceed a total of 10 pages, including attachments. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. A supplemental sheet must accompany each submission listing the name, company, address, telephone, and fax numbers of each witness.

The Committee seeks to make its facilities accessible to persons with disabilities. If you are in need of special accommodations, please call 202-225-1721 or 202-226-3411 TTD/TTY in advance of the event (four business days notice is requested). Questions with regard to special accommodation needs in general (including availability of Committee materials in alternative formats) may be directed to the Committee as noted above.

Note: All Committee advisories and news releases are available on the World Wide Web at <http://www.waysandmeans.house.gov> /

Chairman JOHNSON. We have a short morning this morning, and a lot of good testimony to listen to, so we are going to go ahead

and get started. Mr. Becerra is on his way, so the committee will come to order.

Welcome to the fifth and last hearing in our series on Securing the Future of the Social Security Disability Insurance Program. Over the course of the series we have heard about the program's striking and continuing growth at a time when workers paying into the system have increased nearly 70 percent between 1970 and today. The number of people collecting disability checks has increased by over 300 percent, like from 2.6 to 10.8 million people. By 2021 the number of beneficiaries will exceed 12 million and total benefits paid will reach over \$200 billion.

That is a 52 percent increase over the \$132 billion paid in benefits last year. We have heard how some of that growth is caused by factors like the size of the overall workforce, more women in the workforce, and the aging of the baby boomers. And some of the growth has been caused by Congress' decisions that expanded the ways in which people could qualify for benefits.

We have heard about the people who try to defraud the system by falsely claiming they are disabled and we have seen some of them. We have heard that Social Security's efforts to conduct continuing eligibility reviews are a shifting priority, adding unnecessary costs and weakening public trust in the program. And we have heard how last century's view of disability hasn't kept up with this century's advances in medicine, technology, and the workplace, resulting in a program that pays people not to work.

In fact, GAO has designated the program high risk because the medical criteria and occupational information relied on to make benefit decisions are out of date.

And we have heard that the World Health Organization and many distinguished medical experts look at disability today as the individual's ability to function in different environments, especially with assistance of technology or workplace accommodations for the disabled.

In the hearing series, we have also heard how important it is to make the right decision as early in the process as possible. We have walked through the complicated lengthy and open-ended initial determination and appeals process that enables claimant representatives to drag out appeals in hope of getting awards. And we have heard how outlier judges, many of whom award disability benefits in most of the cases they hear, in other words, rubber stamping, can't be managed or questioned about their decisions and leaving the process virtually unmanaged and adding more costs.

And we have also heard how the courts have taken it upon themselves to reinterpret Congress' will, creating inequities and inconsistencies. We have heard again and again that we must keep this program strong for those who truly cannot work. And we have heard the Disability Insurance Program is on an unsustainable path, and that unless Congress acts, in 2016 the program will be able to pay only 79 percent of the benefits, putting individuals with disabilities at risk.

The hearing series has been about how the Disability Insurance Program works, problems plaguing the program, and the need for sensible changes to make it work better. This series has raised im-

portant questions. Is the concept of disability that existed in 1956 still appropriate today in this 21st century economy? Are there better ways to support individuals with disabilities who can remain in the workplace instead of paying them to stop working? And are there ways to award benefits sooner and provide a fair, timely appeals process? And finally, what are the risks of doing nothing?

Today we will hear several views about where the existing system falls short and how it might be fixed as well as some new approaches that are already working. What each of our witnesses has in common is they believe we can fundamentally do better, and I thank you all for that.

We will also hear from the business community on the amazing success of employers who are hiring those with disabilities and the challenges they face keeping those with disabilities in a job.

I want to thank the members of this subcommittee for engaging in this much needed conversation, and I know we are all committed to continuing this dialogue. Together, including Mr. Becerra and I, we will find answers to securing the future of the Disability Insurance Program for generations to come.

I now recognize Mr. Becerra for any comments you may have, sir.

Mr. BECERRA. Mr. Chairman, thank you very much and thank you to our witnesses for being here.

Severely disabled American workers have earned the right to receive disability benefits and they rely on them. One hundred sixty million Americans contribute to Social Security. They need protection for themselves and their families when they retire, or if they should die, they also get the benefits, or if they become disabled, severely disabled, they get the benefits.

It is not easy to qualify for Social Security disability benefits. DI is only for people who paid into the system, first; second, it is only available to Americans with the most severe impairments, Americans who are dying or who are generally at a point where they can't even earn a poverty level wage at any job in the national economy because of a long-term condition.

Fewer than half of Americans who apply for DI benefits are awarded such benefits, even after a lengthy appeals process. DI benefits aren't especially generous. A typical worker receives about \$13,000 a year which replaces about half the earnings that worker had while working. For nearly half of DI recipients, Social Security provides 90 percent or more of their total income.

The Social Security Disability Insurance Trust Fund's challenge, which we are hearing more and more about, is modest and it is stable. Although the Social Security system overall can pay full benefits until 2033, the DI Trust Fund considered on its own is projected to be able to pay only about 80 percent of scheduled benefits starting in 2016. Fortunately, the DI shortfall is relatively modest. Over the next 75 years, the financing shortfall is equal to about 0.1 percent of GDP or, to put it in context, that is about one-eighth of the cost of extending the Bush tax cuts for people who earn more than \$250,000 a year.

The DI shortfall, by the way, is not a surprise. When Congress last rebalanced the allocation of payroll taxes going into the two Social Security trust funds, it did so knowing that the amount allo-

cated to DI would result in a shortfall in 2016, the same date as projected in the most recent trustees report. The recent growth in DI is also not a surprise since it is due primarily to demographic changes and other predictable factors in combination with, of course, the recession. The biggest factor is demographic. The baby boom generation has reached its most disability-prone years. More women have worked long enough to be protected in the event they become severely disabled and can no longer work. Finally, the economic downturn has also made it more difficult for people with disabilities to obtain work.

I do think it is very important that we operate DI in the most fiscally responsible way possible, and we have to here in Congress take responsibility for our own actions in how we provide the resources for the Social Security Administration to do its work, both as a program for those who are retired and those who are disabled. As we work to address the challenges that face us and to strengthen DI for the future, we must first do no harm.

As we talk about the possible changes to Social Security disability insurance, we should keep in mind that American workers have paid for their Social Security benefits. Over its lifetime, Social Security has taken in \$15.5 trillion and only paid out \$12.8 trillion, leaving an overall trust fund surplus of \$2.7 trillion. Surplus.

I am concerned that experiments that some would like to perform on the DI program could be harmful to those with severe illnesses or disabilities. They could increase employment discrimination against the disabled, or they might deny or delay earned benefits for those who need them, increasing hardship for already struggling American families. There is little evidence to suggest that people who qualify for DI are, in fact, able to work at any kind of self-supporting level.

Mr. Chairman, I hope we can work together on a bipartisan basis to strengthen DI, always applying the test that we should first do no harm. And with that, Mr. Chairman, I think we have an opportunity to hear from some very important witnesses and I hope that we are able to then move forward with that information in a way that lets us do right by this important program for so many millions of Americans.

With that I yield back the balance of my time.

Chairman JOHNSON. Thank you.

As is customary, any member is welcome to submit a statement for the hearing. Before we move on to our testimony today I want to remind our witnesses to please limit your oral statements to 5 minutes. However, without objection, all of the written testimony will be made part of the hearing record.

We have one witness panel today, and seated at the table are Richard Burkhauser, Ph.D., Professor, Cornell University, Ithaca, New York and Adjunct Scholar, American Enterprise Institute. Thank you for being here. David Stapleton, Ph.D., Director, Center for Studying Disability Policy, Mathematica Policy Research; Marty Ford, Director of Public Policy, The Arc of the United States on behalf of the Consortium for Citizens with Disabilities Social Security Task Force; Daniel Bertoni, Director, Education Workforce and Income Security, Government Accountability Office; Jill Houghton, Executive Director, U.S. Business Leadership Network; Nadine

Vogel, Founder and President, Springboard Consulting, Mendham, New Jersey, on behalf of the Society for Human Resource Management. Welcome to all of you and thanks for being here.

Dr. Burkhauser, you are recognized. Please go ahead.

**STATEMENT OF RICHARD BURKHAUSER, PH.D., PROFESSOR,
CORNELL UNIVERSITY, ITHACA, NEW YORK, AND ADJUNCT
SCHOLAR, AMERICAN ENTERPRISE INSTITUTE**

Mr. BURKHAUSER. Thank you for the opportunity to outline the main Social Security Disability Insurance policy reforms contained in my book with Mary Daly.

The DI program is growing at an unsustainable pace. Unless policy reforms are enacted, the Social Security trustees predict DI will be insolvent by 2016. Based on our reading of the evidence the dramatic growth in beneficiaries captured in Figure 1 is not primarily the result of factors outside the control of policymakers. Rather, it is the consequence of changing eligibility standards and their interpretation by DI gatekeepers, changes that have increasingly turned DI into a long-term unemployment program, rather than a last resort income safety net for those unable to work that its founders envisioned.

As can be seen in Figure 1, between 1990 and 2009 Americans on the disability rolls more than doubled from 40 to 82 per thousand workers. This troubling statistic is now well-known. What is less known is how over this period the Netherlands, once called the sick country of Europe for its runaway disability system, initiated fundamental reforms that reduced their disability rolls from 110 to 80 per thousand workers, a ratio that is now below the United States' rate. The Dutch reforms focused on reducing the inflow of beneficiaries by making employers more directly bear program costs. All Dutch firms must now fund the first 2 years of their worker's disability benefits and pay an experience rated disability tax based on the number of their workers who move on to the long-term program. These reforms provide incentives for employers who are in the best position to offer accommodation and rehabilitation to do so. Most importantly, these reforms led to the development of a market for private long-term disability insurance, and more effective case management of impaired workers by private sector case managers. It is this early intervention that is credited with the significant decline in beneficiaries shown in Figure 1. Importantly, the reduction of new beneficiaries was the result of those with disabilities working rather than moving on to other welfare programs.

Currently about one-third of U.S. workers are covered by private long-term disability insurance. The question is, how do we get the private sector more involved in case management? Rather than mandate that all firms provide such coverage we proposed an alternative to better align the public and private costs of long-term disability.

The United States should stop funding the DI system with a uniform payroll tax and replace it with a tax based on a firm's experience rating. Doing so would raise the payroll tax of firms whose workers enrolled at below-average rates and lower it for firms whose workers enroll at low-average rates. Employers who bore the

cost of both options would be more incentivized to make investments that clear a work path for their employees following the onset of a disability than to push them onto the DI rolls.

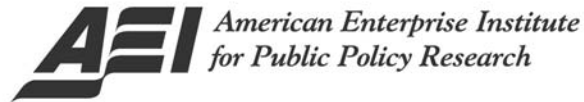
This is currently the system used to fund State Worker's Compensation benefits. The best practice for these programs could also be considered for DI changes. Alternatively, employers who provide private disability insurance could be granted a reduction in DI tax rates, while firms that could not be charged higher tax rates either—could be charged higher tax rates. Either of these reforms would bend the projected cost curve by reducing incentives for employers and employees who overuse the system.

Current DI policy built on the assumption that disability and employment are mutually exclusive is both archaic and fiscally unsustainable. Fundamental reform is needed to restore DI solvency and to support continued employment and greater self-sufficiency among workers with disabilities. Experience rating is the key to doing so. It would bring private sector know-how in case management to the front end for a more fully integrated disability system.

This is not pie in the sky reform. This is reform that the Dutch have already implemented. It is reform that is going on in Sweden, and it is reform that is going on in Great Britain. If you look at Figure 1, you can't possibly believe that changes in the health of the Dutch and the United States are actually responsible for the dramatic changes in the number of people on their disability rolls. The Dutch in the 1980s proved that you could put as many people on the disability rolls as you are willing to accept by very open rules that allowed people to come on who had only 15 percent impairments. We are now having a higher rate than they are in our disability system, and we can do better.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Burkhauser follows:]



Statement before the House Committee on Ways and Means
Subcommittee on Social Security
On Securing the Future of Social Security Disability Insurance Program

A Proposal for Fundamental Change in Social Security Disability Insurance

Richard V. Burkhauser

Professor, Cornell University

Adjunct Scholar, American Enterprise Institute

September 14, 2012

*The views expressed in this testimony are those of the author alone and do not necessarily represent those of
Cornell University or the American Enterprise Institute.*

This testimony is based on: Richard V. Burkhauser and Mary C. Daly. 2011. *The Declining Work and Welfare of People with Disabilities: What Went Wrong and a Policy for Change*, AEI Press: Washington DC and Burkhauser and Daly (2012)

THE STATE OF THE PROGRAM

The Social Security Disability Insurance (SSDI) program is growing at an unsustainable pace. Over the past 40 years the number of disabled worker beneficiaries has increased nearly six-fold, rising from 1.5 million in 1970 to 8.2 million in 2010. This rapid growth in the rolls has put increasing pressure on program finances. Since 1970 real SSDI expenditures have risen from \$18 to \$128 billion (in 2010 dollars). Based on current growth, the SSDI program is projected to be insolvent by 2016 (Social Security Administration, 2012).

The rapid rise in caseloads and costs are made more worrisome when put in the context of the broader goals of the SSDI program—to protect the economic well-being of people with disabilities. Since the passage of the Americans with Disabilities Act of 1990 (ADA), the employment of those with disabilities has declined considerably and their household income has remained flat. Increasingly, people with disabilities are substituting SSDI benefits for labor market earnings, making them net withdrawers rather than net contributors to the tax base during their working age. This outcome challenges the finances of the SSDI program and is at odds with the view of disability codified in the ADA that people with disabilities are able and willing to participate in the labor market.

WHY HAVE SSDI CASELOADS RISEN?

Possible explanations for SSDI program growth can be broadly classified into two groups: (1) those that are exogenous to the program—the aging of the population, changes in the underlying severity of disability, and the entry of women into the labor force; and (2) those that are endogenous to the program—the cyclicalities of application rates, the growth in SSDI benefits

relative to wage earnings, and specific changes in rules and their interpretation and implementation over time. The weight of the evidence suggests that the vast majority of SSDI program growth is related to endogenous program changes.

Factors Exogenous to the Program

Changes in the age distribution

The most obvious potential driver of SSDI growth is the aging of the population. Since SSDI benefits are conditioned on having a disability, and disability generally rises with age, the aging of the baby boomers will on net push up the SSDI rolls. A simple way to gauge the impact of this change is to fix SSDI reciprocity rates by age group in some period and let growth in the rolls evolve based on changes in the age structure of the population. Autor & Duggan (2006, 2010) do this and find that between 1984 and 2003, changes in age structure accounted for about 6 percent of the increase in SSDI receipt among the non-elderly population over the period. Mary Daly and my updates (Burkhauser & Daly 2012) of their calculations (1984 to 2010) show a slightly larger, but still relatively small impact of changes in the age structure on the SSDI growth.

Changes in health and work disability

Another potential driver is health. To qualify for SSDI benefits, individuals must have a medically determinable ailment expected to last for at least 12 months or result in death. If the health of the insured population has declined over time this would influence program enrollment and growth. Surveys asking about activity and work limitations point to a relatively stable pattern in these measures over the last two decades. Although work and activity limitations rise with age, there is little evidence that the prevalence within an age-group of such limitations has increased over time.

Entry of women into the workforce.

Changes in the labor force participation of women also have influenced program growth. Since SSDI is an insurance program, eligibility for benefits requires a fixed number of quarters of covered employment. The substantial increase in the labor force participation of women has increased both their SSDI coverage and their receipt of disability benefits. It is straightforward to compute the magnitude of this change on the total growth in SSDI rolls. Autor & Duggan (2006, 2010) make these computations and conclude that the increased number of women in the paid labor force can explain less than one-sixth of the rise in SSDI caseloads since the mid-1980s. Our updates of these calculations through 2010 (Burkhauser & Daly 2012) confirm these findings.

Combining the estimated contributions of population aging, changes in health, and the entry of women into paid work, we conclude that at most one-quarter of the increase in SSDI caseloads over the last three decades can be explained by these factors, with the remaining 75 percent driven by factors endogenous to the program.

Factors Endogenous to the Program*Changes in SSDI rules and their implementation.*

Caseload fluctuations line up with changes in Social Security Administration (SSA) policies that made it easier or harder to gain entry to the SSDI rolls. In the late 1970s and early 1980s relative caseloads fell, first because program gatekeepers were urged to more strictly interpret existing rules and then because Congress, in 1980, required SSA to reevaluate all current recipients to see if they still met the medical standards. This rule change, which was rigorously enforced by SSA at the start of the new Reagan administration, resulted in a drop in the SSDI rolls despite a major recession. By 1983 the widespread reevaluation of those already on SSDI

was halted as the courts and then Congress restricted the SSA's power to reevaluate beneficiaries. Furthermore, in 1984, responding to a backlash against restrictive cuts imposed in the Social Security Disability Amendments of 1980, policymakers expanded the ways in which a person could medically qualify for the SSDI program. The 1984 legislation moved away from a strict medical listing determination of eligibility to one that also considered an applicant's overall medical condition and ability to work. These changes meant that applicants could qualify for SSDI based on having multiple conditions, even when no single condition would meet the SSDI eligibility threshold. In addition, the legislation allowed for symptoms of mental illness and pain to be counted when assessing SSDI eligibility, regardless of whether the person had a verifiable medical diagnosis.

The expansion of eligibility to more difficult-to-measure impairments that do not precisely meet the medical listings means that SSA has increasingly been tasked with making more subjective decisions about the impact that presenting impairments might have on an applicant's work ability. For applicants who do not meet or exceed the medical listings, program administrators consider a set of vocational criteria. While these criteria have not changed over the history of the SSDI program, their use by program gatekeepers to determine benefit eligibility has risen dramatically since 1991. Currently, they are used to justify the majority of new awards, especially among those with the more difficult-to-determine conditions of mental illness and musculoskeletal conditions—the primary condition of more than 50 percent of all newly enrolled beneficiaries. (See Burkhauser & Daly, 2011 for fuller discussion.)

Effects on behavior and implications for work capacity

The effect of this growing share of marginal applicants is a substantial variation in the flow of applicants onto the rolls. This variation comes both from fluctuations in applicant inflow and

variations in decision making among SSDI gatekeepers. For example, Maestas, Mullen, & Strand (2011) using SSA administrative records find that at the initial Disability Determination Stage (DDS) of decision making, 23 percent of new applicants in 2005 were marginal cases whose admittance into the program was determined by the luck of drawing an easier rather than a stricter DDS gatekeeper. Importantly, when they compare the subsequent work histories of those who entered the program in this way with a matched set of applicants who drew a stricter DDS gatekeeper, they find the latter group's employment was on average 20 percentage points higher. This difference is even greater for those with less severe medical conditions. This research suggests that increasingly applicants admitted to the SSDI rolls on these looser criteria have greater work capacity than assumed for those receiving SSDI benefits.

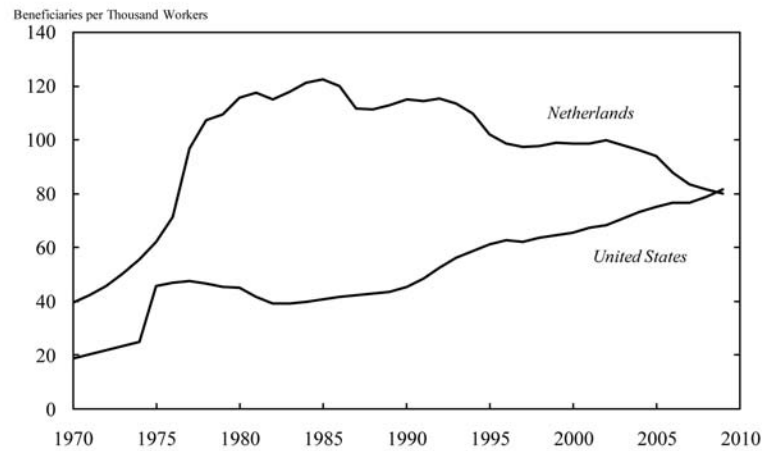
The differences in allowances are important especially when one considers how application rates fluctuate with economic conditions. Plots of the SSDI application rate and the national unemployment rate show that, with the exception of the double-dip recession in the 1980s, application rates are highly correlated with the business cycle—rising during recessions and falling during periods of economic growth. Most research on the consequence of business cycles on applications rates finds that economic conditions play a substantial role in SSDI applications and awards patterns over time. (See Burkhauser & Daly 2012)

In sum, SSDI growth has primarily been driven by factors other than an aging workforce, health declines, and the increasing SSDI coverage of women. Loosening of program rules in the 1980s has made it more difficult for gatekeepers to judge eligibility and increased the likelihood that applicants facing rising replacement rates or declining economic opportunities will apply for SSDI benefits. A growing number of individuals being allowed onto the rolls could work in some capacity and would do so if they were not judged eligible for benefits.

THE CASE FOR FUNDAMENTAL CHANGE

Evidence that growth in U.S. disability rolls has been primarily driven by policy and associated behavioral responses among gatekeepers and workers with disabilities are consistent with those found for the Netherlands during a period when it was known as the “sick country of Europe.” (Aarts, Burkhauser & de Jong, 1998). Following many failed attempts to modify the system from within, in 2001, the Netherlands decided to fundamentally restructure the system. As can be seen in Figure 1 below, the results have been notable; the share of the Dutch work force receiving disability benefits has declined significantly and has done so without raising the rolls in other transfer programs at the same time that the share of the United States work force receiving disability benefits has grown. (Burkhauser & Daly, 2011).

Figure 1. Comparison of U.S. and Dutch disability beneficiaries per 1,000 workers



Source: Burkhauser and Daly (2011)

The Dutch reforms focused on reducing inflows onto long-term disability benefits by making employers more directly bear program costs. The reforms required all Dutch firms to fund the first two years of disability benefits to their workers and to pay an experience-rated disability tax based on the number of workers they subsequently moved onto the long-term Dutch disability insurance program. These reforms provided incentives for employers, who are in the best position to offer accommodation and rehabilitation, to do so in lieu of moving workers with disabilities onto cash transfers. Research shows that the reforms led to the development of a private sector market for disability insurance and the management of impaired workers, which is credited, in part, with a significant decline in inflows to disability cash benefits. Importantly, the research shows that the reduction in inflows owes to the fact that workers with disabilities are more regularly returning to work (de Jong, 2008; van Sonsbeek, 2010).

In the spirit of the Dutch reforms, recent proposals by Autor & Duggan (2010) and Burkhauser & Daly (2011) call for prioritizing supported work over cash benefits for people with disabilities. Like the Dutch, both proposals focus on slowing the movement of workers with impairments onto the SSDI rolls, rather than attempting to reduce the current beneficiary population via the stick of greater enforcement (tried in the 1980s) or the carrot of changing the incentives for current beneficiaries to return to work (impetus for Ticket to Work). Such fundamental reforms would end the archaic and counterintuitive policy currently in place that provides access to work-focused support only after SSDI applicants have gone through an extended process of demonstrating that they are unable to work.

Autor & Duggan (2010) propose a new mandate on all firms to provide the first two years of “short-term” disability insurance. This would increase the willingness of employers to provide

additional accommodation and rehabilitation by more directly linking the cost of disability payment to firms. It would also create growth in the private insurance market and greater case management of workers following the onset of a work limiting impairment and hence greater return to work. However, it could result in substantial added costs to the system.

Alternatively, Mary Daly and I (Burkhauser & Daly 2011) argue that like the Dutch, the United States should impose some form of experience rating on firms paying into the SSDI system. Raising the SSDI payroll tax of firms whose workers enroll in the system at above-average rates and lowering the SSDI payroll taxes on firms whose workers enroll at below-average rates via experience rating would more directly link the costs to the firm of one of its workers moving onto the SSDI program. Employers who bore the costs for both options would be more incentivized to make the investments in accommodation and rehabilitation that could prolong the employment tenure of a worker with a disability. This is currently the system used to fund state workers' compensation benefits, and the best practices from these state programs could be considered for SSDI as well. Alternatively, employers who provide short-term private disability insurance for employees and whose private insurance agents cooperate with SSDI gatekeepers in managing their cases could be granted a reduction in SSDI tax rates, while firms that did not offer such private insurance could be charged higher SSDI tax rates. Either of these reforms would bend the cost curve of projected SSDI program expenditures by reducing incentives for employers and employees to overuse the system.

Although the details differ, the messages of the Autor & Duggan and Burkhauser & Daly proposals are the same: The current SSDI program built on the assumption that disability and employment are mutually exclusive states is both archaic and fiscally unsustainable.

Fundamental reform is needed to restore solvency to the U.S. disability insurance system and support continued employment and greater self-sufficiency among workers with disabilities.

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Chairman JOHNSON. Dr. Stapleton, you are recognized for 5 minutes. Thank you.

STATEMENT OF DAVID C. STAPLETON, PH.D., DIRECTOR, CENTER FOR STUDYING DISABILITY POLICY, MATHEMATICA POLICY RESEARCH

Mr. STAPLETON. Thank you for the opportunity to testify today. I will briefly state and explain my views which have been formed over 20 years of conducting research on disability and employment issues. More support for my views can be found in my written testimony.

SSDI is just one component of our Nation's disability support system, albeit a key one. Like many others I think the overall system is failing. There is no easy fix, but there are prospects for systemic reforms that would provide better opportunities for people with disabilities to live fulfilling lives, and at the same time reduce growth in Federal and State expenditures for their support. Congressional action, however, is required to jump start a process that over time could lead to successful restructuring.

Now, I characterized the disability system as failing because it is well documented that economically working age people with disabilities are falling further and further behind their peers without disabilities even though taxpayers are paying more and more for their support. For over two decades relative employment rate and household income of working-age people with disabilities has been declining and Federal expenditures to support that population are very high and are growing much more rapidly than we would expect based on growth and the size of the workforce and the changes in its age and sex composition. In short, taxpayers are being asked to pay more and more for a support system that is less and less adequate.

I see two fundamental causes of systemic failure: The first is the use of long-term inability to work because of a medically determinable condition as an eligibility criterion for SSDI and SSI. This criterion might have made sense in 1956, SSDI's first year, but in today's world many people with severe medically determinable impairments can, in fact, substantially support themselves through work. My guess is that you all know people with such significant impairments that they would be eligible for SSDI if they did not actually work. And I suspect there are some in this room. They likely have high levels of education. They have received excellent health care, they use technology and accommodations to greatly mitigate their functional limitations, and they have developed strong personal support networks, factors that SSA does not, of course, routinely consider in its disability determinations.

The inability to work criterion creates work disincentives for all those with qualifying medical conditions or conditions that nearly qualify, and fosters long-term dependence on public support.

The second fundamental flaw with the current policy is program fragmentation, as has been amply documented by Dan Bertoni and his colleagues at the GAO. The patchwork of Federal and State disability support programs creates pervasive inefficiencies. Among these, and there are many, are multiple financial incentives for States and others to encourage and help people with disabilities apply for SSDI rather than to support work.

Structural reforms that address these two issues could potentially provide better economic opportunities for people with disabili-

ities and reduce growth in Federal and State expenditures for their support. Such win/win policy reforms would be oriented towards helping people with disabilities take advantage, take better advantage of their productive potential rather than undermine their efforts to do so. They would also integrate or better coordinate programs, all in a manner that improves outcomes for people with disabilities and reduces total expenditures for their support.

Now, that is very fine in theory, but what is the evidence? Is this all pie in the sky? In my written remarks, I summarize a growing body of evidence that such win/win reforms do exist. Given the evidence, it is not hard to imagine that structural reforms could reduce the percentage of people with disabilities who primarily rely on the government for their support by 20 to 25 percent, perhaps more, improving their economic well-being at the same time. Unfortunately, however, it is far too risky to institute structural reforms on a timetable that would address the pending exhaustion of the SSDI Trust Fund based on what we now know. There is a high chance that the reforms would make people with disabilities significantly worse off, something that I know nobody wants to do, or they might accelerate growth in public expenditures for their support rather than reduce it, or they might do both.

You know, Congress could pass legislation to put the country on a path towards successful restructuring. Structural change requires collaboration across agencies and across the corresponding congressional committees. I know that is difficult, but it is not unheard of. It has happened before. And it simply has to be done.

States must also play a significant role. My written testimony outlines the elements of legislation that would help move that process forward.

Today Congress faces very difficult choices with respect to SSDI and other programs that provide support to people with disabilities. The fundamental problems with the support system make it very likely that more difficult choices are in store for future Congresses if we don't quickly start down a path that could lead to win/win policy reforms. Hence, I urge you maybe to initiate a process of long-lasting fundamental reforms to American disability policies and programs.

Thank you.

Chairman JOHNSON. We just might do that. Thank you for your testimony.

[The prepared statement of Mr. Stapleton follows:]



David C. Stapleton
Senior Fellow
Mathematica Policy Research

Testimony for Hearing on
Securing the Future of the Social Security Disability Insurance Program

Subcommittee on Social Security
Committee on Ways and Means
U.S. House of Representatives

September 14, 2012

Thank you, Chairman Johnson, Ranking Member Becerra, and members of the subcommittee for this opportunity to testify on the future of the Social Security Disability Insurance (SSDI) program. In my work as a senior fellow at Mathematica Policy Research and as director of Mathematica's Center on Studying Disability Policy, I have conducted numerous evaluations of programs and services intended to support people with disabilities, substantial research on their employment and economic status, and various studies of the factors that impede or facilitate their financial independence. I have also written and spoken extensively about the efficiency and cost-effectiveness of our nation's disability support system. My testimony today is based on this experience. SSDI is a key component of our nation's disability support system. That system is failing working-age people with disabilities as well as the taxpayers who pay for it. I will explain why and consider the implications for Congress.

Background

Of the approximately 17.5 million working-age people in the United States who live with disabilities, nearly 70 percent receive benefits from public programs. Despite increases over many decades in program participation and spending—\$357 billion in fiscal year 2008, representing some 12 percent of all federal outlays—the economic status of people with disabilities has eroded significantly. As a result, reforms will require major structural changes to the nation's disability support system. Although such changes can potentially benefit people with disabilities and taxpayers, a policy transition that is too quick and not based on solid evidence could do more harm than good.

My testimony is organized into three key areas:

- An overview of the evidence that the disability support system is failing
- A discussion of the potential for systemic reforms that would provide better opportunities for people with disabilities to live fulfilling lives *and* that would rein in growth in federal and state expenditures for their support
- Action Congress could take to jump start a process of successfully restructuring disability policies and programs

The Failing Disability Support System

As you know, both the Social Security Administration (SSA) and the Congressional Budget Office (CBO) project that without legislative action, the SSDI Trust Fund will be exhausted in 2016. This outcome is a symptom of the failing public support system for working-age people with disabilities. Other symptoms include the following: the low and declining economic status of people with disabilities; very high and rapidly growing federal expenditures to support the working-age population with disabilities; persistent problems with the disability determination process; the large surge in applications on the heels of the recession; and a smaller, delayed surge in awards (Goss 2012).

The low and declining economic status of people with disabilities is the most important symptom of a failing public support system for working-age people with disabilities. For more than two decades, the employment rate and household income of people with disabilities have been falling steadily. (Mann and Stapleton 2011, 2012). By one measure, their employment rate was just 21 percent of the rate for people without disabilities in 2010, down from 34 percent in 1981 (Mann and Stapleton 2011). The median household income of working-age people with disabilities was just half the size of that for people without disabilities, down from 63 percent in 1981. The recession has greatly accelerated the rate of decline in the economic status of people with disabilities. (Kaye 2010).

The poverty rate for people with disabilities is very high and continues to climb. Over 30 percent of those receiving SSDI live in poverty, according to the official definition of poverty. When those who receive Supplemental Security Income (SSI) are included, this figure rises to over 70 percent (Livermore et al. 2009).

One study estimated that 65 percent of working-age adults with household income below the federal poverty line for at least 36 of 48 consecutive months have a disability (She and Livermore 2009). We also know that people with disabilities who live in poverty are much more likely than their counterparts without disabilities to experience material hardship, such as going hungry (She and Livermore 2007).

Federal expenditures on the working-age population with disabilities are both very high and growing rapidly. We estimate that, through 62 public programs, federal outlays to support people with disabilities in fiscal year 2008 totaled 12 percent of all federal outlays in that year—\$357 billion. (Livermore et al. 2011; Stapleton and Livermore 2011). That's up from 11.4 percent of all federal outlays six years earlier—the last time we estimated federal expenditures for this population. The total is about half the size of defense outlays in that year. States added another \$71 billion in 2008 to finance federal-state programs, mostly for Medicaid.

The biggest programs serving people with disabilities, measured by expenditures, are SSDI, SSI, Medicare, Medicaid, and Veterans' Health and Disability Compensation. Social Security benefits accounted for 31 percent of federal expenditures on working-age people with disabilities in 2008. If you add in the Medicare expenditures for Social Security beneficiaries with disabilities, Social Security disability beneficiaries account for a little less than half of the total federal expenditures for this population. Of course, some Social Security disability beneficiaries also receive other public benefits—SSI, Medicaid, veterans' benefits, food and housing assistance, and miscellaneous others—but we do not have full accounting.

In the past three decades, the increase in the number of SSDI beneficiaries has far exceeded the substantial growth that can be explained by growth in the number of disability-insured workers and changes in their age-sex composition. It is useful to compare current statistics to those from 1980, when Congress and the Executive Branch were so concerned about high rates of participation in SSDI that they substantially tightened eligibility. In December 2010, the number of SSDI beneficiaries was 2.2 million larger than it would have been had the proportion of disability-insured workers receiving SSDI within each age-sex group been the same as in December 1980—a 28 percent increase (Stapleton and Wittenburg 2011; see also CBO 2008).

Persistent problems with the disability determination process, the large surge in applications following the recession, and the smaller, delayed surge in awards after the recent recession are also symptomatic of the failing disability support system (Goss 2012). I will explain why later.

Key Problems: The Inability to Work Criterion for Eligibility and Program Fragmentation

There are two fundamental problems with the current support system. The first is the use of long-term “inability to work because of a medically determinable condition” as the eligibility criterion for SSDI and SSI—programs that, for many, are the gateway to Medicare, Medicaid, and other benefits. This criterion fails to recognize that many people with severe, medically determinable impairments can, in fact, substantially support themselves through work. Four of my Mathematica colleagues illustrate this point. All have very good jobs and do not rely on SSDI, SSI, Medicare, or Medicaid. Yet they have permanent medical conditions that meet the eligibility criteria in SSA’s Listing of Impairments. One has a severe vision impairment, and one is deaf. Each of the other two is unable to walk and has other functional limitations because of physical conditions. If they stopped working for five months and told SSA that they could no longer work because of their disability, they would all qualify for SSDI. They are able to work despite their impairments because they have been able to achieve high levels of education they have received excellent health care, they can use technology and accommodations to greatly mitigate their functional limitations, and they have developed strong personal support networks. SSA would not consider these factors in determining their ability to work. My colleagues’ impairments might have prevented people from working in 1956, when SSDI was introduced, but they certainly do not do so today.

My colleagues choose to work, rather than rely on benefits, because their careers are much more rewarding than a lifetime of dependence on public benefits, economically and personally. By making inability to work for medical reasons a criterion for support, the federal disability programs create a disincentive to work for those with significant medical conditions, foster long-term dependence, and increase poverty among the very people they are intended to help. Our support system essentially funnels people with severe impairments who do not have all of the advantages of my colleagues into a life of dependence on public support rather than helping them to become self-sufficient. Instead of helping people achieve their full potential, the current disability support system has created a poverty trap (Stapleton et al. 2007).

The inability to work criterion is a fundamental reason why the disability determination process is so problematic—it requires SSA to assess whether people can work on the basis of medically determinable conditions alone—literally an impossible task. It also explains the surge in applications and awards following the recession; workers like my colleagues with disabilities can use SSDI as an extended unemployment insurance program when they are laid off for other reasons.

The second fundamental flaw in the current support system, program fragmentation, has been amply documented by the Government Accountability Office (GAO 2005, 2008). A patchwork of federal and state disability support programs has created pervasive inefficiencies, including overlaps and gaps in services, misaligned incentives, and conflicting objectives.

Of relevance to SSDI, states have incentives to help young adults with severe impairments enter SSDI. Under current rules, people age 24 and younger can meet the work history requirement by earning as little as \$4,520 per year for just one and a half years. On a monthly basis, that's less than 40 percent of the amount that SSA uses to define “work” for non-blind beneficiaries—the substantial gainful activity (SGA) amount. If an individual is enrolled in Medicaid or receiving other health benefits from state programs, that person's entry into SSDI will eventually result in the shifting of some state Medicaid expenditures to federal Medicare expenditures. State expenditures for some other services, such as mental health care, might also shift to Medicare upon a person's entry into SSDI.

State welfare agencies have a strong incentive to help their Temporary Assistance for Needy Family (TANF) beneficiaries enter SSI; under current rules, the agency gets to keep all of the TANF benefit savings. State vocational rehabilitation (VR) agencies also have an incentive to help clients who are not on SSDI or SSI to enter these programs. SSA might pay for the VR services if a client becomes a beneficiary, but it will not pay for the services if a client is not a beneficiary.

Social Security Policy Reform

Both logic and a growing body of evidence suggest that there are systemic reforms that would provide better economic opportunities for people with disabilities *and* reduce growth in federal and state expenditures for their support. I call them “win-win” policy reforms. Policy changes that put more emphasis on helping people with disabilities take advantage of their capabilities—especially before entering SSDI— and can potentially increase their income while reducing public support.

Similarly, program integration and/or coordination efforts that address the pervasive inefficiencies caused by program fragmentation could potentially improve outcomes for individuals while reducing the growth in expenditures.

