HEARING WITH THE COMMISSIONER OF SOCIAL SECURITY, MARTIN O'MALLEY

HEARING

BEFORE THE

SUBCOMMITTEE ON SOCIAL SECURITY

AND THE

SUBCOMMITTEE ON WORK AND WELFARE

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTEENTH CONGRESS

SECOND SESSION

MARCH 21, 2024

Serial No. 118–SS06

Printed for the use of the Committee on Ways and Means

U.S. GOVERNMENT PUBLISHING OFFICE
56–478 WASHINGTON : 2024

COMMITTEE ON WAYS AND MEANS

JASON SMITH, Missouri, *Chairman*

VERN BUCHANAN, Florida
ADRIAN SMITH, Nebraska
MIKE KELLY, Pennsylvania
DAVID SCHWEIKERT, Arizona
DARIN LaHOOD, Illinois
BRAD WENSTRUP, Ohio
JODEY ARRINGTON, Texas
DREW FERGUSON, Georgia
RON ESTES, Kansas
LLOYD SMUCKER, Pennsylvania
KEVIN HERN, Oklahoma
CAROL MILLER, West Virginia
GREG MURPHY, North Carolina
DAVID KUSTOFF, Tennessee
BRIAN FITZPATRICK, Pennsylvania
GREG STEUBE, Florida
CLAUDIA TENNEY, New York
MICHELLE FISCHBACH, Minnesota
BLAKE MOORE, Utah
MICHELLE STEEL, California
BETH VAN DUYNE, Texas
RANDY FEENSTRA, Iowa
NICOLE MALLIOTAKIS, New York
MIKE CAREY, Ohio

RICHARD E. NEAL, Massachusetts
LLOYD DOGGETT, Texas
MIKE THOMPSON, California
JOHN B. LARSON, Connecticut
EARL BLUMENAUER, Oregon
BILL PASCRELL, Jr., New Jersey
DANNY DAVIS, Illinois
LINDA SÁNCHEZ, California
TERRI SEWELL, Alabama
SUZAN DelBENE, Washington
JUDY CHU, California
GWEN MOORE, Wisconsin
DAN KILDEE, Michigan
DON BEYER, Virginia
DWIGHT EVANS, Pennsylvania
BRAD SCHNEIDER, Illinois
JIMMY PANETTA, California
JIMMY GOMEZ, California

Mark Roman, *Staff Director*
Brandon Casey, *Minority Chief Counsel*

SUBCOMMITTEE ON SOCIAL SECURITY

DREW FERGUSON, Georgia, *Chairman*

MIKE CAREY, Ohio
DAVID SCHWEIKERT, Arizona
RON ESTES, Kansas
BLAKE MOORE, Utah
RANDY FEENSTRA, Iowa
GREG STEUBE, Florida
DAVID KUSTOFF, Tennessee

JOHN LARSON, Connecticut
BILL PASCRELL, New Jersey
LINDA SÁNCHEZ, California
BRIAN HIGGINS, New York
DAN KILDEE, Michigan

SUBCOMMITTEE ON WORK AND WELFARE

DARIN LaHOOD, Illinois, *Chairman*

BRAD WENSTRUP, Ohio
MIKE CAREY, Ohio
BLAKE MOORE, Utah
MICHELLE STEEL, California
LLOYD SMUCKER, Pennsylvania
ADRIAN SMITH, Nebraska
CLAUDIA TENNEY, New York

DANNY DAVIS, Illinois
JUDY CHU, California
GWEN MOORE, Wisconsin
DWIGHT EVANS, Pennsylvania
TERRI SEWELL, Alabama

C O N T E N T S

OPENING STATEMENTS

WITNESSES

MEMBER QUESTIONS FOR THE RECORD

PUBLIC SUBMISSIONS FOR THE RECORD

FOR IMMEDIATE RELEASE CONTACT: 202-225-3625
March 14, 2024
No. SS-06

Chairman Smith, Social Security Subcommittee Chairman Ferguson, and Work & Welfare Subcommittee Chairman LaHood Announce Joint Subcommittee Hearing with the Commissioner of Social Security, Martin O'Malley

House Committee on Ways and Means Chairman Jason Smith (MO-08), Social Security Subcommittee Chairman Drew Ferguson (GA-03), and Work & Welfare Subcommittee Chairman Darin LaHood (IL-16) announced today that the Subcommittees on Social Security and Work & Welfare will hold a joint hearing with newly confirmed Commissioner of Social Security, Martin O'Malley, to discuss needed improvements to how the Social Security Administration (SSA) serves the public, opportunities for the SSA to strengthen work incentives and employment supports, and the President's fiscal year 2025 budget request. The hearing will take place on **Thursday, March 21, 2024, at 2:00 PM in 1100 Longworth House Office Building**.

Members of the public may view the hearing via live webcast available at https://waysandmeans.house.gov. The webcast will not be available until the hearing starts.

In view of the limited time available to hear the 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 Committee and for inclusion in the printed record of the hearing.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:

Please Note: Any person(s) and/or organization(s) wishing to submit written comments for the hearing record can do so here: WMSubmission@mail.house.gov.

Please ATTACH your submission as a Microsoft Word document in compliance with the formatting requirements listed below, **by the close of business on Thursday, April 4, 2024**. For questions, or if you encounter technical problems, please call (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 reserves the right to format it according to guidelines. Any submission provided to the Committee by a witness, any 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 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.

All submissions and supplementary materials must be submitted in a single document via email, provided in Word format and must not exceed a total of 10 pages. Please indicate the title of the hearing as the subject line in your submission. Witnesses and submitters are advised that the Committee relies on electronic submissions for printing the official hearing record. All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears. The name, company, address, telephone, and fax numbers of each witness must be included in the body of the email. Please exclude any personal identifiable information in the attached submission.

Failure to follow the formatting requirements may result in the exclusion of a submission. All submissions for the record are final.

ACCOMMODATIONS:

The Committee seeks to make its facilities accessible to persons with disabilities. If you require accommodations, please call 202-225-3625 or request via email to WMSubmission@mail.house.gov in advance of the event (four business days' notice is requested). Questions regarding 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 Committee website at http://www.waysandmeans.house.gov/.

###

HEARING WITH THE COMMISSIONER OF SOCIAL SECURITY, MARTIN O'MALLEY

THURSDAY, MARCH 21, 2024

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SOCIAL SECURITY,
JOINT WITH THE SUBCOMMITTEE ON WORK AND WELFARE,
COMMITTEE ON WAYS AND MEANS,
Washington, DC.

The subcommittees met, pursuant to call, at 2:50 p.m. in Room 1100, Longworth House Office Building, Hon. Drew Ferguson [chairman of the Subcommittee on Social Security] presiding.

Chairman FERGUSON. Good afternoon, everyone. We will call the hearing to order.

I first would like to thank Commissioner O'Malley for joining us today.

Thank you for being here today.

This is an important time to talk about the future of the Social Security Administration. There are going to be an awful lot of topics that come up today, and one of the things in this that we are going to focus on is the efficiency and the operation of the administration itself.

We will continue to have discussions throughout this year, developing really good frameworks for discussions about bipartisan solutions to solvency. But clearly, today's hearing will be on the focus of the improvement and the steps that you have taken, Mr. O'Malley, for making the customer service better, efficiencies better, and making sure that our citizens' data is protected.

But thank you again for being here. I am going to be fairly short here with my opening comments, because of the time and the vote schedule. But we look forward to a robust and healthy discussion.

Chairman FERGUSON. With that I am going to call on Mr. LaHood for his opening comments.

Chairman LAHOOD. Well, thank you, Chairman Ferguson.

Welcome, Commissioner O'Malley. I want to thank you for being here today and the opportunity to visit with you about the Social Security Administration. And I want to thank you for your prior service as governor of Maryland, and also for you stepping up to take this position, and your leadership. And we look forward to a robust and constructive dialogue today.

I will just say a couple of opening remarks, and Chairman Ferguson touched on customer service and your mission there. It's critical that we work together to ensure that seniors and that millions of Americans with disabilities that depend on your agency get the services they need.

You have a tall task before you, and I have heard from numerous constituents from across my district, covering much of the central and northwest part of the state, about the Social Security Administration's struggle to provide timely, responsive services. Since the beginning of last year, my office has worked on 150 Social Security constituent cases, with about one-fourth of them still open.