That's fine in theory, but where is the evidence? The evidence is substantial, although in my view, it is not rich enough to move ahead with systemic reforms. A basic piece of evidence is that we've had better outcomes in the past without the important advantage of today's technologies and medical knowledge. The relative employment and household income of people with disabilities was much higher in 1980 than it is today, and SSDI participation was much lower (Stapleton and Wittenburg 2011).

Other evidence comes from several recent, methodologically strong studies. They have demonstrated that a small but significant share of SSDI beneficiaries would be working now if they were not eligible for SSDI (Chen and Van der Klaauw 2008; French and Song 2011; Maestas et al. forthcoming; Von Wachter et al. 2011). For instance, one study demonstrated that, in the absence of SSDI, 18 percent of new SSDI beneficiaries would earn above the SGA level (Maestas et al. forthcoming). Given the current number of SSDI entrants, this suggests that about 200,000 entrants each year can earn at a level that would make them ineligible for SSDI—perhaps not at the time they enter, but soon thereafter. With a work-oriented support system in place, that percentage might well be higher.

There is also a significant body of evidence that private disability insurers and workers' compensation insurers can and do help some workers successfully return to work after the onset of severe impairments (McLaren et al. 2010).

There is a smaller, but growing body of evidence that more work-oriented policies for youth and young adults with disabilities can lead to greater employment. The evidence is especially strong for those with psychiatric disorders (Burke-Miller et al. 2012), the primary impairment of over 15 percent of new entrants. More evidence is starting to emerge from SSA's Youth Transition Demonstration (Fraker and Rangarajan 2009).

Finally, there is a growing body of evidence in other countries with advanced economies that are experimenting with pro-work policy changes (Organization for Economic Cooperation and

Development 2010; Burkhauser and Daly 2011). The Netherlands and the United Kingdom are the most obvious examples. Their work-oriented policy reforms are, of course, controversial, and the information about the impacts on the economic status of those affected is very limited, but it is quite clear that the reforms are reducing entry into public long-term disability benefit programs. It also must be said that our ability to learn from other countries' efforts is limited by institutional and cultural differences. But nonetheless, there are important lessons to learn from their reforms.

Roadblocks to Major Structural Reform

The evidence base is not strong enough to proceed with major structural reforms on a timetable that would address the exhaustion of the SSDI Trust Fund. The risks would be too high. If disability policies and programs were restructured on the basis of what we know now, there is a good chance that the reforms would not be win-win. As a group, people with disabilities might be worse off, or growth in public expenditures for their support might accelerate, or both.

For example, at least two proposals are designed to reduce the number of workers entering SSDI by increasing incentives for employers to retain workers after the onset of a disability (Autor and Duggan 2010; Burkhauser and Daly 2011. See also Social Security Advisory Board, 2006, MacDonald and O'Neil 2006, and Stapleton et al. 2009). There are, however, significant concerns about the consequences of these policies. First, they could lead employers to avoid hiring people perceived to be at high risk for SSDI entry. Second, people who are truly unable to work may find their path to SSDI strewn with even bigger hurdles than under current policy. Third, implementing these policies could reduce the competitiveness of U.S. employers in a global economy. I think these concerns can potentially be addressed through details of the policy design, but current evidence is not adequate for that purpose. Nor is it sufficient to support political consensus on such reforms.

What Can Congress Do?

Congress could put the country on a path toward successful restructuring of disability policy by taking steps that go beyond short-term fixes to the SSDI Trust Fund problem. (This section draws heavily on Mann and Stapleton 2011, 2012.) One might hope that existing programs would gradually evolve to successfully address work disincentives and fragmentation. That is not likely to happen, however, without a congressional initiative. Programs that will realize savings from increased employment and reduced reliance on public benefits—primarily SSDI, SSI, Medicare and Medicaid—are the responsibility of agencies other than those agencies best situated to implement

work-oriented reforms—Education and Labor. This fragmentation is mirrored in Congress, where different committees have responsibilities for the different programs. Structural reforms require collaboration across committees—not unheard of, but not easy.

States also have to play a significant role in developing structural reforms because they administer and provide some of the financing for many disability supports. In the absence of congressional action, states might take the initiative on behalf of their disabled residents, but that rarely occurs, in part because states will realize only a fraction of any program savings and in part because they are hindered by having to obtain waivers from multiple federal programs.

The fragmentation in responsibilities for disability policies and programs helps explain why the United States lags behind many other countries in the restructuring of disability policy. Legislation is needed to jump start a process that would eventually lead to successful structural reforms. Potential legislation might do some of the following:

- Create a national disability policy reform commission
- Encourage the implementation and evaluation of pilot projects
- Define objectives and requirements for such projects
- Ensure that risks to subjects in pilot projects are minimized
- Foster a spirit of innovation and learning
- Allow considerable time to develop the evidence base that will support agreement on fundamental reforms

In the absence of progress toward win-win structural reforms, Congress will face increasingly difficult choices. To prevent the exhaustion of the SSDI Trust Fund, members of Congress have to come up with a politically acceptable combination of benefit cuts and increased revenues. I don't know of a public servant who relishes the idea of taking benefits away from people with disabilities. Americans have always displayed great willingness to provide support to people with disabilities. That's an important reason why federal outlays for their support constitute such a large share of all federal spending. But the alternative, increasing revenues, may be just as difficult.

*David C. Stapleton**Securing the Future of SSDI*

As you continue to address the immediate Trust Fund problem, I would encourage your committee, in collaboration with other relevant congressional committees, to consider legislation that would initiate a process of long-lasting, fundamental reforms to American disability policies and programs.

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Chairman JOHNSON. Ms. Ford, you are recognized.

**STATEMENT OF MARTY FORD, DIRECTOR OF PUBLIC POLICY,
THE ARC OF THE UNITED STATES, ON BEHALF OF THE CON-
SORTIUM FOR CITIZENS WITH DISABILITIES SOCIAL SECUR-
ITY TASK FORCE**

Ms. FORD. Thank you, Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee, for this opportunity to testify and for your attention to this very important disability program.

SSDI is vital to people who are disabled during their working years and to their dependents. Earned benefits targeted to people with the most severe disabilities benefits are modest, averaging about \$1,060 per month. For most people, SSDI benefits are at least 75 percent of their income. Along with related Medicare benefits, SSDI provides economic security and plays a vital role in helping people secure housing, food, health care, and other basic necessities.

Beneficiaries are diverse. They can include a young person with severe visual or hearing impairment, or who has had a major head injury, or physical trauma, from an accident; a former daycare worker, teacher, accountant who has been diagnosed with advanced cancer or heart condition or MS; a former construction worker, machinist, salesperson, or nurse aide with a back injury and chronic debilitating pain or early onset of Alzheimer's; a custodian, illustrator, or stock clerk with bipolar disorder, schizophrenia, or intellectual disability.

Many beneficiaries have had repeated attempts to work, often exacerbating their impairments before finally turning to the Social Security system. Most have a combination of adverse vocational characteristics such as age, low educational attainment, and declining health. Many beneficiaries are terminally ill; about one in five men, and one in seven women die within the first 5 years of receiving benefits. Furthermore, while recent technological advancements and stronger civil rights laws have helped many people with disabilities work, others face diminishing opportunities as the modern work environment actually becomes more demanding and less forgiving.

Given the challenges facing people with disabilities, their loss of income and often extreme poverty, Social Security is a vital part of the solution for them, not the problem. That is why it is so important that any measures to strengthen SSDI be carefully developed, tested, and evaluated to understand the effects on current and future beneficiaries.

The CCD Social Security Task Force has developed principles to help guide any reforms to the Social Security system, including SSDI. These are outlined in my testimony and we have numerous recommendations which I will highlight: Develop a better wage reporting and recording system, and promptly adjust wage—adjust benefit payments to reduce overpayments; increase the substantial gainful activity level to that of people who are blind; establish an earnings offset in the SSDI program; provide a continued attachment to SSDI and Medicare so long as the person remains disabled. This is an element of the Work Incentive Simplification Program, or WISP. Improve the rules for impairment-related work expensed; support and strengthen programs designed to allow flexi-

bility for people who want to return to work, including programs authorized under the Ticket to Work Program. Improve opportunities for those who receive disabled adult child benefits; extend SSA's Title II demonstration authority; extend the WIPA and the PABSS programs; and provide SSA with adequate resources to carry out all necessary program functions.

Finally, we must secure the long-term financial future of SSDI. As chief actuary, Steve Goss testified that major demographic shifts, including the aging of the baby boomers and entry of women into the workforce in the 1970s and 1980s, explain most of the recent DI program growth and that expansion has been expected for decades. Fortunately, these trends are also expected to stabilize over the next few years.

To meet the DI trust fund shortfall in 2016, we urge Congress to act expeditiously, as has been done in the past, to reallocate payroll taxes between DI and the OASI programs. Congress has reallocated funds between the two trust funds six times, using a narrow definition of reallocation and 11 times using a broad definition. Reallocation is a sensible solution that will maintain the confidence of workers in SSDI.

Americans value Social Security and are willing to pay for it. Reallocation allows time to carefully develop, consider, and evaluate options for assuring the long-term solvency of both the OASI and the DI trust funds for generations to come.

Thank you for this opportunity to testify. I look forward to answering any questions.

Chairman JOHNSON. Thank you, ma'am. I appreciate your testimony.

[The prepared statement of Ms. Ford follows:]



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

**Hearing before the
House Ways and Means Committee
Subcommittee on Social Security**

**Fifth in a Series on: Securing the Future of
the Social Security Disability Insurance Program**

September 14, 2012

**Testimony of Marty Ford
Social Security Task Force
Consortium for Citizens with Disabilities**

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ON BEHALF OF:

**Association of University Centers on
Disabilities
Bazelon Center for Mental Health Law
Community Access National Network
Community Legal Services of Philadelphia
Easter Seals
Health and Disability Advocates
National Alliance on Mental Illness
National Association of Councils on
Developmental Disabilities**

**National Association of Disability
Representatives
National Disability Rights Network
National Organization of Social Security
Claimants' Representatives
NISH
Paralyzed Veterans of America
The Arc of the United States
United Cerebral Palsy
United Spinal Association**

TESTIMONY OF MARTY FORD ON BEHALF OF THE SOCIAL SECURITY TASK FORCE, CONSORTIUM FOR CITIZENS WITH DISABILITIES

Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee, thank you for the opportunity to provide testimony for this fifth hearing in a series on securing the future of the Social Security Disability Insurance (SSDI) program.

I am the Director of the Public Policy Office of The Arc of the United States. I am also a member of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force. CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 57 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.

1. SSDI: A Vital System for People with Significant Disabilities.

The focus of this hearing as the last in a series on the SSDI system is extremely important to people with disabilities. SSDI, along with related Medicare benefits, provides much-needed economic security for people with significant disabilities and their families. SSDI benefits are modest, averaging only about \$1,060 per month, but play a vital role in helping people meet their basic needs.¹ For the vast majority of beneficiaries, SSDI benefits make up at least 75 percent of income, and for nearly half of non-institutionalized beneficiaries SSDI makes up over 90 percent of income.² Beneficiaries report that SSDI helps them pay for essentials such as housing, utilities, food, transportation, clothing, medications, and out-of-pocket expenses for medical care. Additionally, SSDI benefits play a central role in helping people with significant disabilities live in the community, rather than in restrictive, costly institutions.

As the Subcommittee has heard during this hearing series, SSDI is an earned benefit targeted to people with the most severe disabilities. As part of the Social Security system, SSDI is an insurance program designed to provide modest income support to Americans with significant disabilities, who have paid into the system during their working lives, as well as to their survivors and dependents. To qualify for SSDI, an individual must have worked for long enough and recently enough to have earned sufficient FICA credits to qualify. Additionally, an individual must meet Social Security's strict disability standard, demonstrating impairments that are "expected to last 12 months or result in death" and are so severe that they preclude substantial gainful activity (SGA), given the individual's current circumstances. In light of these strict standards, it is unsurprising that only a small fraction of the total number of people with disabilities across the U.S. is found eligible for SSDI each year.

Diagnoses of SSDI beneficiaries cover the full range of disabilities, from significant physical and sensory disabilities, to mental disorders such as intellectual disability or schizophrenia, to sensory disorders including visual impairments and deafness, to diseases such as advanced cancers, multiple sclerosis, Huntington's disease, advanced heart disease, or early-onset Alzheimer's disease. Many beneficiaries are terminally ill. In fact, about 1 in 5 male SSDI beneficiaries and 1 in 7 female SSDI beneficiaries die within the first five years of receiving benefits. Furthermore, the health of people

¹ Table 4. Number and average monthly benefit, by sex and age, December 2011. In Social Security Administration (2012). Annual Statistical Report on the Social Security Disability Insurance Program, 2011. http://www.ssa.gov/policy/docs/statcomps/di_asr/2011/sect01b.html#table4.

² Ruffing, Kathy A. (2012). Social Security Disability Insurance is Vital to Workers with Severe Impairments. Washington, DC: Center on Budget and Policy Priorities.

receiving benefits appears to worsen over time. Nearly 1 in 2 beneficiaries reported in a recent National Beneficiary Survey that their health had declined over the past year.³

Additionally, the Social Security Act requires that a person not only must be unable to perform his or her prior work at or above SGA, but also must be unable to perform *any kind of work that exists in the national economy*, considering the person's age, education, and work experience. Prior to applying for SSDI, the typical claimant held an unskilled or semi-skilled job with moderate or light strength requirements.⁴ The most common jobs held by SSDI claimants include jobs such as nurse assistant and home attendant, cashier, fast food worker, laborer, and construction worker.⁵

Many SSDI beneficiaries have made repeated attempts to work, often exacerbating their impairments, before finally turning to the Social Security system. In addition, the majority of beneficiaries have a combination of adverse vocational characteristics. Nearly 70 percent of SSDI beneficiaries in 2010 were age 50 or older and nearly 1 in 3 was age 60 or older. Low educational attainment limits employment opportunities for many beneficiaries: about 67 percent of SSDI beneficiaries have a high school diploma or less (and 30 percent did not finish high school). And as discussed above, many have acquired few if any skills in their most recent employment to transfer to other work. Finally, while recent technological advancements and stronger civil rights laws have been very beneficial in helping some people with disabilities work, others with significant disabilities face diminishing opportunities as the modern work environment becomes more demanding and less forgiving.⁶

2. Strengthening SSDI for People with Significant Disabilities

Because of the importance of SSDI to people with significant disabilities, over the years the CCD Social Security Task Force has developed a number of recommendations for strengthening SSDI to improve the system's processes and outcomes.

a. Provide adequate administrative resources for the Social Security Administration (SSA).

The Social Security Administration (SSA) requires adequate administrative resources to effectively administer the SSDI program.

For many years, SSA did not receive adequate funds for its mandated administrative services. Between FY 2000 and FY 2007, the resulting administrative funding shortfall was more than \$4 billion. We thank this Committee for its efforts to provide SSA with adequate funding for its administrative budget. Between 2008 and 2010, Congress provided SSA with the necessary resources to start meeting its service delivery needs. With this funding, SSA was able to hire thousands of

³ Livermore, G. et al. (2009). Work Activity and Use of Employment Supports Under the Original Ticket to Work Regulations: Characteristics, Employment, and Sources of Support Among Working-Age SSI and DI Beneficiaries, Final Report. http://www.ssa.gov/disabilityresearch/documents/TTW5_2_BeneChar.pdf.

⁴ Social Security Administration (2010). Occupational and Medical-Vocational Claims Review Study, Preliminary Results as of August 30, 2010.

⁵ *Ibid.*

⁶ Statement of Virginia P. Reno, Vice President for Income Security Policy, National Academy of Social Insurance, on Securing the Future of the Social Security Disability Insurance Program, before the Committee on Ways and Means, Social Security Subcommittee, December 11, 2012.

needed new employees. There can be no doubt that this additional staff greatly enhanced SSA program operations.

Unfortunately, SSA's administrative budget (Limitation on Administrative Expenses or LAE) has been inadequate in recent years. SSA has received virtually no increase in its LAE since 2010. In FY 2011, SSA's appropriation was a small decrease from the FY 2010 level and the FY 2012 appropriation was only slightly above the FY 2010 level.

Commissioner Astrue recently testified about the negative effects of cutbacks in SSA's administrative funds for Fiscal Year 2012 on the agency's staffing, services, and ability to maximize its use of information technology.⁷ We urge Congress to provide SSA with adequate resources to carry out all necessary program functions.

b. Extend SSA's Title II demonstration authority.

SSDI beneficiaries face a complex set of rules regarding earnings, and, if concurrently eligible for SSI, assets. Demonstrations allow SSA to test additional ways to help beneficiaries navigate the system and can provide important information about assisting beneficiaries to attempt or to return to work. Currently, SSA has demonstration authority for its Title XVI programs, but demonstration authority for the Title II programs expired in 2005. Congress should extend SSA's Title II demonstration authority.

c. Ensure continuation of the Work Incentive Planning and Assistance (WIPA) and Protection and Advocacy for Beneficiaries of Social Security (PABSS) programs.

The WIPA and PABSS programs, established in 1999, provide critically important employment services that help beneficiaries of Social Security's SSDI and SSI disability programs attain greater economic self-sufficiency.

WIPA grants go to local non-profits and other agencies to support outreach, education, and benefits planning services for SSI and SSDI beneficiaries about work incentives and services for finding, maintaining, and advancing in employment. WIPA grantees inform beneficiaries about the impact that employment will have on their disability income and medical coverage, and address many of the real fears that individuals have about going to work at the risk of losing health coverage.

PABSS provides a wide range of services to SSI and SSDI beneficiaries. This includes information and advice about obtaining vocational rehabilitation and employment services, information and referral services on work incentives, and advocacy or other legal services that a beneficiary needs to secure, maintain, or regain gainful employment.

The continued existence of the WIPA and PABSS programs is under serious threat. Although authorization for both programs expired on September 30, 2011, SSA was able to set aside funding to sustain the PABSS program until September 30, 2012 and the WIPA program until June 30, 2012. The recent expiration of funding for the WIPA program already has resulted in the layoffs of many

⁷ Statement of Michael J. Astrue, Commissioner, Social Security Administration, before the Finance Committee of the U.S. Senate, May 17, 2012.

well-trained employees. The impending expiration of funds for the PABSS program will be a loss of vitally important services to beneficiaries.

The CCD Social Security Task Force supports measures to continue the WIPA and PABSS programs, such as H.R. 6061, the *WIPA and PABSS Continuation of Services Act of 2012*, which would ensure SSA's authority to continue to provide funding for the programs.

d. Improve program navigation and remove barriers to work.

Over the years, the CCD Social Security Task Force has developed a number of proposals to make it easier for beneficiaries to navigate the SSDI system, particularly when attempting work. As we have noted in prior testimony before this Subcommittee, CCD generally supports efforts to improve the disability claims process, including through the use of technology, so long as the changes do not infringe on claimants' rights. SSA has already implemented a number of significant technological improvements that have helped claimants and their representatives and have made the process more efficient for SSA employees.

We strongly recommend that SSA develop a better wage reporting and recording system and promptly adjust benefit payments to reduce overpayments. Many individuals with disabilities are wary of attempting a return to work out of fear that this may give rise to an overpayment when reported earnings are not properly recorded and monthly overpayments are not properly and promptly adjusted.

Additional recommendations for strengthening the SSDI program include the following:

- Establish an earnings offset in the SSDI program. One of the most difficult and enduring barriers to work for SSDI beneficiaries is the sudden termination of cash benefits when someone crosses the substantial gainful activity (SGA) threshold after the trial work period. This affects both the individual's benefits as well as those of any dependent(s). We recommend establishing a \$1 for \$2 earnings offset in SSDI to parallel the provision in the SSI program. An earnings offset would eliminate the "cash cliff" for beneficiaries who are able to work, and would help ensure that individuals are financially better off by earning wages than by not earning. This long-overdue proposal is currently being tested. The disability community has been advocating for this change for decades.
- Provide a "continued attachment" to SSDI and Medicare, as long as a beneficiary's impairments last. Beneficiaries who are sometimes able and other times unable to be employed should have continued attachment to cash and medical benefits that can be activated with a simple and expedited procedure that is as "seamless" as possible. For example, SSA has proposed the Work Incentives Simplification Pilot (WISP). Under the WISP, work would no longer be a reason for terminating SSDI benefits. SSA would continue to pay cash benefits for any month in which earnings were below the established threshold, but would suspend benefits for any month in which earnings were above the threshold. SSA would evaluate whether this pilot simplification reduces the number of improper payments due to work, and allows the agency to redirect those administrative resources to other areas.⁸

⁸ Statement of Carolyn Colvin, Deputy Commissioner for Social Security, before the Committee on Appropriations Subcommittee On Labor, Health and Human Services, Education, and Related Agencies, March 17, 2011. http://www.ssa.gov/legislation/testimony_031711.html.

- Support and strengthen programs designed to allow flexibility for people with disabilities to return to work, including programs authorized under the Ticket to Work and Work Incentives Improvement Act (TWWIA). These programs offer people with disabilities the options to try different work opportunities without risk of losing their benefits should a return to work be unsuccessful. Providing individuals with disabilities opportunities to work up to their capacity without risking vital income support and health care coverage promotes their independence and self-sufficiency.
- Revise the rules for impairment-related work expenses (IRWE). Under current rules, beneficiaries can deduct from earned income the costs of IRWEs; IRWE deductions are made for SGA determinations. The IRWE deduction can be a significant work incentive by allowing individuals with disabilities to obtain services, medical items, and other assistance that allow them to engage in work activity. CCD proposals for revising IRWE include:
 - Applying the current SSI blindness rule to SSDI disability claimants and beneficiaries to allow the consideration of all work expenses, not only those that are “impairment-related.” Currently, for Title II and SSI disability claimants and beneficiaries, only those work expenses that are “impairment-related” are considered. However, the SSI income counting rules for individuals who qualify based on statutory blindness are more liberal because all work expenses can be deducted, not only those that are “impairment-related.” There is no public policy basis for this continued disparate treatment of people with different significant disabilities.
 - Allowing beneficiaries to include their health insurance premiums as IRWEs. This would recognize the higher costs incurred by workers with disabilities who must pay premiums for the Medicaid Buy-In or for continued Medicare after the termination of free Part A benefits.
- Increase the SGA level for all beneficiaries to be the same as the SGA level for beneficiaries who are blind, and maintain annual indexing of the SGA.

e. Improve opportunities for Disabled Adult Children.

Nearly 1 million Title II beneficiaries qualify as Disabled Adult Children (DAC) and receive an average monthly benefit of about \$700 per month.⁹ A DAC beneficiary is eligible based on a parent’s earnings record and has a severe disability that began prior to age 22. DAC beneficiaries have limited work histories and severe impairments, such as intellectual disabilities, autism, nervous system and sensory disorders, and other significant developmental disabilities.¹⁰ Congress should consider improvements to enhance opportunities for DAC beneficiaries, including:

⁹ 977,026 Disabled Adult Children received benefits averaging \$705.84 as of December, 2011. Table 4. Number and average monthly benefit, by sex and age, December 2011. In Social Security Administration (2012). *Annual Statistical Report on the Social Security Disability Insurance Program, 2011*. http://www.ssa.gov/policy/docs/statcomps/di_asr/2011/sect01b.html#table4.

¹⁰ Table 6. Distribution, by sex and diagnostic group, December 2011. In Social Security Administration (2012). *Annual Statistical Report on the Social Security Disability Insurance Program, 2011*. http://www.ssa.gov/policy/docs/statcomps/di_asr/2011/sect01b.html#table6.

- Eliminating marriage penalties. Currently, a DAC beneficiary loses eligibility if he or she marries, unless the DAC beneficiary marries another DAC beneficiary. This outdated provision poses a significant barrier to marriage, which runs counter to our American value of strengthening families.
- Exempting DAC beneficiaries from the family maximum if they live outside the family home. When a DAC beneficiary draws benefits, the worker's benefits and the benefits of any other dependent(s) are adjusted for the family maximum. While this adjustment may make sense when a DAC beneficiary lives in the family home and shares household expenses, it makes little sense for the increasing number of DAC beneficiaries who do not live with their parents, and poses a significant barrier for DAC beneficiaries who wish to live more independently. It is possible to resolve this by following the precedent established by treatment of a divorced spouse: even though the divorced spouse draws benefits from the retiree's record, the divorced spouse's benefit does not affect the family maximum.

Additionally, Congress should remove work disincentives for young people who would otherwise qualify for DAC benefits in the future at such time that a parent retires, dies, or becomes disabled. Under current law, individuals who meet all other DAC eligibility criteria, but earn above SGA at any time before qualifying for benefits (at the time of a parent's retirement, death, or disability), can never qualify for DAC benefits. This poses a significant work disincentive for people who are severely disabled during childhood and may need the benefits earned for them by their parents. It also stands in stark contrast to the law for already-eligible DAC beneficiaries, which allows re-entitlement to DAC benefits after a 7-year re-entitlement period if the beneficiary's previous entitlement had terminated because of earnings above the SGA level. Congress should establish that individuals otherwise eligible for DAC benefits (i.e. when their parent dies, retires, or becomes disabled) will qualify for those benefits even if they performed work at SGA level at any time during their life. One way to implement this recommendation would be for SSA to allow families to secure "protective filing status" for their eligible children. Families would provide SSA with evidence that their children have disabling conditions prior to age 22 and receive a statement from SSA that, should the person ever need the DAC benefits because of their inability to work, they will qualify. The use of electronic files now facilitates this process and can ensure the availability of records in future years when needed.

3. Securing the Future of SSDI.

The Subcommittee launched this hearing series by emphasizing the importance of SSDI as an earned benefit for individuals with the most significant disabilities, and noting that Congress will need to act to address current financing challenges to secure the future of the program – namely, that in 2016 the Disability Insurance (DI) Trust Fund will, with incoming revenue, only be able to pay about 80% of scheduled benefits.

Reassuringly, at the first hearing in December 2011, Virginia Reno of the National Academy of Social Insurance testified that SSDI "remains affordable and sustainable despite the recent modest increase in prevalence of receipt." Social Security Chief Actuary Steven Goss testified that major demographic shifts, such as the aging of the baby boomers and the historic entry of women into the workforce in the 1970s and 1980s, have been expected for decades and explain most of the recent

SSDI program growth.¹¹ Mr. Goss emphasized that all of these trends are expected to stabilize over the next few years, meaning that the current shortfall in payroll contributions compared to SSDI program costs is also projected to stabilize in the future.

As we are hearing today, a variety of proposals have been put forward to reform SSDI. While some proposals focus on improving the experiences and opportunities of SSDI beneficiaries, some also seek to achieve cost savings, with an eye toward addressing the DI Trust Fund's solvency. Many SSDI reform proposals are in the early stages of development and have yet to be evaluated in terms of their impact on current and future beneficiaries or on the solvency of the DI Trust Fund. In fact, the Congressional Budget Office (CBO) recently reviewed proposals for fundamental reforms to SSDI, such as moving to a partial disability system or refocusing SSDI on rehabilitation and reemployment. The CBO found that such changes are unlikely to produce significant short-term savings that would address DI Trust Fund solvency by 2016 (and may in some cases increase short-term costs) and that "only limited evidence is available on the potential impact of such changes."¹²

The CCD Social Security Task Force believes that any reforms to our Social Security system must be evaluated in terms of their impact on current and future beneficiaries. Any reforms must maintain the current structure based on payroll taxes, preserve Social Security as a social insurance program for everyone who is eligible, guarantee monthly benefits adjusted for inflation, preserve Social Security to meet the needs of people who are eligible now and in the future, and restore Social Security's long-term financial stability.¹³ We believe that any reforms to Social Security's disability programs, including SSDI, should conform to core principles including the following:¹⁴

1. Preserve the basic structure of Social Security's disability programs, including the definition of disability.
2. Efforts should be made to increase employment opportunities and improve employment outcomes for Social Security disability beneficiaries, but those efforts should not be achieved through any tightening of eligibility criteria for cash benefits and/or narrowing of health care benefits.
3. Given that Social Security disability program beneficiaries have already been found unable to perform substantial gainful activity, participation in work or activities to prepare for work should remain voluntary.
4. Eligibility and cash benefits should not be subject to time limits.
5. Fully fund the administrative expenses of the Social Security Administration.

¹¹ Securing the Future of the Social Security Disability Insurance Program. Testimony by Steve Goss, Chief Actuary, Social Security Administration. Before the House Committee on Ways and Means, Subcommittee on Social Security, December 2, 2011.

¹² Congressional Budget Office (2012). Policy Options for the Social Security Disability Insurance program.

¹³ Consortium for Citizens with Disabilities (2011). Social Security Fact Sheet #7 -- A Checklist: Effect Of Proposed Changes On People With Disabilities & Their Families.

http://www.disabilityandsocialsecurity.org/docs/SS_FACTSHEET7_F.pdf.

¹⁴ Consortium for Citizens with Disabilities Social Security Task Force (2012). Disability Program Reform Principles. http://www.c-c-d.org/task_forces/social_sec/CCD_Disability_Program_Reform_Principles3-2012.pdf. For a more detailed discussion see full principles document. A sixth principle relates to the SSI program.

4. Immediate Adjustment to the DI Trust Fund.

With the DI Trust Fund projected to be depleted in 2016, Congress should act expeditiously, as it has done in the past, to reallocate payroll taxes between the DI and OASI programs. For example, both Social Security trust funds would be able to pay full scheduled benefits through 2033 by temporarily raising the 1.8 percent DI share of the 12.4 percent Social Security payroll contribution by 0.8 percent in 2013 and 2014, and then by amounts that gradually shrink to 0.2 percentage points in 2021-2029.¹⁵ Over the years, Congress has reallocated funds between the OASI and DI Trust Funds in both directions to keep the Social Security programs on an even reserve ratio -- six times using a narrow definition of reallocation, and eleven times using a broader definition of reallocation.¹⁶

Reallocation is a sensible administrative adjustment that will maintain the confidence of workers that the DI system that they have built up over the years will remain available for them and their families, if needed. Surveys repeatedly show that Americans value Social Security and are willing to pay for it because of its importance to workers and their families. Reallocation will also allow time for Congress to carefully develop, consider, and evaluate options for assuring the long-term solvency of both the OASI and DI Trust Funds for generations to come.

In closing, thank you for the opportunity to testify. I look forward to answering any questions you may have.

Submitted on behalf of:

Association of University Centers on Disabilities
 Bazelon Center for Mental Health Law
 Community Access National Network
 Community Legal Services of Philadelphia
 Easter Seals
 Health and Disability Advocates
 National Alliance on Mental Illness
 National Association of Councils on Developmental Disabilities
 National Association of Disability Representatives
 National Disability Rights Network
 National Organization of Social Security Claimants' Representatives
 NISH
 Paralyzed Veterans of America
 The Arc of the United States
 United Cerebral Palsy
 United Spinal Association

¹⁵ Ruffing, Kathy A. (2012). Social Security Disability Insurance is Vital to Workers with Severe Impairments. Washington, DC: Center on Budget and Policy Priorities.

¹⁶ *Ibid.*

Chairman JOHNSON. Mr. Bertoni, welcome aboard. Please go ahead.

**STATEMENT OF DANIEL BERTONI, DIRECTOR, EDUCATION,
WORKFORCE, AND INCOME SECURITY, GOVERNMENT AC-
COUNTABILITY OFFICE**

Mr. BERTONI. Good morning. Chairman Johnson, Ranking Member Becerra, Members of the Subcommittee. Good morning. I am pleased to discuss the future of Social Security disability programs, which paid nearly \$180 billion to over 14 million individuals and their families last year. Given the size and cost of its programs, SSA must have current and appropriate criteria to assess whether a claimant's medical condition precludes work in a national economy.

In 2003, we designated SSA's programs high risk in part because its programs did not reflect modern concepts of disability, where one's medical condition and work capacity is assessed in conjunction with advances in medicine, technology, and current job demands.

My remarks today are based on our June 2012 report and focuses on steps SSA is taking to modernize its disability determination criteria, especially in regard to how claimant's functional capacity and other factors, such as assistive devices and workplace accommodations are considered.

In summary, SSA has taken concrete steps to incorporate modern concepts into its disability criteria. First, in several areas the agency is now giving greater consideration to claimants' functional capacity despite their medical condition to determine whether their impairment prevents work. For example, as part of SSA's revision to its medical listings for the immune system the agency included several functional criteria, such as performing activities of daily living, maintaining social functioning and completing tasks in a timely manner.

In general, the SSA officials and experts we spoke with supported incorporating a functional criteria as appropriate to facilitate a more accurate assessment of work disability. However, some caution that such an approach could result in more subjective assessments and pose challenges for decisional consistency.

Despite these concerns, to better inform its efforts and incorporate functional information into its processes SSA is sponsoring research through the National Institutes of Health. Of note is an ongoing effort to develop a computer-based tool to more rapidly and reliably assess claimant function. Agency officials anticipate several benefits from this assessment tool, such as providing more timely, accurate, and consistent information on the impact of impairments and one's ability to work. However, the agency has yet to determine when or how this tool will be integrated into its disability determination processes.

Although these and other actions are promising, SSA has not fully incorporated other modern concepts into its disability criteria, such as the role of assistive devices and accommodations in mitigating barriers to work. In today's work environment, assistive devices can help the visually impaired perform various tasks and accommodations such as increased wheelchair accessibility can enhance an individual's ability to function in the workplace.

SSA does incorporate assistive devices such as prosthetics for walking into the medical listings once they become standard in the

medical community, and examiner staff must evaluate a person's ability to function with the devices in place. However, agency officials and other experts expressed concern about more broadly incorporating such devices when they may not be widely available.

In regard to workplace accommodations, the agency's policy is not to consider them due to the inability to ensure they are actually being provided by employers or that they are effective.

Officials were also concerned about the resources required to do such assessments, and that data on availability and use of accommodations was lacking. Although giving broader consideration to assistive devices and workplace accommodations is difficult, SSA may be missing opportunities to move further in this direction, especially for some populations such as young adults. Indeed, some have argued that there are common, inexpensive workplace supports to address work disability that can be reasonably incorporated into SSA's disability criteria. And there may be opportunities for the agency to obtain this information directly from employers as it moves forward in developing its new occupational information system. SSA could also collect such information through its disability research consortium which will serve as a national resource for fostering studies on disability policy.

We recommended that SSA conduct limited, focused studies on the feasibility of more fully incorporating certain assistive devices and accommodations into its disability determinations. Absent studies to ascertain how these tools are playing a role in helping individuals with disability stay at work or return to work and their cost in comparison to many years of disability benefits, SSA may be missing an opportunity to help individuals reengage in the workforce and to best target finite program resources.

Mr. Chairman, this concludes my statement. I am happy to answer any questions you may have. Thank you.

Chairman JOHNSON. Thank you, Mr. Bertoni.

[The prepared statement of Mr. Bertoni follows:]

GAO

United States Government Accountability Office

Testimony
Before the Subcommittee on Social
Security, Committee on Ways and Means,
House of Representatives

For Release on Delivery
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SSA DISABILITY PROGRAMS

Progress and Challenges Related to Modernizing

Statement of Daniel Bertoni, Director
Education, Workforce, and Income Security Issues



GAO-12-891T

Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee:

I am pleased to be here today as you discuss the future of the Social Security disability programs. The Social Security Administration (SSA) manages two of the largest federal disability benefit programs—Social Security Disability Insurance and Supplemental Security Income—which provided more than \$178 billion in payments to about 14.5 million people with disabilities and their families in fiscal year 2011. Given the extensive size and cost of its disability programs, SSA must have current and appropriate criteria by which to assess whether a claimant's medical conditions affect his or her ability to perform work in the national economy. However, in our previous work we designated federal disability programs as high risk, in part because the programs do not reflect a modern concept of disability. Specifically, we noted that SSA's disability programs emphasize medical conditions in assessing work incapacity without adequate consideration of the work opportunities afforded by advances in medicine, technology, and job demands. In addition, we found that the medical criteria and occupational information SSA uses to make disability benefit decisions were out of date. In contrast, modern concepts of disability take into account the interaction of health conditions and contextual factors—such as products, technology, attitudes, and services—on an individual's functional capacity, rather than viewing disability solely as a medical or biological issue.¹ Such concepts also focus on an individual's functional abilities in, for example, the workplace environment, taking into consideration the presence or lack of assistance. Experts also have noted that SSA's process should give more consideration to an individual's ability to function with an impairment, and whether the individual can work if given appropriate supports.

My remarks are based on our June 2012 report, and focus on steps SSA has taken to incorporate a modern view of disability into its criteria.² In performing this work, we reviewed relevant federal laws and regulations; program documentation, including policies, procedures, and strategic

¹Modern concepts of disability are reflected in the International Classification of Functioning, Disability and Health (ICF), which is the World Health Organization's framework for assessing health and disability.

²GAO, *Modernizing SSA Disability Programs: Progress Made, but Key Efforts Warrant More Management Focus*, GAO-12-420 (Washington, D.C.: June 19, 2012).

goals; relevant literature; and position papers and testimonies from disability groups and commissions. We interviewed SSA officials, key stakeholders, disability experts, and representatives of other agencies that administer disability programs. We conducted our performance audit from April 2011 through June 2012 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We found that SSA has taken concrete steps to incorporate modern concepts of disability into its determination criteria, but faces constraints to more fully considering assistive devices and workplace accommodations.

- *Giving greater consideration to a claimant's functional capacity:* SSA has begun taking a more modern view of disability that looks beyond the claimant's medical condition by giving greater consideration to his or her functional capacity, consistent with the International Classification of Functioning, Disability and Health (ICF) framework.³ In updates to some of its medical criteria, SSA has included an assessment of an individual's functional abilities to determine whether his or her impairment prevents work. For example, as part of SSA's comprehensive revision to the medical listings⁴ for the immune system, the agency included several functional criteria, such as performing activities of daily living, maintaining social functioning, and completing tasks in a timely manner despite deficiencies in concentration or persistence. Generally, SSA officials, adjudicators, and disability experts we spoke with support incorporating appropriate functional criteria into the medical listings to facilitate a more reliable

³The ICF focuses on the ability to function despite a medical impairment, including taking into account the impact of environmental factors, such as products and technology, attitudes, and services. The World Health Organization developed the ICF as a universal classification of disability and health for use in health and health-related sectors, especially as a planning and policy tool for decision makers. All 191 World Health Organization member states endorsed the use of the ICF as the international standard to describe and measure health and disability.