As Chairman of the Work and Welfare Subcommittee, I have a particular interest in your plans that would impact the Supplement Security Income, or SSI—we talked a little bit about this when we had an opportunity to visit last week—and the individuals it serves. Our subcommittee is overseeing SSI, along with multiple Federal programs that help Americans most in need, need to be reviewed and retrofitted.

One of the main concerns is the high rate of improper payments in SSI. In fiscal year 2022, the agency reported 5.3 billion in improper payments, 4.6 billion of which were overpayments. Many of these occur through no fault of those who have been improperly paid, and place a heavy burden on recipients, who often face a difficult and time-intensive process to resolve the issue.

I appreciate the Social Security Administration's recent rulemaking to put in place the Payroll Information Exchange to combat improper payments, as requested by myself and Chairman Ferguson nearly nine years after Congress authorized it. We should use every available tool and technology available to make sure we get payments right the first time. However, that does not mean that the SSA should sidestep Congress and unilaterally use rulemaking to change eligibility rules in the name of administrative simplification and reducing improper payments.

In the last two years, SSA has quietly released several proposed rules that continue the Biden Administration's executive overreach that threatens to cost taxpayers billions. By my count, SSA has four proposed rules that would result in $40 billion in unpaid-for mandatory spending in the Social Security and SSI programs.

For example, SSA has proposed expanding the definition of a "public assistance household," at an estimated 10-year cost of nearly $16 billion.

Another rule proposes to reduce the level of scrutiny given to the disability claimant's ability to do past work—has an estimated 10-year cost of 20 billion.

And it has not gone unnoticed how the SSA is overstepping Congress's authority to make spending decisions, and I hope we can work together to ensure that these rules are not finalized in their current form or without offsetting costs as called for in the bipartisan Fiscal Responsibility Act signed by President Biden last year.

Finally, our subcommittee is interested in working with you on finding ways to support what I call the dignity of work, and we have been focused on that in the Work and Welfare Subcommittee. All of our government programs need to be oriented to provide every opportunity for able-bodied individuals, no matter their circumstances, to grow their capacity and be connected to meaningful work.

Chairman LAHOOD. With that, Mr. Commissioner, we look forward to a good hearing today. Thank you.

Chairman FERGUSON. Next we will go to my friend and colleague, a ranking member on the Social Security Subcommittee, Mr. Larson.

You are now recognized.

Mr. LARSON. Thank you, Mr. Chairman. It is good to have Commissioner O'Malley before us today.

And your distinguished service throughout a lifetime is exceptional here in Washington, D.C. to have someone of your caliber who is managing one of the nation's most important agencies. I commend you for your leadership, and I look forward to continuing to work together to ensure that the nearly 70 million Americans who are on Social Security continue to receive the benefits they have earned.

I applaud your quick attention to addressing the impact of overpayment collections on seniors and people with disabilities in a way that puts the needs of beneficiaries first.

I also want to applaud President Biden for requesting 15.4 billion for SSA's administrative budget, a 90 percent increase over the 2023 level. We must ensure that the Social Security Administration has proper funding to address customer service.

Since 2010, SSA's funding has dropped by 17 percent, yet there are more than 21 percent more beneficiaries than there were 14 years ago, and 10,000 Baby Boomers a day, 10,000 a day become eligible for Social Security. Thanks to those cuts, the agency's staffing is on track to hit a more than 50-year low.

The answer is clear: If we are going to serve the people in the way that they deserve and that they have paid for, SSA needs funding and the staffing to adequately do it. Yet during last year's appropriations process our colleagues on the other side voted to slash the budget by 30 percent. Republicans are starving the Social Security Administration, and we wonder why there are issues like backlogs, long wait times, and accidental overpayments.

The customer service crisis isn't an accident, and it's not mismanagement by a Federal agency. Let there be no mistake: Underfunding SSA is an attack on hard-working Americans' earned benefits. This is no entitlement. These are earned benefits that everybody in this committee is aware of and knows. Defunding SSA's ability to properly process payments is a de facto attempt to cut benefits.

We do not need to look hard to see that cutting benefits is the goal here. Just yesterday the Republican Study Committee proposed more than 1.5 trillion cuts to Social Security, more than double what they proposed last year. And this to an agency that doesn't add a single penny to the debt or deficit but goes to help out every single one of your constituents, whose money they receive goes right back into your district.

Just last week former-President Trump called for cuts to Social Security benefits on national television, and House Republicans have recently been pushing to pass a closed-door fiscal commission that would fast-track unamendable Social Security cuts to the floor for an up-or-down vote during a lame duck session. Now, there is democracy for you.

We don't need to slash people's hard-earned benefits; we need to act now to protect and enhance them. Earlier this month President

Biden said he would protect and strengthen Social Security during the State of the Union Address. His budget request calls for improving benefits for the elderly and people with disabilities, and a nine percent increase in the funding needed to tackle this customer service crisis.

We have a bill, Social Security 2100, that would enhance benefits across the board, repeal WEP and GPO, and we would also cut taxes on more than 23 million Americans and eliminate the dangerous 5-month waiting period to receive disability payments. It does this by making sure the wealthy pay their fair share. It scraps the cap on people who make more than $400,000 a year.

I hold hearings all the time. I ask people in the hearing to raise their hand if they are making more than $400,000. To this date I have yet to have anyone in any town hall that I have been in raise their hand.

And while my colleagues are busy doubling down and trying to find a back-door way to cut Social Security, Democrats are standing up, along with the President, to enhance Social Security. The last time it was enhanced, Richard Nixon was the President of the United States. It is in line with budgets they have proposed with Trump's call to cut benefits, and with their push for a closed-door fiscal commission.

Congress must adequately fund SSA. And to do so the President has selected an individual who understands, as he said in his remarks the other day, the importance of compassion in terms of addressing the most important and number-one anti-poverty program for the elderly and for our children.

Chairman FERGUSON. Thank you, Mr. Larson. Next we will call on the distinguished gentleman, Mr. Davis from Illinois, ranking member of the Work and Welfare Subcommittee.

Mr. Davis you are recognized.

Mr. DAVIS. Thank you, Mr. Chairman, and I want to welcome Commissioner O'Malley.

We look forward to working with you, sir, to protect and strengthen the Social Security Administration and the benefits it provides.

Every American relies on Social Security for birth-to-death protection. For generations, every American has counted on SSA to deliver Social Security and supplemental security income benefits, or SSI, at critical life moments: when they retire, become disabled, fall into poverty, as they age or lose a wage earner. I look forward to working with you to keep that promise to my constituents in Chicago and across the country.

I also appreciate that the President's budget continues his strong, unwavering support for universal, comprehensive, paid family and medical leave, the kind of leave that is guaranteed in nearly every other country in the world. So many workers and small businesses have told us that paid leave is the key to keeping talented, hard-working individuals in the workforce, and unlocking our economy's potential. Last Congress, Democrats on this committee passed universal paid leave legislation for the first time in Congress's history. We look forward to doing it again with the President's help, and making it the law of the land.

Importantly, SSA works for every American, and the budget would give you the tools to do it well. I am alarmed that the House Republican chaos and dysfunction has delayed SSA's budget this year, and forced a hiring freeze, compounding staffing challenges forced by past budget cuts. Those staffing shortages have done unacceptable damage to the amount of time that Americans have to wait for SSA's vital help, and Congress needs to fix that now.

Staffing shortages and the loss of skilled staff affect our constituents in other ways, too. For example, 1 in every 365 Black children is born with sickle cell traits, which puts them at high risk for life-threatening conditions, and subjects them to debilitating pain. Children with sickle cell rely on SSI benefits so their families can afford basic necessities and take time off work to make sure they get medical care.

My Democratic colleagues on the Worker and Family Support Subcommittee recently flagged an urgent concern for the commissioner related to the serious flaws in the current criteria for determining whether children with sickle cell qualify for SSI. I know the commissioner heard me about what a priority this is for fixing it.

I also know that revising the criteria will take hard work from trained staff and providing the necessary resources that is Congress's job. I look forward to partnering with you, Commissioner, for immediate action, and even more pleased to see the energy and commitment that you and President Biden are bringing to the vitally important job of protecting Social Security, our economy, and the most vulnerable Americans.

Mr. DAVIS. Thank you, Mr. Chairman, and I yield back.

Chairman FERGUSON. Thank you, Mr. Davis.

Mr. O'Malley, you are now recognized for five minutes for opening remarks. Thank you again for being here.

STATEMENT OF MARTIN O'MALLEY, COMMISSIONER OF SOCIAL SECURITY

Mr. O'MALLEY. Mr. Chairman, thank you, and thank you for the courtesy of the time we have spent one on one. I hope that is the beginning of many more conversations.

And Mr. Chairmen, Ranking Members, whether we are talking about real people in Georgia or Illinois, Chicago, Connecticut, or any other part of this country, I think we can all agree, whatever party we are from, Social Security touches all of us. And so I really want to thank you for having this hearing.

I say that because it has been nine years since Congress has given Social Security a budget hearing. And during those nine years it has been a downward decline, in terms of customer service at Social Security. So I am looking forward, as the hearing goes on, talking about SSI simplification, talking about earned benefits, sickle cell, the dignity of work.

And I finally wanted to, by word of thanks, I want to thank you for the staff members of this committee and your own offices that you have sent to our headquarters in Baltimore to observe and sit in and watch Security Stat, which is our new performance management regimen, which has snapped us out of a sleepy kind of annual approach to delivering results, and instead we are now focused every two weeks on how we can deliver better services for the people of our country.

The truth is today, as I come before you as a freshly-minted commissioner, Social Security is now serving more customers than ever before with fewer staff than at any time in 27 years. I was surprised to learn that Social Security now operates on less than one percent of its annual benefit payments. This operating overhead, that means that over the last 9 years, without the attention that you are giving this agency, we have seen a decline that amounts to an effective cut of about 17 or 20 percent, depending on how you look at it, over those last 9 years.

By way of comparison, other insurance companies, if you measure their administrative overhead compared to their benefits payments, Allstate operates on 19 percent of its annual benefit payments; Liberty Biberty operates on 24 percent of its annual benefit payments; and Social Security, at least before 2018, operated on 1.2. We are now down to less than one percent.

So what is the result of that? The result of that is, today, customers now wait an average of 39 minutes when they call the 800-number. That is an average. Sometimes it can be north of an hour. The result of those nine years of decline is that people with disabilities wait nearly eight months, on average, for a decision on their application, and then another seven months if they have to appeal.

And of course, we have all seen the 60 Minutes piece—and you have heard it through your phones and in your offices—about overpayments, and the additional time it takes us now to catch up and address those overpayments.

So this, briefly, is what we are doing about it, and I look forward to unpacking more and going deeper in response to your questions.

We have recruited a new team at the top of Social Security.

We have launched a cross-cutting performance management program called Security Stat, where for one blessed hour every two weeks on a rotating basis we lock the whirlwind outside the door, and we singularly focus on field operations, with the latest evidence on what is happening where in our country, what are the average processing times, et cetera.

After that it is human resources, because Social Security, at the beginning and the end of the day, is a large, human resources organization serving the people of our country.

Another one of those meetings is on initial disability determinations.

Another one is on the ALJ hearings and reducing the time it takes for those.

Another one, the only one that is closed-door, is about fraud, getting inside the turning radius of fraudsters.

And then the seventh one is about notices. I am sure your constituents call you about notices they get from Social Security and they can't make heads and tails of them.

And then, of course, the eighth one is about overpayments.

So in conclusion, the American people work their whole lives to earn the benefits of Social Security. Nobody gave them any discretion about whether or not they paid their FICA taxes every two weeks in the payroll. They paid it. It wasn't in their discretion. And not only were they paying for the benefits they earned, they were paying for the customer service necessary to access those benefits.

To continue to reduce staffing while beneficiaries rise will ultimately undermine not only trust in this program, but trust in our country itself. President Biden's investment in Social Security for the people of this nation is a solid step forward to restoring customer service, and I strongly urge that you support his budget proposal of 15.4 billion. We want to work with Congress to do better by the American people.

And finally, I want to thank the hard-working men and women of Social Security, those that haven't quit yet, for getting up every day and going to work, notwithstanding the overwhelming workloads and numbers of customers that they have the duty to serve.

Thank you, Mr. Chairman.

[The statement of Mr. O'Malley follows:]

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SOCIAL SECURITY
AND
SUBCOMMITTEE ON WORK AND WELFARE
UNITED STATES HOUSE OF REPRESENTATIVES

MARCH 21, 2024
STATEMENT FOR THE RECORD

Martin O'Malley
COMMISSIONER
SOCIAL SECURITY ADMINISTRATION

Chairmen Smith, Ferguson, and LaHood; Ranking Members Neal, Larson, and Davis; and Members of the subcommittees:

Thank you for inviting me to discuss the Social Security Administration's (SSA's) service delivery, customer experience, and Fiscal Year (FY) 2025 Budget request. I am Martin O'Malley, Commissioner of SSA, and I am deeply honored to be here today on behalf of the agency's thousands of skilled and dedicated employees.

Social Security is the most far-reaching and important act of social and economic justice that the people of the United States have ever enacted, and it is the honor of a lifetime to answer the call to public service once more by leading SSA towards a better future. In particular, I pledged to make improving SSA's customer service my top priority. I was sworn in as Commissioner exactly three months ago yesterday.

It is my strong belief that the public deserves the highest level of customer service from their government. We owe it to every American to improve the customer service and support provided by Social Security, so people can get answers to their questions and get their benefit applications decided in a timely manner. These are your constituents, your neighbors, your friends, and your family. They have paid into the Social Security system, and that includes paying for adequate customer service from the agency.

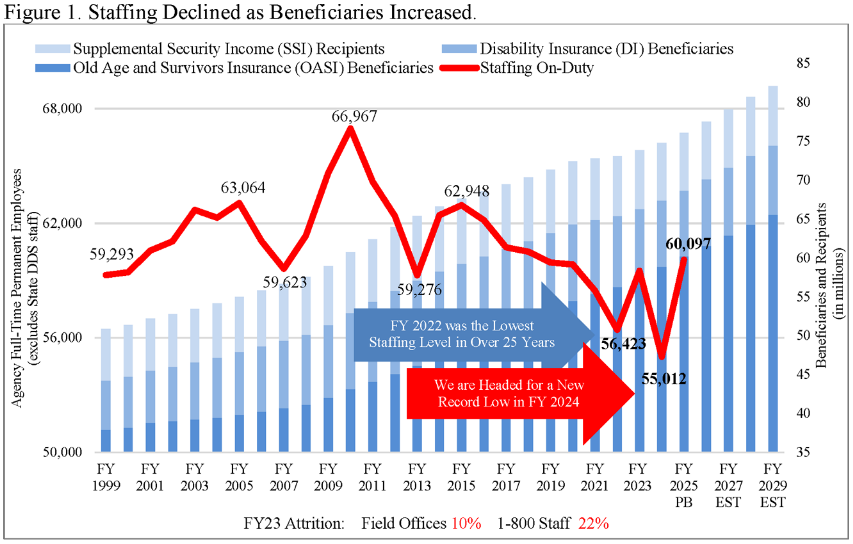
THE CURRENT STATE

Social Security Is Serving More Customers Than Ever Before with Fewer Staff Than Ever Before.

By the end of FY 2024, SSA will serve over 7 million more beneficiaries with about 7,000 fewer full-time permanent staff when compared to FY 2015 (Figure 1). While modernization and other efficiencies have helped for some things, there is no way around the fact that the agency cannot keep doing more with less.

SSA's budget was essentially level from FY 2018 through FY 2021, while costs continued to increase. We had to make difficult decisions to cut funding in certain areas, such as staffing and overtime. As a result, we ended FY 2022 with our lowest staffing level in 25 years.

Figure 1. Staffing Declined as Beneficiaries Increased.



With your support, we received a $785 million increase in FY 2023 over FY 2022. We used that funding to begin to rebuild our workforce to better serve our customers and beneficiaries. Our staffing increased to nearly 60,000 at the end of FY 2023 – still historically low, but better than the roughly 56,000 at the end of the prior year.