⁴The medical listings reflect medical conditions that SSA has determined are severe enough to qualify a claimant for benefits. Our recent report, GAO-12-420, provides additional information on the status of SSA's efforts to update its medical listings.

assessment of an individual's ability to work. However, some have also noted that including functional criteria may result in a more subjective assessment by adjudicators because functional evidence is inherently more subjective than medical evidence,⁵ which in turn could increase the difficulty of making consistent disability determinations.

- *Sponsoring research on functional capacity and disability determinations:* Since 2008, SSA has had an interagency agreement with the National Institutes of Health (NIH) to conduct short- and long-term research to inform SSA's efforts to incorporate functional information into its disability criteria. For example, SSA is sponsoring longer-term NIH research to develop a computer-based tool to rapidly and reliably assess the functional abilities of individual claimants for disability determinations.⁶ SSA and NIH officials anticipate several benefits from the functional assessment tool, such as providing more consistent and comprehensive information on the impact of functional limitations earlier in the disability determination process. This information may help adjudicators more quickly, accurately, and uniformly assess whether a person can perform certain kinds of work given his or her functional and occupational capabilities. While this research is promising, SSA officials said they have not yet determined when or how the tool will be integrated into the disability determination process. SSA officials said they expect to pilot the functional assessment tool by 2016.

Although these steps are promising, SSA has not fully incorporated other modern concepts of disability into its disability determinations. A modern view of disability takes into account factors that can hinder or enhance an individual's ability to function, such as assistive devices or accommodations that can mitigate barriers. For example, an assistive device can help the visually impaired perform tasks, and an accommodation could include making the workplace more accessible for

⁵For example, assessing functional evidence may require SSA examiners to take into account a claimants' own testimony and lay statements, which can be more difficult to evaluate relative to medical evidence.

⁶Boston University's Health and Disability Research Institute is developing this tool under a subcontract with NIH. The tool is based on Item Response Theory using Computer Adaptive Testing. As envisioned, the claimant, a medical provider, or both would respond to a series of questions on six areas of functioning (such as mobility and self-care) through the computer-based tool.

wheelchair users or providing an interpreter for someone who is hearing impaired.

While assistive devices and workplace accommodations can play a critical role in an individual's ability to function in the work environment, SSA does not always consider them in its assessment of disability.

- *Assistive devices:* SSA officials and experts we spoke with expressed concern about more broadly incorporating assistive devices and technologies into the medical listings when they may not be widely available. SSA officials told us that they do incorporate assistive devices into the medical listings once the devices become standard in the medical community—a threshold that SSA officials described as generally involving some combination of availability, accessibility, and insurance coverage. After an assistive device—such as a prosthetic device for walking—is incorporated into a listing, adjudicators must evaluate the individual's ability to walk with the device being used.
- *Workplace accommodations:* SSA officials said their policy is not to consider workplace accommodations for several reasons. First, officials cited SSA's inability to ensure that workplace accommodations are provided by employers—a concern shared by other disability experts we interviewed. SSA officials also indicated the agency would be unable to assess the effectiveness of workplace accommodations for claimants. Further, officials noted that SSA already faces resource constraints managing its disability claims workload and expanding the scope of individualized assessments would exacerbate those constraints. Finally, they noted that data on the availability and use of workplace accommodations are lacking.

Although giving broad consideration of assistive devices and workplace accommodations may be difficult to incorporate into the current disability criteria and process, SSA may be missing opportunities to move further in this direction. Officials we spoke with from an organization of vocational examiners expressed frustration with having seen young individuals who could work with minor accommodations being provided disability benefits likely throughout their working life, rather than receiving support to pursue work. Representatives of the organization added that minor accommodations can include a stool for sitting or devices to assist with vision impairments. As such, there may be common and inexpensive workplace supports to reduce work disability that can be feasible and reasonable to incorporate into the current disability criteria and process. Further, we reported that there are several possible opportunities for SSA

to learn more about the availability of workplace accommodations. For example, in the process of developing its new occupational information system,⁷ SSA may be able to collect some limited information on workplace accommodations, such as whether a worker in a particular occupation would have the option to sit or stand while working. In addition, SSA could collect more information on available accommodations through its new Disability Research Consortium⁸ or an upcoming symposium with the Institute of Medicine.⁹

To help ensure that SSA's disability decisions are as equitable and consistent with modern views of disability as possible, we recommended that SSA conduct limited, focused studies on the feasibility of more fully considering assistive devices and workplace accommodations in its disability determinations. SSA disagreed with this recommendation, stating that such studies would be inconsistent with Congress' intentions. We maintain that SSA should conduct such studies, noting that while Congress has not explicitly directed the agency to consider assistive devices and workplace accommodations in making disability determinations, it also has not explicitly prohibited SSA from doing so. Further, by conducting studies on this issue, SSA would be in a better position to thoughtfully weigh the costs and benefits of these various policy options before deciding on an appropriate course of action. A

⁷In 2008, SSA began a multi-year project to create a new database of occupations to replace the outdated Dictionary of Occupational Titles. If an individual does not have a condition that meets or is equal in severity to one or more of the medical listings, SSA performs an assessment of the individual's physical and mental residual functional capacity. Based on this assessment, SSA determines whether the individual can perform past relevant work or any work that is performed in the national economy. To inform these determinations, SSA uses a Department of Labor database, known as the Dictionary of Occupational Titles. This database has not had a major update since 1977. Our recent report, GAO-12-420, provides additional information on the status of SSA's efforts to create its new occupational information system.

⁸SSA is creating the Disability Research Consortium to serve as a national resource for fostering high-quality research, communication, and education on matters related to disability policy, such as identifying or eliminating barriers encountered by people with disabilities in returning to or staying at work.

⁹SSA has asked the Institute of Medicine to plan an international symposium focused on how best to use and assess function in the disability determination process. SSA has also contracted with the Institute of Medicine to study its medical criteria for determining disability and to make recommendations for improving the timeliness and accuracy of its disability decisions.

complete discussion of SSA's comments and our evaluation is provided in the report.

Concluding Observations

SSA has taken important steps toward modernizing its disability criteria by sponsoring promising research that may lead SSA to increase its consideration of functional ability in its medical listings and other aspects of its disability decisionmaking process. However, consistent with a modern view of disability, SSA can do more—through its various research and contract arrangements—to better determine whether and how commonly available assistive devices and workforce accommodations might be incorporated into its disability criteria. SSA and others raise valid concerns about the universal availability of assistive devices and accommodations. However, without such efforts to study how certain assistive devices and accommodations are playing a role in helping individuals with impairments stay at work or return to work, and their costs in comparison to potentially providing years of disability benefit payments, SSA may be missing an opportunity to assist individuals with disabilities to reengage in the workforce. It may also be missing an opportunity to target finite resources efficiently and effectively.

Chairman Johnson, Ranking Member Becerra, and Members of the Subcommittee, this concludes my statement. We would be pleased to respond to any questions that you or other members of the subcommittee may have at this time.

Contacts and Staff Acknowledgements

For further information regarding this testimony, please contact me at 202-512-7215 or bertonid@gao.gov. In addition, contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement. In addition to the contact named above, individuals who made key contributions to this testimony are Michele Grgich, Assistant Director, Kate Blumenreich, and Rachael Valliere. Also contributing to this report were Caitlin Croake, Julie DeVault, Alex Galuten, Miriam Hill, Sheila McCoy, Carol Petersen, Almeta Spencer, Anjali Tekchandani, Kathleen van Gelder, and Walter Vance.

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Chairman JOHNSON. Ms. Houghton, welcome. Please go ahead.

**STATEMENT OF JILL HOUGHTON, EXECUTIVE DIRECTOR, U.S.
BUSINESS LEADERSHIP NETWORK**

Ms. HOUGHTON. Chairman Johnson, Ranking Member Becerra, and Members of the Committee, thank you for the opportunity to be here today. My name is Jill Houghton. I am the Executive Director of the U.S. Business Leadership Network. We are a business network. We are nonprofit. We are nonpartisan, and we promote disability inclusion in the workplace, in the marketplace, and in the supply chain. Additionally, we run the Nation's only certification for disability-owned businesses, and we are working with corporate America to do business with people with disabilities who are entrepreneurs.

As Executive Director of the USBLN, I am here because our businesses, our members are deeply, deeply committed to recruiting, hiring, and retaining employees with disabilities. I should also share with you that my testimony is grounded in my personal experience. I ran the Ticket To Work and Work Incentives Advisory Panel from 2005 until 2008, when we sunset. I am also married to somebody with a spinal cord injury, who is on the Social Security Disability Insurance Program and successfully transitioned off the rolls.

While our members are not experts on the Social Security program, one of the things that they firmly believe in is that we as a Nation have to move from focusing on disability from a medical perspective to focusing on a social perspective, focusing on talent. When we go to our members and we ask them if they are interested in hiring people with disabilities, unequivocally the answer is yes, but they don't hire people with disabilities because they can't work, they hire people with disabilities because they have the prerequisite skills and the needed supports in order to come in and get the job done.

When we went to our members and we asked them about their challenges and their opportunities related to this issue, I will tell you that one of the number one issues, once they get over and they figure out that this is what they want to do, the question becomes where are—where is the supply? We represent the demand side of the equation and where is the supply? How do I find people with disabilities? And specifically, how do I find college students with disabilities?

So we created a National Student Advisory Council and we became really personally connected to this because one of our student leaders, Jimmy Curran, graduated from Temple University with a degree in finance. This kid is ready to set the world on fire. This is who my members are looking for. And Jimmy got a job as a market research analyst in Pennsylvania with a Blue Cross affiliate, and he called me up and he said, hey, I am going to work but he needed personal care assistant services. So his private insurance wasn't going to pay for that. So he didn't know about 1619(b) and all of the complicated work incentives and we helped him get connected, and so the good news is, Jimmy is working, and that is the good news. The bad news is that unless he gets bumped up to a really high level within the company he is going to have to stay at this certain level and limit his earnings because he needs the personal care assistant services. And in a short amount of time he is

going to become dually eligible. Now, from businesses' perspective we have invested in Jimmy. We want Jimmy. We want to help Jimmy grow within the company, but it is going to be a challenge and he is going to have to come to making some tough decisions. So that is definitely a challenge that we face.

Other challenges that we face, is there is a myriad of government programs out there and nobody knows how to navigate, right? I mean, people knock on businesses' door from, you know, every nook and cranny talking about what people can't do. We don't want to know what people can't do. We want to know what people can do.

Certainly, there are challenges that our members hear about. They hear about employees that have issues with overpayments, that have issues with program eligibility, et cetera. The list goes on.

So where are we succeeding? I will tell you where we are succeeding. We are succeeding because business—companies like Walgreens are standing up and making a corporate commitment to recruit, to hire, to retain people with disabilities, and they are teaching their peers. Countless companies, Lowe's, Pepsi, Hershey, Merck. The list goes on and on and on of companies that are learning from each other that are committed to this. But it is not easy.

I would tell you that, in conclusion, hiring people with disabilities gives business a competitive advantage. It is an advantage that business needs. We represent the demand side of the equation. We need the talents, the dedication, and the creativity of people with disabilities in the workforce, but equally important is we need policies and programs and investments that support this paradigm shift from a medical model to one that focuses on talent.

Thank you.

Chairman JOHNSON. Thank you, ma'am. I have visited Walgreens where they work those people, and there must have been 10 of them in there stocking shelves. It is neat to see people who are in that situation accomplishing something with their lives. It really is.

[The prepared statement of Ms. Houghton follows:]



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Testimony of

**Jill Houghton
Executive Director
US Business Leadership Network®
Washington, D.C.**

On

**Securing the Future of the
Social Security Disability Insurance Program**

To

**United States House of Representatives
Ways and Means Committee
Social Security Sub-Committee**

Friday, September 14, 2012

Testimony of Jill Houghton of US Business Leadership Network®, to U.S. House of
Representatives, Ways and Means Committee, Social Security Sub-committee
September 14, 2012

Chairman Johnson, Ranking Member Becerra, and Members of the Ways and Means Committee, Social Security Sub-Committee thank you for the opportunity to provide testimony regarding "Securing the Future of the Social Security Disability Insurance Program". My name is Jill Houghton and I am the Executive Director of the US Business Leadership Network (USBLN®), a national non-profit, non-partisan business to business network promoting workplaces, marketplaces, and supply chains where people with disabilities are included. The USBLN® serves as the collective voice of over 60 Business Leadership Network affiliates across the United States, representing over 5,000 businesses. Additionally, the USBLN® runs the nation's leading third party certification program for disability-owned businesses, including service-disabled veterans.

As the USBLN® Executive Director, I'm here today because our corporate members including small, medium and large businesses across the nation are deeply committed to recruiting, hiring and retaining employees with disabilities. Collectively, these businesses represent the demand side of the employment equation.

As the former Executive Director for the Ticket to Work and Work Incentives Advisory Panel, between 2005 and 2008 I had the pleasure of working with bipartisan members and staff on this Committee. I very much appreciate your commitment to securing the future of the Social Security Disability Insurance program. My testimony is grounded in my professional experience working with corporate members of the USBLN®, as a policy advisor, and my personal experience as a person who is married to someone with a spinal cord injury who transitioned off of the Social Security Disability Insurance program and is currently a successful entrepreneur.

While our members are not experts on the Social Security programs they strongly believe that the foundation of any changes in our current system needs to be rooted in moving our nation's view of people with disabilities from a deficit or **medical** model to a talent or **social** model.

The medical model of disability is still prevalent in our country as evidenced by our language choices, media portrayals, fundraising activities, and program eligibility requirements. A social model defines disability as different from the average, neutral in the absence of additional context, and located in the interaction between individuals and society. The remedy in the social model is ensuring that the environment is accessible and that attitudinal barriers are addressed. There are signs that this model is gradually emerging in our nation's workplaces and policies, but we need to accelerate this paradigm shift to effect sustainable change and to ensure that individuals with disabilities are fully included.

Senior corporate leaders like Deborah Dagit, Vice President and Chief Diversity Officer, Merck, Randy Lewis, Senior Vice-President, Supply Chain and Logistics, Walgreen Company, Stephen J. Szilagyi, Senior Vice President, Distribution, Lowe's Companies, Inc. and Keith Wiedenkiller, SPHR, SVP & Chief People Officer, AMC Entertainment

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Inc. to name a few are teaching their peers how to build inclusive workplaces where people with disabilities work side by side with people without disabilities, earning the same pay, doing the same jobs, held to the same standards of productivity and other workplace standards. These senior leaders and countless others recognize that incorporating individuals with disabilities in all diversity and inclusion practices positively impacts their companies' bottom line.

While businesses sometimes encounter serious challenges as they seek to implement inclusion strategies, many employers have overcome these hurdles with robust and creative practices. For example, some companies have learned that:

- It's cost effective to recruit and retain the best talent regardless of disability;
- Technologies that are usable by all employees lead to greater productivity;
- There are economic benefits of broadening supplier bases to include diverse categories, such as disability-owned businesses; and,
- Disability inclusion often increases their companies' share of new markets.

The USBLN® is based on the premise that businesses respond to their peers. We bring companies and leaders together to learn how to include people with disabilities in all aspects of their corporate enterprises. The USBLN® and our BLN affiliates have become an important organization to help businesses realize the wide range of opportunities available and the potential for replicating success.

In preparation for my testimony today we asked USBLN® members about recent challenges and successes related to recruiting, hiring and retaining employees with disabilities and my testimony summarizes these responses.

CHALLENGES

Recruiting

One challenge some members identified was taking the first steps to begin recruiting and hiring people with disabilities. Many companies shared their internal challenges associated with addressing the fears of their supervisory and mid-level management, as well as, the challenges associated with the "NGDGU" (No Good Deed Goes Unpunished) principle. In this economy the last thing managers want is anything that complicates their lives and they assume that they don't have the time and/or resources to handle any "complications" of hiring and retaining employees with disabilities that may arise. Additionally, there's great fear that if they make the effort to do the right thing, it will result in equal employment opportunity issues and litigation.

Also challenging is recruiting competitive candidates with disabilities. The question we receive regularly is, "where can we find candidates with disabilities that have the pre-requisite skills, and/or have the required supports in place needed to support work?"

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When we asked USBLN® members if there's an interest in hiring people with disabilities the answer was overwhelmingly, "yes"! However, we're repeatedly told that business won't hire candidates simply because they're disabled. Rather employers hire individuals because they're qualified to perform the job with or without reasonable accommodations. Additionally, several companies made it a point to emphasize that they're not only seeking candidates for entry level jobs but also for supervisory and managerial positions and it's very difficult to recruit for these types of positions whether the candidate has a disability or not.

Our members often ask us "Where can we find college students with disabilities?" and as a result, we established a USBLN® National Student Advisory Council. A little over a year ago we were personally confronted with the challenges that one of our student advisors was facing. Jimmy Curran, a Montgomery County resident, who in May 2011 graduated with honors from Temple University with a degree in Finance and accepted a position as a Market Research Analyst with Independence Blue Cross. While Mr. Curran was at Temple, he had two student internships, one at the CIT Group in New York City on the Risk Management team of the Transportation Finance department and the second in the Office of Cathy McMorris Rodgers (R-WA.) In an economy where unemployment is high and college students cannot find positions in their fields of study, Mr. Curran not only did everything right to prepare for employment but found a professional position in his field of study. When he began to work on Monday, September 12, 2011 he was in jeopardy of not being able to afford to work because he's a person with a significant physical disability who was at risk of losing the personal care services he needs and that had been paid for through Medicaid. He was technically eligible to transfer to the Act 150 waiver, which is for individuals who meet the medical criteria and work. However, there was a waiting list of 250 people. If he worked and maintained his earnings for over 30 days before getting on Act 150, he would not have been eligible for that program. Luckily, he was able to get assistance and access 1619(b) which will allow him to continue working while receiving Medicaid to support his personal care services. However, unless something changes with the program he will need to limit his earnings and will be unable to advance with the company. This represents a huge missed opportunity for business and these type of challenges greatly impacts our members ability to recruit, hire and retain youth with disabilities.

Additional reports indicate that when our member's campus recruiters go to colleges and universities, they contact Career Services to schedule their visits but do not find cooperation between this office and the offices for Disabled Students Services. Consequently, these recruiters rarely encounter students with obvious and/or disclosed disabilities.

The bottom line is that there are a myriad of government and private organizations in every community across America attempting to help connect youth and adults with disabilities to jobs, but they often times don't approach business in a manner that's responsive to their needs. Thus, many of our members describe being contacted by a

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multitude of job developers who have good intentions but don't speak the language of business.

Getting to and from Work

Another challenge reported is the lack of access to and accessibility of public transportation. Many of our members have U.S. facilities that are rural and draw from an employee base within a large geographic radius without access to public transportation. In many instances this has led prospective candidates with disabilities that don't drive to withdraw from consideration for employment. Similarly, some businesses have sought out assistance in sourcing talent with disabilities from local VR and/or CRPs only to be declined due to the lack of availability of public transportation. For example, when a job calls for people to work extended or unusual hours, as can be true in the entertainment industry, employees who rely on public transportation are unable to do so because there is no access after "normal" business hours. It is next to impossible for their employees to find a public bus at 1:00 in the morning. For many industries, the employee must be on site to accomplish the work.

This creates a huge missed opportunity to business because skilled and valuable employees are unable to accept or keep their positions. Limiting these opportunities can also result in higher expenditures for public programs like Social Security Disability Insurance and Medicare.

Program Obstacles

Finally, while our members would be the first to admit that they aren't the experts on the Social Security Disability Insurance program they've shared that there seems to be significant obstacles (i.e. losing program eligibility, healthcare benefits, fear of overpayments) in the current system that lead to individuals with disabilities needing to limit their earnings, reduce hours worked and in some instances resign or refrain from entering the workforce. These types of challenges significantly hamper Corporate America's faith in and ability to recruit, hire and retain good employees with disabilities. One member shared that in some instances, this can also lead to internal challenges associated with headcount requirements and/or extra management time which inadvertently lead to increased expenses.

SUCCESSSES

Recruiting

Overall, our members shared that their best successes have come from what they've learned from other companies about hiring people with disabilities. A critical component to the success of any initiative to hire or retain people with disabilities is a company's ability to establish a trusted relationship with a partner that can source talent with the required skills.

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Some employers shared that they've worked closely with the Council of State Administrators of Vocational Rehabilitation, National Employment Team (CSAVR - NET) to source talent and prefer to do so rather than partnering directly with a community rehabilitation provider (CRP). They choose to work with CSAVR – NET because their experience has shown that CRPs are contracted directly by VR and thus the candidates originate from Vocational Rehabilitation (VR). Because of this in many instances it makes more sense for corporations to source qualified candidates with disabilities from VR directly. Business then asks VR to engage CRPs as needed to provide the support services each individual candidate may need to be successful in the jobs they hold within their company.

While other companies reported that they work with a wide range of partners including CSAVR-NET, a CRP, a coalition of CRPs, or private staffing agencies depending on their ability to deliver talent and to effectively meet businesses needs.

In an effort to specifically reach students with disabilities, several of our members shared that they work closely with Career Opportunities for Students with Disabilities (COSD). In its 12th year, COSD is a network of over 1200 colleges, universities and national employers in the private and public sectors. They raise awareness regarding the unique challenges that students with disabilities face and help with career placement. They also encourage employers to specifically request access to students with disabilities during campus recruiting activities, and inquire whether or not the school coordinates their disability support services and career placement programs.

Additionally, the USBLN® and the Employer Assistance and Resource Network (EARN), a National Employer Technical Assistance Center (NETAC) funded by the U.S. Department of Labor, Office of Disability Employment Policy (ODEP) and operated by Employment and Disability Institute at the School of Industrial and Labor Relations of Cornell University have joined forces and to launch the Alliance Mentoring Pilot Program. The program was launched in April 2012 and aims to provide career mentoring opportunities to college students and recent graduates with disabilities through linkages to business professionals.

Mentor recruitment was targeted towards companies who are part of the Circle of Champions, a distinguished group of businesses that received the Secretary of Labor's New Freedom Initiative Award between 2002-2008 for innovative efforts to recruit, hire and promote people with disabilities. While the initial goal was to secure 5-8 mentors, the call for volunteers surprisingly netted a total of 21 employee volunteers. Mentors in the 2012 Alliance Mentoring Pilot Program are from companies such as Deloitte, Ernst & Young, Highmark, Microsoft, Northrop Grumman and WellPoint.

The pool of mentees were sourced from the Workforce Recruitment Program's (WRP) 2012 database of 2770 students and recent graduates with disabilities representing over 270 colleges and universities. 153 veterans are also included in the WRP database. Matches were made based on mentors' background and preferences as well

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as mentees' career goals. A total of 20 mentees were selected (1 mentee was assigned 2 mentors).

While the Alliance Mentoring Pilot Program is still underway and does not end until October 2012, some initial feedback indicates a great need for improved self-advocacy and communication skills that mentoring can bring. The high level of initial interest demonstrates the value both mentors and mentees attribute to this project and thereby conveys the need for further expansion which will focus on students and recent graduates with science, technology, engineering and math (STEM) majors and those with veteran status.

Getting to and from work

While telework does not replace adequate accessible transportation systems, for some industries, it can be a good solution to recruit and retain employees with disabilities. For our members attempting to recruit in rural or low population areas where there is not available or adequate public transportation, telework can provide access to employees without requiring relocation. In addition, distance learning can also provide an opportunity to teach employees new work skills. Telecommuting can also be a stop gap measure during and after natural disasters such as earthquakes, tornadoes or hurricanes and for shifts when public transportation is not available and/or when work hours are not consistent.

Given the increased accessibility of information and communications technology, an employee located at a distance can often perform the same work regardless of location. This said, like many agencies in the federal government, companies must first purchase accessible technologies and be knowledgeable about the functions and features that can make information and communications accessible to their employees with disabilities.

A member company in South Carolina worked with their main disability service partner to create a solution by accessing a grant to purchase a small bus and they charge the employees a subscription fee to cover the operational costs of running that bus. It operates with a "hub" system so that in most cases, the employees need a ride to the pick-up spot, but it eliminates family members needing to drive individuals for an hour each way every day. This system also has limitations because if one person on the bus has overtime, everyone has to stay at the building until the last person's shift ends. However, their Texas location partnered with the agency that provided the largest number of employees with disabilities and selected them as the charity for one year's campaign. The funds raised were matched by a grant and the money was used to purchase a bus to transport individuals for training as well as for work.

In Wyoming, one of our members has had members of management drive a company vehicle to transport their team members to and from work. However, this is limited by the size of the vehicle and territory they are able to cover.

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Retention

One large pharmaceutical company shared that they have a "Workplace Enablement" program that provides supportive, productive and flexible work environment solutions for employees with both non-apparent and visible disabilities. This not only ensures that they are fully compliant with regulations, but positively impacts return to work after a health event, and enhances productivity for employees, their managers and peers who can quickly access appropriate accommodations solutions.

There are four key pillars in their program:

- Inclusion messages that ensure the program is well understood and easily accessed by employees, managers, and the human resources community;
- Linkages to their broader health and wellness initiatives to ensure all employees are proactively engaged in their fit and healthy efforts;
- Ensuring full compliance with ADAAA and OFCCP guidance and associated documentation requirements; and,
- Training for managers to support confidence and capability by addressing any concerns around language choices, accommodations, and performance management; linking these efforts to the broader talent objectives (e.g. retaining top talent after the advent of a health challenge), the business case for disability inclusiveness, an overview of the ADA Amendment, and some case scenarios to "make it real."

Finally, many of our members shared that they've taken some additional measures to promote workforce inclusion such as:

- Developing active Employee Resource Groups for colleagues with disabilities, caregivers and allies;
- Creating guidelines and checklists for ensuring meetings are accessible and that accommodations are readily available for travel, hotel requests, accommodations for presenters with a disability, and dietary needs;
- Evaluated and addressed various access issues to corporate facilities for both guests and employees to make sure the environment is safe and welcoming;
- Ensuring that development opportunities, both virtual and classroom are accessible;
- Routinely including closed-captioning during major business meetings and make this service or sign language interpreters available to colleagues upon request for smaller meetings;
- Offering a variety of work/life tools and resources, including ready access to flexible work arrangements, and a variety of home health support through an external partner; and,
- Including entrepreneurs with disabilities in supplier diversity programs.

Testimony of Jill Houghton of US Business Leadership Network®, to U.S. House of Representatives, Ways and Means Committee, Social Security Sub-committee
September 14, 2012

One member shared that their desired outcome is that candidates and colleagues who have a disability believe that "the company is always there for me and that they are not defined by a disability, but by the contributions they are able to make to their team's goals."

Promoting the Use of Disability-Owned Businesses

The USBLN's flagship program is the Disability Supplier Diversity Program (DSDP). DSDP is the nation's first and only third party certification program for disability owned businesses and includes service-disabled veterans. The certification is a rigorous process that includes a site visit. It offers the Disability Owned Business Enterprise the opportunity to market its certification and to connect with USBLN member companies. The program advances economic opportunities for all entrepreneurs with disabilities, by working with America's top corporations to broaden corporate supplier diversity programs to include disability-owned businesses. The ultimate goal of the Disability Supplier Diversity Program is to develop and grow an infrastructure that will foster a mutually beneficial relationship between corporate purchasers and disability-owned businesses.

CONCLUSION

In conclusion, it's important to emphasize that businesses recognize that disability inclusion in their workforce strengthens their competitive edge. Perhaps more than any other group of people, individuals with disabilities have the ability to adapt to different situations and circumstances. As employees, they add to the range of viewpoints businesses need to succeed, offering fresh ideas on how to solve problems, accomplish tasks and implement strategies. USBLN® member companies like Walgreens have documented that recruiting, hiring and retaining employees with disabilities results in lower turnover; better safety; and reduced hiring and operational costs.

Business represents the demand side of the equation and needs the talents, dedication and creativity that people with disabilities bring to the workplace, marketplace and supply chain. Equally important are policies, programs and investments that support the paradigm shift from a **medical** model to a **social** model and focus on talent that meets a business' need.

Testimony of Jill Houghton of US Business Leadership Network®, to U.S. House of Representatives, Ways and Means Committee, Social Security Sub-committee
September 14, 2012

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Chairman JOHNSON. Ms. Vogel, welcome. Please proceed.

**STATEMENT OF NADINE VOGEL, FOUNDER AND PRESIDENT,
SPRINGBOARD CONSULTING, MENDHAM, NEW JERSEY, ON
BEHALF OF THE SOCIETY FOR HUMAN RESOURCE MANAGE-
MENT**

Ms. VOGEL. Thank you. Good morning, Chairman Johnson, Ranking Member Becerra, and distinguished Members of the Subcommittee. My name is Nadine Vogel and I appear before you today as a member of Society for Human Resource Management. SHRM's members have a long history of promoting effective employment practices that advance equal opportunity for all people, including individuals with disabilities. I commend you for holding this hearing on the Disability Insurance Program and thank you for the opportunity to testify.

Mr. Chairman, I am the Founder and President of Springboard Consulting in Mendham, New Jersey. At Springboard it is my professional goal to collaborate with organizations that encourage the hiring and retention of individuals with disabilities. On a personal level, my husband and I are both parents of two children who have special needs. I understand firsthand the issues that individuals that have disabilities and their families face, but I also understand the challenges that employers face in today's economy.

Every day in this country employer disability management strategies are helping employees stay on the job and off our strained Disability Insurance Program. Employers and HR professionals continue, however, to confront persistent gaps between the skills of unemployed workers and the skills sought by employers to fill specific positions.

Recent SHRM research reveals that more than one-half of employers report difficulty recruiting for specific jobs today. Individuals with disabilities can fill these gaps. The challenge for employers is to develop an approach that recruits and retains these talented employees while successfully navigating Federal law and programs.

In my experience both employers and employees want individuals with disabilities to remain at work or return to work as quickly as possible. The GAO has shown that the longer employees are out of work, the less likely they are to ever return. But there are many challenges for employers. While numerous Federal statutes and programs attempt to provide a transition from disability to work for these individuals, taken as a whole, they are very complicated to navigate.

First, the Social Security Disability Insurance Program has great merits, but it was not originally created to handle all of the age-related disabilities that come as a result of people living longer and staying in the workplace longer. In addition, the definition of disability for eligibility for SSDI is outdated. It reflects the medical model rather than a functional model. Contrary to SSDI definition, other Federal statutes use a different definition. At SHRM we prefer the Americans with Disabilities Act, or ADA, definition. It relies on the essential functions of the job, what someone can do rather than a more general job description or perhaps what they can't do.

Then our members report mixed experiences in utilizing the Work Opportunity Tax Credit and VOW to Hire Heroes Act Tax Credit as well as vocational rehabilitation protection and advocacy

for beneficiaries of Social Security and the Ticket To Work programs. Because of the complexity and the paperwork required to take advantage of these tax credits and programs, they are more geared towards benefiting large employers with HR departments, and even then can be extremely overwhelming. Despite the economic and statutory hurdles, employers have found many strategies successful in keeping employees with disabilities at work.

First, when employers engage an employee early on in the return to work process it allows the organization to simultaneously meet business needs and reduce the financial impact of a prolonged absence to the employee and their family.

Second, employers clearly define policies and jobs. Employers must ensure that the transition back to work programs have specific written guidelines, light duty, and regular duty job descriptions.

Third, reasonable accommodations committees, or RACs, are becoming a very effective practice towards ensuring the fair and equitable end-to-end process of someone requesting an accommodation.

And fourth, employers are providing creative accommodations and other simple solutions for these employees such as a keyboard tray to reduce carpal tunnel syndrome. Such accommodations can include workplace flexibility benefits such as defined flexible work schedules and even telecommuting.

In closing, Mr. Chairman, I want to be clear that while some of these suggestions for disability management tactics may work for different employers, you know, you have to keep in mind that the suggestions here are circumstantial. So there is not one simple one-size-fits-all solution for every employer of every size or, for that matter, in every industry.

Mr. Chairman, again, I thank you, I thank you the subcommittee for listening to my perspective, and I am happy to answer any questions.

Chairman JOHNSON. Thank you, ma'am.

[The prepared statement of Ms. Vogel follows:]



STATEMENT OF NADINE O. VOGEL

**FOUNDER AND PRESIDENT OF SPRINGBOARD CONSULTING, LLC
MENDHAM, NEW JERSEY**

**ON BEHALF OF THE
SOCIETY FOR HUMAN RESOURCE MANAGEMENT**

**SUBMITTED TO THE
U.S. HOUSE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SOCIAL SECURITY**

**HEARING ON
“SECURING THE FUTURE OF THE DISABILITY INSURANCE PROGRAM”**

SEPTEMBER 14, 2012

Introduction

Good morning Chairman Johnson, Ranking Member Becerra, and distinguished members of the Subcommittee. My name is Nadine Vogel, and I am Founder and President of Springboard Consulting LLC in Mendham, NJ. Springboard collaborates with multinational corporations, federal agencies and other organizations on initiatives to successfully mainstream disability in the global workforce, workplace and marketplace. I am the author of *Dive In: Springboard into the Profitability, Productivity and Potential of the Special Needs Workforce*. Thank you for this opportunity to testify before the Subcommittee at this fifth hearing in the series titled "Securing the Future of the Disability Insurance (DI) Program."

I appear before you today as a member of the Society for Human Resource Management (SHRM), the world's largest association devoted to human resource (HR) management. Representing more than 260,000 members in over 140 countries, the Society serves the needs of HR professionals and advances the interests of the HR profession. Founded in 1948, SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China and India. I am also a member of SHRM's Workplace Diversity Special Expertise Panel.

Mr. Chairman, I commend you for holding this hearing on this important topic. As the Founder and President of Springboard Consulting, my professional goal is to collaborate with organizations to encourage the hiring and retention of individuals with disabilities. Employers that capitalize on the abilities of this segment of the workforce see improved productivity, retention and profitability. Personally, my husband and I are parents of two beautiful girls who have special needs. I understand firsthand the issues that individuals who have disabilities and their families face. I am the founder and past president of the board of SNAP, Special Needs Advocate for Parents; a member of the New Jersey State Employment & Training Commission Disability Issues Committee; and a Founding Board Member of the Society for Diversity.

In today's economy, organizations must compete in the global market for skilled, talented employees, while managing their labor costs and expenses to remain competitive. HR professionals and employers must also address how to manage their business when faced with challenges such as employee absences, added workload for colleagues, and the impact on productivity due to disability or illness. Proactively keeping employees at work who are experiencing impairments and transitioning employees who have experienced a disability back into the workforce has value to the employer in mitigating some of this impact while also retaining a productive employee. This effort also has the added value of meeting the individual employee's needs. However, even employers with very comprehensive disability management programs can experience challenges.

My comments will describe the need for employment opportunities for the disabled, SHRM's efforts to promote disability employment, background on federal

return-to-work programs, challenges to disability employment, and successful employer stay-at-work and return-to-work strategies.

SHRM's work to promote employment of individuals with disabilities

As we move away from the depths of the recession, employers and HR professionals continue to confront persistent gaps between the skills of unemployed workers and the skills sought by employers to fill specific positions. Recent SHRM research reveals that, in the current labor market, more than one-half (52 percent) of employers reported difficulty recruiting for specific jobs.¹ At the same time, there are pools of workers that might serve as a source of skilled employees: military veterans and individuals with disabilities. According to the Bureau of Labor Statistics, the unemployment rate for individuals with a disability was 15 percent in 2011.² Whether born with a disability or acquiring one as a result of age, accident, illness, or military service, these individuals are often educated and talented and are people that this country is in great need of: committed, skilled, innovative talent. The challenge for employers is developing an approach that recruits and retains these talented employees while successfully navigating federal law and programs.

In my experience, almost all employees who suffer an accident, illness, or develop a disability want to remain at work or get back to work as quickly as possible, even if not in the same capacity as before the onset of the impairment. Returning to work improves self-esteem that comes from being independent and able to support oneself as well as contribute to an organization, rather than seeking lifetime care.

Work is important to people and is a large part of what defines them. Prolonged absence from work impacts the family not only financially but it also affects employees' emotional well-being. Experienced professionals recognize that the longer employees are out of work due to disability, the more likely they are to become disconnected from the employer and the benefits they receive from working. According to a report by the Government Accountability Office (GAO), an injured or disabled worker who remains out of work for more than six months has only a 50% chance of returning to work at all.³ Intervening to help employees stay at work or transition back into the workplace quickly following a disability not only improves their recovery, it also enhances their self-image and reduces stress on their families. It also enhances their commitment to their employer as an employer of choice.

¹ Society for Human Resource Management (2011). The Ongoing Impact of the Recession—Recruiting and Skill Gaps SHRM Poll.

² U.S. Department of Labor, Bureau of Labor Statistics (2012). Employment of persons with a disability, 2011.

³ U.S. Government Accountability Office, Health, Education and Human Services Division (1996). Return-to-Work Strategies From Other Systems May Improve Federal Programs. <http://www.gao.gov/assets/160/155504.pdf>.

SHRM and its members have a long tradition of promoting effective practices for advancing equal employment opportunity for all people, notably including individuals with disabilities. HR professionals strongly support the goal of increasing the employment of people with disabilities, and work every day to help individuals stay at work and return to work in the event of a disability.

SHRM created a Disability Employment Resource webpage that offers its members and their organizations a wealth of resources, articles and links to help source, recruit, retain, and develop people with disabilities. SHRM also provides training through conference programming and webcasts to its members on disability law and effective employment practices. SHRM's member organizations regularly engage in outreach efforts to civil rights and disability organizations, both as part of their current affirmative action obligations and as a sound business practice.