Currently – due to the extended continuing resolution (CR) that we are under in FY 2024 – we have stopped all hiring, and our staffing levels have already fallen below where they were in April of last year. If we continue this path of no hiring, we will fall to a new all-time low of around 55,000 full-time permanent staff by the end of this fiscal year – nearly 11 percent lower than the roughly 62,000 full-time permanent staff we averaged from 2010 through 2019.

Similarly, the State disability determination services (DDS) were able to make some progress increasing their staffing levels in FY 2023, following years of record-high attrition and a historically low staffing level in FY 2022. But in FY 2024, the DDS have quickly dropped below last year's staffing levels due to our pause in hiring given the funding level, which is leading to a severe setback in addressing a service delivery crisis.

SSA Has Extremely Low Operating Expenses.

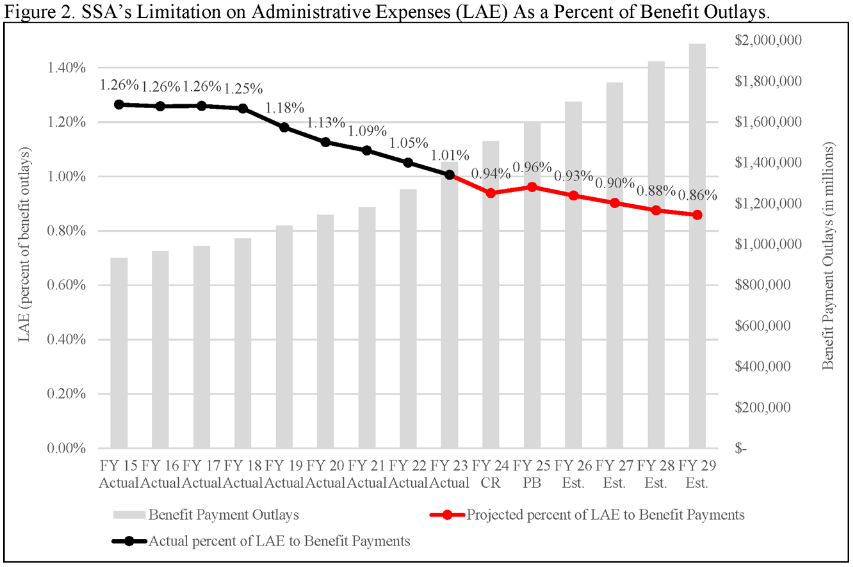
Members may be surprised to learn that Social Security has now been reduced to operate on *less than one percent* of its annual benefit payments. This is extremely low – much lower than private insurance companies. For instance, Allstate operates on 19 percent of its annual benefit payments, and Liberty Mutual operates on nearly 24 percent of its annual benefit payments.

Please know that I am not suggesting that this was something done knowingly and willingly to Social Security by Members of Congress. However, Congress has not granted Social Security its own budget or appropriations hearing in nine years.

We can and must do better. We want to work with Congress to sustain the funding increases in the President's FY 2025 budget and beyond, to enable SSA to improve service levels and reduce wait times.

Under the current system, Social Security's operating overhead, as a share of benefit outlays, has shrunk by 20 percent over the last ten years. A decade ago in FY 2015, Congress provided a funding level that represented 1.26 percent of benefit outlays for operating expenses (Figure 2). But the proportion has been shrinking over time, as our appropriated administrative expenses have not kept pace with the growth in our beneficiaries and benefit outlays. In FY 2023, it was down to 1.01 percent, and under a full-year CR for FY 2024, it will drop under 1.0 percent for the first time ever, to just 0.94 percent.

Figure 2. SSA's Limitation on Administrative Expenses (LAE) As a Percent of Benefit Outlays.



Our Service and Customers are Suffering.

As a result of this historic underfunding and understaffing, Social Security faces a service delivery crisis. The situation is dire, and the public we serve is paying the price as they attempt to access the benefits that they have already worked their whole lives to earn. For example:

- Backlogs in the States continue to grow. Disability applicants are waiting on average nearly 8 months (228 days) for an initial decision and an additional 7 months (223 days) for those who request a reconsideration. However, for those applicants with the most severe health conditions, we award benefits in less than 30 days.

- People who try to reach us by phone are now waiting on hold for 38 minutes or more on a dysfunctional 800 Number system.

- And our agency has long strived to get the right amount to the right person at the right time, but struggles to catch erroneous overpayments in a timely manner, which can have damaging consequences for beneficiaries.

But still, we do our very best every day to serve the highest number of beneficiaries we have ever served in the face of the lowest projected staffing levels in 27 years.

HOW WE'RE ADDRESSING THE SERVICE DELIVERY CRISIS

As soon as I was sworn in three months ago, I announced my intent to focus the agency on three key service delivery challenges in 2024: disability determination wait times, National 800 Number wait times, and overpayment and underpayment inequities.

Since then, I have held countless briefings with executives and staff, met with labor partners and advocates, and most importantly, I have traveled to SSA's regions across the country to meet with and learn from the dedicated employees who are tirelessly serving members of the public each day in our offices and on our phones. I conducted 10 town halls in headquarters and the regions where I was able to interact with about 2,000 employees. I visited field offices, hearing offices, processing centers, and teleservice centers. I sat in with call center representatives taking calls and sat side by side with claims specialists interacting with the public. I heard countless suggestions for improvements both big and small, some of which we are already beginning to implement. I also made an open call for employees to submit their ideas and insights for improving customer service, and so far, we have received nearly 3,000 submissions and counting. I am grateful to the dedicated SSA employees who took the time to submit their ideas, and I have begun to personally review and respond to as many as I can each week.

Based on what I have learned from inside and outside of the agency, including conversations with employees and customers, I have implemented numerous changes to improve both our employees' experience and our customers' experience with us. I like to call these quick wins or low-hanging fruit – that is, things where we have the authority and the ability to act quickly and make immediate improvements, no matter how seemingly small.

For example:

- During my visit, one employee in Boston identified the need for a simple technology fix to create a "no to all" button (similar to "select all") within the claims-taking process on Supplemental Security Income (SSI) applications. By doing so, we could reduce staff time in collecting information on applicants' financial resources. We were able to implement this fix within 4 weeks of first hearing the idea.

- Also based on an employee suggestion – this one from Birmingham – we rolled out a nationwide expansion of a new Automated Medicare Process (AMP) to improve back-end processing for online Medicare claims. This will reduce processing time from 7 minutes to 7 seconds, freeing up the equivalent of around 40 people to do other critical pending work. In one week, we implemented a fix that had been stalled since 2011.

- To further increase our ability to collaborate, engage, and innovate across the agency, I announced an increase in on-site presence at SSA's headquarters and regional offices, starting April 7. (SSA's field offices have been fully open to the public since early 2022 and are not affected by this change.)

- Last month, we published formal notice of our plans to access and use information from payroll data providers.[1] This long-awaited automated payroll information exchange (PIE) will reduce wage-related overpayments by ensuring we receive timely and accurate wage data. The notice is open for public comment until April 15, 2024, and we encourage all interested parties to submit comments.

- We are also working on three final rules that will simplify and streamline the consideration of non-cash assistance within the SSI program. By taking these actions, we will increase the accessibility of this vital needs-based assistance, while also decreasing overall processing time.

[1] SSA, "Use of Electronic Payroll Data To Improve Program Administration." Federal Register, 89 FR 11773. February 15, 2024. https://www.federalregister.gov/documents/2024/02/15/2024-02961/use-of-electronic-payroll-data-to-improve-program-administration. See also: SSA, "Social Security Publishes Proposed Rule for Payroll Information Exchange to Reduce Improper Payments." February 15, 2024. https://www.ssa.gov/news/press/releases/2024/#2-2024-2.

SecurityStat

On February 5, 2024, we launched SecurityStat, standing biweekly leadership meetings to track and align on key performance outcomes across rotating challenges. Many of you have kindly sent your staff to observe this new way of doing business at SSA. Your attention, your interest, and the presence of your staff at our side have been more deeply appreciated than you can know.

SecurityStat is based on the successes I had with CitiStat and StateStat in my prior roles. I have found in my past experience that a focus on data for all, combined with regular accountability and collaboration, helps to create a winnable game for employees and improve performance across the board, especially in large agencies. That is precisely what SecurityStat is about.

The four central tenets of SecurityStat are: timely, accurate information shared by all; rapid deployment of resources; effective tactics and strategies; and relentless follow-up and assessment.

SecurityStat is critical because the service delivery challenges that we face are cross-cutting. No one component of SSA, no matter how well-led, can solve any one of these problems by itself. Rather, we must work together across the agency in timely, agile, and collaborative ways as never before. SecurityStat provides a systematic and recurring method of doing that, by gathering the top leaders in a room together and engaging in data-driven performance management.

So, every two weeks, in a rotating fashion, we gather together and focus intensely on the most important things SSA is charged with accomplishing for the American people and for you, their Members of Congress. For one blessed hour every two weeks we focus, together, on each of eight key challenges:

- Field Operations
- Human Resources
- National 800 Number
- Overpayments and Underpayments
- Disability Determinations
- Disability Hearings
- Fraud
- Notices

On an encouraging note, I have found that there is a certain muscle memory at SSA. The senior executives and frontline managers have responded very positively to this newer, faster cadence of collaboration and accountability.

On the first Monday of the SecurityStat rotation, we begin by focusing on field operations – the more than 1,200 field offices, 8 processing centers, and 24 teleservice centers that make this agency go. We discuss ways to reduce the attrition rates that plague the agency, currently 10 percent in the field offices and 22 percent among the staff answering the phones on the National 800 Number. We discuss ways to improve performance and service delivery even in a reality where customers keep increasing and staffing keeps declining. Then, we focus on the flip side of service delivery — the human resources of the skilled and trained employees necessary for us to serve the American people even as we labor under a total hiring freeze.

On Tuesday mornings in the first weekly rotation, we turn first to Social Security's National 800 Number. Average wait times for customers trying to reach us by phone have skyrocketed to 38 minutes today, nearly double the FY 2019 wait time of 20 minutes. Five to seven million people call our 800 Number every month, and about 4 million of them hang up in disgust after waiting far too long. This year was the 35th anniversary of our 800 Number, and it was a challenging one thanks to a woefully underperforming phone system that has fallen far short of our expectations. Under the current technology, our managers have no visibility into the work being done, and call-takers have no view into the customers who pop up onto their screen. In addition to the technology short-comings, we are struggling now with a 22 percent attrition rate in our teleservice centers and among other staff answering the phones. All options are on the table as we do everything in our power to reduce unacceptably long wait times being endured by our customers.

Overpayments and Underpayments

In the second topic of our first Tuesday rotation, we turn to overpayments and underpayments. For 88 years, the hard-working employees of the Social Security Administration have strived to pay the right amount, to the right person, at the right time. And the agency has done this with a high degree of accuracy over a massive scale of beneficiaries; our overall accuracy rates are 99.34 percent for Social Security and 90.80 percent for SSI based on our stewardship reviews.[2] In fact, one of the unsung stories of heroism in our nation's battle against the COVID-19 pandemic was SSA's Herculean accomplishment of cranking out those checks to protect beneficiaries' income and healthcare during a critical time in the pandemic.

But despite our best efforts, we sometimes get it wrong and pay beneficiaries more than they are due, creating an overpayment.

When that happens, Congress requires that we make every effort to recover those overpaid benefits. But doing so without regard to the larger purpose of the program can result in grave injustices to individuals, as we see from the stories of people losing their homes or being put in dire financial straits when they suddenly see their benefits cut off to recover a decades-old overpayment, or disability beneficiaries attempting to work and finding their efforts rewarded with large overpayments. Innocent people can be badly hurt. And these injustices shock our shared sense of equity and good conscience as Americans.

[2] See PaymentAccuracy.gov. These overall accuracy figures consider both overpayments and underpayments for FY 2022, the most recent data available.

Overpayments also hamper our efforts to support work. We know that most people who meet our strict disability requirements have conditions that will never allow them to attempt work without significant support. For the relatively few who are able to attempt work, SSA has long had a set of robust work incentives to encourage and support them. But those efforts are complicated by the frequency of overpayments for beneficiaries attempting work, and by the complexity of many of the work incentives.

We are continually improving how we serve the millions of people who depend on our programs, although we have room for improvement, as media reports last fall revealed. We have also embarked upon a deep dive into the extent of the overpayment problem at Social Security, the root causes of these administrative errors, and the steps we can take as an agency to address these individual injustices.

Our deeper understanding of the complexities of this problem has set us on the following course of action:

1. Starting next Monday, March 25, we will be ceasing the heavy-handed practice of intercepting 100 percent of an overpaid beneficiary's monthly Social Security benefit by default if they fail to respond to our demand for repayment. Moving forward, we will now use a much more reasonable default withholding rate of 10 percent of monthly benefits (but not less than $10 per month) — similar to the current rate in the SSI program.

2. We will be reframing our guidance and procedures so that the burden of proof shifts away from the claimant in determining whether there is any evidence that the claimant was at fault in causing the overpayment.

3. For the vast majority of beneficiaries who request to work out a repayment plan, we recently changed our policy so that we will approve repayment plans of up to 60 months. To qualify, Social Security beneficiaries would only need to provide a verbal summary of their income, resources, and expenses, and recipients of the means-tested SSI program would not need to provide even this summary. This change extended this easier repayment option by an additional two years (from 36 to 60 months).

4. And finally, we will be making it much easier for overpaid beneficiaries to request a waiver of repayment, in the event they believe themselves to have been without any fault and/or without the ability to repay.

Implementing these policy changes — with proper education and training across the people, policies, and systems of the agency — is an important but complex shift. And we are undertaking that shift with urgency, diligence, and speed.

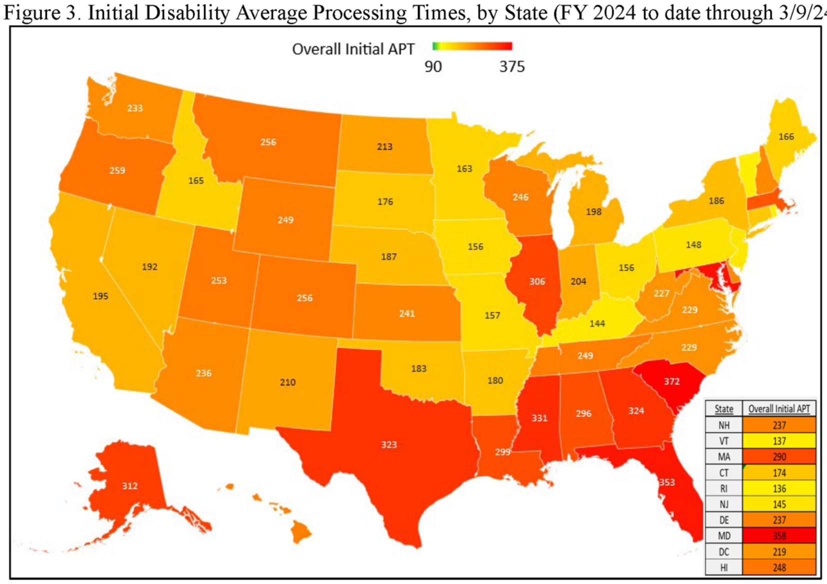
There are some changes that can only be effectuated by the will and good judgment of Congress. I look forward to working with Members to discuss ideas that could address the root causes of overpayments.

In addition to our focus on overpayments, we are also working to increase our processing of SSI underpayments, particularly for the oldest and highest-priority cases. As of March 11, we have processed 46,319 underpayments and released approximately $120 million this fiscal year to our customers with these aged and priority underpayments. And we are on track to complete 98 percent of these underpayments by the end of FY 2025.

SecurityStat, Continued

As we continue our SecurityStat rotation into the second week, on Mondays we focus first on the shamefully long time that it now takes for State DDSs to make an average initial disability determination. Ten years ago, when our appropriations represented a larger share of our annual outlays, we were able to make these needed determinations in 110 days. But today, operating on less than 1 percent of annual outlays, it takes our DDSs an average of 228 days to make the same initial determinations (Figure 3). We have the longest average processing time and the highest number of pending cases ever in the history of our disability program for initial claims.

Figure 3. Initial Disability Average Processing Times, by State (FY 2024 to date through 3/9/24)



State	Overall Initial APT
NH	237
VT	137
MA	290
CT	174
RI	136
NJ	145
DE	237
MD	358
DC	219
HI	248

In other words, disability applicants are waiting on average nearly 8 months (228 days) for an initial decision and an additional 7 months (223 days) for those who request a reconsideration. We must do better, and our long-term goal is to reduce those waits to 4 months (120 days) each.