SHRM has also partnered with many national organizations to promote disability employment. Since 2006, SHRM has partnered with the Department of Labor's Office of Disability Employment Policy (ODEP), which provides national leadership by developing and influencing disability employment-related policies and practices affecting an increase in the employment of people with disabilities.

The Employer Support of the Guard and Reserve (ESGR) is a Department of Defense organization that promotes cooperation and understanding between Reserve component members and their civilian employers and assistance in the resolution of conflicts arising from an employee's military commitment. SHRM signed a statement of support for ESGR and the more than 1.2 million citizens from all walks of life who have volunteered to serve during two long and difficult wars.

In addition, the U.S. Department of Labor's Veterans' Employment and Training Service (VETS) provides resources to assist veterans and service members to boost their employment opportunities. Both of these organizations help employers find, hire and retain skilled military service members.⁴

As you can see, SHRM is a staunch advocate for hiring individuals with disabilities and promoting programs and policies that facilitate individuals returning to work as quickly as possible. With the breadth and scope of the Society, there is a tremendous opportunity for additional government agencies to directly partner with SHRM and its members on such solutions.

In 2008, SHRM and other employer associations joined with several disability advocacy organizations to reach an agreement on amending the Americans with Disabilities Act of 1990 (ADA). The ADA protects current employees and job applicants with disabilities from discrimination in employment. The law

⁴ Society for Human Resource Management (2012). Military Employment Resource Page. <http://www.shrm.org/hrdisciplines/staffingmanagement/Articles/Pages/Military.aspx>

defines “disability” as “a physical or mental impairment that substantially limits one or more of the major life activities of such individual.” Advocates and employers alike were concerned that a handful of Supreme Court holdings in the preceding decade (including *Sutton v. United Airlines* [1999] and *Toyota Motor Manufacturing Kentucky Inc. v. Williams* [2002]) had narrowed the definition of disability, and thus the protections, contained in the ADA.

The resulting effort led to the ADA Amendments Act (ADAAA), which was signed into law by President George W. Bush in 2008. The effect of the law is to make it easier for an individual seeking protection under the ADA to establish that he or she has a disability.

Finally, SHRM collaborated with the Cornell University ILR School Employment and Disability Institute on a research study released this year about organizational policies and practices related to employing people with disabilities. This series of research findings also analyzes what metrics organizations track for all employees and employees with disabilities and any barriers that organizations experience with employment or advancement for people with disabilities. The survey of more than 600 HR professional respondents was released in three parts: 1) Recruitment and Hiring, 2) Training, and 3) Retention and Advancement. The survey’s key findings are:

- Most employers have policies and practices related to the recruitment and hiring of people with disabilities – Nearly two-thirds (61%) of organizations indicate including people with disabilities explicitly in their diversity and inclusion plan, 59% require sub-contractors/suppliers to adhere to disability nondiscrimination requirements and 57% of organizations stated having relationships with community organizations that promote the employment of people with disabilities.
- Effectiveness of policies and practices – Organizations believe that requiring sub-contractors/suppliers to adhere to disability nondiscrimination requirements (38%), including people with disabilities explicitly in diversity and inclusion plans (29%), and having explicit organizational goals related to the recruitment or hiring of people with disabilities (34%) were very effective practices.
- Larger organizations are more likely to have policies and practices related to recruitment and hiring in place compared with smaller organizations. Publicly owned for-profit organizations also are more likely to have some policies and practices related to recruitment and hiring in place compared with privately owned for-profit organizations and nonprofit organizations.⁵

⁵ Society for Human Resource Management and Cornell University ILR School Employment and Disability Institute (2012). SHRM Survey Findings: Employing People with Disabilities – Practices and Policies Related to Recruiting and Hiring Employees with Disabilities.

Federal return-to-work programs

There are several other federal programs that attempt to provide a transition from disability to work for individuals. These are:

- The Social Security Disability Insurance (SSDI) program – SSDI pays cash benefits to adults younger than age 66 who are judged to be unable to perform substantial work because of a disability, but who have worked in the past. SSDI also pays benefits to some of these adult dependents.⁶ The original program was not set up to handle all of the age-related disabilities that come as a result of people living longer and with today's economy, more employees are working longer, thus placing a bigger strain on the SSDI program.

Unfortunately, the definition of disability and eligibility for SSDI is outdated and reflects a “medical model” rather than a functional one. Contrary to SSDI definition, the ADAAA uses a functional definition of disability – focusing on what the employer can do through the reasonable accommodation process (assistive tools or devices, restructuring the position, design of the work station, etc.) so the employee can be successful rather than focusing on the disability itself and what the person cannot do.

- Protection and Advocacy for Beneficiaries of Social Security (PABSS) – PABSS is a network of Protection & Advocacy projects in all 50 states and U.S. territories. These programs help beneficiaries navigate and provide instruction through the various programs offered and any difficulties they face, including: Employment Networks, Social Security Disability Insurance and Supplemental Security Income beneficiary rules, legal issues, and employment issues.
- Ticket to Work Program – Social Security's Ticket to Work Program is free, voluntary and available to most people who receive SSDI or Supplemental Security Income (SSI) benefits because they are disabled or blind. Ticket to Work pairs each beneficiary to an Employment Network or State Vocational Rehabilitation agency, for either reentrance to the workforce or to receive additional vocational training.

Eligible beneficiaries may choose to assign their Ticket to an Employment Network (EN) of their choice or to a State Vocational Rehabilitation (SVR) agency to provide training, counseling, support services and job placement assistance. The EN/SVR, if they accept the Ticket, will coordinate and provide appropriate services to help the beneficiary find and maintain employment.

⁶ Congressional Budget Office (2010). Social Security Disability Insurance: Participation Trends and Their Fiscal Implications. July 22, 2010.

- Work Incentives Planning and Assistance (WIPA) Projects – WIPA helps beneficiaries understand their options when they try to enter the workforce. The 102 WIPA projects across the U.S. and the U.S. territories work with SSA beneficiaries with disabilities on job placement, benefits planning, and career development.
- Vocational Rehabilitation – All 50 states have a Vocational Rehabilitation (VR) agency that provides trade-specific training with the aim of gaining employment.

In addition to the programs above, there are several federal tax incentives for employers to hire the disabled. These include:

- VOW to Hire Heroes Act Tax Credit – On Nov. 21, 2011, President Barack Obama signed into law VOW to Hire Heroes Act (P.L. 112-56), which provides an expanded work opportunity tax credit to businesses that hire eligible unemployed veterans. The Vow to Hire Heroes Act continues the Work Opportunity Tax Credit — already in existence — for veterans with service-connected disabilities. The tax credit offers a maximum of \$4,800. In addition, it offers businesses a new tax credit of:
 - 40 percent on the first \$6,000 in wages (up to \$2,400) for hiring veterans who have been unemployed at least four weeks.
 - 40 percent on the first \$14,000 in wages (up to \$5,600) for hiring veterans who have been unemployed for longer than six months.
 - 40 percent of the first \$24,000 in wages (up to \$9,600) for hiring veterans with service-related disabilities who have been unemployed for longer than six months.
- The Work Opportunity Tax Credit (WOTC) – A tax credit granted to employers who hire SSDI and SSI beneficiaries. The credit is worth up to 40 percent of the first \$6,000, or up to \$2,400, in wages paid during the first 12 months for each new hire.

SHRM members report mixed experiences in capitalizing on WOTC. Some have shared that WOTC encouraged their organization to hire welfare recipients, while others have explored the credit and decided the paperwork burden made the credit valueless to them.

Employer Challenges to Disability Management Programs

Despite widespread support for disability employment, employers face myriad practical, legal and regulatory challenges in offering a disability management program.

- Differing Federal Definitions of Disability – As described in the ADA, definitions of work should rely on the essential functions of a job rather than a more general job description.
- Vocational Rehabilitation Programs – Unfortunately, VR state offices receive a tremendous amount of funding to work directly with employers on stay-at-work and return-to-work efforts. However, in my experience, the VR programs do not understand corporate America and the culture, language, and processes of employers.
- Myriad Federal and State Laws – Compliance with applicable federal laws is maddeningly complex. Despite their merits, the ADA, Family and Medical Leave Act (FMLA) and workers' compensation laws are referred to as "the Bermuda Triangle of HR." They are particularly complex, overlapping and frustrating for small employers to administer — particularly for employers administering a return-to-work (RTW) strategy. Those three and other statutes are discussed here:
 - ADA — In light of the enactment of the ADA Amendments Act of 2008, the key point to focus on now is whether discrimination occurred, not whether an individual has a disability. This shift in focus may make RTW programs more difficult to "sell" to small business. Some employers may feel under the new analysis that it may be safer to do less for all than more for some.
 - FMLA — Under the FMLA, providing same pay during light duty creates tension among co-workers. Time spent working light duty does not count towards FMLA leave. Reduced schedule leave equals infinite FMLA leave (employees never exhaust 480 hours). An employee retains protected right to decline an offer of light duty work, while an employee out on non-FMLA medical leave has no such protected right. Intermittent FMLA continues to pose administrative challenges for employers in terms of them being able to ensure appropriate staffing to meet the needs of the business on a day-to-day basis and ensure they have the current information and updates to provide the appropriate approvals. Other employees may request similar workplace equipment and modifications, unaware that an accommodation for a disability was made. For those on light duty, concerns arise surrounding the impact the employee's future FMLA leave may have on staffing needs and how the organization can manage its work requirements in the long term. Extension of leave beyond FMLA requirements, protected by the ADA, may involve a prolonged absence.
 - Workers' compensation – Workers' compensation (WC) is a form of insurance providing wage replacement and medical benefits to

employees injured in the course of employment. All 50 states and the District of Columbia run WC programs. There are opportunities to partner with WC carriers to assess methods for balancing Return to Work (RTW), gainful employment and fiscal responsibility. As mentioned above with regard to FMLA rights, an employee has a right under FMLA to decline an offer of light duty work. Declining the opportunity to work light duty may, however, disrupt or stop the employee's receipt of continued benefits. This strategy is similar to that described in the GAO report referenced earlier in my remarks, e.g., a purpose of the study was to assess ways to reduce increasing DI costs paid by government agencies.

FLSA and state wage and hour laws – Flexible staffing models such as Alternative Work Schedules (AWS) that include a 10-hour-a-day, 4-day workweek known as a 4-10 workweek must be implemented with consideration to federal and state wage and hour laws. Employers may find they inadvertently create increased labor costs when such models result in overtime that was not budgeted for nor anticipated or that violates state wage and hour laws that mandate overtime for hours worked in a day (such as in California) or in one of at least 14 states that limit or restrict mandatory overtime for certain professionals.

Covered federal (sub)contractors and Executive Order 11246 – Executive Order 11246 prohibits federal contractors and federally-assisted construction contractors and subcontractors, who do over \$10,000 in Federal government business in one year, from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. For many small employers, it is good news and bad news when they are awarded a government contract or subcontract and exceed the 50-employee threshold for the first time. On one hand, they are very excited about their success. On the other hand, they are also sometimes overwhelmed at the task ahead of them. Such contractors will quickly recruit qualified candidates in numbers greater than ever before to support the new contract. Then, I find more often than not they are stunned to learn about their obligations to now not only draft written affirmative action plans (Plans) but to administer those Plans and maintain all the corresponding documentation. With regard to the recruitment, selection, hiring, training and other employment activities related to persons with disabilities, covered contractors currently must:

- Annotate the application or personnel form of each covered individual to identify each vacancy for which the applicant was considered. Such annotation shall include: (i) the identification of each promotion for which the covered employee was considered, and (ii) the identification of each training program for which the covered individual was considered.

- Where an employee or applicant is rejected for employment, promotion, or training, a statement of the reason as well as a description of the accommodations considered, where applicable.
 - Where a covered applicant or employee is selected for hire, promotion, or training and the employer undertakes any accommodation that makes it possible to place the covered individual on the job, the application form or personnel record will contain a description of that accommodation.
 - Review physical and mental job qualifications upon the development of any new position, update existing positions or position descriptions and recommend and implement any necessary changes. Such review shall take place on an on-going and as-needed basis and no less than once each year upon update of the Plan.
 - When a qualified candidate is referred or selected from federal, state, or local agencies or other resources identified in the employer's Plan, formal arrangements must be made with the respective agency for the referral of the applicant, follow up and feedback on the disposition of applicant.
 - Track and monitor all personnel activity, including referrals, placements, transfers, promotions, terminations and compensation at all levels.
 - Provide training to all personnel involved in the recruitment, screening, selection, promotion, corrective action and other processes related to the employment of persons with disabilities and the commitments of the Plan.
- Impact of Individual State Benefits: There is an administrative burden on employers who have employees that work in multiple states with paid disability and family leave benefits in terms of increased communications, tracking and the potential overlap in benefits and conflicts between federal and state law. Human resource professionals must have a general understanding of the various state disability benefits and ensure their employees are informed of the process for applying for these benefits. If the employer has private disability insurance, the employees should be informed of the process if state benefits will offset the employer's disability benefits. Employers have the added responsibility of completing paperwork for both the state and private disability carrier, and coordination of a partial return-to-work requires collaboration between all stakeholders. Navigating the bureaucratic requirements can be confusing to an employee; they will look to the employer for guidance and understanding.

In addition, for state paid family leave benefits, employers must inform employees of their rights as well as the process for applying for benefits. For example, if an employer employs both a husband and wife, both may be entitled to paid benefits for the same event. In this case, the employee with

the disability would be eligible for state disability and the spouse may be eligible for paid family leave. In some cases, ongoing reports of need for paid family leave will be required from the spouse.

As employers navigate the many laws that govern the employment of people with disabilities, there is much to understand and many resources to explore. Employers who have been successful in providing early RTW programs and workplace accommodations have been able to improve their bottom line while helping their employees. Employers would benefit from increased education on successful models for RTW strategies and information-sharing with regard to resources for managing workplace accommodations.

Hiring and retaining individuals with disabilities in the workplace

Although there are fundamental elements of a successful strategy in managing disability in the workplace, there is not a simple “one size fits all” solution for every employer. Employers and HR professionals must balance pressing business objectives against common challenges associated with return-to-work strategies.

The success of the strategy will depend on the extent to which employers are able to mitigate the negative impact, while simultaneously meeting the employee’s needs. The business imperatives of the employer and the abilities of the affected employee will inform determinations regarding appropriate RTW solutions, which are considered in conjunction with the employer’s statutory obligations and protection of the individual’s rights under the FMLA, the Americans with Disabilities Act and the Americans with Disabilities Act Amendments Act, among other regulations.

However, in my experience, successful strategies for an effective disability management program can include:

- Reasonable Accommodations Committee – RACs are becoming an effective practice for ensuring that the end-to-end processes of requesting an accommodation, conducting the research required to meet individual needs, working with management and the team, and offering the accommodation is fair and equitable across the enterprise. The truly innovative companies are finding ways to utilize this RAC for those coming back from Short Term Disability (STD) and Long Term Disability (LTD) and not just new employees coming in with a disability.
- C-suite support – Whatever is going to be done from an employer’s standpoint, it will need to be supported at the highest levels of the organization because CEOs are looking at their organization’s operations and are considering two primary issues: Return on Investment/Productivity

and Mitigation of Risk. When designed and administered correctly, RTW programs meet both.

- On-site case management/RTW coordinator – This type of support provides individual assessment and intervention based on specific impairments through collaboration with the employee, supervisor, healthcare provider and insurance carriers as appropriate. It's also important for companies to have someone (or multiple people) on staff that is truly an expert in making all types of accommodations depending on the needs of the individual and, in doing so, utilizing a company's entire benefits program through an integrated approach.
- Comprehensive Wellness Programs – Employers can provide comprehensive wellness programs to support employees in maintaining or improving their health. On-site fitness and pedometer programs, weight management programs, smoking cessation programs, health screenings, health coaching and CPR training are just a few initiatives that enhance team building and overall health.
- Proactive Interventions – Early intervention to recognize and respond to an employee's needs for workplace modifications from the first day of hire through the entirety of the employee's tenure helps mitigate the impact of current and future impairments on the employee's ability to be a productive worker. Anticipating, identifying and providing accommodations to new hires such as equipment, assistive technology, interpreters, and flexible scheduling makes onboarding smooth and the employee is more-quickly engaged and productive. Being responsive to employee requests for workplace modifications based on his or her health concerns, and working together to identify reasonable solutions and confirming the effectiveness of the accommodation, can increase productivity and often avoids absence and disability through reduction of symptoms or impact of his or her impairment. Modifications may include equipment, technology, assistive devices or services, flexible scheduling, and teleworking.

As evidenced in a Mercer study and Towers Watson/National Business Group on Health study, employers can determine the value of this cost avoidance by measuring their cost of total disability as a percentage of payroll against readily available benchmark data.⁷

- Early Return-to-Work Programs – Providing supportive services (some large employers may have return-to-work coordinators or case managers) to employees throughout their absence keeps them engaged and connected with the organization and provides earlier opportunities to transition back

⁷ Towers Watson National Business Group on Health (2012). Staying at Work Report, 2011-2012; and Mercer (2010). Survey on the Total Financial Impact of Employee Illnesses, 2010.

into the workplace. Large employers and human resource professionals who engage the qualified but impaired employee and the manager in a flexible, interactive process are most successful with providing effective workplace accommodations. Of course, this process is fluid and may require additional evaluation and adjustments, and it means that employers must have the dedicated staff capable of managing the process. Bringing employees back to work in a productive capacity where it's medically possible, through provisions such as light duty work, workplace modifications, flexible work arrangements, teleworking and procurement of equipment make it less likely they will transition to long-term disability. For the employer, the ability to return trained, skilled employees to the workplace can avoid recruitment and replacement costs and reduce direct and indirect costs of absence and disability. Organizations who offer these programs have to be vigilant to comply with the relevant federal and state employment laws.

- Training – Supervisors' and employees' actions toward others with impairments can have a bearing on whether an organization is successful in supporting people with disabilities. Employees and supervisors should be trained in how to respond to employees who raise concerns about their health and workplace difficulties. They must be aware of internal resources and how to connect the employee to them. Workforce diversity training for employees enhances how employees with impairments are treated in the workplace. Training on proper body mechanics and proper use of equipment and technology associated with workplace accommodations will hasten an employee's productivity and avoid frustrations. Offering sensitivity training to employees for such things as behavior around service animals, buddy systems and support for colleagues with disabilities is helpful.
- Defining policies and jobs – Employers must ensure that their programs have specific written guidelines for transition-back-to-work programs, light duty and regular duty job descriptions, and formalized training to new tasks and processes to ensure consistency. Formal policies such as flexible workplace, teleworking and compressed workweeks provide documentation and oversight for large employers.
- Incentivizing work and employee engagement – Large employers, who continue as reasonable health and welfare benefits, as well as other programs, such as employee assistance programs and back-up care, minimize an employee's concerns. Employees may be provided voluntary continued access to employer resources (such as the intranet and communications) while on medical leave, if approved by the healthcare provider. Providing a transitional RTW pecuniary incentive allowing work to supplement disability benefits for a defined period of time protects the employee's pre-disability income while transitioning to work part-time. If the disability policy does not allow supplemental benefits during a transition back to work this will

negatively impact the willingness of the employee and the physician to engage in an early return-to-work program.

- Long Term Disability programs – Many employers offer a Long Term Disability program (LTD) that is funded through a third-party entity. LTD benefits are designed to replace an employee's earnings in the event that the employee becomes physically unable to work. Ironically, it is often more difficult to bring an employee back from a long-term disability situation than to accommodate a new employee with the same disability as the employee on LTD. This is because as mentioned previously, the interaction between the FMLA and the ADA and the interaction with the LTD policy often makes it very difficult and complicated for the employee and employer to navigate these rules and regulations to get the employee back to employment. Often, once an employee enters into a LTD situation, he or she is more likely to end up on SSDI.
- Creative accommodations: Often, it can be a simple solution such as a keyboard tray to reduce carpal tunnel symptoms that enhances the employees' ability to perform their job. Some solutions are complex, may require expert assistance and substantial and expensive changes to the worksite in order to accommodate the employee. Accommodations can include defined flexible work schedules, ergonomic workstations, voice activated computer systems, lighting adjustments, specialty equipment, technology, mobility devices or relocating the work within reach.

Accommodation challenges can occur based on the nature of the work. Organizations employing white-collar workers have more opportunity to offer light duty and workplace accommodations to employees with disabilities, as they typically have less physically demanding job functions that need to be addressed. Organizations with a workforce consisting of mostly blue-collar workers tend to have limited availability for light duty positions and a greater challenge when providing accommodations that address the employee's ability to perform physically challenging job requirements.

- Establish workplace flexibility strategy – By providing workplace flexibility policies and programs, employers can help all employees better meet their work-life needs. Workplace flexibility policies, such as flexible scheduling and telecommuting, can help employees with disabilities perform their job functions.

SHRM has engaged in a significant effort to educate HR professionals and their organizations about the importance of effective and flexible workplaces. In February 2011, SHRM formed a multi-year partnership with the Families and Work Institute (FWI). This partnership combines the research and

expertise of a widely respected think tank specializing in workplace effectiveness with the influence and reach of the world's largest association devoted to human resource management. By highlighting strategies that enable people to do their best work, the partnership promotes practical, research-based knowledge that helps employers voluntarily create effective and flexible workplaces that fit the 21st century workforce and ensure a new competitive advantage for businesses. Although FWI is an independent non-advocacy organization that does not take positions on these matters, and the position of SHRM should not be considered reflective of any position or opinion of FWI, I'd like to briefly mention one of the key elements of the SHRM/FWI partnership, the *When Work Works* program, because it seeks to educate and showcase employers who are meeting the needs of our 21st century workforce. The centerpiece of the initiative has been the Alfred P. Sloan Award for Excellence in Workplace Effectiveness and Flexibility, a nationally recognized award for organizations that are using workplace flexibility as part of their business practice.

When Work Works is a nationwide initiative to bring research on workplace effectiveness and flexibility into community and business practice. Since its inception in 2005, *When Work Works* has partnered with an ever-expanding cohort of communities from around the country to:

- 1) Share rigorous research and employer best practices on workplace effectiveness and flexibility.
- 2) Recognize exemplary employers through the Sloan Award for Excellence in Workplace Effectiveness and Flexibility.
- 3) Inspire positive change so that increasing numbers of employers understand how flexibility can benefit both business and employees, and use it as a tool to create more effective workplaces.

On occasion however, things do work out for both the employee and the organization. Consider an employee who is diagnosed with a neurologically degenerating disease such as Parkinson's disease. A marketing and sales company was able to bring this employee, who was a data analyst, back to work following a few weeks of total disability by providing a scooter and a larger monitor for visual deficits. As the employee's disease progressed and he experienced hand tremors and slurred speech, he requested that he continue to work and additional accommodations were provided to include a special keyboard and writing tools. The employee was able to successfully continue to work for 6 ½ years, before he was no longer able to perform the essential functions of the job. Had this employee worked as a backhoe operator for a construction company, the only light duty work the employer may have been able to provide was a traffic flagger, which would have required standing on the street. The employee's impairment would have precluded him from this and he would have remained on total disability.

Unfortunately, the bottom line is, the longer someone stays out of the workforce on disability benefits, the less likely the individual is to successfully re-enter the workplace or return to work at all.

Conclusion

SHRM and its members strongly support the employment of people with disabilities. SHRM members have reported mixed experiences with federal programs intended to help the disabled. From both the employee and employer perspective, navigating the SSI, SSDI, and vocational rehabilitation systems remains an immense challenge. But by implementing disability management strategies, employers across the country are reducing disability claims and improving employment outcomes for employees.

Again, I thank the Subcommittee for listening to my perspective on employer opportunities and challenges in return-to-work strategies for employees with disabilities.

I am happy to answer any questions you may have.

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Chairman JOHNSON. You know, I have always thought the United States was a leader, but some of the testimony we have heard makes me feel like we are not doing enough. And I guess the question is, how does a program need to change to catch up with the world views on disability today?

Dr. Stapleton, you say the fact that the Disability Insurance Trust Fund will be exhausted in 2016 and the erosion of the economic status of people with disabilities are signs of a failing public support system for working-age people with disabilities, despite the increasing Federal tax dollars that go into it, and you also say that the system is failing the taxpayers who pay for it, could you explain why you call it that, and tell me why they exist, if you can?

Mr. STAPLETON. Sure, I would be happy to do that. This really goes back, I think, to things that you said in your opening comments. In 1956, when we established SSDI, it was intended to be a medical retirement program for people who were over the—it is on. Is that better now?

Chairman JOHNSON. Yes.

Mr. STAPLETON. Okay. Sorry.

Chairman JOHNSON. I could hear you. We will get the cotton out of his ears.

Mr. BECERRA. He needs an assistive device.

Mr. STARK. You have new batteries.

Mr. STAPLETON. I am not sure he qualifies.

Mr. BECERRA. I can guarantee you he doesn't.

Mr. STAPLETON. So it was established as a medical retirement program for workers over the age of 50. And you know, at that time, it was probably pretty reasonable to determine whether somebody could continue to work based on their medical conditions. A lot has changed since then, and some of those changes are external to the program, advances in medicine and technology and the way that we work that are just mind-boggling from the perspective of 1956. And that, to my mind, has really made SSA's task of trying to divide people into people who can work and people who can't work based on medical conditions alone, a fool's errand. You know, it is just if you want to know why that process doesn't work very well, that is the core reason.

Chairman JOHNSON. Well, dividing it is one thing but some of them tried to play the system, too. You know that.

Mr. STAPLETON. Well, that may well be true. So at the same time those trends were occurring, you know, we expanded the availability of disability benefits, and the American people are very generous. They want to help people with disabilities. And the way that we did it, though, was to really expand on what we did with SSDI. So first we made it easier for young people to get SSDI benefits either by working a little bit or by becoming eligible as dependents of their parents and the same for disabled widows. And we also, you know, we eventually added Medicare benefits to the mix, made the benefits more valuable.

The SSI program started in 1974. We used the same criterion, and again, expanded benefits, made Medicaid available to those who were on SSI in most States, for almost all people.

So my colleagues and I in the past have called what we have created a poverty trap. And what we do is when people with signifi-

cant medical conditions do have challenges, they face difficult challenges in their lives, so we have set up a system which serves to funnel them into dependence on Federal programs as opposed to helping them take advantage of the productive capacity that they actually have.

And so I think, you know, the root of the problem goes back to just following along and expanding on what we did in 1956 without taking a good look at the structure and thinking about how to change it. And as time has passed various things have happened that have affected the ability of some people with significant impairments to work. We have had a more competitive economy. We have had many recessions and as you know, every time we have a recession, a new batch of people comes on to SSDI. And once they get on, almost all of them stay there for the rest of their lives or until they are earning retirement benefits. So we just keep following people into the programs more and more, and we end up having to spend more and more for them.

So I think, you know, I think in short, we are getting less for our money, and not really helping people with disabilities the way that we could help them with the same amount of money or even less.

Chairman JOHNSON. Dr. Burkhauser, could you tell me what you think the primary policy goal of the national disability insurance ought to be and what should the taxpayers be paying for with their taxpayer dollars?

Mr. BURKHAUSER. Well, I think the taxpayer should be paying for what was originally envisioned by the founders. The DI program should be a last resort income safety net for those unable to work.

Now, in Europe, the way that works is that the government integrates government jobs programs with government transfer programs and they have gatekeepers that try work programs first. That is not the way we do business in the United States. We have much more faith in the private sector. But we have a DI program which basically hands out checks. And we have this very weird system. Think about this. You have to spend 2 years demonstrating that you can't possibly work at any substantial gainful activity before someone in the government tries to help you to work. That doesn't work. That is crazy. You don't provide help for work after someone has proven they can't work for 2 years. You need that to happen beforehand. The people who do that are the private-sector employers but they are getting the wrong signals because of the way we tax them to provide less training and accommodation than they can do.

The Dutch had the same problem and what they did was to experience rate payroll taxes and require firms to provide the first 2 years of benefits. That got the attention of the private sector. It is nice to say that the private sector takes care of a few people. That is good, but it is amazing the private sector how they respond to incentives. If you tell them you have got to pay for it if they go onto the long-term disability rolls, all of a sudden they will be taking care of a lot more people. Only 33 percent of employers now have long-term disability programs. I am not saying that we should mandate that. That is what some very good economists Autor and Duggan out of the Hamilton Group urged. I am suggesting let's just

change the price signals so that people have to pay. When their workers go onto the disability rolls they have to pay more if more of their workers go on relative to firms that are doing the right thing and providing accommodation for them.

Chairman JOHNSON. Thank you, sir.

Mr. Becerra, you are recognized for 5 minutes.

Mr. BECERRA. Thank you, Mr. Chairman. Thank you all for your testimony and food for thought. I thank you very much. Is it Houghton?

Ms. HOUGHTON. Houghton.

Mr. BECERRA. Ms. Houghton, I liked your testimony because more than anything else I think you show that there is a lot of energy and enthusiasm to try to make a difference. And I think that goes a long way. Much of this is believing in some of these folks that they can go back to work and helping inspire them to have the confidence to go back to work, and so I hope that you stay in touch with us as we try to figure out how to improve the DI system. Anything that you think will work, you know, the best ideas that can come from the business community, our business leaders who are trying, making the effort to try to get folks into the workforce, the collaborative efforts that can take place between the business community and the Federal Government, please share that. And Ms. Vogel, you as well, also expressed some of that. I hope that what you will do is push us, push the envelope because what we do have to do is figure out a way to partner on this.

We are entering the stage where that baby boom generation is hitting that point where they are most prone to be disabled. And that is why I think the chart, Dr. Burkhauser, that you used was a bit deceptive. We have twice as many women in the workforce today than we had back in 1975 when you start to show an increase in the size of the disability workforce. We have all of those baby boomers who in 1975 were babies, young kids, who are now at that point where they are either retiring or not able to work because they may have become disabled. And so I think we have to look closely because I don't think anyone here would say that the folks that are receiving disability benefits don't have a disability. It is whether they have a disability that would keep them from working, and what we have to try to do is help those who should be able to work, who with a little bit of incentive, with a little bit of confidence, people who say, I trust that you can get back to work, I am going to show you that I am committed to you as your employer to help you get back to work, can probably inspire some of these folks who are probably a little depressed on occasion when they can't get to work to say, you know what, you believe in me, I am going to believe in me again. And I think that is where we crack this nut which has led to this concern for the Disability Insurance Program. But I hope no one would make the claim that it is time to get rid of the Disability Insurance Program because for the most part, we need some help for some of these folks.

So, Ms. Houghton, I wanted to just make sure I am clear, because you pointed out the case of a young man who has got some real opportunities, but most of the folks who apply for disability insurance benefits don't even have a high school diploma. Right, my understanding is—statistics I am looking at her—is two-thirds of

DI beneficiaries have only a high school diploma or less. So they are not as fortunate. They haven't been to the point where they have that college degree.

Nearly 70 percent of disability beneficiaries are 50 years or older, so they are not at the very beginning of their work career. These are folks who are in the sunset of their work career and, as we know, even Americans who are not disabled who are over 50 are having a hard time today getting a job because the market is very tough. And so I think we have to remember that this is a population that has a disability severe enough that in many cases, as I think Miss Ford mentioned, many of them die within a few years of applying for the benefit. These are not folks who would just need to have a computer, you know, typing tray so they can avoid carpal tunnel syndrome. These are folks who in a few years may not even be on this Earth. And so what we are trying to do is pick out the ones that while they have a severe disability we think with a little bit of accommodation, and I think Mr. Bertoni, your testimony was essential here because you pointed out how modern science, technology has made things possible today that 30 years ago we couldn't have done. And the only proof you need to see is our wounded warriors who are coming back and doing remarkable things having been maimed and injured in so many different and grievous ways.

Mr. Bertoni, let me make sure. GAO we rely on to give us the scoop on this stuff, the facts. We are talking about folks who are disabled, right. There is no question these are folks who are disabled in some capacity.

Mr. BERTONI. Correct, for the most part. Obviously, there are folks who get in under certain means that aren't, but that is on the margins.

Mr. BECERRA. And so it is now an issue of how do we make the Social Security Administration, working with this Disability Insurance Program, be as effective as possible partnering with the business community to try to make sure that we can transition those who still have the capacity to work to get them back to a job. Part of it is the training and education that might be necessary to get some of these folks who are disabled, a spinal problem, but yet still able to do a number of things, back into the workforce. So part of this will involve more than just Social Security. It is going to involve the workforce training aspect of what government working with the private sector can do. And so I hope what you will do is continue to give us information about how there are opportunities where we can partner with the business sector to make sure that technology and training will get some of these folks back to work.

Mr. BERTONI. Sure, this must be a partnership. It is not all about the Social Security Administration. There are many entities in government, State and local, that can help in this effort, as well as the business community. What I just heard is that the focus on capacity versus incapacity, and a cultural shift that return to work and stay at work is not only socially, but economically beneficial to individuals as well as employers. That is something that we need to sort of move further in that direction.

Mr. BECERRA. Thank you, Mr. Chairman. I yield back.

Chairman JOHNSON. Thank you. Mr. Berg, you are recognized for 5 minutes.

Mr. BERG. Thank you, Mr. Chairman. I thank the panelists for being here. I mean, obviously, I look at this chart and, you know, we need to look at how we do things different. You know, if you say 1956 was when the system was set up, that was 56 years ago. I mean, clearly things have changed dramatically. In our own State we looked through WSI, or Worker's Compensation, and we actually found one of the huge successes is when there was an injury empowering the employer to identify it immediately, getting proper care, and then keeping that person in that workforce. I mean, here is their peers, their friends, and rather than going home or some other environment for 30, 60, 90 days or 6 months, we found that when you are in that other environment you got used to that and that was your normal. And so the idea is to keep them in that workplace.

And so I guess I have a couple of questions, and it is kind of two different groups here. There is a group that of course is not in the workforce and has disabilities, and we need to, you know, really need to look at those, but I am thinking about the ones that are in the workforce and, you know, if you could, Dr. Burkhauser, just kind of talk and you did touch on that, the incentives. My question is, how do we go from here to there without creating an environment where employers are going to say, you know what, I don't want to have to pay an extra tax or penalty here, so I am not going to hire someone with a potential disability. So maybe just talk briefly about that transition, and then I would like to talk about other incentives for people that are new to the workforce with disabilities and how we can create some incentives there.

Mr. BURKHAUSER. So if you go to an experience rating system, which is in fact what you talked about with Worker's Compensation, you are really encouraging the kinds of things you would like to see. You would like to see a safer workplace. You would like to see employers that are more likely to provide accommodation or rehabilitation. In my work we have shown, for instance, that workers who experience the onset of disability on the job are more likely to get an accommodation than workers who experience an accommodation off the job. Why is that, because Worker's Compensation has an experience rating system. The DI system doesn't. So that is the important point.

But you are absolutely right that this will make employers more cognizant of the risks of employing someone with a disability, and if they perceive that if you already have a disability you are more likely to move on to the disability rolls there could be a problem there. So what you can do is you can simply either give employers a tax credit for hiring such workers or not have those workers in your pool so that it is not included and use those for general revenues.

So there is a way to get around that problem and I certainly agree it is an issue and we should worry about it. But I think the important point here is that, I am not talking about pie in the sky when I am talking about getting the disability rolls changed.

In 1981, only 33 percent of people who said they had a work limitation in the data that the current population survey were on the

DI rolls; 33 percent. Today, there is no real change in the underlying conditions of these folks, but 52 percent are on the DI rolls. And it is not the case that this chart is deceptive, because actually, Autor and Duggan, who are at MIT and Princeton, have done work looking—and showed that the three points that were made about demographics only account for about 25 percent of the rise in DI; 75 percent is due to the programs changes both in the rules and in their interpretation. That is not me. That is the Brookings Institution folks who are saying exactly the same thing.

Mr. BERG. Ms. Houghton, thanks for your enthusiasm and passion, but also how can we inspire, promote employers to seek out workers and incorporate them? Is there some specific thing in addition to what you have already outlined?

Ms. HOUGHTON. The best thing that we know, the best thing that we are finding is that business learns from each other. I mean, I think if we look at the tax credits that exist that are already in existence, business isn't taking advantage of them because it is too much government red tape. And so in large part, they are going unutilized. So it is definitely something that we need to look at. Can we tell you specifically what it needs to be?

Mr. BERG. Thank you all. I yield back, Mr. Chairman.

Chairman JOHNSON. Thank you.

Mr. Stark, do you care to make comments.

Mr. STARK. Thank you, Mr. Chairman. I thank the panel for their interesting observations. I would first of all like to try to make it the protocol in this committee—I am not succeeding too well—that we strike from our lexicon the word “disability.” There are very few people in this world who are breathing and among the quick who are disabled. Many of them have disadvantages, and I like that so much better. I have a son with a disadvantage, and he can explain it to you. And he can explain what he has to do to compensate for it, but under no circumstances would he be considered disabled. And I think that is true for almost all except those people who are really just in a vegetative state and unable to speak or function for themselves. And that isn't many. I think if we look at the disadvantages that they can be overcome, and that, as many of you have suggested, employers will find work for them. I think Dr. Stapleton mentioned that with the increase in technology we are not talking about as many people having to work with their backs and their hands, which often is a case where a disadvantage can end it, but where people can work with their minds, some people who are mute, some people with sight disadvantages, some people with—all can be put to work using other skills in this day and age.

We have job shortages, and one of the things that we hope is that the economy coming back will encourage this. But where we come from in California with the tremendous growth there of technical work, I worked for many years with Steve Jobs and worked on computer programs that Apple did that actually could help people with autism function in a community. We were just beginning when Steve died to deal with dyslexia, and finding ways for people there, many of whom we find now we have a Dyslexia Caucus, Members of Congress who are dyslexic, and didn't know it may be until they got out of college, or have children, but we have learned

to deal with that. And my son with dyslexia can tell you about the other brilliant people in the world, Whoopi Goldberg, Charles Schwab, the thoracic—head of the thoracic surgeons, these are all people with several years ago we thought was a quote “disability.” It is not. It is a disadvantage. But as someone, the chairman and I, the chairman will catch up with me one of these days, but as you learn, after—20 or 30 years after you are past the retirement age, you hope that people don’t catch on to what your disadvantages are and you can keep functioning. We like our jobs, and so far we have fooled the public, and the chairman has done a better job of that than I have. So we are still here, and limping or getting along with our disadvantage. And I hope, I just hope that all of you will encourage people. Employers will find, and they are not in the business of running charities. They are not going to go out and just search for someone just because they happen to be in a wheelchair or because they happen to need certain assistance. They want people who can perform and we can provide them. We may have to provide some extra education but that saves us all money and it gives us real social benefits.

So I appreciate all of your interest in this and, Chairman, I am pleased that you have brought this to our attention because I think it is something that deserves much attention both from the government and private industry. Thank you very much.

Chairman JOHNSON. Thank you, sir.

Mr. Brady, you are recognized.

Mr. BRADY. Thank you, Mr. Chairman, thank you for holding these series of hearings. The disability program is so important, but I don’t think it is just fine. You know, I don’t think just modest changes will save this program. I think it is financially flawed. I think it is structurally flawed. I think it is operationally flawed, and at the heart of it is that we are addressing a 21st century challenge looking at it through a 1950s lens. So much has changed and we have to, if we are serious about saving this program, make some bold moves, Republicans, Democrats together, to put it on sound footing again.

You know, I think to illustrate the change all of us watched the Olympics, watched Oscar Pistorius from South Africa compete probably in a way that many disability judges would have said you have no chance for significant gainful employment. Here he is competing at the highest level. Not that all of those on disability can do that, but it exemplifies what a sea change has occurred.

You know, I was reading through some of the information we had in the report from CBO that makes the point over the last 20 years, despite the Americans with Disabilities Act, despite equal access to employment, all of the reasonable accommodations that businesses are making, the strides in medical treatments and surgeries and prosthetics, the fact that we have moved to a service economy, seventy percent of the jobs in most of our congressional districts are service jobs that pay an average of about \$60,000, the financial job, Ms. Houghton, you are describing, so these are jobs you can raise a family on. Yet, while we have made all of that progress and the environment is changing, the employment rate among people with disabilities has declined by almost half. So as the environment has gotten better at the workplace, the number of

those with disabilities who actually find jobs has actually been cut in half over 20 years; not just recent periods, 20 years. And many of those increasing disability claims are from younger workers with either mental or musculoskeletal disorders, which evidence shows have the best chance of staying in the workplace.

So having said all of that, the question is, how do we solve it? And with the time I have remaining, Ms. Houghton, you in your testimony, you talked about changing the lens of how we look at those with disabilities from what you term a deficit-based or medical model to a talent or social model. I don't understand what that means. Can you explain better what it is and how you would apply that to a solution on disability?

Ms. HOUGHTON. Thank you, Mr. Brady. The medical model looks at an individual and what they can't do, so we see that. We see that in the media portrayals of people with disabilities, and we see it when a person with a disability—when we talk about business hiring people with disabilities and we say that they are doing it because it is a nice thing to do. Okay. The social model focuses on the talent perspective, and says that the individual is—when provided accommodations, when viewed for what they can do, that it is about what the person can do and the talent that they bring to the job.

Mr. BRADY. Do you think the system we use today in disability reflects that view?

Ms. HOUGHTON. No, I do not.

Mr. BRADY. Anywhere close?

Ms. HOUGHTON. I think we have been talking that the system was created in 1956, and that it was a different era; the medicine, science, technology was different.

Mr. BRADY. I think Mr. Bertoni's point, there has been some movement in that direction, but fairly small, so the question I would ask, and we are almost out of time, unfortunately, is what is the most significant change we could make to actually bring that about?

Ms. VOGEL. I think that there are three changes in particular that we want to consider. So from a SHRM perspective, we need a harmonization of the various definitions of disability. If you look across the ADA, FMLA, everybody has different definitions. I think if we can harmonize those definitions and make it simpler, I think that is number one.

Number two, we should look at the interplay of ADA, FMLA, Worker's Comp, allowing ADA to really trump. And the reason, to your point, is because that is more about what people can do. How do we provide an accommodation so that you can be successful. Looking at it from the standpoint of workplace solutions, productivity tools, that is really what an accommodation is. And that is that social model.

And I think the third piece is that we need to find a way to have much more aggressive collaboration between the employers and vocational rehabilitation. Voc rehab does not understand employers and what their perspectives are on providing services. We need to educate both sides, but do it in a way that is collaborative and that they are talking to each other on a very regular basis.

Mr. BRADY. Can I ask this, Mr. Chairman, I am out of time, but can I ask these folks, you know, in your testimony you lay out much of that, but if there are some other thoughts we need to have as a committee, could you all submit that to us, to Chairman Johnson and Ranking Member Becerra? Would that be okay, Mr. Chairman?

Chairman JOHNSON. That is a good point, thank you. Mr. Marchant, you are recognized.

Mr. MARCHANT. Thank you, Mr. Chairman. My observation after these five hearings, Mr. Chairman, is that SSDI has become a destination for many of the workers and they spend 2 years proving through the court system that they are, in fact, disabled and cannot work, and then when they get that designation, then it opens the door to not a job, not training, but it opens the door to qualifying for food stamps. It opens the door for qualifying for assistance with their utilities. It opens the door for subsidized housing, and so all of the doors that seem to get opened once you achieve this destination, all of that ends up disincentivizing the person to go to work. And then when the person—and I have a 30-year old son that is a T-6 paraplegic, has a college education, as many training programs as a parent can get their child training programs, isn't designated as SSDI, but goes to a job application and finds out that the health care—that the company looks at a particular disability and sees, how am I going to put this person on my health care? How am I going to accommodate this? And so the SSDI designation ends up being that is where you go, that is where you stay until you can either go off of it at age 62, or go to 65, or get to Medicare. And it is just basically, instead of a way station where you go and stay because you need the support system there while you are trying to do better and you are trying to get a new career, or just start a career, it seems to me that all of the disincentives that business would never put into its system exist here. And so it is not really a safety net anymore. And the thing that is there, and this is for the panel, is there a specific designation that when you qualify for disability, SSDI, there is a specific written designation that you get and do you possess that until it is taken away from you? Do you have to have that? I know for food stamps and utility assistance and stuff like that if you will just present that document, I mean, there is no other documentation needed.

Ms. Ford.

Ms. FORD. Well, as has been stated for the different programs, there are different definitions of disability. So, you know, certain eligibility will open doors, as you mentioned, for other programs but you wouldn't necessarily have to have SSDI for the other programs. I would mention that when the health exchanges are available in 2014 that may relieve some of the pressure for people to go into the SSDI program. We are all sort of waiting to see whether that happens, whether people might be able to have their need for health insurance or Medicare covered by using the health exchanges in 2014 rather than having to go into the SSDI program to get in that doorway after 29 months into Medicare. So that may actually be a way to take some of the pressure off the DI program in the future.

Mr. MARCHANT. What is the amount of money that can be earned by someone that qualifies for SSDI outside of that stipend per month? Does it fluctuate with the person, or the State, or—

Ms. FORD. This is actually one of the proposals that we have. We think there should be a way that a person is always better off earning money when they are a beneficiary rather than not earning money. And that is what happens in the SSI program, but not in the DI program and that has been one of our proposals for a couple of decades now. But right now, it is the SGA level, the—what is it, \$1,000, approximately \$1,000 a month, and after a trial work period your benefits will end. You will have a certain grace period of about 36 months, and those benefits can be reinstated if you stop work. It is very complex, and that is the problem. And there are lots of people who go into the DI program who need it when they need it, but find later that once they have stabilized, once they have come to grips with the change in their life, whatever has brought them to the DI program, whether it is an illness, an accident, whatever, they come to grips with the changes. They are ready to go back to work. They have got the enthusiasm that Jill has expressed, and they want to go back to work. But the barriers are in their way for, as you are describing, and we need to find a way to remove those barriers so that these kinds of technical and very complex problems can be done away with.

Now, Social Security has put forward a proposal that would actually help do that. It is called the Work Incentive Simplification Program, or WISP, that we are encouraging that we should pilot to make these work incentives very, very simple so that people don't get caught up in all the worrisome details and they are not afraid to go to work and potentially lose a critical support if they fail. So that there aren't complications going back and forth, and that they will be better off if they do try to go to work and find out whether they can make it. So we think that would be an important work simplification and work incentive.

Mr. MARCHANT. Thank you, Mr. Chairman.

Chairman JOHNSON. Thank you. Mr. Smith, you are recognized.

Mr. SMITH. Thank you, Mr. Chairman. Dr. Burkhauser, it appeared you disagreed when Ms. Ford was advocating for the reallocation of funds to the DI trust fund. Would you like to address those concerns?

Mr. BURKHAUSER. I think that simply papering over the problems with DI by borrowing money from the retirement trust fund to the DI trust fund really misses the point; that there are real things going on that need to be adjusted. So while it is true that compared to the problems of the retirement system as a whole, and compared to the healthcare system, perhaps a disability system would only cost us \$120 billion a year isn't such a big thing. But I think it is a big thing and it is a big thing because what we are doing is we are actually as Stapleton talked about, we are making people with disabilities worse off by the current system that we have. We are luring them into a disability program, either SSI or DI, that once in the system, as we just heard, it is very difficult to come out, very difficult to earn enough money to get around that.

What we need to do is stop putting people on the disability rolls who in fact could work. Stop making them demonstrate that they can't work before we do a Ticket To Work where we are trying to provide them with work. What we need to do is figure out how to get those people, the early interventions, well before they move on to the DI rolls. These are sort of basic points that have to be taken care of and they can't be papered over by a financial trick of moving one trust fund money from one side to the other.

Mr. SMITH. Thank you.

Mr. Bertoni, Dr. Stapleton suggests that we do not yet have sufficient evidence to support the detailed structural changes to the DI program. Among other things, he proposes pilot projects to get better data and practice as part of a strategy of disability reform.

What would you say if you could reflect a bit on your perspective of Social Security's track record with conducting demonstration projects?

Mr. BERTONI. I would agree that there needs to be more study and analysis of some of these proposals to ensure that we are examining the best of the proposals, what they intend to do, but also be cognizant of the potential unintended consequences that can occur and get in front of those before we roll out any new system, or process. But in terms of SSA's demonstration authority and their track record, we have issued at least a couple of reports on this, most recently in 2008, looked at 14 demonstrations that they conducted over a period of a decade, and five of those were terminated due to real limitations. Four were completed, and of those nine, none of those yielded any policy data that could be useful to Congress. The remaining five were ongoing and we certainly had some concerns with those. That was at a cost of about \$155 million with another projected cost of \$220 million going forward for the remaining five. The key there was that they just didn't have sufficient protocols and guidance to design, implement, and evaluate these initiatives. And as a result, they went by the boards for the most part.

We have recommended that they put some more structure around that, especially to protect against sort of changes in the administration, where folks in a new administration might come in, terminate perhaps some projects that could have promise, and sometimes we found that those terminations were not data driven. We really didn't see a clear rationale. And that is just not good. That is just taxpayer money that is not well spent.

So in terms of track record, not very good. They have instituted some recommendations that we have asked them to do. We haven't revisited it. But in our most recent effort to look at their efforts to update their medical listings and develop our occupational information system we reported in that report that from a technical standpoint they are pretty thin in terms of expertise and resources to do some of these pretty aggressive projects.

Mr. SMITH. So if we did move forward with a pilot program, should Social Security be tasked with such an effort?

Mr. BERTONI. I think that would depend on what model you chose to pursue. It doesn't necessarily have to be the entity that would run these projects. This could be done in other agencies, other, you know, other levels of government, States, private sector.

So I think it is really you have to think about what you want to do, what the elements of that reform system might look like and then decide who would be, you know, responsible for the pilot. But clearly, if you stay within the confines of the current mouse trap and try some things within the current system, SSA would likely have a role there. I think they would probably leverage the outside research community.

Mr. SMITH. Thank you, my time is expired. I yield back.

Chairman JOHNSON. Thank you for your comments. Without objection, I would like to insert into the hearing record the recent report from the Congressional Budget Office entitled: Policy Options for the Social Security Disability Insurance Program.

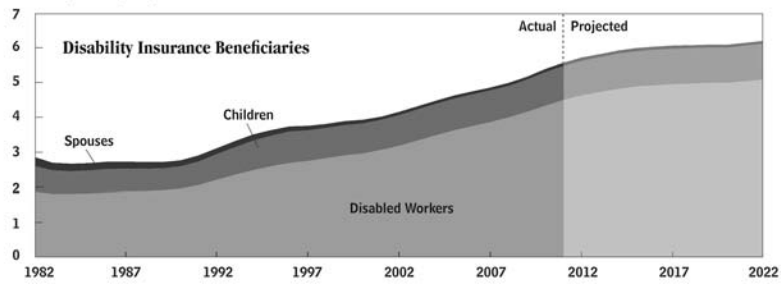
Without objection, so ordered.

[The prepared report follows:]

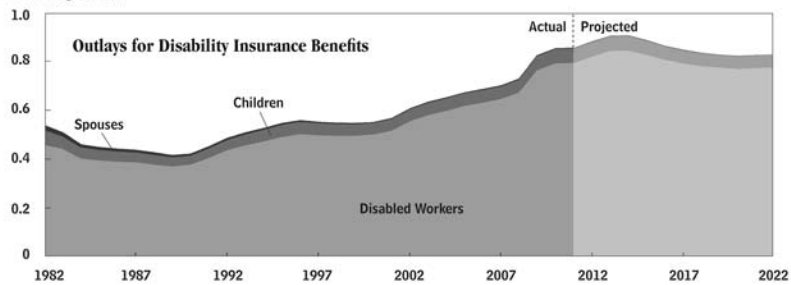
CBO

Policy Options for the Social Security Disability Insurance Program

Percentage of People Ages 20 to 64



Percentage of GDP



JULY 2012

Note

Unless otherwise indicated, the years referred to in this report are federal fiscal years (which run from October 1 to September 30).



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Summary

The Social Security Disability Insurance (DI) program pays cash benefits to nonelderly adults (those younger than age 66) who are judged to be unable to perform “substantial” work because of a disability but who have worked in the past; the program also pays benefits to some of those adults’ dependents. In 2011, the DI program provided benefits to 8.3 million disabled workers, nearly sixfold the 1.4 million disabled workers who received benefits in 1970. Including the dependent spouses and children of those workers further increases the number of people receiving support in 2011 to 10.3 million. The growth in the program can be attributed to changes in multiple factors, including demographics, the labor force, federal policy, opportunities for work, and compensation (earnings and benefits) during employment.

Over the past 40 years, outlays for benefits from the DI program (adjusted for inflation) have grown by more than nine times. During that period, the average benefit received by disabled workers rose from about \$560 per month to about \$1,050 per month in 2010 dollars. (Other programs also support workers with disabilities; for example, DI beneficiaries receive Medicare benefits that cost the federal government on average more than 80 percent as much as their DI benefits.) By comparison with outlays, revenues dedicated to the program have increased nearly fivefold since 1970. The divergence between the program’s spending and revenues has prompted concerns about its financial sustainability. In 2011, spending on benefits in the DI program was \$128 billion, or 0.86 percent of gross domestic product (GDP); by contrast, the program’s revenues totaled about \$94 billion, or 0.63 percent of GDP. In 2022, the program’s spending and revenues will be roughly the same shares of economic output as in 2011, according to the Congressional Budget Office’s (CBO’s) estimates. By 2037, revenues as a percentage of GDP will be little

changed, but spending as a share of output will have fallen slightly, as the proportion of the working-age population that is age 50 or older (and thus more likely to receive DI benefits) declines.

In this study, CBO in conjunction with the staff of the Joint Committee on Taxation (JCT) has estimated the budgetary effects of a variety of potential modifications to the DI program. In CBO’s and JCT’s estimation, two policy options that would alter the taxes that support the program would result in higher revenues of \$13 billion or \$28 billion in 2022. Seven policy options that would modify benefits could lead to declines in the rate of growth of the number of participants in the program and to cuts in the program’s spending relative to CBO’s currently published estimates; cuts in spending could range between about \$1 billion and about \$22 billion in 2022. In addition, CBO estimated the longer-run effects of each option relative to the agency’s current long-term estimates: By 2037, the two revenue options would increase DI tax receipts in that year by 8 percent or 22 percent, and the seven spending options would reduce DI outlays by between 2 percent and 14 percent.

Modifications to the DI program would necessarily affect several other federal programs, including, most significantly, the Social Security Old-Age and Survivors Insurance (OASI) program, Medicare, the Supplemental Security Income (SSI) program, and Medicaid. However, analysis of those interactions was outside the scope of this report.

Restoring the DI program to a sound budgetary position would require combinations of the policies examined here or other changes to the program. From the perspective of the overall federal budget, the increases in taxes and reductions in spending considered in this analysis would improve the fiscal outlook to varying degrees but

would leave very large imbalances between total federal revenues and spending if current policies were continued in all other respects.¹

Alternatively, lawmakers could choose to modify the DI program in ways that would provide greater support to certain DI beneficiaries and increase spending for the program. CBO examined two policy options of that sort. Those options would increase DI outlays by \$8 billion or \$16 billion in 2022 and by 5 percent or 6 percent by 2037.

Policymakers could also alter the program in more fundamental ways. CBO reviewed proposals for several such changes, and this report summarizes the main themes

among them. Modifications might include promoting disabled beneficiaries' return to work—for example, by moving to a partial disability system that related benefits to the degree of disability or, in the case of newly disabled workers, by focusing on rehabilitation and reemployment rather than the receipt of benefits. Many of those alternatives have been implemented in various European nations, in part to reduce spending on disability programs, and that experience may provide some insight into the options' potential effects. But the changes in policy that those countries have instituted generally have been in place for such a short time that their fiscal impact is uncertain. Overall, CBO concludes, such fundamental changes might help move the United States' DI program toward budgetary balance in the long run but are unlikely to provide sufficient immediate cost savings to resolve the program's near-term financial pressures.

1. For a discussion, see Congressional Budget Office, *The 2012 Long-Term Budget Outlook* (June 2012).



Policy Options for the Social Security Disability Insurance Program

What Is Disability Insurance?

The Social Security Disability Insurance program is one component of the framework of support that is the federal Social Security system, which comprises the Old-Age, Survivors, and Disability Insurance programs. The DI program provides income to nonelderly adults who have worked in the past but whom the Social Security Administration (SSA) now deems unable to work because of a medical condition that is expected to last more than one year or to result in death. Only workers who are younger than the full retirement age—established for the Old-Age component of Social Security—can be eligible for DI benefits.¹ Disabled beneficiaries receive monthly payments based on their past earnings for as long as they remain in the program.² (Some family members of disabled beneficiaries, including certain spouses and children, are also eligible for benefits.) If DI beneficiaries remain disabled and live to their full retirement age, they transfer to the Social Security retirement program at that age, but their benefits do not change.³

In May 2012, the DI program provided benefits to 10.8 million people. More than 80 percent of them,

or 8.7 million people, were disabled workers; about 18 percent, or 1.9 million, were children of those workers; and fewer than 2 percent, or 166,000, were spouses of those workers.

The DI program's rules generally restrict beneficiaries from working and earning substantial amounts while they are receiving benefits. However, when beneficiaries first start to work, they can earn an unlimited amount for 12 months without losing their benefits. Thereafter, they can earn no more than some specified amount per year (\$12,120 in 2012) before their benefits are eliminated. (A beneficiary may enter a "trial work period" during which he or she may work for nine months and remain in the program. A three-month grace period follows the trial work period.)⁴ The average monthly benefit for a disabled worker in May 2012 was \$1,111; thus, at that benefit level, the average DI beneficiary this year may have an annual income of no more than \$25,452 from those two sources. (For purposes of comparison, average income per person for the nation as a whole, according to the Census Bureau, was about \$26,500 in 2010.) In 2006, the most recent year for which data are available, 50 percent of DI beneficiaries had household income that was below the federal poverty threshold—a proportion

1. The full retirement age is the age at which a person becomes eligible for unreduced Social Security retirement benefits. For details on DI eligibility, see Social Security Administration, *Disability Evaluation Under Social Security* (Blue Book), SSA Pub. 64-039 (September 2008), www.ssa.gov/disability/professionals/bluebook/listing-impairments.htm.

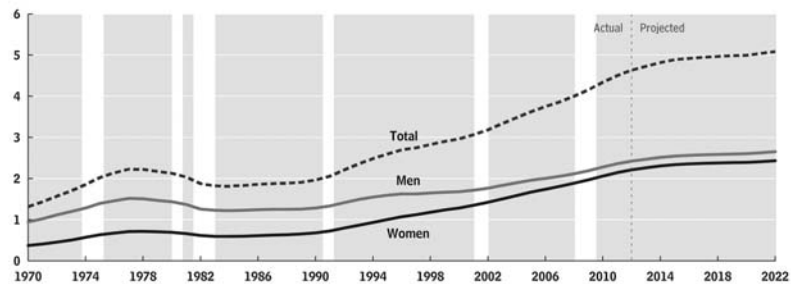
2. In this report, the term "disabled beneficiaries" refers to people with disabilities who are receiving benefits from the DI program as a result of their own disability and whose DI benefits are calculated on the basis of their own work history. (Such beneficiaries are also referred to as disabled worker beneficiaries, disabled workers, or disabled insured beneficiaries.)

3. For more-detailed descriptions of the DI program, see Congressional Budget Office, *Social Security Disability Insurance: Participation Trends and Their Fiscal Implications* (July 2010); and Social Security Administration, *Disability Benefits*, SSA Pub. 05-10029 (July 2011), www.ssa.gov/pubs/10029.html.

4. Blind beneficiaries face higher thresholds; in 2012, they could earn up to \$20,280 per year. For more information, see Social Security Administration, "Trial Work Period" (October 2011), www.ssa.gov/oact/COLA/twp.html.

Figure 1.**Fraction of the Working-Age Population (People Ages 20 to 64) Receiving Disability Insurance Benefits**

(Percent)



Sources: Congressional Budget Office; Social Security Administration.

Note: White bars indicate recessions.

about five times higher than the national poverty rate of 10 percent at that time.⁵

How Have Participation in and Costs for the Disability Insurance Program Grown?

Over the past 40 years, the number of disabled workers who receive benefits from the DI program has increased nearly sixfold, rising from 1.4 million in 1970 to 8.3 million in 2011. (Dependents of disabled beneficiaries are not included in that calculation.) In calendar year 1970, about 1.3 percent of working-age adults—individuals ages 20 to 64—were receiving DI worker benefits; in

2011, that fraction was 4.5 percent. Much of the recent growth in the share of the population that comprises disabled workers stems from increases in the number of women receiving disabled worker benefits. Between 1970 and 1995, the percentage of women who received such benefits grew by about 0.6 percentage points—about the same rate of growth as for men. Between 1995 and 2011, however, women receiving disabled worker benefits increased from 1.0 percent to 2.1 percent of all working-age adults; the corresponding change for men was from 1.6 percent to 2.4 percent.

Between calendar years 2012 and 2022, growth in the share of people ages 20 to 64 receiving DI benefits will slow considerably relative to growth during the past 40 years, the Congressional Budget Office projects. Nevertheless, in CBO's estimation, the share of people of those ages receiving benefits in 2022 will rise to more than 5.0 percent, with about equal relative increases in the proportion who are men and the proportion who are women (see Figure 1).

The rapid growth in the DI program's rolls has put increasing pressure on its finances. Between fiscal years 1970 and 2011, DI expenditures on benefits (adjusted for inflation) rose by more than nine times. As a result, a growing share of spending for the Social Security system is being directed to participants in the DI program. In

5. Because the poverty rate among DI beneficiaries is measured at the household level and the national poverty rate is measured at the family level, the two are not strictly comparable. The household poverty rate among DI beneficiaries comes from Table 9 in Gina Livermore and others, *Work Activity and Use of Employment Supports Under the Original Ticket to Work Regulations—2006 National Beneficiary Survey: Methodology and Descriptive Statistics* (Mathematica Policy Research, Center for Studying Disability Policy, October 2009), www.mathematica-mpr.com/publications/PDFs/disability/TTW_2006_NBS.pdf. The national poverty rate is calculated for all families by the Census Bureau; see *Income, Poverty, and Health Insurance Coverage in the United States: 2006*, Current Population Reports, P60-233 (August 2007), www.census.gov/prod/2007pubs/p60-233.pdf.

1970, DI spending was about 10 percent of OASDI expenditures; by 2011, that share had grown to nearly 18 percent. CBO estimates that by 2022, as the number of beneficiaries in the Social Security retirement program swells, the DI program's share of OASDI spending will shrink to about 15 percent.

Total DI expenditures were \$128 billion in 2011 and, CBO projects, will be \$204 billion in 2022. Measured relative to the size of the economy, DI spending was about 0.27 percent of the nation's gross domestic product in 1970; by 2011, that share had grown to 0.86 percent. CBO expects that proportion to continue to increase, to about 0.91 percent in 2013 and 2014, before declining slightly, to 0.83 percent in 2022. In contrast, revenues measured as a share of economic output were 0.63 percent of GDP in 2011 and, CBO projects, will be 0.65 percent of GDP in 2022.⁶

Total government spending on DI beneficiaries is substantially higher. In particular, the cost of Medicare benefits received by people who are eligible for them because they receive DI benefits was about \$80 billion in 2011; CBO expects that it will be \$120 billion in 2022. Moreover, some DI beneficiaries also receive benefits from the Medicaid and Supplemental Security Income programs.

The DI program's rapid expansion and the projected gap between its spending and dedicated revenues in the future raise questions about the financial sustainability of the program. Since 2009, the program has been paying out more in annual benefits than it receives in taxes and in interest on the balances in its trust fund.⁷ CBO projects that the DI trust fund will be exhausted by 2016, nearly 20 years before the projected exhaustion of the trust fund for the Social Security retirement program.⁸

6. Lawmakers have reduced the workers' portion of the payroll tax by 2 percentage points for calendar years 2011 and 2012; the reduction in tax revenues is being made up by reimbursements from the Treasury's general fund to the two Social Security trust funds. For the purposes of the calculations in this report, Social Security payroll tax revenues are considered to include those reimbursements.

7. Federal trust funds, including those for Social Security, essentially constitute an accounting mechanism. In a given year, the sum of a fund's receipts along with the interest that is credited on previous balances, minus spending for benefits and administrative costs, equals a fund's surplus or deficit.

Why Has the Disability Insurance Program Grown So Rapidly?

Multiple factors help explain the DI program's rapid growth, and CBO has grouped them under three main categories:

- Changes in demographics and growth of the labor force,
- Changes in federal policy, and
- Changes in opportunities for employment and compensation.

Changes in Demographics and Growth of the Labor Force

Part of the growth in the DI program reflects the aging of the large baby-boom generation (people born between 1946 and 1964) and consequently the aging of the workforce, which has led to an increase in the share of workers who enter the DI program. Older workers are far more likely than younger workers to qualify for DI benefits. More older people suffer from debilitating conditions; moreover, the program's qualification standards for older workers are less strict than those for younger workers because older people are assumed to be less able to adapt to new types of work.

The aging of the baby-boom generation has shifted more people from the ranks of younger workers (ages 25 to 44), for whom the rate of enrollment in the DI program is lower, and into the ranks of older workers (ages 45 to 65), for whom the rate of enrollment is higher. Between calendar years 1996 and 2009—the approximate period during which the baby-boom generation entered their 50s—the share of disabled worker benefits awarded to older workers (age 45 and older) rose from 67 percent to 76 percent; mirroring that increase was the decline in the share of benefits awarded to younger workers (ages 25 to 44), which fell from 31 percent to 22 percent.⁹ Thus, the

8. Pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (section 257(b)), CBO's baseline projections incorporate the assumption that DI benefits will be paid in full even after the trust fund is exhausted.

9. Over that period, awards to people younger than age 25 rose from 2.0 percent to 2.5 percent. See T.A. Zayatz, *Social Security Disability Insurance Program Worker Experience*, Social Security Administration Actuarial Study 122 (Social Security Administration, May 2011), www.ssa.gov/OACT/NOTES/s2010s.html.

baby boomers' aging would have boosted enrollment in the DI program even if no other factors had changed.¹⁰

Another reason for the DI program's growth is the increase in the labor force relative to the number of working-age people. That increase largely stems from a rise in the number of working women, who are eligible, like men, to receive benefits if they become disabled. The increased number of working women has boosted revenues for the DI program, through the payroll taxes collected on their earnings, but it has also led to more disabled beneficiaries and higher outlays for the program.

Changes in Federal Policy

In 1984, lawmakers enacted the Disability Benefits Reform Act, which expanded the ways in which people could qualify for the DI program. That legislation, in addition to reversing several of the cost-containment measures enacted as part of the 1980 Social Security Disability Amendments, shifted the criteria for DI eligibility from a list of specific impairments to a more general consideration of a person's medical condition and ability to work. The legislation allowed applicants to qualify for benefits on the basis of the combined effect of multiple medical conditions, each of which taken alone might not have met the criteria. It also allowed symptoms of mental illness and pain to be considered in assessing whether a person qualified for admission to the DI program, even in the absence of a clear-cut medical diagnosis.¹¹ The easing of the eligibility criteria increased the importance of subjective evaluations in determining whether applicants qualified for benefits.

10. See Mark G. Duggan and Scott A. Imberman, "Why Are the Disability Rolls Skyrocketing? The Contribution of Population Characteristics, Economic Conditions, and Program Generosity," in David M. Cutler and David A. Wise, eds., *Health at Older Ages: The Causes and Consequences of Declining Disability Among the Elderly* (University of Chicago Press, 2009), pp. 337–379, www.nber.org/chapters/c11119. Those authors estimate that the aging of the population accounts for about one-fifth of the growth in the share of the working-age population enrolled in the DI program.

11. See Zayatz, *Social Security Disability Insurance Program Worker Experience*; Frank S. Bloch, "Medical Proof, Social Policy, and Social Security's Medically Centered Definition of Disability," *Cornell Law Review*, vol. 92 (2006–2007), p. 189; and David H. Autor and Mark G. Duggan, "The Growth in the Social Security Disability Rolls: A Fiscal Crisis Unfolding," *Journal of Economic Perspectives*, vol. 20, no. 3 (Summer 2006), pp. 71–96.

Those changes in policy led to a substantial expansion in the share of DI beneficiaries with mental or musculoskeletal disorders, many of whom enter the program at younger ages than do people with other types of disabilities and many of whose applications are largely judged by using subjective criteria. The share of beneficiaries with musculoskeletal disorders increased from about 17 percent in calendar year 1986 (two years after the passage of the law) to over 28 percent in 2010. The share of beneficiaries with mental disorders increased from about 22 percent in 1986 to about 33 percent in 2010. In addition to increasing the number of people who enter the DI program, those changes have helped boost the average length of time that disabled workers receive DI benefits because those disorders are comparatively more prevalent at younger ages and comparatively less likely than many other qualifying conditions to result in premature death.¹²

Another way in which federal policy has led to growth in the DI program is through the rise in the full retirement age for Social Security that has occurred during the past decade. That rise has had two main effects on the DI program: It has enlarged the potential pool of DI applicants by including more older workers who have not yet reached their full retirement age, and it has increased the length of time individuals spend receiving DI benefits because disabled worker beneficiaries now shift to the Social Security retirement program later than in previous years. (In addition, the rise in the full retirement age has boosted revenues for the DI program in the form of payroll taxes collected on the earnings of people who are now working longer before claiming retirement benefits.) Between 2002 and 2009, the age at which DI beneficiaries transferred to the retirement program rose from 65 to 66; it is scheduled to rise to age 67 by 2027.

12. Musculoskeletal disorders include, for example, certain disorders of the spine and major dysfunctions of the joints, which affect people's ability to ambulate or to perform fine and gross movements effectively. Mental disorders include, for example, certain types of affective, psychotic, and anxiety-related disorders. (Details are available at www.ssa.gov/disability/professionals/bluebook/AdultListings.htm.) Researchers have found that mortality rates vary substantially by diagnosis and that DI recipients with mental disorders and musculoskeletal conditions have lower mortality rates than the average DI recipient. See Kalman Rupp and Charles G. Scott, "Trends in the Characteristics of DI and SSI Disability Awardees and Duration of Program Participation," *Social Security Bulletin*, vol. 59, no. 1 (January 1996), pp. 3–21, www.ssa.gov/policy/docs/sbb/v59n1/index.html.

Changes in Opportunities for Employment and Compensation

Whether people apply for DI benefits is strongly affected by the design of the program, the opportunities people have for employment, and the difference between the DI benefits an individual would receive and the compensation (earnings and benefits, including health insurance) associated with working. When jobs are plentiful, some people who could qualify for the DI program may choose instead to work. Conversely, when jobs are scarce, such as in economic downturns, some people with disabilities may find that their employment opportunities are especially limited, and they will instead choose to apply for DI benefits. Indeed, in the aftermath of the recent severe recession, applications for DI benefits reached a historic high, exceeding 2.9 million in calendar year 2010.¹³

Short-term economic downturns can have long-term effects on the DI program's benefit rolls. Many people who have been out of work for long periods find it hard to reenter the labor force, especially at their previous wage level, and they may ultimately turn to the DI program for support. Once they have been awarded benefits, only a very small percentage of DI participants permanently leave the program to return to the workforce.¹⁴ CBO projects that as a result of the most recent recession and slow recovery, the number of disabled worker beneficiaries will continue to rise over the next few years (although growth will slow as the economy improves). That increase in participation stemming from the severe economic downturn will add to the long-term trend of rising enrollment.

The value of the benefits that a worker receives from the DI program relative to the earnings and benefits received through his or her job will also affect whether an eligible worker decides to apply for DI benefits. Workers who are displaced from jobs during economic downturns may

face large cuts in their wages upon reemployment, making DI benefits relatively more desirable. Moreover, because the formula for calculating benefits is progressive, it replaces a larger share of earnings for low-wage workers than for high-wage workers. That progressivity combined with the growing gap between the earnings of low-paid and highly paid workers has probably increased the number of low-wage beneficiaries since the late 1970s.¹⁵

Access to health insurance and the cost of obtaining it are additional factors that can affect an individual's decision to apply for DI benefits. Disabled beneficiaries receive coverage under Medicare, regardless of their age, generally after a 24-month waiting period. For workers without employment-based health insurance, the eventual eligibility for Medicare that comes with participation in the DI program may be quite valuable and may encourage them to apply. Similarly, the recent decline in employer-provided health insurance might increase participation in the program not only by encouraging workers with disabilities to apply but also by discouraging those who are receiving benefits from leaving.¹⁶

The recently enacted Affordable Care Act is likely to influence future application rates for the DI program (especially after 2014, when new health insurance requirements are set to take effect under the law), but whether it will result in more or fewer beneficiaries is difficult to predict.¹⁷ Among other changes, that legislation will make it easier for people who have health problems to buy their own insurance; it will also provide new subsidies for individually purchased coverage and expand

13. In calendar year 2011, the number of DI applications dropped slightly, to just under 2.9 million; see Social Security Administration, "Selected Data from Social Security's Disability Program" (May 2012), www.ssa.gov/OACT/STATS/dibStat.html.

14. See Su Liu and David C. Stapleton, "Longitudinal Statistics on Work Activity and Use of Employment Supports for New Social Security Disability Insurance Beneficiaries," *Social Security Bulletin*, vol. 71, no. 3 (August 2011), pp. 35–59, www.ssa.gov/policy/docs/sb/v71n3/index.html. Those authors found that over a 10-year period, about 4 percent of an entering cohort of new DI beneficiaries left the program to take a job.

15. For additional discussion, see L. Scott Muller, "The Effects of Wage Indexing on Social Security Disability Benefits," *Social Security Bulletin*, vol. 68, no. 3 (December 2008), pp. 1–44, www.ssa.gov/policy/docs/sb/v68n3/index.html; Autor and Duggan, "The Growth in the Social Security Disability Rolls: A Fiscal Crisis Unfolding"; and Kalman Rupp and David C. Stapleton, "Determinants of the Growth of the Social Security Administration's Disability Programs—An Overview," *Social Security Bulletin*, vol. 58, no. 4 (October 1995), pp. 43–70, www.ssa.gov/policy/docs/sb/v58n4/index.html.

16. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2010*, Current Population Reports, P60-239 (September 2011), Table C-1, www.census.gov/prod/2011pubs/p60-239.pdf.

17. The Affordable Care Act comprises the Patient Protection and Affordable Care Act (Public Law 111-148) and the health care provisions of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

eligibility for Medicaid in states that choose to do so. On the one hand, applications to the DI program may decline—because people who do not have employment-based health insurance will find it easier to obtain subsidized coverage as well as to gain access to health care without applying for DI benefits. On the other hand, applications to the DI program might increase—because some people who would lose employment-based health coverage if they left their jobs to apply for DI benefits will have access to insurance during the two-year waiting period for Medicare benefits, with no exclusions for pre-existing conditions, through the health insurance exchanges that will be established under the law. Moreover, that insurance might be subsidized, depending on an individual's income.

Approaches to Addressing the Fiscal Imbalance in the Disability Insurance Program

Alleviating the financial pressures on the DI program will require a substantial increase in revenues for the program, a substantial decrease in the program's costs, or some combination of those two approaches. On the revenue side, options are straightforward but limited: To expand revenues, DI taxes paid by employers or employees (or both) must rise, or some other source of funding must be used. In contrast, options for reducing costs are both more complex and more numerous: For example, the components of the formula that is used to calculate DI benefits could be altered, as could one or more of the rules used to help determine eligibility for the program. CBO evaluated a variety of options that policymakers or researchers have identified, focusing on the following:

- The formula for computing benefits,
- The factors that increase benefits over time,
- Changes in eligibility that affect the number of workers who enter the DI program and the likelihood that people who are receiving benefits will leave the program and return to work, and
- Changes in the length of time people must wait to enter the program after they apply for benefits.