At the next level of appeal, disability applicants who have requested a hearing with an administrative law judge (ALJ) currently face an average wait time of 365 days – a whole year – to get a decision. We continue to work toward our goal of issuing hearings decisions within 9 months (270 days) on average.

On Tuesdays of the second week of the SecurityStat rotation, we focus with the Office of Inspector General at the table on fraud and the tactics and strategies we can take, together, to get inside the turning radius of the bad actors. Following the fraud stat, we focus for one hour, as a group, on what we can do to reduce the number, expense, and confusion we inflict upon our customers through long and impossible-to-understand notices.

So that is how we spend our weeks fighting to serve an all-time high number of customers with a 27-year low in staffing. Our duty is to serve the people who depend on the benefits they have earned through Social Security.

I remain encouraged that the overwhelmed, hardworking, exhausted men and women on the frontlines of this agency — those who haven't quit to find less stressful or higher paying jobs elsewhere in the Federal Government or beyond — still wake up every day to serve their country by serving their neighbors.

Our FY 2025 Budget

I am confident that with the rapid cadence of accountability and collaboration that SecurityStat provides, and continuous solicitation of areas for improvement from employees and customers, we will begin to make forward progress. But we cannot do it alone; we need your help to ensure we have the necessary funding and staffing.

As the mayor of a cash-strapped city and then a recession-era governor, I'm quite familiar with operating on tight budgets. I also spent nearly a year intensely studying SSA materials from the outside before my confirmation. Even with all of that, SSA's budget is far more dire than I thought. Years of underfunding have decimated our staffing levels and therefore also our ability to serve the public.

Coming off a challenging budget year in FY 2024, it is critical that we receive adequate funding in FY 2025. Approval of the FY 2025 President's Budget request of $15.4 billion for SSA would allow us to begin making progress toward improving customer service.

We know that additional funding makes a difference. The U.S. Department of Veterans Affairs (VA) received an infusion of funding and increased its satisfaction and trust among veterans from

50 percent to nearly 80 percent. The Internal Revenue Service (IRS) used additional funding to reduce its call wait times from 30 minutes to 4 minutes. SSA was able to dig out of the initial disability claims backlog during the Great Recession with significant funding provided through the American Recovery and Reinvestment Act of 2009. I am confident we can do it again, but it will take sufficient funding, just as it did for IRS and VA.

Under the FY 2025 President's Budget, we would be able to restore staffing to FY 2023 levels and begin to improve our service delivery. The Budget supports an infusion of staff in our teleservice centers to significantly reduce 800 Number wait times, to 12 minutes in FY 2025. The Budget will also expand staffing and overtime in the DDSs, yielding an expected 185,000 more initial disability claims processed and over 100,000 more reconsiderations than we estimate processing in FY 2024. We will focus on those customers waiting the longest for a decision, which will pave the way for dramatic improvements in average processing time. The Budget also includes the resources needed to reduce the hearings backlog and prevent its recurrence as we work down the initial claims backlog.

IN CONCLUSION

The American people worked their whole lives to earn the benefits of Social Security — and those benefits include the right to an appropriate level of customer service. I have every confidence that a restoration of service levels at Social Security — here and now — will produce a dividend of trust for generations to come.

Let me say, finally, on behalf of the agency, how grateful I am for the funding level proposed in the FY 2025 President's Budget. This additional funding will be a huge help in our mission to provide the American people with a level of customer service for which they've already paid, but have in recent years consistently been denied.

I look forward to answering your questions.

And it is my great honor to serve the people of our republic in my capacity as their Commissioner of Social Security.

— Martin O'Malley

Chairman FERGUSON. Thank you for your opening remarks. We will now begin the question-and-answer session.

You know, look, we have all recognized how important this program is. And, you know, as you look through the years, and we talk about, you know, how Social Security has changed or not changed, I think it is important to recognize that beneficiaries now, because of the formula, are receiving more benefits than they ever have. And there has been a steady increase because of the way the program is structured.

I also think it is important to point out—and we—I just came from a—before votes, a budget hearing, and OMB Director Young was there. And she and I got into an exchange, and I was trying to get her to explain, in the President's budget, if you look at how—if you look over the 10-year period, the President's budget cuts about $17 billion worth of payroll taxes from the beneficiaries. And the Treasury Secretary, who was over on the Senate side doing her thing, and made the comment in an exchange with Senator Cassidy that the President really didn't have a plan, he had just guiding principles.

Well, I believe that we are going to have to come together in a bipartisan way to fix, really, some of these long-term solvency issues. But in the meantime, there are things that we can do to improve customer service, and the efficiency, and the better use of taxpayer dollars as it relates to the operation of the Social Security Administration.

And Mr. O'Malley, in our meeting I got a sense that you are sincere about doing that. So the first question that I have for you, you have got a relatively short runway here. Your term expires in 2025. If you could do one thing, if you could do one thing that was lasting in the Administration past your tenure, what would that be?

Mr. O'MALLEY. Mr. Chairman, if I could do one thing that would last into the future, you know—I pause a little bit here because, having served as mayor and served as governor, I have seen many of the things that I thought would last for a long time dissipate as soon as the next fellow came in.

I think the most important thing that I can do that will have the most lasting impact is to change the culture at Social Security so that we realize that all of those huge numbers that we deal with are real people. If I can change that—you know, it struck me in walking around that building that there are very few walls that even have pictures of the human beings that we serve. We have kind of gotten away from that in the pressure and the trauma, if you will, of all of the rising workloads. If I could change one thing, it would be to use modern technology—you know, the data, the map, the measures—to realize that each of those dots on the map represents a real human being.

Chairman FERGUSON. If you can do that, we will probably all chip in for your statue, if you can change the culture of your bureaucracy.

Mr. O'MALLEY. Not a brick, Mr. Chairman, not a brick.

Chairman FERGUSON. A different type of question here. You have seen,or the agency has seen, a decline from about 87 million calls down to about 81 million calls on an annual basis, and wait times have doubled. Part of the problem I think we discussed was implementation of the new phone system. Can you tell us where that process is, and how you expect that to improve?

Mr. O'MALLEY. Yes, sir. The short context of this is that shortly before the pandemic my predecessor decided to launch on a new contract for the phone system that would integrate the 1,210 field offices in each of your districts with the headquarters phones and the 1–800 phone number. Then the pandemic hit, and everything was all about closing down the field offices, standing up an 800-number really quickly, and trying to do everything through that 800-number.

We have struggled with the technology and an 800-number that has not lived up to what we expected of it in terms of the business intelligence to balance the load, to give us management information about who is calling when so that we can have the right staffing to cover it. And we are open to all options to improve that as quickly as possible.

I was on the phone——

Chairman FERGUSON. So——

Mr. O'MALLEY [continuing]. With the CEO of Verizon, and we hope to improve that.

In the meantime, we do everything we can, and a little bit of good news here. While our average wait time has been 39 minutes for the last several months, over the last few weeks we got that down to 31 minutes. Nothing to write home about, but it is at least—we are at least getting it headed in a better direction, with leading actions that deflect calls on the front end and changes that allow us to resolve the call on the first time once people get through.

Chairman FERGUSON. All improvement is good. And, you know, the Administration has spent about $300 million on this contract so far, implementing the system. I just think it is really important and I think, and I hope, that you will be this kind of commissioner that understands that, ultimately, you have got to get this under control. You have got to get the systems going, and hold the providers accountable.

Mr. O'MALLEY. Yes, sir.

Chairman FERGUSON. And while simultaneously doing everything that you can.

One final question here, and this has to do with disability applications. We have seen a decade-long decline in disability applications. And despite that, we have got about a 1.2 million caseload that is on backlog. But yet we had seen $100 million being spent to bring more in. So you got 1.2 million in backlog, there was an effort to, because of equity initiatives, to get more in.

Can you tell us how much in Social Security—the Social Security Administration has spent on these initiatives?

And do you think this is an effective use this has been an effective use, this $100 million for equity initiatives, has this been a good use of the limited resources of the Administration?

Mr. O'MALLEY. Well, I think that depends on what we learn from that effort and what we do moving forward.

We have seen a great decline in the numbers of people that apply for both SSI and also for Social Security disability—not as great as a percentage on those, respectively.