For each option, CBO assumed that the policy would take effect at the beginning of calendar year 2013. Estimates of the budgetary effects of the options during the next decade—which are derived from the agency's March 2012 baseline—are presented as nominal dollars in 2022 and as percentage changes from currently scheduled outlays or revenues; estimates of budgetary effects beyond the next decade—which are derived from the agency's June 2012 long-term budget projections—are presented solely as percentage changes in DI revenues or outlays from the projections for 2037 under current law (see Table 1).¹⁸

With a couple of exceptions, as noted below, CBO's estimates of the budgetary effects of the policies include savings or costs to the DI program itself and to the Social Security Old-Age and Survivors Insurance program when the effects on OASI are simply a result of DI beneficiaries' transferring to the OASI program.¹⁹ (Benefits for DI beneficiaries who shift to the OASI program are paid from the OASI trust fund.) Modifications to the DI program would necessarily affect several other federal programs in addition to the Social Security Old-Age and Survivors Insurance program, including, most significantly, Medicare, Medicaid, and the Supplemental Security Income program. For the policy options presented in this study, CBO generally has not estimated the effects they might have on those other federal programs. (For a more complete discussion of such interactions, see Box 1.)

18. CBO's baseline is a neutral reference point for measuring the budgetary effects of proposed changes to federal revenues or spending. It consists of projections of outlays, revenues, and the deficit or surplus over 10 years calculated according to rules originally set forth in the Balanced Budget and Emergency Deficit Control Act of 1985. For more details about CBO's most recent 10-year current-law baseline projections, see Congressional Budget Office, *Updated Budget Projections: Fiscal Years 2012 to 2022* (March 2012). For CBO's long-term budget estimates, see Congressional Budget Office, *The 2012 Long-Term Budget Outlook* (June 2012).

19. CBO's estimate for the policy option that modifies the factors used to adjust DI benefits (that is, the option involving the chained consumer price index) includes the effects of applying that option to all OASDI beneficiaries and not just to those who shift from the disability to the retirement portion of Social Security. CBO's estimate for the policy option that eliminates DI eligibility starting at age 62 shows both the savings for the DI program and the costs to the OASI program for people who claim OASI benefits in lieu of DI benefits after age 62.

Table 1.**Summary of Possible Approaches to Changing the Disability Insurance Program**

	Number of Disabled Worker Beneficiaries Affected in 2022 (Thousands)	Effect on DI Revenues or Outlays		
		In Billions of Dollars in 2022	Percentage Change from Currently Scheduled Revenues or Outlays	
			In 2022 ^a	In 2037 ^b
Reducing the DI Program's Fiscal Imbalance				
Effects on Revenues				
Increase Revenues				
Raise the DI tax rate by 0.4 percentage points ^c	n.a.	28	18	22
Increase the amount of earnings that are taxable ^c	n.a.	13	8	8
Effects on Outlays				
Change the DI Benefit Formula				
Reduce all benefits by 15 percent	6,200	-22	-11	-14
Reduce DI benefits for people age 53 and older	1,900	-6	-3	-7
Change How DI Benefits Grow Over Time—Reduce COLAs by Using a Different Measure of Inflation ^{d,e}	10,100	-3	-1	-2
Change Eligibility Rules				
Eliminate eligibility starting at age 62 ^f	500	-12	-6	-6
Require applicants to have worked more in recent years	400	-8	-4	-5
Increase the age at which disability requirements become less restrictive	50	-1	-1	-3
Change Waiting Periods—Extend the Waiting Period for Benefits from 5 Months to 12 Months	900	-11	-6	-7
Providing Greater Support to DI Beneficiaries—Effects on Outlays				
Increase the COLA by 1 Percentage Point ^d	10,100	16	8	6
Eliminate the 5-Month Waiting Period	900	8	4	5

Source: Congressional Budget Office.

Note: DI = disability insurance; n.a. = not applicable; COLA = cost-of-living adjustment.

a. Changes are measured against CBO's March 2012 baseline; see Congressional Budget Office, *Updated Budget Projections: Fiscal Years 2012 to 2022* (March 2012).b. Changes are measured against estimates in Congressional Budget Office, *The 2012 Long-Term Budget Outlook* (June 2012).

c. Estimates of revenues for 2022 provided by the staff of the Joint Committee on Taxation.

d. CBO's estimates for options affecting COLAs apply to all beneficiaries; estimates for all other options that change outlays apply only to new beneficiaries in 2013 and later.

e. CBO's estimates for this option apply the reduction in the COLA to beneficiaries of the entire Social Security system—the Old-Age and Survivors (OASI) and Disability Insurance programs—and to recipients of Supplemental Security Income. The table shows only the savings to the DI program. Savings for all three programs would total \$25.0 billion in 2022.

f. CBO's estimates for this option apply the elimination of eligibility to DI beneficiaries only. The resulting savings are offset by an increase in OASI benefits of \$9.3 billion in 2022, for a net reduction in Social Security spending of \$2.4 billion in that year.

Box 1.**Other Federal Programs That May Be Affected by Changes to the Disability Insurance Program**

The Social Security Disability Insurance (DI) program is linked to many other federal programs, most notably the Old-Age and Survivors Insurance (OASI) program, the retirement component of the Social Security system; the Supplemental Security Income (SSI) program; and federal health care programs, including Medicare and Medicaid. Changes to the DI program that affected a person's eligibility for DI benefits could have an impact on spending for OASI, Medicare, SSI, and Medicaid. Changes to the DI program that affected the size of the DI benefit that a person received but did not alter the eligibility criteria for the program would generally affect spending for SSI and Medicaid but not spending for OASI or Medicare. Because of the additional time that would have been required, the Congressional Budget Office (CBO) has not estimated how the policy options considered in this study would affect spending for and participation in those other federal programs. (In a formal cost estimate for legislation, CBO would attempt to assess the combined effects for all of the affected programs.)

The Old-Age and Survivors Insurance Program

The reduced spending for the DI program that resulted from policy options to tighten its eligibility requirements would be partially offset by increased spending for OASI. The offset is partial because not everyone who would lose their eligibility for DI benefits would be eligible for OASI, and people who would be eligible for OASI would generally receive a smaller benefit under that program's rules.

Most people who became ineligible for the DI program because of a change in policy would probably apply for OASI benefits as soon as they became eligible for them, at age 62. The benefits they would receive from the retirement program would be smaller than those they would have received from the DI program, CBO expects, because retirement benefits are reduced for workers who claim them before the full retirement age (the age of eligibility for unreduced Social Security retirement benefits) and most people who lost their eligibility for DI benefits would claim retirement benefits at the earliest possible opportunity. (Individuals who claim retirement benefits at age 62 currently receive 75 percent of the benefit they

would have received if they had been eligible for the DI program; that proportion is scheduled to decline to 70 percent by 2022.) In 2010, more than 7 percent of initial DI awards went to people age 62 or older; another 52 percent of awards went to people ages 50 to 61. (Changes in policy that are directed at older DI recipients, such as not allowing people age 62 or older to apply for DI benefits, would have a much greater impact on OASI than would policies directed at younger people because a larger share of the people affected would be eligible for OASI.)

Medicare

Because almost all DI beneficiaries are eligible for Medicare after a two-year waiting period, changes to the eligibility requirements for the DI program would also affect the number of people who were eligible for Medicare and, correspondingly, spending for that program. The effects would probably be significant: Medicare's spending per disabled beneficiary averaged about \$10,500 in 2009, or more than 80 percent of the DI benefits that the average disabled beneficiary received in that year. Policies that reduced the number of people who were receiving DI benefits would also lower spending for Medicare. However, policies that decreased average DI benefits without reducing the number of people who received them would not affect Medicare's spending.

Supplemental Security Income

The Supplemental Security Income program was established in 1974 to provide cash assistance to individuals with low income and few assets who are also disabled or elderly. The disability standard is the same for the SSI and DI programs; however, the DI program provides benefits only to people with a sufficient history of work. About 15 percent of DI beneficiaries concurrently receive benefits from the SSI program, and about 30 percent of DI beneficiaries received SSI benefits at some point during their first five years of eligibility for the DI program. Accordingly, policy options that increased or decreased spending for the DI program would tend to have partially offsetting budgetary effects in the SSI program.

Continued

Box 1.**Continued****Other Federal Programs That May Be Affected by Changes to the Disability Insurance Program**

For example, a policy option that lowered benefits from the DI program would increase SSI's costs, for two reasons: First, dually eligible beneficiaries would receive larger SSI benefits to partially offset the income from the DI program that they would lose, and, second, some DI recipients who were not currently eligible for SSI benefits would become eligible because their income would be lower as a result of the reduced DI benefits they would receive under the policy option. Thus, a policy that lengthened the DI program's waiting period for benefits would probably increase the number of people eligible for the SSI program and the average benefit that the program paid, because the policy would reduce beneficiaries' income to below the SSI eligibility threshold (or to further below the threshold) during the extended waiting period.

By comparison, options that increased DI benefits would generally lead to lower SSI costs. And proposals that changed the definition of disability in both programs would affect spending for both programs in the same direction.

Medicaid

The DI program is not tied specifically to Medicaid. But any policy that affected eligibility for SSI benefits would generally affect eligibility for Medicaid because in most states, SSI beneficiaries are automatically eligible for Medicaid. Thus, a person who is eligible for both the DI and SSI programs is usually eligible for Medicaid's coverage of his or her health care costs during the two-year waiting period for Medicare; those costs are shared by the federal government and the states. After individuals who are eligible for both DI and SSI benefits gain access to Medicare, Medicaid continues to cover costs and services that Medicare does not pay for.

A policy option that changed the number of DI beneficiaries or the program's benefits could affect federal Medicaid costs by shifting some people between Medicaid coverage groups that generate different federal payments to states, even if the option did not change the overall number of people eligible for Medicaid. For example, beginning in 2014, the Affordable Care Act (ACA) will extend Medicaid coverage to additional low-income people in states that choose to undertake that expansion.¹ The federal

government will pay a larger share of the costs for those new enrollees as compared with the federal share of costs for people who were eligible for Medicaid under prior law. As a result, the federal share of any additional Medicaid costs stemming from a change in the DI program will depend on whether an individual falls into the new ACA-coverage group or into a prior-law-coverage group.

Health Insurance Exchanges

Policies that changed the number of DI beneficiaries or the program's benefits could affect federal payments for premium or cost-sharing assistance provided through health insurance exchanges that will be established under the ACA. Beginning in 2014 under that legislation, certain people who do not qualify for Medicaid or for affordable insurance coverage from other sources will be eligible for subsidies to purchase health insurance through the exchanges. The amount of the subsidy for which a qualified individual is eligible will vary with his or her income. Policies that modified DI benefits would tend to alter the costs of those subsidies by changing the number of people who would be eligible for them and the amount of the subsidies those individuals would receive.

Revenues and Other Federal Programs

Changes to the DI program would have a smaller impact on revenues (apart from those dedicated to the DI program and those associated with the subsidies provided through health insurance exchanges) and on other government programs than they would have on the programs discussed above. Some of the policy options that CBO analyzed would affect tax receipts because workers and their dependents might work more or less and thus have more or less in taxable earnings. In addition, some of the policy options would affect benefits under the Supplemental Nutrition Assistance Program (formerly known as food stamps), which uses income and assets to determine eligibility. Moreover, the policy options would interact with workers' compensation programs.

1. The ACA comprises the Patient Protection and Affordable Care Act (Public Law 111-148) and the health care provisions of the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152).

In its analysis, CBO also evaluated two changes that could be made at the administrative level—in particular, how the Social Security Administration hires and trains employees who conduct disability application hearings and how the agency reexamines disability cases over time. However, because evidence on the effects of such changes is limited, CBO did not estimate their potential budgetary impact.

Increase the Program's Revenues

The DI program is funded primarily through a portion of the Social Security payroll tax, which is split evenly between employers and employees.²⁰ (Self-employed workers pay the entire tax.) The total Social Security payroll tax is 12.4 percent and is applied to earnings up to a maximum amount that generally increases over time with average earnings nationwide. The DI program's share of that tax is 1.8 percentage points; in other words, the DI tax rate today is 1.8 percent, implying that employers and employees each pay a rate of 0.9 percent.

One approach to addressing the DI program's budgetary imbalance would be to raise the DI tax rate.²¹ Based on analysis that CBO conducted with the staff of the Joint Committee on Taxation, restoring long-term balance (over the next 75 years) between the program's costs and revenues would require that the DI payroll tax rate be increased by 0.4 percentage points (or 0.2 percentage points each for the employee and employer), to 2.2 percent. At that rate, revenues would be higher than in CBO's baseline projection by \$28 billion in 2022, JCT estimates. In 2037, revenues would be higher than CBO's long-term budget projection by 22 percent, in CBO's estimation. Such an increase in the tax rate would equalize costs and revenues, on average, over a 75-year time horizon but would leave a significant funding shortfall over the next few decades.

Another way to expand revenues would be to increase the maximum taxable earnings limit—that is, the highest amount of employees' wages subject to the DI tax. The

earnings of workers in the highest income groups have grown faster than average earnings in recent decades. As a result, the share of all earnings covered by the Social Security program that were below the taxable maximum shrank from about 91 percent in 1983 to about 84 percent in 2010. By 2037, CBO projects, about 83 percent of all covered earnings will fall below the limit.²² Increasing the taxable earnings limit only for the DI program (the limit for the other Social Security programs would not be raised) to cover 90 percent of earnings—that is, increasing the maximum taxable earnings limit for the DI portion of the payroll tax from its projected level of \$113,400 in 2013 to \$174,000—would produce an additional \$13 billion in revenues in 2022 and increase revenues by 8 percent in 2037.²³

Those two methods of altering the DI program's revenues would affect taxpayers in different ways. Increasing the rate of the DI payroll tax across the board for employers and employees would spread the costs among all people with labor earnings. In contrast, raising the maximum taxable earnings limit would increase taxes only for higher earners, leaving the majority of DI taxpayers unaffected. In terms of workers' incentives to try to work more hours or to work harder, policies that raised payroll taxes would have opposing effects: On the one hand, an increase in the tax rate for disability insurance would encourage affected workers to work fewer hours or to work less hard because they would keep less of each extra dollar they earned; on the other hand, those workers would earn less after-tax income by working their current number of hours at their current level of effort, which would encourage them to increase the number of hours they worked and their work effort. CBO concludes, as do most analysts, that the former effect outweighs the latter and that higher tax rates reduce the supply of labor.²⁴ However, the estimates presented here do not incorporate any changes in the supply of labor.

22. The maximum taxable earnings limit is \$110,100 in 2012. Historical data are taken from Social Security Administration, *Annual Statistical Supplement, 2011* (Office of Retirement and Disability Policy, February 2012), Table 4.B1.

23. For those estimates, CBO did not assume that benefits would be increased to reflect the higher maximum taxable earnings limit. If benefits were increased to reflect that change, the net savings from this option would be smaller.

24. For further discussion, see Congressional Budget Office, *The 2012 Long-Term Budget Outlook*, pp. 36–37.

20. In addition to payroll tax receipts, a portion of the income taxes paid on Social Security retirement benefits is credited to the DI trust fund. The government maintains a separate trust fund for the Old-Age and Survivors Insurance program.

21. Another approach would be to redirect revenues to the DI trust fund from the OASI trust fund, a course that was followed in legislation enacted in 1994. However, such a redirection of resources would worsen the outlook for the OASI program.

Reduce the Program's Spending

Options that reduce spending for the DI program would require scaling back either the number of beneficiaries the program serves or the amount of support each beneficiary receives. The challenge facing policymakers who are aiming to lower spending is to choose options that maximize savings while minimizing the harm inflicted on people whose disabilities prevent them from working.

Change the DI Benefit Formula. One way to reduce the costs of the DI program would be to alter the amount of insurance it provides by changing the formula used to calculate benefits. Like Social Security retirement benefits, DI benefits are based on a worker's past earnings and are calculated using a progressive formula that replaces more of the earnings of low-wage workers than of high-wage workers.²⁵ (That is, workers who have higher earnings receive larger benefits, but the replacement rate—the portion of a worker's earnings that the benefits replace—declines as earnings rise.) Specifically, the primary insurance amount (PIA) formula for DI benefits has three components, any of which could be altered by policymakers (see Figure 2):

- **Average indexed monthly earnings (AIME).** The AIME is a measure of a worker's lifetime earnings. It is calculated as the sum of his or her earnings, indexed to compensate for inflation and for the real (inflation-adjusted) growth of wages in the economy as a whole, divided by the number of months over which the earnings were obtained.²⁶ For disabled worker benefi-

ciaries, the AIME is computed by using an individual's indexed earnings between the age of 22 and the year of onset of his or her disability.

- **Primary insurance amount factors.** The PIA factors are the rates by which the components of the AIME are multiplied—specifically, 90 percent, 32 percent, and 15 percent. The PIA factors, which are fixed by law, have been at those levels since 1977.²⁷
- **Bend points.** The dollar amounts of the AIME at which the PIA factors change are called "bend points." They govern the portions of the AIME associated with each PIA factor and change annually when the national average wage index rises. In 2011, the bend points were \$749 and \$4,517. Thus, a person with an AIME below \$749 received a DI benefit equal to 90 percent of that amount; a person with an AIME between \$749 and \$4,517 received 90 percent of the first \$749 and 32 percent of the remainder; and a person with an AIME above \$4,517 received 90 percent of the first \$749, 32 percent of the next \$3,768 (\$4,517 minus \$749), and 15 percent of the amount above \$4,517.

CBO analyzed two options that are based on modifying the formula for computing DI benefits.

Reduce All Benefits by 15 Percent. Policymakers could choose to reduce all DI benefits by the same amount, a change that would maintain the progressivity of the DI program. For example, benefits for newly eligible workers could be cut by 15 percent by reducing each PIA factor by that percentage (to 77 percent, 27 percent, and 13 percent). Under that version of the option, the average DI benefit for disabled workers in 2012 would decline from \$1,111 per month to \$944 per month. Outlays for DI would fall by \$22 billion in 2022 and by 14 percent in 2037.²⁸

25. For a more detailed discussion of the Social Security benefit formula, see Congressional Budget Office, *Social Security Policy Options* (July 2010).

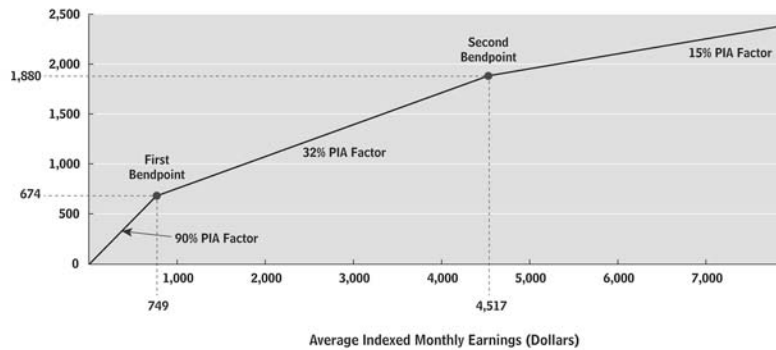
26. Indexing ensures that a worker's benefits reflect the general rise in the standard of living that occurred during his or her working lifetime. Thus, a worker's nominal earnings for the appropriate working years are converted to near-current wage levels on the basis of changes in average annual earnings in the economy as a whole. For disabled workers, the calculations record earnings at their actual amounts for the two years before the initial computation of benefits and earlier earnings as indexed amounts. For a related discussion, see David H. Autor and Mark G. Duggan, "The Rise in the Disability Rolls and the Decline in Unemployment," *Quarterly Journal of Economics*, vol. 118, no. 1 (February 2003), pp. 157–205, <http://economics.mit.edu/files/579>. Those authors have shown that rising income inequality in the United States combined with indexing by the average wage level has significantly raised the earnings replacement rate for DI benefits provided to low-wage workers.

27. For further discussion, see Social Security Administration, "Automatic Determinations: Social Security Benefit Amounts" (October 19, 2011), www.ssa.gov/oact/cola/Benefits.html; and Muller, "The Effects of Wage Indexing on Social Security Disability Benefits."

28. In earlier work, CBO estimated the costs associated with the same option for the entire OASDI program and found that outlays for the Social Security system would decline by about 12 percent relative to outlays currently scheduled for 2040. See Congressional Budget Office, *Social Security Policy Options*, p. 21.

Figure 2.**Primary Insurance Amount Formula for Computing Disability Insurance Benefits in 2011**

(PIA, in dollars)



Source: Congressional Budget Office.

Notes: The section in the text titled "Change the DI Benefit Formula" on page 11 describes the computation of benefits.

PIA = primary insurance amount.

Changes to benefits in the DI program would also directly affect other federal programs that use applicants' income and assets to determine eligibility or amounts of support. In particular, people whose DI benefits were reduced would be more likely to qualify for the Supplemental Security Income program and Medicaid. Lower DI benefits might also deter some people from participating in the DI program, which would reduce outlays in related programs, such as Medicare. However, if fewer people applied for DI benefits, outlays might rise in the retirement portion of Social Security if people then claimed their retirement benefits earlier than they otherwise would have. CBO did not estimate the effects of this option on outlays for programs other than DI.

Reduce DI Benefits for People Age 53 and Older. Under the current Social Security system, workers who claim retirement benefits at age 62 rather than at their full retirement age are subject to an actuarial reduction that lowers their benefits for as long as they live. In contrast, workers who at age 62 move from employment to the DI program's rolls, and then to Social Security's retirement program at their full retirement age, are not subject to a reduction.

Instead, they receive approximately the same retirement benefits in each year that they would have received if they had enrolled directly in the retirement program at their full retirement age. A potential change to benefits for DI beneficiaries would be to impose the same penalty on them at age 62 that is now paid by early retirees.

CBO analyzed the budgetary effects of such an option by considering an approach that would reduce newly awarded benefits for older workers on the basis of their age. Specifically, for people born in 1960 and later, CBO estimated the effect of permanently reducing an older person's DI benefits at the time the benefits are first awarded; starting at age 53, benefits would be reduced by 3 percent, with an additional 3 percent reduction occurring at each subsequent year of age. Thus, a person who was newly awarded benefits at age 54 (in 2014 or later) would face a permanent reduction in benefits of 6 percent, a person who was newly awarded benefits at age 55 (in 2015 or later) would face a permanent reduction in benefits of 9 percent, and so on. Ultimately, a new beneficiary who was 62 years old would receive a permanent benefit reduction of 30 percent, which is equal to the

reduced Social Security retirement benefit at that age for workers born in 1960 and later. A new beneficiary between the ages of 62 and 67 (the full retirement age for that group of workers) would receive a benefit equal to the Social Security retirement benefit he or she would have received at that age.

If such a schedule of reductions was put in place at the beginning of 2013, the option would affect about 2 million people in 2022 and would reduce outlays by about \$6 billion in that year and by nearly 7 percent in 2037, CBO estimates. Under the option, monthly support for people who were newly awarded benefits in 2022 would be reduced, on average, by between \$50 (for 53-year-olds) and \$600 (for 62-year-olds). Again, changes in the benefits provided through the DI program would directly affect spending for other parts of the Social Security system, Medicare, Medicaid, and SSI, but CBO did not estimate those effects.

Change How DI Benefits Grow Over Time. The DI program adjusts disabled workers' benefits annually to account for increases in the prices of goods and services. For those calculations, the program currently uses the consumer price index for urban wage earners and clerical workers (CPI-W); under this option, the program would switch to a different indexing factor—specifically, the chained CPI.²⁹ Over the next 10 years, CBO estimates, the chained CPI is likely to grow more slowly than the current CPI-W—on average, 0.25 percentage points per year more slowly. If that trend continued, this option would effectively reduce the growth of benefits for all DI beneficiaries. For example, the benefit of a disabled worker under current law might have grown during the next 10 years from \$1,111 per month to \$1,344 per month, but that same worker's benefit under this option (that is, indexation using the chained CPI) would grow more slowly, from \$1,111 per month to \$1,312 per month.

In CBO's estimation, DI outlays would fall by about \$3 billion in 2022 if the chained CPI was used; in 2037, use of that alternative indexing measure would reduce outlays for the program by about 2 percent. If lawmakers decided to use the chained CPI simultaneously to index benefits in the Old-Age and Survivors' Insurance

program, outlays for those components of Social Security would fall by over \$20 billion in 2022. If they also applied the change in policy to SSI, its outlays would fall by nearly \$2 billion in 2022. In contrast, if policymakers did not require use of the chained CPI for indexing SSI benefits, outlays for that program would increase slightly in response to the lower benefits that the option would provide to DI beneficiaries.

Change Eligibility Rules. The eligibility standards for receiving benefits from the DI program could be altered in numerous ways.

Eliminate Eligibility Starting at Age 62. As noted earlier, the DI benefits that workers receive at age 62 equal the full OASI (retirement) benefit they would have received at their full retirement age, a policy that encourages people to apply for DI and OASI benefits simultaneously. (Some individuals claim OASI benefits during the five-month waiting period that the DI program imposes on applicants for benefits. Those individuals' receipt of OASI benefits during the waiting period reduces their DI and subsequent OASI benefits for the rest of their lives.)

CBO estimated the budgetary impact of preventing workers from applying for DI benefits after their 62nd birthday or from receiving awards if the date they become eligible for benefits is after that birthday. Under such a policy, individuals who would have become eligible for DI benefits at age 62 or later would instead have to claim retirement benefits. Benefits for those men and women over their lifetime would be as much as 30 percent lower, on average, than the DI and OASI benefits they would have claimed. (The actual reduction in lifetime benefits would depend on their year of birth, the age at which they claimed retirement benefits, and how long they lived.) On the one hand, the option might induce some people to work longer than they would have worked under current law; on the other hand, it might induce some people who were planning to work until age 62 or 63 to leave the labor force at age 61 and apply for DI benefits. The option also would deny support to some older disabled people who would have relied on those larger benefits and on the associated Medicare coverage.

In CBO's estimation, the option would affect about 500,000 people in 2022 and would reduce DI outlays by about \$12 billion in 2022 and by about 6 percent in 2037. However, most of those budgetary savings would be offset by larger outlays for Social Security retirement

29. For a broader discussion of the effects of such a switch, see Congressional Budget Office, *Using a Different Measure of Inflation for Indexing Federal Programs and the Tax Code* (February 2010).

benefits as people shifted from the DI to the OASI program. OASI outlays under this option would rise by over \$9 billion in 2022, CBO estimates, thereby reducing net savings for the Social Security system to about \$2 billion.

Require Applicants to Have Worked More in Recent Years. To be eligible for benefits under the current DI program, disabled workers must generally have worked 5 out of the past 10 years.³⁰ CBO estimated the budgetary effects of a policy that would tighten that eligibility rule by requiring disabled workers to have worked 4 of the past 6 years. The tighter policy would reduce the number of workers who received DI benefits by 4 percent, CBO estimates, and would decrease outlays for the program by \$8 billion in 2022. Expenditures on the program in 2037 would be about 5 percent lower.

Increase the Age at Which Disability Requirements Become Less Restrictive. One set of DI eligibility criteria for people who do not have a specific SSA-designated medical impairment is based on whether an individual can find a job within the U.S. economy. The criteria are known as vocational factors, and they vary with age, becoming less restrictive at ages 45, 50, 55, and 60 than they are at earlier ages.³¹ For example, according to the current DI program's criteria, a worker who was 45 to 49 years old, whose "maximum sustained work capacity" was limited to sedentary work, who had no experience doing skilled work, and who was illiterate or unable to communicate in English would be considered disabled under the vocational criteria and awarded benefits if he or she had a sufficient work history.³² In contrast, his or her younger counterparts would not immediately qualify for the DI program.

CBO estimated the budgetary impact of shifting upward the age ranges for the vocational factors. The current factors for ages 45 to 49, 50 to 54, and 55 to 59 would

apply instead to ages 47 to 51, 52 to 56, and 57 to the full retirement age, respectively; the current vocational factor for age 60 and the factors for ages 45 to 46 would be eliminated. Under such a policy, the number of DI recipients would fall by about 50,000, or 0.5 percent, in 2022. Expenditures for the DI program would fall by \$1 billion in that year, CBO estimates, and by 3 percent in 2037. By reducing participation in the DI program, the option would also reduce participation in Medicare (and thus Medicare outlays) but would result in greater outlays for SSI and Medicaid. CBO did not estimate the effects on outlays for those programs.

Extend the Waiting Period for Benefits from 5 Months to 12 Months. To be deemed eligible for the DI program and ultimately to be awarded benefits, applicants must have earnings that fall below a threshold amount—called the substantial gainful activity (SGA) amount—for at least five months, which constitutes a waiting period during which applicants receive no support from the program. For example, suppose a worker becomes disabled on January 15 and leaves the labor force. The worker then applies to the DI program for benefits, and SSA awards them to the worker on November 1 of that year. The worker's eligibility date is therefore July 1, or five months after the onset of disability, which SSA sets as February 1. (Unless the date of disability onset is the first day of the month, SSA pushes dates of onset to the first day of the next month.) In addition to receiving monthly DI benefits from November 1 onward, the worker also receives retroactive benefits for the period between the date of eligibility (July 1) and the awarding of benefits (November 1).

Increasing the DI program's waiting period would reduce outlays for benefits and might deter some people from applying. At the same time, if the waiting period was lengthened, it would make many disabled workers worse

30. For the purposes of computing Social Security benefits, a year of work is defined as having earnings that exceed Social Security's "quarters of coverage" threshold. In 2012, a worker receives one-quarter of coverage (up to a total of four quarters in the year) for each \$1,130 of annual earnings. The amount of earnings required for a quarter of coverage generally increases annually at the same rate as the rise in the average wage index.

31. Recent research shows the large increase in the rate of DI awards at those ages. See Joyce Manchester and Jae G. Song, "What Can We Learn from Analyzing Historical Data on Social Security Entitlements?," *Social Security Bulletin*, vol. 71, no. 4 (November 2011), pp. 1–13, www.ssa.gov/policy/docs/ssb/v71n4/index.html.

32. See Social Security Administration, "Appendix 2 to Subpart P of Part 404—Medical-Vocational Guidelines," *Code of Federal Regulations* (November 2011), www.ssa.gov/OP_Home/cfr20/404/404-app-p02.htm. SSA's definition of "maximum sustained work capacity" is related to the kinds of tasks a person can perform at work, and its definition of "sedentary work" is related to the amount of weight a worker can lift or carry and the amount of time he or she can stand, walk, and sit. See Social Security Administration, "DI 25001.001 Medical-Vocational Quick Reference Guide," TN 6 (03-10) (May 2012), <http://policy.ssa.gov/poms.nsf/lnx/0425001001>.

off because they would be forced to wait longer for benefits.

CBO estimated that under a policy in which the waiting period for DI benefits was extended to 12 months, DI outlays would fall by \$11 billion in 2022 and by about 7 percent in 2037. Outlays for the SSI program, however, would be higher with that extended waiting period: People's income would be lower until they entered the DI program, and, in CBO's estimation, the increase in SSI spending that would result from that lower income would offset roughly one-eighth of the DI program's savings. CBO assumed that DI beneficiaries' eligibility for Medicare under this option would still begin 29 months after the onset of disability (the sum of the 5-month initial waiting period for benefits plus the 24-month waiting period for Medicare coverage once a disabled worker was awarded benefits), so spending for Medicare under the option would probably be little changed.

Change Certain Administrative Features of the DI Program. SSA could alter the administration of the DI program in a number of ways that might affect the program's costs. CBO identified two such potential changes: modifying certain aspects of the appeals process associated with applying to the program and altering how SSA reexamines disability cases over time. However, because there is little evidence as to the impact such policies would have, CBO did not estimate their potential budgetary effects.

Modify the Appeals Process for Disability Claims. The initial consideration and disposition of a disabled worker's application for benefits from the DI program are the job of the Disability Determination Services (DDS), which are agencies funded by SSA and administered by the states.³³ If a person's application is denied at the DDS level, the applicant can either terminate the application process or appeal the decision. Certain appeals may be adjudicated before administrative law judges—individuals appointed by SSA who conduct hearings at about 180 offices across the country.³⁴ Those officials are trained at the local hearing office at which they are employed.

33. For details on the application and appeals process, see Congressional Budget Office, "DI: The Social Security Disability Insurance Program" (infographic, July 2012).

34. Social Security Administration, *Annual Statistical Supplement, 2011*, Table 2.F1.

Researchers have suggested different ways in which SSA could improve the administration of the DI program at the hearings level. They include modifying the selection criteria for administrative law judges, increasing the length of their training, and improving the consistency of training among localities. Another example of a possible change in the program's administrative procedures involves altering the hearing process. Applicants for DI benefits are permitted legal representation at appeal hearings, whereas SSA is not. Policymakers could allow SSA to be so represented, which in the short term would add certain costs for hiring and training but might over the long run result in lower spending for the program because fewer people would be admitted.³⁵ However, the effects that any of those modifications would have on the disability determination process are uncertain, and CBO has not estimated their budgetary impact.

Increase the Frequency of Continuing Disability Reviews.

An option related to recent growth in the DI program involves SSA's periodic reexamination of cases through continuing disability reviews (CDRs). CDRs help the agency determine whether disabled workers are still eligible for benefits, and they tend to lower outlays for the program because the average reduction in benefits associated with a CDR is significantly greater than the average cost of a review. The Budget Control Act of 2011 (Public Law 112-25) allows lawmakers to adjust the current limits on overall federal discretionary spending to permit additional appropriations for conducting CDRs. (That additional money may also be used to fund CDRs for SSI beneficiaries and redeterminations of whether SSI recipients still meet the program's nonmedical eligibility criteria—that is, those related to income and assets.)³⁶

In its 2011 cost estimate for the Budget Control Act, CBO estimated the effect on outlays if the Congress

35. See Autor and Duggan, "The Growth in the Social Security Disability Rolls: A Fiscal Crisis Unfolding"; and Social Security Advisory Board, *Improving the Social Security Administration's Hearing Process* (September 2006), www.ssab.gov/documents/HearingProcess.pdf, and *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change* (January 2001), www.ssab.gov/Publications/Disability/disabilitywhitepaper.pdf.

36. The law allows for similar adjustments to the spending limits for additional appropriations for Medicare, Medicaid, and the Children's Health Insurance Program to ensure that enrollees meet the programs' eligibility criteria, that claims are paid accurately, and that the programs are managed effectively and efficiently.

appropriated the maximum amounts for which such adjustments to the spending limits could be made. In CBO's estimation, such appropriations would add about \$4 billion in funding for SSA to CBO's baseline for the coming decade. In addition, if that additional funding was appropriated, spending for benefits from the DI program, SSI, Medicare, and Medicaid would fall by nearly \$12 billion during the 2012–2021 period, and additional savings would accrue after 2021.³⁷ CBO has not estimated the effects of even larger appropriations for such purposes or of other changes in the manner in which CDRs are conducted.

Options to Provide Greater Support to Disability Insurance Beneficiaries

In light of the importance of DI benefits to the individuals and families who receive them, policymakers might want to provide greater amounts of support to certain disabled workers. CBO estimated the additional federal spending that would result from two options for increasing such assistance:

- Increase benefits for all DI beneficiaries beyond their first year of receiving benefits by raising the annual cost-of-living adjustment (COLA) by 1 percentage point, and
- Eliminate the five-month waiting period for benefits for workers who apply for disability insurance, thereby paying benefits to DI recipients from the date of onset of their disability.

Increase the COLA by 1 Percentage Point

One way in which lawmakers could provide greater support to DI beneficiaries would be to increase the rate at which benefits grow over time. One consequence of such a change is that disabled workers who became entitled to benefits at relatively younger ages would experience more years of the enhanced COLA in their benefits than would workers who were awarded support when they were older.

If the COLA was increased by 1 percentage point, CBO estimates, total outlays would rise by \$16 billion in 2022 and by 6 percent in 2037. Outlays for related programs

would change slightly under such a policy: Spending for programs that used applicants' income and assets to determine eligibility for benefits (SSI and Medicaid, for example) would be affected because people who received higher DI benefits as a result of the larger COLA might not be eligible for those programs. CBO did not estimate the magnitude of those effects.

Eliminate the Five-Month Waiting Period

If lawmakers eliminated the DI program's waiting period for applicants, a worker would be eligible for DI benefits the day he or she was deemed to become disabled or to have stopped working because of the onset of disability. As under the current program, DI beneficiaries would receive a "retroactive" benefit—a lump-sum payment for the time between their application to the program and their approval for benefits.

Under a policy that eliminated the waiting period, total DI outlays would rise by \$8 billion in 2022, CBO estimates, and by 5 percent of outlays in 2037. A policy that eliminated the DI program's waiting period would lead to additional DI benefits for disabled workers who would have been eligible for SSI and Medicaid, and it would therefore reduce outlays for those two programs. In particular, the reduction in SSI outlays would offset nearly one-tenth of the increase in DI spending.

Possible Approaches to Making Fundamental Changes in the Disability Insurance Program

Changes in the U.S. economy, advances in medicine and technology, and the evolution of views about disability during the past several decades suggest that the DI program's model of disability, in which disabled people leave the labor force, may be outdated. In particular, those recent economic and perceptual shifts suggest that a disability insurance system that emphasized workers' continuing in their jobs might lead to a higher rate of employment among those with disabilities than is now the case.³⁸

37. Congressional Budget Office, letter to the Honorable John Boehner and the Honorable Harry Reid about CBO's analysis of the impact on the deficit of the Budget Control Act of 2011, as posted on the Web site of the House Committee on Rules on August 1, 2011 (August 2011).