I think what we learned from that advertising campaign—and it is hard to disaggregate. I mean, it is hard to determine, Mr. Chairman, as we saw increased numbers of application in SSI, whether that was directly attributable to the ad campaign, or was that directly attributable to the fact that people were coming out of the pandemic, and it is a natural sort of follow-on effect?

I believe that the better approach is going to come from much more targeted outreach to the populations that we already know are most likely able to qualify for SSI. That is going to require a level of data sharing between our agency and, you know, HHS, and others. And——

Chairman FERGUSON. Mr. Commissioner, my free advice is to get the existing workload under control, get it back on track——

Mr. O'MALLEY. Yes, sir.

Chairman FERGUSON [continuing]. Before we go dumping more cases into it. And I look forward to your success on that.

Now I will call on my colleague, Mr. Larson, the ranking member, for five minutes of questions.

You are recognized.

Mr. LARSON. Thank you, Mr. Chairman.

And again, thank you, Commissioner O'Malley, for being here. And in your testimony the other day before the Senate you said people among us really need their neighbors to care about them. I think all of us on this body and the panel you were addressing would agree that there probably is no more important program our country has ever created that expresses our compassion for our neighbors quite so much as Social Security. I believe that that is true of this committee and all the members on both sides that understand truly the impact of this unbelievable commission that, as you pointed out in your testimony—and I come from an insurance sector place in the United States in Hartford, Connecticut, studied at the Yetna School, where they singled out Social Security as part of the three legs of the economic stool, and the only one that has never missed a payment, and I would dare say also has that compassion that you talked about.

Commissioner, can you talk about what you have done so far to address the customer service crisis? You did in your opening remarks, but I wanted to give you a chance to expand on how you would use the 1.3 billion increase that President Biden has proposed.

Mr. O'MALLEY. Yes, sir. We are currently in a general hiring freeze in this agency. It is a crude tool. That tool itself hurts our operations. And hopefully, with your help, we will get out of that soon in order to do a number of targeted hires right away.

I want to thank you for what is in the, you know, the most recent action passed by this Congress. That is a little bit of help, and we need help. So it is a lot better than a cut, and I know cuts were on the table.

So we do have a plan for immediate targeted hiring in those teleservice centers, as well as some processing center backlogs, and especially the DDSs.

But more to the point of your question, the 15.4 that the President proposes, this is how we would propose to invest those dollars to improve customer service.

Number one, 269 million into the field staff. Our field offices have been open 5 days a week, from 9:00 to 4:00 p.m. every day, and that has been true ever since the end of COVID. But they are short-staffed, they are understaffed, and they are overwhelmed.

The teleservice centers, we would propose investing $79 million in hiring more of the agents who can be on the other end of that call. Not surprisingly, when somebody has been on hold for an hour, they come off that call hot, and we right now have an attrition rate of about 24 percent in our teleservice centers. We would invest 85 million in adding staff to the process centers, the processing centers that I am sure many of you get calls about people saying, hey, I was told my claim was approved, but it has been months, been weeks, I am still waiting. That is what goes on at the processing centers.

Eighty-nine million for the ALJ hearings. And the biggest amount of all is really the 2.8 billion for the state disability services. In my prepared remarks that are before you, there is a map that may look to you at first glance like it is a climate change map, because the only colors on it are yellow, orange, and red. There is nothing green, there is nothing where we are actually hitting in a timely fashion those initial disability determinations. In the State of Montana, 85 percent of their disability determination folks are trainees. It is a tough—it is a tough job. And some of our states have seen a 30 percent, you know, reduction in staffing since—compared to pre-pandemic times.

And then finally, 1.7 billion to invest in IT modernization. It might be a little known fact, but it has been driven home to me that in our IT budget, which is only about a third of the size of the VA—not to be jealous—but in our IT budget, 90 percent of it is from maintaining old legacy systems. Think, if you will, about the City of Jerusalem being built up over years, except this is COBOL and green screens. Only 10 percent of it goes to modernization.

Mr. LARSON. And imagine you do that with 40 percent of the nation who is on Social Security, knowing that is the only benefit that they have is their Social Security. And on average, that is 18,000 per male, 14,000 per female. And there is 5 million fellow Americans that get below poverty-level checks in the wealthiest nation in the world.

Chairman FERGUSON. Next I recognize Mr. LaHood.

You are recognized for five minutes.

Chairman LAHOOD. Thank you, Chairman Ferguson.

And Commissioner, thanks for your opening statement. And you have obviously had a distinguished public service career. I think this may be your most challenging position you have had yet, and we want you to be successful in this job, and I appreciate your opening statement and talking about the need for improving customer service and workforce morale. That seems essential. And so we want you to be successful there.

I want to ask you about a couple of things here. As you may be aware, last June Congress passed the bipartisan Fiscal Responsibility Act, and a key part of the FRA included the equivalent of a PAYGO for agency rulemaking. It established a new requirement that, if the cost of a proposed rulemaking exceeds $1 billion over 10 years, or $100 million in any given year, before the rule can be finalized the agency must either propose to undertake one or more administrative actions to reduce spending, or publish a waiver of such requirement by the Director of Office of Management and Budget, OMB.

Now, I know you have only been on the job for four months now, equivalent, but in the past year SSA has published at least 3 proposed rules that exceed $1 billion in estimated cost.

Number one, the "Omitting Food from In-Kind Support and Maintenance Calculations" proposed rule, with a cost of $1.5 billion; number two, the "Expand the Definition of Public Assistance Household" proposed rule, with a cost of 15.9 billion; and three, the "Intermediate Improvement to the Disability Adjudication Process" proposed rule, with a cost of 20.3 billion. SSA has indicated it plans to finalize these rules sometime in 2024.

So Commissioner, I guess my question is, does the SSA intend to comply with the FRA and the clear requirements there, and publish information regarding how the cost of these rules will be offset through other administrative regulatory actions?

Or if not, will OMB be issuing a waiver for such requirements? If you could, address those three.

Mr. O'MALLEY. Yes, sir. And as I look through, Mr. Chairman, as I was listening and looking through my own list, I do believe that I was the commissioner that approved all three of those.

Chairman LAHOOD. All right, even better.

Mr. O'MALLEY. It wasn't the last year, it was the last 60 days. And they will be published in due course, and we will, of course, abide by the law of the land in terms of finding offsets or asking for waivers.

There is a few others, as well. You know, availability of information and records to the public, social security numbers and government records. Oh, the Payroll Information Exchange, which we hope will go a long way to reducing overpayments, especially in SSI, that one is also in motion. And many of those will actually save us administratively.

There is also the manner of appearings—appearance at hearings, which I approved three nights ago, and there are the payments to entities, what is called——

Chairman LAHOOD. And Mr. Commissioner, I guess on the three that I mentioned, do you, as we sit here today, have a decision on whether you are going to seek the offset or whether you are going to seek the waiver?

Mr. O'MALLEY. Well, we are still—we want to hear what people have to say after we publish them and get the—all of the necessary feedback.

Chairman LAHOOD. Okay. The Work and Welfare Subcommittee that I chair also has jurisdiction over child welfare programs. And we have been investigating an issue where state welfare agencies act as "representative payees" for children in foster care who receive SSI or Social Security survivor benefits. Approximately 6 percent of children in foster care receive SSI or SB benefits.

In 2018 the Strengthening Protections for Social Security Beneficiaries Act called for the establishment of data exchanges through SSA and state welfare agencies to increase transparency for youth receiving SSI and placed in foster homes. My understanding is 5 years later, only 22 states are actively sharing data with SSA on their child welfare representative payees as part of these exchanges.

Could you provide insights into SSA's concrete strategy to incentivize the remaining states to fully engage in the representative payee data exchange?

And what does Congress need to do to make sure this is implemented as it was intended?

Mr. O'MALLEY. Mr. Chairman, thank you for your question, and thank you for your care and concern and compassion for our kids who are in foster care and often times age out, and they are given a pat on the back on their birthday and their clothes in a plastic bag, and said good luck. And all of you know that the outcomes for kids that age out of foster care are pretty bad, not surprisingly.

I believe that we have an opportunity here with Social Security, and especially as you look at the movement—I think there are 17 states that have now required that some amount of money be conserved for kids in foster care for when they age out, especially if they are, you know, receiving some sort of benefits.