38. For further discussion, see Richard V. Burkhauser and Mary C. Daly, *The Declining Work and Welfare of People with Disabilities: What Went Wrong and a Strategy for Change* (AEI Press, 2011); and David H. Autor and Mark G. Duggan, *Supporting Work: A Proposal for Modernizing the U.S. Disability Insurance System* (Brookings Institution, Hamilton Project, December 2010), www.brookings.edu/papers/2010/12_disability_insurance_autor.aspx.

The effect of that kind of job-continuation model on the DI program's rolls and costs would depend on the structure of the changes in policy that established it, and only limited evidence is available on the potential impact of such changes. Therefore, CBO did not estimate the budgetary effects of specific changes of that sort. However, the agency reviewed proposals for such fundamental reforms to the DI program and summarized the main themes among them: moving to a so-called partial disability system or, for newly disabled workers, focusing on their rehabilitation and reemployment rather than on their receipt of benefits. In CBO's estimation, such changes are unlikely to provide significant short-term cost savings but could provide long-term savings or achieve other goals, such as improving the well-being of people with disabilities.

The Capacity for Work of People with Disabilities

At the time the DI program was established, in 1956, policymakers specified that beneficiaries be "unable to engage in any substantial gainful activity." Over the past half century, though, the labor market has changed considerably, shifting away from physically demanding jobs with rigid work schedules and toward jobs with a broader range of physical requirements and greater flexibility in how those jobs can be performed. That changed environment suggests there may be more opportunities today for disabled people to work. At the same time, views about people with disabilities have changed, emphasizing abilities rather than limitations, capacities over deficits. That modern view of disability was codified in 1990 with the passage of the Americans with Disabilities Act. The law requires that people with disabilities have equal access to employment (as well as to other activities) and that their employers make reasonable accommodations (for the use of such equipment as hearing aids and wheelchairs and through computer modifications to increase accessibility) to support their work.

Nonetheless, over the past 20 years, the employment rate among people with disabilities has declined sharply, from about 29 percent in calendar year 1990 to about 16 percent in 2010.³⁹ The drop in employment does not appear to be explained by a rising inability to work at all, nor does it seem to be attributable to the ups and downs of the business cycle. Instead, recent research shows that an increasing number of DI claims are coming from younger workers with mental or musculoskeletal disorders—despite other evidence indicating that those workers have the greatest capacity to remain part of the labor force.⁴⁰

Another study, using data on accepted and rejected applicants with similar conditions, also found that some new DI beneficiaries were able to continue working.⁴¹ To be sure, not all DI beneficiaries can be candidates for reemployment. Still, evidence of existing work capacity among disabled workers—as well as increased use of assistive technologies and workplace accommodations—implies that the design of the DI program might contribute to the relatively low rate of employment among people with disabilities.⁴²

Encouraging Work Among DI Beneficiaries and Applicants

One approach that policymakers have already used to try to increase employment among current and future DI beneficiaries is to provide support for their return to work. As currently designed, however, that approach does not appear to have had a significant effect. In 1999, lawmakers authorized the Ticket to Work and Work Incentives Improvement Act, under which DI beneficiaries may request employment or vocational rehabilitation services. The act was designed to encourage DI beneficiaries to find jobs and lessen their reliance on the program's benefits. In particular, the legislation provided the following:

39. See Employment and Disability Institute, "U.S. Disability Statistics: Current Population Survey" (various years), www.disabilitystatistics.org. For a discussion of the technical issues related to measuring employment rates among people with disabilities, see Burt S. Barnow, "The Employment Rate of People with Disabilities," *Monthly Labor Review*, vol. 131, no. 11 (November 2008), pp. 44–50, www.bls.gov/mlr/2008/11/contents.htm.

40. Till von Wachter, Jae Song, and Joyce Manchester, "Trends in Employment and Earnings of Allowed and Rejected Applicants to the Social Security Disability Insurance Program," *American Economic Review*, vol. 101, no. 7 (December 2011), pp. 3308–3329, www.aeaweb.org/articles.php?doi=10.1257/aer.101.7.3308.

41. Nicole Maestas, Kathleen J. Mullen, and Alexander Strand, *Does Disability Insurance Receipt Discourage Work?* RAND Working Paper WR-853-2 (RAND, March 2011), www.rand.org/pubs/working_papers/WR853-2.html. Also see Eric French and Jae Song, *The Effect of Disability Insurance Receipt on Labor Supply*, Federal Reserve Bank of Chicago Working Paper 2009-05 (revised July 1, 2011), www.chicagofed.org/webpages/publications/working_papers/2009/wp_05.cfm.

42. See, for example, "Assistive Technology, Accommodations, and the Americans with Disability Act" (Cornell University, (December 2000), www.itr.cornell.edu/extension/files/download/Assistive_Tech.pdf.

- Grants to support counselors for working beneficiaries,
- Upgrades to help SSA speed up the processing of information about earnings and the results from continuing disability reviews,
- Expedited reinstatement of disabled workers whose benefits were terminated because they returned to work but then became unable to work and returned to the DI rolls,
- Eased procedures for states to establish income and asset standards for working people with disabilities and thus share Medicaid costs through premiums or other cost-sharing arrangements, and
- Extended Medicare coverage—from about three years under the previous rules to nearly eight years under the 1999 legislation—for beneficiaries who returned to work.

Although those provisions reduce some of the potential hurdles to DI beneficiaries' participation in the labor market, the employment rates of DI recipients have not been measurably affected.⁴³ As of April 2012, 13.2 million DI and SSI beneficiaries were eligible for employment services through the Ticket to Work program, but only about 290,000 beneficiaries (or about 2 percent) were receiving them. About 1,000 firms have signed up to be "employment networks" to provide services to beneficiaries, and about 900 have successfully placed DI beneficiaries in jobs.⁴⁴

43. Government Accountability Office, *Employment for People with Disabilities: Little Is Known About the Effectiveness of Fragmented and Overlapping Programs*, GAO-12-677 (June 2012), www.gao.gov/assets/600/592074.pdf, and *Social Security Disability: Ticket to Work Participation Has Increased, but Additional Oversight Needed*, GAO 11-324 (May 2011), www.gao.gov/products/GAO-11-324; and Craig Thornton and others, *Evaluation of the Ticket to Work Program: Assessment of Post-Rollout Implementation and Early Impacts* (Mathematica Policy Research and Cornell University, May 2007).

44. For additional information on the Ticket to Work program and the employment networks, see Social Security Administration, "Ticket to Work," www.ssa.gov/disabilityresearch/offsetnational.htm; and David Stapleton and others, *Ticket to Work at the Crossroads: A Solid Foundation with an Uncertain Future* (Mathematica Policy Research and Cornell University, September 2008).

The original Ticket to Work legislation asked SSA to implement and evaluate a demonstration project that would modify reductions in DI benefits for beneficiaries who work. SSA is currently evaluating the effects of such a program in which annual benefits are reduced by \$1 for every \$2 in earnings that exceed the SGA amount.⁴⁵ However, it is too early to determine whether those modifications will succeed in encouraging more DI beneficiaries to leave the program's rolls and return to the labor market.

A growing number of studies suggest that the critical obstacle to DI beneficiaries' return to the labor market is the substantial amount of time they have often spent away from employment, through a combination of looking for work, completing the DI program's waiting period, and receiving DI benefits. Specifically, because DI applicants must demonstrate that they are unable to undertake any substantial gainful employment, workers who seek support must generally leave any jobs they might be holding. Once an application is filed, the determination process is quite lengthy.⁴⁶ During the time a DI application is being reviewed, the applicant receives no income support or medical benefits from the program, and the law requires no additional accommodations for his or her disability in the workplace. Moreover, the program's limits on earnings discourage applicants from

45. As under the DI program's usual rules, beneficiaries in the trial program are allowed to earn any amount for as long as 12 months (a trial work period of 9 months plus a grace period of 3 months) and keep all of their benefits. But also under those rules, beneficiaries lose 100 percent of their benefits after 12 months if they earn the SGA or more, whereas in the trial program, many beneficiaries can keep a substantial share of their benefits. See Social Security Administration, "Benefit Offset National Demonstration" (July 2012), www.ssa.gov/disabilityresearch/offsetnational.htm.

46. The average DI applicant who appeals an initially denied application to an administrative law judge will wait about 12 months for the case to be decided, although that is significantly faster than the time required for such judgments a few years ago. See Congressional Budget Office, "DI: The Social Security Disability Insurance Program" (infographic); Social Security Administration, *The Social Security Administration's (SSA) Performance and Accountability Report (PAR) for Fiscal Year (FY) 2011* (February 2012), www.socialsecurity.gov/finance; and David Autor and others, *Does Delay Cause Decay? The Effect of Administrative Decision Time on the Labor Force Participation and Earnings of Disability Applicants*, University of Michigan Retirement Research Center Working Paper 2011-258 (September 2011), www.mrrc.isr.umich.edu/publications/papers/pdf/wp258.pdf.

continuing to work even on a trial basis because doing so could jeopardize their DI application. Research has shown that returning to work is difficult for rejected DI applicants, and the time they spend out of the workforce (perhaps as much as two years while they seek benefits) generally makes it harder. For people who are eventually awarded DI benefits, concerns about maintaining that support and finding employment after a long absence from the workforce may keep many from reentering the labor market.⁴⁷

Strategies for Reducing the Number of People Who Leave the Workforce and Become DI Beneficiaries

The limited success of programs designed to increase the rate at which DI beneficiaries and applicants return to work has spurred proposals aimed at supporting employment for people with disabilities before they quit their job to begin the application process. Ideally, such proposals can enable people with disabilities to remain in the workforce and can thereby slow the movement of such people onto the DI rolls. In the face of fiscal challenges that are similar to those confronting the United States, several other nations have implemented some of those types of changes.

Moving to a Partial Disability System. One way to encourage workers with disabilities to participate in the labor market is to move to a partial disability system of the kind used by the Department of Veterans Affairs and by many workers' compensation systems. Partial disability systems generally use a predetermined schedule to calculate a "percent disabled" rating for each individual; those percentages then determine the amount of the payments a person will receive. Such a system avoids the either/or threshold currently employed in the DI program in which employment and disability are considered incompatible. A partial disability system explicitly recognizes that workers with a disability that restricts their activity by, say, 30 percent or 50 percent have some remaining capacity to work.

If the DI program shifted to such a system, the number of people in the program would probably increase because the system would encourage people with less-severe disabilities to apply and qualify for benefits. Because current beneficiaries would not face reduced

benefits and newly qualified individuals who are partially disabled would also receive benefits, outlays would rise in the short run. However, the net budgetary effects in the long run are difficult to estimate because they would depend critically on the definitions used to assess partial disability, on the amount of benefits provided for those who were so identified, and on the responses of workers and firms.

In practice, partial disability systems have been difficult to design and carry out consistently. Problems of implementation include, first, how to agree on a predetermined schedule of disabling conditions when the demands of a job and the severity of health impairments may change over time and, second, how to use the schedule to assess different individuals in a comparable way.⁴⁸ The difficulty of managing partial disability systems combined with rising costs—stemming from increased administrative expenditures and lost earnings among those with partial disabilities—has led several European nations (for example, the Netherlands, Norway, and Switzerland) to move away from partial disability insurance and toward approaches that directly involve employers in helping individuals with disabilities remain in the labor market.⁴⁹

Involving Employers in Supporting Workers with Disabilities. Employers are not allowed to discriminate against people with disabilities and are required by law to make reasonable accommodations for them in the workplace. In most cases, employers have some financial incentive (such as the costs of replacement workers, retraining, and workers' compensation) to actively participate in keeping workers with disabilities on the job. However, because the DI program is funded through a flat-rate payroll tax on employers and employees, employers do not bear the costs associated with a disabled worker

47. Maestas, Mullen, and Strand, *Does Disability Insurance Receipt Discourage Work?*

48. The Institute of Medicine's Committee on Medical Evaluation of Veterans for Disability Compensation highlighted some of those challenges in a review of the Department of Veterans Affairs' disability system. See Michael McGeary and others, eds., *A 21st Century System for Evaluating Veterans for Disability Benefits* (National Academies Press, 2007), www.iom.edu/Reports/2007/A-21st-Century-System-for-Evaluating-Veterans-for-Disability-Benefits.aspx.

49. See Organisation for Economic Co-operation and Development, *New Ways Of Addressing Partial Work Capacity: OECD Thematic Review on Sickness, Disability, and Work Issues Paper and Progress Report* (OECD, April 2007), www.oecd.org/dataoecd/6/6/38509814.pdf.

who stops working and becomes a beneficiary in the DI program.

In recent years, the policies of a number of European countries have changed to transfer more of the cost of providing disability benefits to employers. One way that has been done is by making employers responsible for paying benefits for a fixed amount of time. Those periods vary from as much as two years in the Netherlands to just six months in the United Kingdom, but like workers' compensation in the United States, the programs are meant to encourage employers to accommodate workers with disabilities and provide rehabilitation services in lieu of moving such workers to a system of long-term cash benefits.⁵⁰ Among the countries that have adopted the employer-involvement model, strategies are being developed to assist employers in managing their workers with disabilities.⁵¹ One challenge with such an approach is determining the time horizon over which a firm is responsible for an ex-employee who enters the DI program.

Lawmakers in the United States could consider similar changes. Firms could be required to provide the first, say, two years of disability insurance, in which firms covered some portion of a worker's earnings before he or she was awarded DI benefits. Private-market provision of such short-term disability insurance—similar to arrangements in some European nations—might develop in that environment.⁵² As an alternative to requiring firms to provide insurance, employers who did so, and whose private

insurance agents cooperated with SSA in managing their cases, could be granted a reduction in DI tax rates. Firms that did not offer private insurance could be charged a higher DI tax rate, an approach that Switzerland has adopted.⁵³

Another way in which European nations have encouraged employers to accommodate workers with disabilities rather than move them to cash benefit programs is by applying "experience rating" to the contributions employers make for disability benefits. In the context of the DI program, experience rating would mean raising the DI payroll taxes of firms whose workers became beneficiaries of the DI program at above-average rates or lowering the payroll taxes of firms whose workers claimed benefits at below-average rates. Experience rating provides a financial incentive for employers to engage in practices that promote continued work by people with disabilities.⁵⁴ The Netherlands and Finland use such a strategy, as do workers' compensation programs and the unemployment insurance program in the United States.⁵⁵

One criticism of experience rating is that it could push employers away from hiring people with disabilities, potentially increasing growth in the number of beneficiaries in the DI program. That type of behavior is illegal and would come with significant costs if it was discovered. Uncovering and prosecuting such behavior, however, might be difficult.

50. For a discussion of the differences between the programs of other countries, see Organisation for Economic Co-operation and Development, *Sickness, Disability, and Work: Breaking the Barriers; A Synthesis of Findings Across OECD Countries*, (OECD, November 2010), <http://dx.doi.org/10.1787/9789264088856-en>.

51. See also the various OECD publications that make up the OECD series *Sickness, Disability, and Work* at www.oecd.org/els/disability.

52. For details of such a proposal, see Autor and Duggan, *Supporting Work: A Proposal for Modernizing the U.S. Disability Insurance System*.

53. Ibid. For further discussion, see Burkhauser and Daly, *The Declining Work and Welfare of People with Disabilities*.

54. Ibid.

55. Organisation for Economic Co-operation and Development, *Sickness, Disability, and Work: Breaking the Barriers*.

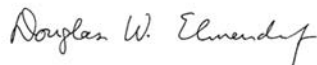
About This Document

This Congressional Budget Office study was prepared at the request of the Ranking Member of the Senate Budget Committee. In keeping with CBO's mandate to provide objective, impartial analysis, the report contains no recommendations.

Jonathan Schwabish of CBO's Health, Retirement, and Long-Term Analysis Division wrote the report under the supervision of Joyce Manchester and Linda Bilheimer. Sheila Dacey, Charles Pineles-Mark, and David Rafferty of CBO contributed significantly to the analysis, as did the staff of the Joint Committee on Taxation, which estimated how some of the policy options would affect federal revenues. Molly Dahl, Noah Meyerson, and Andrew Stocking of CBO provided helpful comments.

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Leah Mazade edited the study. Jeanine Rees and Maureen Costantino prepared the report for publication. The report is available on CBO's Web site (www.cbo.gov).



Douglas W. Elmendorf
Director

July 2012

Chairman JOHNSON. Thank you all for being here today. We are going to conclude the testimony because we are on a short fuse on the floor, and I want to thank all of you for insightful comments. Thank you so much, and thank our members for participating today.

I think you are all committed, as I am, to securing the future of our disability program. We have got to fix it. That is just one more program we have to fix in this government.

With that, the subcommittee stands adjourned. Thank you all for being here.

[Whereupon, at 11:00 a.m., the subcommittee was adjourned.]

[Questions for the Record follow:]



November 15, 2012

The Honorable Sam Johnson
Chairman
Subcommittee on Social Security
Committee on Ways and Means
House of Representatives

Thank you for the opportunity to testify before the Committee on Ways and Means, Subcommittee on Social Security, on September 14, 2012, during the hearing on "Securing the Future of the Disability Insurance Program." The attached enclosures include GAO's response to the subcommittee's questions for the record. If you have any questions, please contact me at (202) 512-7215.

Sincerely yours,

A handwritten signature in black ink that reads "Daniel Berton". The signature is written in a cursive, flowing style.

Daniel Berton, Director
Education, Workforce,
and Income Security Issues

Enclosure

Enclosure 1

1. GAO's report concludes that assistive devices and workplace accommodations can play a critical role in an individual's ability to function in the work environment. Tell us more about your conclusions and how they might affect the determination process for disability benefits?

That assistive devices and workplace accommodations can play a critical role in an individual's ability to function in the work environment is widely accepted and consistent with a modern concept of disability. According to the Institute of Medicine, during the past 50 years, conceptual models of disability have evolved to conceive of disability as an outcome of the interaction between specific individuals with health conditions and the environments in which they find themselves. The ability to work, for example, results from the interaction of individuals' impairments, functional limitations resulting from the impairments, assistive technologies to which they may have access, and attitudinal and other personal characteristics (such as age, education, skills, and work history) with the physical and mental requirements of potential jobs, accessibility of transportation, attitudes of family members and coworkers, and willingness of an employer to make accommodations. This perspective—that disability is the interaction of health conditions and contextual factors, such as products and technology, attitudes, and services, on an individual's functional capacity, rather than solely a medical or biological issue—is also reflected in the International Classification of Functioning, Disability and Health (ICF) framework adopted by the World Health Organization (WHO).¹

The Social Security Administration's (SSA) current disability determination process considers assistive devices to a limited extent and does not consider workplace accommodations at all:

- We reported that assistive devices are incorporated into SSA's medical listings (used as criteria at step 3 of its decisionmaking process) once these devices become standard in the medical community—a threshold that SSA officials described as generally involving some combination of availability, accessibility, and insurance coverage. Further, SSA officials told us that, at steps 4 and 5 of the decisionmaking process, adjudicators will look at the level of function a claimant has after following medical advice (such as after using medically prescribed assistive devices). However, SSA officials also told us they currently do not have an easy way to evaluate when or the extent to which people in wheelchairs or using other assistive devices or accommodations are allowed benefits, because this information is not captured in electronic form.
- Regarding workplace accommodations specifically, SSA officials said their policy is to not consider them in the disability determination process for several reasons: (1) the inability to ensure that workplace accommodations are provided by employers, (2) the inability to assess the effectiveness of workplace accommodations for claimants, (3) expanding the scope of individualized assessments would exacerbate resource constraints, and (4) data on the availability and use of workplace accommodations are lacking.

¹The ICF is the WHO's framework for measuring health and disability at both individual and population levels. The ICF was officially endorsed by all WHO Member States in the Fifty-fourth World Health Assembly on 22 May 2001.

Opportunities may exist for SSA to further consider the implications of assistive devices and workplace accommodations in the disability decisionmaking process. For example:

- SSA is sponsoring longer term research through the National Institutes of Health (NIH) to develop an automated tool that would allow SSA adjudicators to quickly, consistently, and comprehensively assess the effects of a medical condition on a claimant's functional abilities and work capacity. According to NIH researchers, they plan to consider the use of common personal assistive devices, such as wheelchairs, in developing the tool.
- The occupational information system (OIS) currently being developed by SSA may provide an opportunity to collect information on workplace accommodations and incorporate it into the disability determination process, and experts we spoke with agreed that information on workplace accommodations would be immensely useful to include in the OIS. Given the lack of information on the availability of workplace accommodations and challenges associated with incorporating this information into its decisionmaking process, we recommended that SSA conduct limited, focused studies on the availability of assistive devices and workplace accommodations and the effects of considering them more fully in its disability determinations.

2. What specific changes do you believe need to occur in the Disability Insurance (DI) program for it to catch up with worldviews on disability?

Our report outlined actions SSA has taken or should take to remedy out-of-date medical listings and occupational information that SSA systematically relies on in its decisionmaking process. These actions are critical for ensuring that SSA's decisionmaking process is consistent with current medicine, technology, and demands of today's work economy.

Beyond updating criteria, we also identified initial steps SSA has taken toward incorporating a more modern concept of disability in its disability determination process, although many of these efforts are ongoing and more work remains. For example, we found that SSA has been incorporating more functional assessment into recent revisions of the medical listings, and plans to continue such efforts. Further, SSA has had an interagency agreement with the NIH since 2008 that has resulted in research to help SSA further modernize the DI program. As described above, the automated tool NIH is developing would allow SSA adjudicators to assess the effects of a medical condition on a claimant's functional abilities and work capacity. This tool is still under development. SSA officials said that, while they have not yet determined when or how the tool will be integrated into the disability determination process, they expect to pilot the functional assessment tool after all relevant testing and validation is completed, which will likely be by 2016. NIH also reviewed SSA medical listings and key forms used in the disability application and determination processes. They found a lack of information on the influence of health conditions and impairment on human functioning in nearly one-half of 14 body systems and major gaps in how well forms capture information on claimant functional activity. NIH concluded that these gaps need to be addressed in order to characterize individual functioning more comprehensively in relationship to the demands of the workplace. SSA indicated it intends to make related improvements to its process and has asked the Institute of Medicine to plan an international symposium focused on how best to use and assess function in the disability determination process. SSA also plans to issue a Federal Notice of Solicitation of Collaboration from federal agencies in developing a standard for coding functional capacity in federal disability programs.

Although these steps are promising, SSA has not fully incorporated consideration of assistive devices and workplace accommodations in its assessment of disability. We noted

in our report that, while giving broad consideration of assistive devices and workplace accommodations may be difficult to incorporate into the current disability criteria and process, some opportunities exist for SSA to move further in this direction. For example, in the process of developing its new occupational information system, SSA may be able to collect some limited information on workplace accommodations, such as whether a worker in a particular occupation would have the option to sit or stand while working. In addition, SSA could collect information on workplace accommodations through its new Disability Research Consortium. As noted above, to help ensure that SSA's disability decisions are as equitable and consistent with modern views of disability as possible, we recommended that SSA conduct limited, focused studies on the feasibility of more fully considering assistive devices and workplace accommodations in its disability determinations. By conducting studies on this issue, SSA would be in a better position to thoughtfully weigh the costs and benefits of these various policy options before deciding on an appropriate course of action.

3. The Administration has asked Congress to reauthorize for five years the section 234 demonstration authority for DI, which allows for the use of trust fund monies to conduct various demonstration projects and would broaden that authority to test alternative methods of treating work activity by DI beneficiaries. Does the SSA have the management controls to ensure that such demonstration projects yield reliable information for making policy decisions? How can the SSA be held accountable for successful performance moving forward?

We answered a similar question following a September 23, 2011, hearing before the Committee on Ways and Means, Subcommittees on Social Security and Human Resources, on Work Incentives in Social Security Disability Programs. We have attached the response for your reference (see enclosure 2).

Although GAO has not conducted the additional work necessary to provide a more up-to-date answer to this question, in 2004, we suggested some actions that Congress may consider taking to facilitate close congressional oversight and provide greater assurance that SSA will make effective use of its DI demonstration authority.² As Congress considers the Administration's request to reauthorize the section 234 demonstration authority, it may wish to consider our previously suggested actions:

- Continue to provide DI demonstration authority to SSA on a temporary basis but allow SSA to complete all projects that have been initiated prior to expiration of this authority. This would provide SSA with greater certainty and stability in its efforts to plan and conduct demonstration projects while preserving the Congress' ability to periodically reassess and reconsider SSA's overall use of DI demonstration authority.
- Require that SSA periodically provide a comprehensive report to the Congress summarizing the results and policy implications of all of its DI demonstration projects. Such reports could serve as a basis for the Congress' assessment of SSA's use of its demonstration authority and its consideration of whether this authority should be renewed.
- Establish reporting requirements that more clearly specify what SSA is expected to communicate to the Congress in its annual reports on DI demonstrations. Among

²GAO, *Social Security Disability: Improved Processes for Planning and Conducting Demonstrations May Help SSA More Effectively Use Its Demonstration Authority*, GAO-05-19 (Washington, D.C.: Nov. 4, 2004).

such requirements could be a description of all SSA projects that the SSA Commissioner is considering conducting or is conducting some preliminary work on. For each demonstration project that the agency is planning or conducting, SSA should provide clear information on the projects' specific objectives, potential costs, key milestone dates (e.g., actual or expected dates for RFP, award of contracts or grants, start of project operations, completion of operations, completion of analysis, and final report), potential obstacles to project completion, and the types of policy alternatives that SSA might consider pursuing depending on the results of the demonstration. This would provide the Congress with a more complete understanding of the direction and progress of SSA in its efforts to fulfill its DI demonstration requirements.

- More clearly specify the methodological and evaluation requirements for DI demonstrations to better ensure that such projects are designed in the most rigorous manner possible and that their results are useful for answering specific policy questions and for making, where appropriate, well-supported policy recommendations. Such requirements should not be entirely prescriptive given the need for SSA to have sufficient flexibility for choosing the right methodological approach based on the specific circumstances and objectives of a particular demonstration project. However, the requirements could call for SSA to choose, to the extent practical and feasible, the most rigorous methods possible in conducting these demonstrations. Whatever methods are ultimately selected, SSA should be sure that the methods used will allow for a reliable assessment of the potential effect on the DI program of the individual policy alternatives being studied. Finally, SSA's statutory requirements could be revised to include a more explicit list of project objectives—such as assessments of specific employment outcomes, costs and benefits, and Trust Fund savings—similar to the language that was included under Sections 302(b)(1) and (b)(2) of the Ticket to Work and Work Incentives Improvement Act.

Enclosure 2

In 1980 Congress provided the Social Security Administration (SSA) temporary authority to conduct demonstration projects to test the impact of waiving program rules. This authority was extended multiple times and expired in December 2005. The Government Accountability Office (GAO) has released two reports, one in 2004 and the other in 2008, criticizing the agency for its administration of demonstration projects. The President's FY 2012 budget request included a legislative proposal reauthorizing this authority for five years and requiring SSA to test a Work Incentives Simplification Proposal.

Would you further explain GAO's previous findings for us and tell us whether the agency has addressed GAO's concerns?

In September 2008, we reported that SSA had initiated 14 demonstration projects under its authority to test possible DI and SSI policy and program changes.³ At that time, we found SSA had spent about \$155 million on its projects, yet these projects had yielded limited information on the impacts of the program and policy changes they were testing. We also reported that while SSA had taken steps to improve its projects, in part, by applying more rigorous methodologies and contracting with external experts, SSA continued to lack certain management controls, such as written procedures for its project officers to follow as they design, implement, and evaluate its demonstration projects, nor had they fully implemented our recommendations from 2004. We also found that several projects had experienced delays and cancellations, partly because newly appointed officials made significant changes to some projects or determined that because others faced significant limitations or potential challenges it was not in the agency's interest to continue them. Because government operating conditions continually change, we noted that agencies should have mechanisms in place to identify and address any special risks arising from such changes, especially those caused by hiring new personnel to occupy key positions in the agency.⁴ While we acknowledged that certain management actions may have been reasonable, we were concerned that SSA's lack of written policies and procedures governing how such steps should be taken left current and future projects vulnerable to disruption.

To improve SSA's management of its demonstration projects, we recommended that the Commissioner of Social Security establish written policies, procedures, and mechanisms for managing and operating its demonstration projects that are consistent with standard research practices and internal control standards in the federal government, including those for coordinating with internal and external stakeholders and sharing information with Congress. In response, SSA noted existing processes and written procedures for managing and reviewing its programs, including the demonstration project program, and generally agreed with the need to develop a guidebook to assist staff in the design, implementation, and evaluation phases of demonstration projects and the value of piloting demonstration projects before proceeding with full implementation. In May 2011, SSA provided GAO with a copy of its revised "Demonstration Project Guidebook," which outlines the agency's policies, procedures, and mechanisms for managing and operating its demonstrations projects. GAO determined that it was consistent with research practices and GAO standards and that the

³GAO, *Social Security Disability, Management Controls Needed to Strengthen Demonstration Projects*, GAO-08-1053 (Washington, D.C.: Sept. 26, 2008).

⁴GAO, *Standards for Internal Control in the Federal Government*, GAO-AIMD-00-21.3.1., (Washington, D.C.: Nov. 1999).

guidebook addressed our recommendation regarding coordinating with internal and external stakeholders. While SSA has implemented the management controls we recommended, it is vital that the agency continue to monitor the management of these projects to ensure the quality of their performance, and that potential problems are promptly resolved. Without such monitoring, future projects may not yield reliable information similar to some projects in the past.



Committee on Ways and Means
Subcommittee on Social Security
Responses to Questions for the Record

David C. Stapleton

1. You refer to the Government Accountability Office's (GAO's) findings regarding disability program fragmentation where Federal and State programs often overlap and have misaligned incentives and conflicting objectives. In other papers you have written, you propose that tight resources can be better coordinated by giving block grants to the States and asking them to manage some elements of the disability program. It appears that you are saying that the States can provide better supports, more efficiently, to individuals who become disabled. Do you still support this idea and if so, how could it be done?

Summary

The proposal you refer to suggested a comprehensive restructuring of the support system for working-age people with disabilities—not just Social Security Disability Insurance, but the entire maze of Federal and State programs serving this population. Under the proposed restructuring, States or other local entities would take on more responsibility for delivering support, but this does not necessarily imply block grants to the States. We think the proposed plan has many merits and deserves careful consideration, but our immediate purpose for developing and releasing it was to stimulate discussion of how to comprehensively address the issues this committee and others have raised. That discussion needs to start immediately. Congress, researchers, and advocates need to look hard at the current situation and the full range of changes we could make to help people with disabilities achieve their potential and reduce growth in expenditures for their support. That discussion can identify changes that are likely to garner broad enough support from taxpayers and the disability community to offer a chance of real change.

The immediate goal for Congress should be to stimulate more serious consideration and testing of bold restructuring of the nation's disability policies and programs. There are important reasons—both logical and empirical—to think that such changes could help working-age people with

disabilities lead more fulfilling and productive lives while slowing growth in public expenditures for their support. But fragmentation in responsibilities for current policies and programs is such that we fail to seriously consider, develop, and test what appear to be the best options for reform—options that cut across agencies and levels of government. If Congress does nothing today, in 10 years the problems of poor economic outcomes for working-age people with disabilities, high public expenditures, and not enough evidence to restructure disability programs responsibly will persist. Disability policy reform is imperative, but it cannot go forward unless legislation creates an infrastructure for developing the needed evidence base.

In the remainder of my response, I offer concrete details and ideas to achieve this goal. Reasonable people may disagree about the details, but that does not detract from the fundamental point: legislation is needed to jump-start the process of improving disability policy for working-age Americans.

Detailed Response

The approach to disability policy that David Mann and I have written about encompasses a set of options that is broader than block grants to States. Fundamentally, it recognizes that an efficient system must be able to tailor supports to the widely heterogeneous characteristics and circumstances of people with disabilities. To achieve that end, it integrates eligibility determinations and support delivery into a local system led by an entity—a “Disability Support Administrator,” or DSA—held accountable for outcomes, including costs.

DSAs would have responsibility for administering all benefits for well-defined populations of people with disabilities, with financing via Federal and State grants rather than open-ended entitlements. The DSA could be a State, a locality, a private entity, or a coalition of entities. The managing entity could vary by State or even by locality. DSAs would have responsibility for assessing the capabilities of an applicant and designing and delivering supports tailored to the individual’s impairment and circumstances. They would also oversee outreach to the target population, employers, and the general public.

To hold DSAs accountable, the Federal Government would establish national eligibility criteria, adjudicate appeals, monitor and report key outcomes, and encourage continual program innovation. It would also implement an important system to obtain continuous and timely feedback from the

target population, perhaps facilitated by local consumer advisory boards under the umbrella of a national board.

With regard to your question on block grants, some States might perform well as DSAs under block grants, but there are many reasons to think that not all would. Some of those reasons stem from what has happened under welfare reform, particularly since the recent recession. We are especially concerned that, over time, DSAs' funding or management would become inadequate because of competing priorities. These concerns could be addressed through strong Federal oversight, but establishing effective oversight will be a significant challenge.

Our approach has clear advantages, but it has not been tested, and we would risk great harm to the target population, as well as to Federal and State budgets, should we move forward without appropriate tests to produce the evidence needed for decision making. Current law does not support or even allow such tests. Congress would need to pass legislation to facilitate demonstration of this model. Appropriate legislation could lead to many tests, including tests of designs that we have not yet imagined. Some of them—perhaps most—will not produce the desired results. But a few very likely will succeed, and these could become the basis for national reform.

It is important for Congress to recognize the economic, institutional, and political challenges that must be addressed to successfully integrate programs and re-align incentives. These challenges extend well beyond the jurisdiction of your subcommittee and are likely to include the following:

- Developing a financing and delivery structure that encourages, rather than discourages, multiple Federal and State agencies to serve a common population, pursuing common objectives, cooperatively.
- Protecting this financing and delivery structure from the vicissitudes of the economy and the political process.
- Creating a conceptual definition for eligibility, other than long-term inability to work.
- Defining system objectives and explaining what economic success for the target population means.
- Overhauling the process for determining eligibility and the supports to be provided—considering work potential first and integrating the eligibility process with the service delivery process.

- Increasing supports that are rarely used today (for example, partial benefits) and decreasing use of cash and health benefits alone.
- Integrating with health benefits under the Affordable Care Act (ACA).
- Using Social Security and Medicare Trust Fund revenues for a purpose that is not envisioned in current law: to help workers succeed in the labor force rather than enter these programs.
- According greater responsibilities to State agencies and the private sector, with stronger oversight from the Federal Government to protect beneficiaries and limit expenditure growth.
- Developing protections for those accustomed to relying on the current support system.

Congress needs to weigh the difficulties of policy options that would address all or many of these challenges against each option's potential merits. Pilot demonstrations are needed to assess the system's merits and develop information to address the various challenges under a national program. Exhibit 1 illustrates a DSA demonstration for a restructured system that could not be implemented without overcoming these challenges, but that also appears to have many merits. In this example, the pilot DSA is a State agency, but private organizations, county or municipal governments, or public-private partnerships, perhaps with a private disability or workers' compensation insurer playing a role, could also lead variants of this model.

At a minimum, implementation of the pilot DSA described in Exhibit 1 would require collaboration between the State's Disability Determination Service (DDS), vocational rehabilitation (VR) agency, Medicaid agency, and mental health agency. It would also be desirable to involve the State's workforce development, workers' compensation, family assistance, housing, food assistance, and other agencies serving some working-age people with disabilities, along with relevant local agencies in the demonstration areas. The pilot envisions a financing system in which funds to support the target population are rerouted from multiple Federal and State sources, including the SSDI and Medicare Trust Funds.

The design for this pilot has many attractive features (listed below) that, while untested, seem likely to substantially improve the economic status of the target population and lessen the growth in expenditures for their support, with low risk to both the well-being of the target population and government expenditures. A pilot test of whether such outcomes could be achieved seems worthwhile, despite issues to be overcome to implement a national program. A well-designed pilot

test, or series of tests, would also provide information about how best to address implementation challenges.

Attractive features of this pilot include:

- It integrates financing and aligns incentives for achieving greater economic success for the target population at lower cost to the government. The structure encourages collaboration between the public entities involved, and between these entities and the private sector.
- It fully protects current beneficiaries and could potentially be expanded to support their return-to-work efforts.
- It continues to make Social Security Disability (SSD) and Supplemental Security Income (SSI) available for those who qualify under current rules, if they are not satisfied with alternatives DSAs offer.
- It is structured in a manner that will not increase growth in Federal or State program costs in the short term and yields lower growth in the long term, as success builds. If State agencies simply continue to do what they do now and do not take advantage of the new structure, costs and outcomes for individuals would not change.
- It ensures that DSAs have funding and performance incentives to help the target population achieve greater economic success.
- It achieves efficiency in disability determinations by (1) consolidating initial responsibility at the State level; (2) eliminating the Social Security Administration's (SSA's) costly and time-consuming reviews of DDS allowances (pre-effectuation reviews); and (3) reducing appeals to the Office of Hearings and Appeals.
- It encourages DSAs to make decisions quickly, because applicants awaiting a decision, rather than making progress toward greater economic success or receiving SSD/SSI benefits, will impact performance measures negatively. Simplifying initial eligibility criteria and eliminating pre-effectuation reviews will accelerate delivery of supports and allow DSAs to allocate a greater share of resources to supports.
- As success is achieved, the pilot can be scaled up and potentially expanded to help those already receiving SSD or SSI benefits.

I am not recommending legislation that would require developing and implementing this specific pilot. My recommendation is broader: to pass legislation that encourages further consideration,

development, and testing of major structural changes to the disability support system. Right now, that development process is stymied by the challenges described above, and Congress needs to create an infrastructure that would support development and testing of changes.

Exhibit 1. Outline for a Disability Support Integration Pilot

Target Population • Working-age people with significant long-term medical conditions or impairments who are not yet receiving SSD or SSI benefits. SSD includes disabled workers as well as disabled adult children and disabled widow(er)s.
Objective • Improve the economic well-being of the target population and reduce entry into SSD and SSI.
Location • Initially, perhaps a single county or municipality in a State, expanded to others as knowledge is gained. It will be critical to test the approach in multiple local environments.
Financing • Significant Federal funds would have to be allocated to the pilot demonstration, with matching funds provided by the State. The annual funding level should be determined by rules designed to reflect how current Federal and State funds would be reallocated under a national program. The pilot offers an opportunity to develop and test these rules. Congress could appropriate funds for the pilot demonstration without actually rerouting the funds from their anticipated sources. Funds to support development and evaluation of the pilot would also be necessary—potentially from the research budgets of the relevant agencies or from a separate appropriation. • SSA funding would initially equal projected benefits to new SSD and SSI awardees from the county or counties over a multi-year period, plus a commensurate amount for DDS services. Over time, the SSA funding would be ratcheted down toward a target that is less than the projected benefit payments to new awardees (e.g., 95 percent). • Funding from the Centers for Medicare & Medicaid Services would be based on projected Medicare and Federal Medicaid expenditures for the target population. Those in the target population who do not enter SSD or SSI would have basic health insurance under the ACA rules (potentially subsidized), unless the State obtains a suitable waiver for the pilot. A reinsurance mechanism would be needed so that DSA operations—and hence the entire target population—are not at risk from a few extraordinarily high cost cases. • Federal VR funding for the target population would similarly be commensurate with current funding. • To the extent that services currently delivered to the target population by other federally funded programs become the responsibility of the DSA, Federal funding for the pilot should include an amount commensurate with the current level of support. • The State's contribution to the pilot would be commensurate with current State support for the target population (for Medicaid, VR, SSI State supplements, and mental health services at a minimum).
Service System • The State would create a DSA, incorporating all of the agencies listed earlier and potentially other

public or private entities.

- The mission of the DSA would be to improve the target population's economic and social well-being, within its budget. Toward that end, it would engage in significant community outreach, including outreach to employers, workers' compensation insurers, and private disability management insurers.
- People in the target population (hence not in SSD or SSI) already served by the State would automatically become the responsibility of the DSA. Others could apply for support through a unified eligibility process.
- People in the target population could apply for SSD or SSI at any time, just as now, but they would apply to the DSA, instead of to an SSA field office. SSA's central office would be required to quickly determine nonmedical eligibility for SSD and the potential SSD benefit amount. Determination of non-medical eligibility for SSI, and the SSI benefit amount, would be the responsibility of the DSA. The DSA could make an allowance, not subject to SSA review. All SSD, SSI, Medicare, and Medicaid benefits paid on behalf of those allowed would be paid from the DSA's budget, up to a ceiling equal to the size of the Federal and State contributions to the budgets.
- The initial disability determination process could incorporate an up-front assessment of what the applicant needs in order to achieve greater economic success, and the DSA could choose to provide those services.
- The DSA would offer a wide array of consolidated supports to the target population, including cash benefits, allowances for various purposes, counseling/navigation services, and in-kind support. The DSA would have the resources to intervene early—to help those in the target population work or return to work when they first enter the target population—as well as an incentive to do so. It would seek to strike a more efficient balance between expenditures for SSD, SSI, Medicare, or Medicaid on the one hand, and those for a range of supports and services (e.g., employment supports, partial benefits, care coordination services, personal assistance, assistive devices) that the target population might find more beneficial, on the other.

National Standards, Monitoring, Oversight, and Evaluation

- The pilot would incorporate a simplified set of minimum eligibility criteria—intended to identify those who, in the absence of the supports offered by the DSA, face significant, long-term challenges to self-support. The pilot would support the design of minimum eligibility criteria under a national program.
- Those denied SSD or SSI by the DSA and not satisfied with available alternative supports could appeal to SSA's Office of Hearings and Appeals, just as they can now under current eligibility criteria; one difference is that the DSA would be represented in the appeals process. If allowed on appeal, the new beneficiary's SSI, SSD, Medicare, or Medicaid benefits would all be paid from the DSA's budget.
- A Federal oversight body would ensure that the economic well-being and health of the target population are improving rather than deteriorating.
- The pilot would have a rigorous system to monitor the economic well-being and health of the target population. This system could rely heavily on program administrative records, but would also need to collect some information on those not being served by the DSA. Experience gained under the pilot system would provide important information for the development of a national system.
- The pilot would include a rigorous evaluation system and a feedback process to support continuous improvement. Evaluation findings would provide critical information to policymakers and all those seeking to implement a DSA system at the national level.

2. **Some support reallocating the payroll tax to address the disability insurance financing shortfall in the near term, and saving significant reform efforts for later. What's your reaction to this approach?**

I agree with this approach, with an important caveat. My understanding is that this question refers to increasing the share of the Social Security payroll tax that is allocated to the Disability Insurance Trust Fund, with an off-setting reduction for the Old-Age and Survivors Insurance Trust Fund. Reallocation of the payroll tax would be a reasonable stop-gap measure, but I think it would be a mistake to proceed with that or other short-term fixes—including benefit reductions or tightening of eligibility—without simultaneously launching an effort that could lead to significant reform in the future. It requires time to build the evidence base that future Congresses will need to support significant reforms.

3. **GAO's report concludes that assistive devices and workplace accommodations can play a critical role in an individual's ability to function in the work environment. What are your views about these findings and how they might affect eligibility for disability benefits?**

GAO's conclusions are correct. The implications for eligibility determination are considerable. Given our current "inability to work" approach to determining eligibility, it is problematic to include consideration of these issues in the determination process, just as it is problematic to include consideration of health care services. The government would be denying benefits on the basis of services or supports that would allow the applicant to work, but that are not necessarily available. Various technologies and accommodations (e.g., a scooter, special computer software or hardware, a job coach, or a modification to an employer's work space) might allow applicants to work despite a significant impairment, but if these technologies and accommodations are not available to them, denial of benefits might well leave them in dire economic straits. It would be much simpler to incorporate these supports into a system that considers work capacity first, engages with the employer, and provides subsidies for assistive devices, workplace accommodations, or other supports designed to enable work. Workers' compensation and private disability insurers do this now.

4. If Congress were to authorize a pilot activity to get better data as part of disability reform, what would be the design elements that the pilot or pilots should be testing?

There are many design elements that have considerable merit but are untested. It is important to establish a demonstration process that is flexible enough to support testing of these elements as well as others that might materialize. Note that no element can be considered in isolation; in general, a pilot would need to package multiple elements in a sensible manner, as the demonstration outlined above does. A demonstration structure that requires and facilitates interagency cooperation and Federal-State cooperation is also critical, as I noted in my testimony and response to question 1.

The following design elements, while not comprehensive, are worth considering:

Program Integration

- Integration of Federal and State funding streams in a manner that improves efficiency and supports the objective of helping the target population achieve economic success with less reliance on Federal and State benefits. This should include use of trust fund revenues in any manner that would reduce costs for current benefits by at least a commensurate amount.
- Integration of eligibility determination and service delivery across Federal and State agencies.
- A full redesign of benefits for youth and young adults with significant impairments or chronic conditions, designed to improve social outcomes for all, and to increase employment success and adult self-sufficiency for some.
- For workers experiencing disability onset, integration of public disability benefits with private health insurance, private disability insurance, and workers' compensation benefits.

Eligibility

- Minimum eligibility criteria for any disability supports, including supports designed to improve economic self-sufficiency.
- An integrated eligibility-determination process that first assesses work capacity and the costs and benefits of providing available supports to increase self-sufficiency.

Benefit Design

- Allowances to offset the costs of disability, available without restrictions on earnings. Enhancements to the availability of counseling might be critical to success, following the Cash and Counseling model that has improved delivery of personal assistance services under Medicaid in many states. This approach to support could potentially replace, in total, the “inability to work” approach underlying SSD and SSI; benefit amounts would need to be substantially restructured to be consistent with the concept and to control costs (including costs from induced entry).
- Temporary benefits, designed to provide assistance during episodic flare-ups of chronic conditions or to facilitate employment reentry following job loss. This approach might be characterized as enhanced unemployment insurance benefits.
- Wage subsidies for those with limited work capacity.
- New and simpler earnings rules for SSD and SSI beneficiaries, including:
 - SSA’s proposed Work Incentive Simplification Pilot.
 - Establishment of a common set of simplified rules for SSD and SSI.
 - Replacement of current rules for SSD and SSI with simpler annual step-down rules (for example, reducing benefits by 25 percent when annual earnings are between 100 and 200 percent of the annual equivalent of substantial gainful activity; by 50 percent for earnings between 200 and 300 percent; etc.).

Private-Sector Engagement

- Incentives for employers to hire or retain workers with significant impairments or chronic conditions. Options here include payroll tax incentives, subsidies for accommodations and disability management services, and reinsurance to limit the costs of employer health benefits for workers with chronically high health care costs.
- A subsidy or payroll tax reduction for private disability insurance premiums offset by a required payment by the private insurer of 100 percent of benefits (typically 60 percent of pre-disability wages) for a waiting period (e.g., 36 months) before the worker is eligible for SSD—after which the insurer’s liability is reduced by the SSD benefit amount (compared to no subsidy and no waiting period under current law).
- A system under which SSA would use administrative data to identify employers or areas with high SSD incidence rates (i.e., those whose disability-insured workers enter SSD at a high rate) and would work with the employer, union, insurers, and/or local authorities to

design and provide seed funds for innovations that reduce SSD entry. These innovations could include targeted changes to the payroll tax rate.

- An experience-rating system for payroll taxes.





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1. One of Dr. Burkhauser's recommendations, based on the experience of the Netherlands, is to "experience rate" the payroll tax, requiring employers to shoulder these costs by taxing at higher rates those employers whose employees qualify for DI benefits at above-average rates. What are your thoughts on this idea?

We would need to study this idea more closely to deliver an informed opinion. However, at first glance it sounds like it would increase government red tape and impede employers and entrepreneurs (including USBLN® certified disability owned businesses) ability to expand their businesses and their payroll.

Additionally, it appears that it could be a disincentive with a population that is already struggling to get hired. Our members don't think that any form of "punishment" or tax penalty is wise given how high the unemployment and under-employment rate is for individuals with disabilities.

2. Workers Compensation uses experience rating. What do employers think about experience rating?

We queried our membership and found that they don't work directly with this issue. Thus we would need to work through USBLN® members to get to the right contacts to deliver a response.

3. What are some of the reasons employers give you about why they want to keep individuals with disabilities in the workforce?

USBLN® member companies cite the following reasons for retaining employees with disabilities:

- It's cost effective to recruit and retain the best talent regardless of disability;
- Technologies that are usable by all employees lead to greater productivity by all;
- It is recognized that a diverse workforce increases creativity and improves the bottom line; employees with disabilities are an essential part of a diverse workforce; and,
- The corporate image is important and a company that retains employees who have or acquire disabilities will increase its value in the community thus increasing their share of new markets.

4. If disabled individuals are anxious to keep working, why haven't they taken more advantage of the Ticket to Work program?

While our members are not experts on the Social Security programs (including the Ticket to Work program) they strongly believe that the foundation of any changes in our current system needs to be rooted in moving our nation's view of people with disabilities from a deficit or **medical** model to a talent or **social** model.

The medical model of disability is still prevalent in our country as evidenced by our language choices, media portrayals, fundraising activities, and program eligibility requirements. A social model defines disability as different from the average, neutral in the absence of additional context, and located in the interaction between individuals and society. The remedy in the social model is ensuring that the environment is accessible and that attitudinal barriers are addressed. The social model enables society to make a paradigm shift from "hiring people with disabilities is a charitable act" to "recruiting, hiring and retaining people with disabilities is a smart business strategy."

Finally, there appear to be a maze of work incentives programs like the Ticket to Work program that exist not only within the Social Security Administration but also in other federal benefit programs. These programs seem to be complex and difficult to navigate. The complexity of the system leads to scenarios where job applicants and their advocates when applying for employment or offered a raise frequently refuse both because they are concerned about exceeding earning levels and thus jeopardizing their Social Security benefits.

5. What are employers' experiences with respect to assistive devices or workplace accommodations?

Assistive devices and accommodations are great for helping to level the playing field for persons with disabilities; however they also help with making ALL employees more productive and better engaged, thus increasing morale and loyalty.

For example, when companies implement closed captioning for webcasts it does benefit those with hearing impairments, but by far the larger populations that access this accommodation are:

- Employees with auditory processing conditions
- People who sit in open cubicles and do not want to disturb their colleagues; and,
- Employees traveling in open public places like airports that need to protect confidential company information.

Many accommodations are simply viewed as productivity aids such as a larger monitor. The challenge is when the employee/applicant does not know to ask and/or does not know what is needed. Employers sometimes fear that if they bring in a disability expert they may inadvertently be exposed to a lawsuit.

6. If Congress were to authorize a pilot activity to get better data as part of disability reform what would employers want to be the design elements that the pilot or pilots should be testing?

Pilot design elements cited by USBLN® member companies included:

- Include an evaluation component to measure that job candidates with disabilities in the pilot possess the skills, interest and ability to learn the job tasks prior to actual placement.
- Usage of just in time training, and its impact on hiring managers;
- Utilize a social model of disability for program eligibility requirements that defines disability as different from the average, neutral in the absence of additional context, and located in the interaction between individuals and society;
- Setting hiring objectives;
- Self-identification, "coming out" strategies;
- Targeted development programs for employees with disabilities;

- Leveraging the USBLN® to generate innovative, replicable and sustainable ideas from our membership, and;
- Adding certified disability owned entrepreneurs to supplier spend tracked and rewarded by government.





Questions for the Record, for Chairman Sam Johnson from Nadine Vogel, Founder and President of Springboard Consulting, LLC

Responses dated November 16, 2012

For the House Ways and Means Subcommittee on Social Security hearing: "Securing the Future of the Disability Insurance Program," September 14, 2012

- 1) SHRM and its members recognize the need to strengthen the Social Security Disability Insurance (DI) program. Therefore, we appreciated Dr. Richard Burkhauser's proposal to reform the DI program based on reforms that have been enacted in the Netherlands. However, while the Dutch experience with disability benefits is worthy of consideration, there may not be great applicability to the vastly larger U.S. workforce. In addition, the overall Netherlands government approach to employee and social benefits is very different than the United States.
- 2) While experience rating is used to fund state workers' compensation benefits, employers have significant challenges navigating workers' compensation laws. In the human resource profession, the combination of the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and federal and state workers' compensation laws are commonly referred to as "the Bermuda Triangle of HR." Despite their significant merits, these laws are particularly complex, overlapping and frustrating for employers to administer, particularly for those employers that are administering a return-to-work (RTW) strategy and trying to facilitate work for an employee with an impairment. When I do worker assessments, I see great angst among employers regarding workers compensation laws, in part because of experience rating.
- 3) There is no question that varying state and federal laws present various pitfalls to employers that seek to help employees with disabilities. Ironically, it is often more difficult to bring an employee back from a long-term disability situation than to accommodate a new employee with the same disability as the employee on disability. This is because the complex interaction between the FMLA and the ADA with an employer's long-term disability (LTD) policy often makes it very complicated for the employer to navigate these rules and get the employee back to employment. Therefore, once an employee enters into an LTD situation, he or she is more likely to remain on SSDI. For these reasons, SHRM's number one policy

recommendation is for Congress to harmonize the myriad federal definitions of disability. Until this happens, other changes won't make a big difference. I hear from representatives at global organizations that ask, "why does the U.S. have so many definitions of disability?" The ADA, OFCCP, Social Security and education definitions of disability are needlessly varied. SHRM prefers the ADA's definition, as it relies on the essential functions of a job, rather than a more general job description. RTW and intersection between FMLA and ADA.

- 4) As you might imagine, Mr. Chairman, employer experiences with providing assistive technology and other accommodations is mixed. For example, I was recently speaking with an employee with low vision. The employee was being told by the employer to go to their manager to submit their accommodation request, in this case, for an assistive technology device. This organization has no centralized process for dealing with accommodation requests, which makes it difficult for people managers to know how to understand what the best and simplest solution may be to appropriately meet the needs of the employee. I always recommend that employers have a "one-stop," end-to-end process for employees to request accommodations and for managers to provide accommodations (including and accessible technology) in a fair and equitable manner. Employers should have an internal expert who can identify the appropriate solution, install such devices, train recipients on how to operate the devices, and provide maintenance and service. The end-to-end workplace accommodation process is otherwise known as a Reasonable Accommodations Committee.
 - 5) Clarity and simplicity are always the cornerstones of what employers want from federal requirements or programs of any kind. Therefore, SHRM would support a pilot program that adopts a harmonized definition of disability based on the ADA definition. SHRM believes the ADA's disability definition is superior to other federal definitions because it focuses on what an employee can do, not what he or she cannot do. A second key element of a pilot program would be to allow an employer that has a Return to Work (RTW) program flexibility in navigating between the ADA and FMLA in returning an employee to work. For example, it's often easier to accommodate an individual's disabilities when they begin work, rather than when they are returning to work. The FMLA requires that when an employee returns to work, he or she must be restored to the same pay, some position and same job functions as prior to their break in service. Permitting employers to move around elements of the job duties, based on the employee's capabilities.
-

Question 1

Congress created the Ticket to Work program in 1999 to help beneficiaries return to work, but the number of beneficiaries who leave the rolls due to work is negligible. You support a fundamentally different approach, one in which ways are found to keep those with disabilities in the workplace for as long as possible. Please provide further details as to the best ways to do that?

Response 1

The vast majority of the evidence in the rehabilitation literature finds that the sooner rehabilitation and accommodation are provided, once medical treatments allow, following the onset of a work-limiting condition, the better is the chance of a return to work. This is the key insight that drives my views with respect to Social Security Disability Insurance reforms. We should be focusing on demonstrations of policy changes that can slow the movement of those with work limitations onto the SSDI rolls rather than tinkering with ways to improve the failed Ticket to Work Program or spending millions on demonstrations that, like the “2-for-1”, belatedly attempt to encourage those who have often spent years demonstrating that they are unable to perform substantial gainful activity to work.

SSDI must return to being the last resort income-support program Congress originally intended it to be. In addition to the many changes that have been suggested to better determine who should be on the rolls and the best ways to handle the appeals process, we should be focusing on sending clearer signals to employers and their workers of the true cost of providing long term disability benefits to workers who come onto the SSDI system. The current flat rate payroll tax system of funding SSDI fails to do so.

An experience-rated system of funding SSDI, using the best practices of the various State Workers Compensation programs, would be one way to do so. Workers injured on the job are more likely to receive rehabilitation and accommodation than workers whose injuries are not job related, because employers know that their future Workers Compensation payment rates will be affected by how many of their workers receive benefits.

Furthermore, we know that about 30 percent of current workers are covered by private long-term disability insurance. When they experience a work limitation on or off the job, case managers are assigned to assess their work capacity and recommend accommodation and rehabilitation. Because firms must pay insurance companies higher premiums if their workers go onto their long-term benefits programs, they take an active interest in such case management. This is not the case for workers not covered by such insurance and they are more likely to come onto SSDI without any additional expense to their employers.

Burkhauser QFRs – Securing the Future of the Disability Insurance Program

Experience rating SSDI benefits would require all employers to take a more active interest in working with private sector insurance providers to provide the case management up-front that is missing from our non-integrated private/public disability system. It is this lack of case management that is the flaw in our current disability system. It distinguishes us from all other OECD countries, most of whom manage cases at the government level. Rather than expanding the role of the Social Security System to provide this kind of case management, I believe it makes much more sense for the private sector to expand to do so, and experience rating SSDI is the least intrusive way to achieve this goal.

Question 2

Some support reallocating the payroll tax to address the Disability Insurance financing shortfall in the near-term, and saving significant reform efforts for later. What's your reaction to this approach?

Response 2

The SSDI Trust Fund is expected to run out in 2016. Papering over the fundamental flaws in the current SSDI program by borrowing from the OASI fund is no solution. While the Great Recession of 2007-2009 and its aftermath has greatly contributed to the share of the working-age population that has applied and been accepted onto the SSDI program since 2008, these numbers have been growing since 1990 and will not go back to 1990 levels once the economy fully recovers.

Program policy changes, not aging baby boomers or the increasing share of women covered by SSDI, are responsible for this program growth and only fundamental policy changes will bend back the future SSDI cost curve.

Question 3

Based on your testimony, it sounds as though the reforms to the Dutch system have been in place for about 10 years. Did the Dutch pilot this system first?

Response 3

To my knowledge there were no pilots of the Dutch reforms prior to their enactment. What drove them to action was a disability system that was out of control, and a willingness to recognize that the cause was policy-based not health-based.

Question 4

What have been the effects of the changes on the Dutch disability rolls? On Dutch employers? On the Dutch economy overall?

Response 4

The Dutch over the last decade have fundamentally reformed their runaway disability system by requiring all firms to take responsibility for the first two years of disability benefits and funding the first 10 years of payment for workers on their national disability program via experience-rated payments by firms.

As a result a major increase occurred in the private sector provision of disability insurance as Dutch firms more directly recognized the true costs of their employees going onto the disability benefit rolls. Private sector case management by private disability insurance companies is now the norm. As part of the reforms, workers are required by law to cooperate with these private case managers or forfeit their eligibility for government disability insurance once their two years of private sector benefits are up.

There are now several government-funded studies of the consequences of these program changes on the movement of workers from their short-term (sickness) programs to their long-term disability programs. Early results suggest that they have reduced movement onto the long-term government disability rolls and increased returns to work rather than simply shifting non-workers, who would have gone onto the long-term government disability rolls, onto some other welfare program.

The Dutch are no longer considered the “sick country of Europe.” In fact, the OECD now points to the Dutch reforms as a model for other countries and Dutch disability beneficiaries per 1,000 workers has fallen substantially since the implementation of these reforms in the early 2000s. In fact, the U.S.A. now has higher ratios of beneficiaries to workers than the Dutch.

Question 5

If Congress were to authorize a pilot activity to get better data and practice as part of a strategy of disability reform, what would be the design elements that the pilot or pilots should be testing?

Response 5

The first key objective of any pilot or demonstration should be to determine the role that early intervention via case management would play in slowing the movement of a random sample of those experiencing a work limitation onto the SSDI program.

Burkhauser QFRs – Securing the Future of the Disability Insurance Program

One idea would be to show how the provision of private sector case management to those who are coming onto the short-run disability insurance programs impacts their subsequent application and acceptance onto the SSDI program. For instance, this could be done in one of the States where short-term disability insurance is mandatory.

If that were successful I would then use a larger demonstration of policy changes that would provide incentives for increasing the use of private sector case management in slowing the movement of those with work limitations onto the SSDI rolls. My preferred policy change to test would be experience rating, since that was at the heart of the successful Dutch reforms. But another might be to lower payroll taxes for those firms who offer some minimum standard of private disability insurance that is more fully integrated into the SSDI system via the provision of medical records or other mechanisms to better provide uniform information to SSDI. But I would do this up-front rather than conditional on their actually lowering program costs.

But these are only some possibilities. I would urge Congress to fund a process that would systematically acquire such information by asking either the SSA, NIA or some other government-affiliated organization familiar with soliciting external research to put out a series of RFPs that would first seek the best methods for answering the key question:

What are the best mechanisms for slowing the movement of those with work limitations onto the SSDI rolls?

The next step would be to develop and implement demonstrations to test those methods.

But it would also be useful to look to the Dutch reforms as potential pilots for what works since they, more than any other OECD country, most resemble the U.S. system and have found the key to involving the private sector in case management.

Question 6

Unlike many other states, Nebraska's Disability Determination Section (DDS) is part of the Department of Education, not the Department of Health and Human Services. I am told by state officials this structure decreases external pressure on DDS to move beneficiaries off of state-funded programs onto the Social Security Disability Insurance Program and increases coordination with vocational rehabilitation programs. In your study of incentives underlying the disability program, have you had an opportunity to study operational incentives such as this? If so, what are your findings?

Response 6

I was not aware of this difference in agency authority in Nebraska. It is an interesting hypothesis that putting DDS and Vocational Rehabilitation in the same agency might make it more likely that some sort of government-centered case management would occur and hence lead to more effective use of rehabilitation and a slowdown of movement onto the SSDI rolls. This idea of government case management is the norm in most European countries. But I have not looked at this possibility at the state level and it is not done effectively at the federal level.

CFE, Statement

Comments for the Record

**House Ways and Means Committee
Subcommittee on Social Security**

**Hearing on Securing the Future of the Social Security Disability
Insurance Program**

Friday, September 14, 2012, 9:30 AM

by Michael Bindner
The Center for Fiscal Equity

Chairman Johnson and Ranking Member Becerra, thank you for the opportunity to submit our comments on this topic. We have twice commented on this topic with essentially identical remarks reflecting our view of this issue, which is made in the context of our overall proposal for tax and entitlement reform. These comments were made to the first session on December 2, 2011 and the second on December 9, 2011. In these comments, we will answer the questions which have arisen earlier in the series and summarize our proposals.

First, is the concept of disability that prevailed at the start of the program in 1956 still appropriate today given advances in medicine, rehabilitation, and the workplace?

We believe the answer must be no. Since the passage of welfare reform, the concept of disability has increased to include people with learning disabilities brought about by prenatal exposure to illicit drugs, while retaining coverage of people with mood disorders that can be treated quite effectively with medication. Current incentives are more a bar to rehabilitation, as no one wants to give up a life-time benefit for a life-time of work if they have any degree of rationality left. While there are still many mentally disabled people who need continuing assistance, ways should be pioneered to give them incentives to both participate in rehabilitative programs and employment opportunities.

Second, are there ways to better support individuals with disabilities to stay in the workplace?

Given the time required to receive assistance, this is almost a rude question. It is not easy to get on the disability rolls. Additionally, many who are seeking disability already cannot work, especially in this economy, so the question of staying in the workplace is largely overcome by events.

Third, can the decision-making process be strengthened so that, when appropriate, awards are made as early as possible and decisions on applications and appeals are made with greater accuracy and consistency?

Yes. Indeed, the initial award can be made in cooperation with the last employer, who would provide at least a portion of disability income as well as rehabilitative training in lieu of a higher disability insurance tax payment. Such a system would bring about faster determinations of disability, without the need to provide a case management and appeal infrastructure which provides make-work for both bureaucrats and disability lawyers, both of which add no real value to the program while costing taxpayers more and more as backlogs continue to grow and cases are summarily denied on the first reading.

In summary, our solution is to shift funding for disability insurance and rehabilitation entirely to an employer-paid, VAT-like Net Business Receipts Tax, with the payment of disability benefits and rehabilitative care to be covered by either the last employer or a future employer who wishes to take on the new employee's "case" and provide both continued benefits and services until that worker can be productive without continued assistance.

As stated, our proposed solutions are made in the context of a four part tax reform, which form the basis of our analysis. The key elements are:

- A Value Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure that every American family pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of \$100,000 and single filers earning \$50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25% in either 5% or 10% increments. Heirs would also pay taxes on distributions from estates, but not the assets themselves, with distributions from sales to a qualified ESOP continuing to be exempt.
- Employee contributions to Old Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

Please allow us to now repeat our proposed solution, which is identical to prior submissions. We will deal with how each of these proposals relates to the circumstances of program participant.

In the event a VAT is adopted, we propose that program participants receive a one time cost of living adjustment (COLA) at the VAT rate in the year the VAT takes effect, with further adjustments in any year the VAT rate increases. This is also applicable if our proposals for a regional VAT are enacted as amendments to the *United States Constitution*.

We propose that Disability Insurance payroll taxes be repealed, with funding coming from our proposed Net Business Receipts Tax. Repealing this tax provides a justification for decoupling the benefit level from past income. An income based benefit should be replaced with a standard benefit. During the application phase, instead of forcing participants onto state welfare rolls, the last employer would pay the standard benefit – which should be at least the minimum wage for a full time worker, if not higher – with this payment offsetting the employers NBRT liability and, if necessary, its VAT collections.

If the employee has dependent children, each child will also receive the refundable expanded Child Tax Credit with their benefits (currently estimated at \$520 per child per month). Please note that we propose elsewhere that the minimum wage be increased to \$12 an hour so that no one is paid primarily through the Child Tax Credit and that both the minimum wage and the credit be automatically adjusted for inflation.

As stated elsewhere, the expansion of the credit is funded by consolidating it with the Earned Income Tax Credit, the deduction for children and limitations on or elimination of the mortgage interest and property tax deductions. The extension of this credit to non-workers is offset by abolishing supplemental retirement programs, such as Supplemental Nutrition Assistance and housing assistance.

Once the application process is complete, the Federal (or regional) government will distribute payments, as well as the expanded refundable Child Tax Credit for any dependent children, all of whom would qualify for Medicare, including any long term care provisions transferred to the federal government from the Medicaid program.

If vocational or educational training is required, as it likely should be in some cases, then the training provider will serve as both “case worker” and conduit for additional benefits, including the Child Tax Credit. Participants would be paid the minimum wage for engaging in training, along with any additional stipend provided to program beneficiaries of the benefit level were set higher.

Client health care would be funded by the federal government, but could conceivably be provided through the health care system provided to employees of the training provider. This is also our proposal for providing education to TANF beneficiaries. This care could take the form of health insurance or of staff medical personnel and facilities. In the event health care reform devolves into a public option or single payer system, the question of who pays for health care will be moot.

Clients who are incapable of completing training and finding employment will be transferred back to beneficiary status, with the training provider paying benefits during any transition period.

Program participants, like TANF participants, would not pay OASI payroll taxes, nor would program providers pay an employer contribution on their behalf or distribute any personal retirement account shares to them as an offset to their Net Business receipts taxes.

Unless they have significant outside income from an inheritance, tort judgment or lottery prize, it is doubtful that program participants will be hit with the Income and Inheritance Surtax. In any case, benefits and tax credits received would not be counted in determining adjusted gross income for this tax, although training stipends probably should be.

Program participation should not be means tested based on any judgment, although beneficiaries of significant inheritances should probably be excluded from the program, although that level should be set rather high – likely at the level where such benefits are taxed, currently proposed at \$50,000 for individuals and \$100,000 for joint filers and qualifying widow(er)s.

Thank you for this opportunity to share these ideas with the subcommittee. We are always available to discuss them further with members, staff and the general public.

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**Securing the Future of the Social Security Disability Insurance
Program**

Friday, September 14, 2012, 9:30 AM

Clients:

The Center for Fiscal Equity has received no outside funding of any kind to support this testimony. It is not representing any interests for pay.



SSSC, Statement

STRENGTHEN SOCIAL SECURITY

...don't cut it.

September 28, 2012

The Honorable Sam Johnson
Chairman
Subcommittee on Social Security
Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

The Honorable Xavier Becerra
Ranking Member
Subcommittee on Social Security
Committee on Ways and Means
United States House of Representatives
Washington, D.C. 20515

Dear Chairman Johnson and Ranking Member Becerra:

We appreciate the opportunity to submit a statement for the record for the September 14, 2012 hearing on the future of the Social Security Disability Insurance (SSDI) system.

Social Security's Disability Insurance protection is an integral and vital part of the Social Security system. Disability insurance is a benefit rarely offered by private employers, yet crucial for basic economic security. Any one of us can suffer a disabling accident or illness at any time. Indeed, the Social Security Administration notes that "a 20-year-old worker has a 3-in-10 chance of becoming disabled before reaching retirement age."¹ Without the ability to earn wages and without disability insurance, most of us would be destitute. Indeed, without Social Security's modest but vital benefits, 55 percent of people with serious and permanent disabilities and their families would be in poverty.²

The definition of who is disabled is quite restrictive. In order to qualify for disability benefits, workers must not only have worked and contributed to Social Security for enough quarters to be insured, they must be unable to work in any gainful employment anywhere in the country due to a severely disabling condition that is expected to last for 12 months or longer, or result in death. Even when so severely disabled, the decision to apply for SSDI benefits is not something that most individuals take lightly. Indeed, it is frequently a last resort after a worker has exhausted his or her other options for staying in or re-entering the workforce. These benefits – which average only \$1,060 a month or \$12,720 a year, significantly less than full time minimum wage work – are extremely modest by virtually any measure.³

¹ Social Security Administration, Disability Planner: Social Security Protection If You Become Disabled. Accessed at <http://www.ssa.gov/dibplan/>.

² Social Security Administration, Income of Disabled-Worker Beneficiaries, 2001. Accessed at http://www.ssa.gov/policy/docs/chartbooks/income_workers/di_chart.pdf.

³ Table 4. Number and average monthly benefit, by sex and age, December 2011. In Social Security Administration (2012). Annual Statistical Report on the Social Security Disability Insurance Program, 2011. http://www.ssa.gov/policy/docs/statcomps/di_asr/2011/sect01b.html#table4.

Importantly, too, under some circumstances an adult child of a disabled, retired or deceased parent is eligible for Social Security benefits if severely disabled before age 22, a critical benefit for nearly one million dependent adult children and their parents.⁴

Many in Washington on both sides of the aisle have talked about the need to strengthen the SSDI system. However, “strengthening” SSDI is most often discussed in terms of ensuring that the program is solvent. While there is no doubt that this is important, it is important to remember that solvency is simply a means to an end. The goal of Social Security’s disability insurance is to provide a foundation of economic support in the event that a worker and his or her family lose wages as a result of a serious and permanent disability. For Social Security to fulfill this extremely important function, benefits must be adequate and accessible in a timely manner. In addition, of course, those benefits must be adequately financed.

As just stated, benefits are extremely low. Moreover, disabled workers and their families must wait an unconscionably long time simply to receive a determination of whether they qualify for benefits. Currently, the time to process an initial disability claim is more than three months – 111 days for FY 2012.⁵ The average time that a disability claimant waits for a hearing decision is about 338 days.⁶ By law, those who do qualify must wait two years before qualifying for Medicare, even though people with disabilities generally have high medical needs.

Given the considerable backlog of disability claims, more attention is needed to improve the ability of beneficiaries to access the benefits that they have earned. Lengthy waits can cause individuals who have earned SSDI benefits to suffer from considerable financial difficulties, and even medical problems if they are forced to forgo needed treatment. Claim processing times have been attributable at least in large part to inadequate funding for the Social Security Administration. In recent years, the Social Security Administration has seen almost no increase in its administrative funding, despite increases in the number of disability claims due primarily to demographic shifts and the growing number of applications and beneficiaries attributable to the aging of baby boomers and, in part, to the recession. This places considerable strain on SSA’s employees, as well as stress on beneficiaries when their benefits are delayed.

These delays are particularly troubling because the costs of administering the SSDI program are already paid for out of the payroll tax contributions of working Americans into the Disability Insurance Trust Fund. Moreover, unlike the general operating fund of the United States, which is currently running large deficits, the Old Age, Survivors, and Disability Insurance Trust Funds have an accumulated surplus of \$2.7 trillion – funds resulting in part from the wages of those disabled workers who are being denied timely determinations.

As you know, Social Security is the nation’s most fiscally conservative and responsible federal program. It is prohibited by law from paying benefits unless it has sufficient income and assets to cover the cost. While the Disability Insurance Trust Fund is projected to be unable to cover its costs in a few years, the DI Trust Fund, when viewed in combination with the Old Age and Survivors Insurance Trust Fund, can

⁴Table 5.J1, Number of children, by state or other area and type of benefit, December 2011. In Social Security Administration (2012). Annual Statistical Supplement. Accessed at <http://www.ssa.gov/policy/docs/statcomps/supplement/2012/5j.html#table5.j10>.

⁵ Social Security Administration, Full Justification of Estimates For Appropriations Committees, February 2012. <http://www.ssa.gov/budget/2013FullJustification.pdf>.

⁶ *Id.*

cover all benefits for the next twenty years. Because the disability insurance part of Social Security is so intertwined with the old age and survivors portion, past Congresses have simply reallocated the FICA contributions between the two funds, so that they could be dealt with together in a deliberate, careful way.

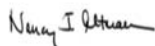
The disability insurance portion of Social Security is fundamentally sound, as is all of Social Security. According to Stephen C. Goss, the Chief Actuary, the recent increased costs of the disability insurance portion of Social Security are the result of several well-understood factors.⁷ The incidence of disability is higher among older workers and we have an aging work force. Moreover, women on average suffer higher incidences of disability than men, and populations of color suffer higher rates of disability, on average than whites. Over the last few decades, we have had an increasingly diverse work force. Notably, these demographic shifts are now in the process of stabilizing. Moreover, all Social Security beneficiaries receiving benefits from the Disability Insurance Trust Fund automatically begin to receive benefits from the Old Age Trust Fund when they reach full retirement age. Because the full retirement age has increased to 66 and will soon be 67, the Disability Insurance Trust Fund must provide benefits for one or two years longer.

We respectfully urge that this Congress follow the precedent of past Congresses and reallocate the percentage of FICA contributions going to the Social Security Trust Funds so that both will be projected to be able to pay all benefits in full and on time for the next two decades. Substantive changes to Social Security should not be considered as part of any deficit legislation, since cutting its benefits or increasing its revenue would not change the amount of federal debt subject to statutory limit.

When Social Security is addressed, the focus should be on adequacy of benefits and the ability of workers to access those benefits in a timely, efficient way, in addition to how those benefits should be paid for. We urge that those deliberations be held through the normal legislative process, in the sunshine, as they always have. Social Security is too important, too successful, and too popular to handle any other way.

Thank you again for this opportunity to share our views on the future of this essential program.

Sincerely,



Nancy Altman
Co-Chair, Strengthen Social Security Coalition



Eric Kingson
Co-Chair, Strengthen Social Security Coalition

⁷ Securing the Future of the Social Security Disability Insurance Program. Testimony by Steve Goss, Chief Actuary, Social Security Administration. Before the House Committee on Ways and Means, Subcommittee on Social Security, December 2, 2011.

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