So we are now doing a deep dive on this issue. According to a GAO report about 2 years ago, 34 percent of states claimed that they conserved some money for the kids once they get to a place where they are aging out of foster care. We are going back through those records, even as I speak. I would like to reserve the opportunity to come back for you—to you for help if there is a legislative—if there is a need for amending statutes.

But we are looking at everything we might be able to do ourselves through rulemaking power or POMs so that we, in essence, say to states, if you are going to be the representative payee for the—for this child, you have got to assure us that you are going to conserve something so that kid can at least make a downpayment on an apartment, instead of living under a bridge, especially if we have the opportunity because of Social Security benefits to be able to do that.

It is not a practice, as you know, that has been deemed contrary to the law by the states to use that for support and maintenance, any more than it would be contrary to law for a grandmother or an aunt or uncle in care of a child to be able to use those dollars for maintenance and support. However, I think it is different when we have a state government entity that can and should do better in partnership in our Federal framework to do better by these kids, and we are going to be issuing some notice of advance plan for rulemaking so we can get some feedback.

There is a lot of good work that has been done on this, and I am hopeful that, with our existing powers, we can address this gap in our expectations of one another and how we should do right by these American kids.

Chairman LAHOOD. Well, in closing on that, Commissioner, I mean, I think it is unacceptable that only 22 states are sharing data on this issue right now. And so your statement that you want to work with us in Congress on how we make sure this is implemented as intended, we want to share suggestions and ideas on that, but we got to remedy this situation.

Mr. O'MALLEY. Yes, sir.

Chairman LAHOOD. So I have one more question, but I will submit that for the record so that others can ask questions. Thank you.

Chairman FERGUSON. Thank you. The gentleman from Illinois, Mr. Davis, is now recognized.

Mr. DAVIS. Thank you, Mr. Chairman. And I would request unanimous consent to submit for the record a statement left by Mr. Kildee, who was unable to be here with us today.

Chairman FERGUSON. Without objection.

[The information follows:]

DANIEL T. KILDEE
8TH DISTRICT, MICHIGAN
WAYS AND MEANS COMMITTEE
BUDGET COMMITTEE
STEERING & POLICY COMMITTEE
CO-CHAIR

Congress of the United States
House of Representatives
Washington, DC 20515

WASHINGTON OFFICE
200 CANNON HOUSE OFFICE BUILDING
WASHINGTON, DC 20515
(202) 225-3611
(202) 225-6393 (FAX)

DISTRICT OFFICE
601 SOUTH SAGINAW STREET, SUITE 403
FLINT, MI 48502
(810) 238-8627
(810) 238-8658 (FAX)

WWW.DANKILDEE.HOUSE.GOV
/REPDANKILDEE
@REPDANKILDEE

March 21, 2024

Dear Commissioner O'Malley:

Last week, I introduced the *Dignity and Autonomy for Our Supplemental Security Income PNA Beneficiaries Act* with my colleague, Congressman Mike Carey (OH-15). This bill would ensure Supplemental Security Income Personal Needs Allowances (PNAs) and accompanying State Supplementary Payments (SSPs) reflect current economic realities to allow our most vulnerable—seniors and those with disabilities—to age with dignity and greater autonomy.

Although medical facilities, like nursing homes, provide health care, shelter, and food to those they care for, they do not cover the cost of items like clothing, toiletries, or a birthday card for a family member. As you know, the Social Security Administration provides Supplemental Security Income PNAs, which states can supplement with SSPs, to allow residents over the age of 65 or with disabilities who have few financial resources to afford these basic items.

However, Congress has not updated Supplemental Security Income PNAs since 1987, and—unlike other Supplemental Security Income beneficiaries—people who rely on Supplemental Security Income PNAs do not receive cost-of-living adjustments, meaning that our most vulnerable are finding it increasingly difficult to meet their basic needs.

How would quality of life for people who rely on Supplemental Security Income PNAs be improved by enacting legislation to provide these beneficiaries with cost-of-living adjustments and ensure those increases are passed through to SSPs?

Sincerely,

Daniel T. Kildee
MEMBER OF CONGRESS

Mr. DAVIS. Thank you, Mr. Chairman, and thank you, Commissioner.

As you know, committee Democrats have made paid family and medical leave for all American workers a top priority. I am particularly concerned about the effect our failure to enact paid leave has on people of color and lower-paid workers, who are far less likely to get paid leave from their employers, and often have to quit their jobs if they or someone in their family gets sick.

Would the President's proposal for a universal, comprehensive paid leave provide 12 weeks of leave for lower-paid workers and allow them to take leave when they need it instead of leaving the workforce?

Mr. O'MALLEY. Yes, sir. As I understand it, the President's proposal calls upon us to administer that program, and we would—and with the funding that is included in it we would certainly endeavor to do it. It is not right that we should be one of the most developed economies in the world, and yet one of the very few that does not have paid family leave.

Mr. DAVIS. Thank you very much.

Many of our constituents rely on grandparents and extended family networks. My understanding is that the President's proposal, like ours, would allow people to take leave to care for their chosen family. Is that correct?

Mr. O'MALLEY. Yes, sir, it is. It is an acknowledgment of a truth that—I mean, we all know that that is the way it works. I mean, grandparents, I think, at least in my city of Baltimore, deserve a medal for what they do for their families at great expense and great hardship often times.

Mr. DAVIS. Thank you very much. Also, I extend my sincere thanks for your attention to key concerns for me.

First, I want to thank you for responding to the letter my colleagues and I sent about sickle cell disease quickly and understandingly, how urgent the situation is for the families we represent. You indicated that the SSA will consult with sickle cell experts in HHS.

I also encourage you to draw on the medical expertise within the Sickle Cell Disease Association, as well. Once your staff has reviewed the current criteria and consulted medical experts, could we schedule a time for all of us to hear the results and talk about next steps?

Mr. O'MALLEY. Yes, sir. Duly noted. And I absolutely will commit to that here and now.

Mr. DAVIS. Thank you so much.

And secondly, I am very pleased that you will examine how SSA can better protect the benefits of foster youth to ensure that representative payees prioritize children's needs, rather than state financial security. Both the Supreme Court and the SSAB have indicated that the SSA commissioner has the authority to determine if states reimbursing themselves for the cost of care violates their fiduciary responsibilities as representative payees. I am grateful for your leadership and commitment to foster youth.

And finally, I want to thank you and the many members of your team for helping resolve issues facing my constituents, including Lee Marsaglia, Tom Klouda, Eric Hansen, Joel Najar, Elizabeth

Tino, and all the caseworkers in the West North Avenue Chicago office. They have been incredible, and I want you to know that.

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

Chairman FERGUSON. Thank you, Mr. Davis. Next we are honored to have the Chairman of the full committee with us, the gentleman from Missouri.

Mr. Smith, you are recognized for your opening statement—or excuse me.

Chairman SMITH. For questions?

Chairman FERGUSON. Questions, I am sorry.

Chairman SMITH. Okay, thank you. Thank you, Chairman, for having us.

Commissioner O'Malley, thank you for taking time to be here with the best committee in Congress. So——

Mr. O'MALLEY. Thank you, and thank you for the time you gave me in your office about a month ago.

Chairman SMITH. Of course.

In 2022 the Social Security Administration rescinded a policy that barred recovery of certain overpayments when the SSA had failed to act on them for 10 years. In a message to its employees, the agency noted that it rescinded this policy because it didn't have the authority to bar recovery of those debts under the Social Security Act.

In fiscal year 2022 alone, Social Security made $11 billion in overpayments across the Social Security and Supplemental Social Security Income programs, 2 billion of which resulted from the agency's failure to use available data to avoid such mistakes.

Commissioner O'Malley, if Congress provides you with the necessary authority, do I have your assurance that you will implement it as quickly as possible so that more people are not penalized for the SSA's failure to act in a timely manner?

Mr. O'MALLEY. Yes, sir. And Mr. Chairman, would you be talking about that 10-year statute of limitations or administrative finality, whatever the proper parlance is here?

Chairman SMITH. That is it, yes.

Mr. O'MALLEY. Yes, sir, I would. In fact, we are examining that, even as we speak, as part of the other things that we are doing on overpayments.

Chairman SMITH. Thank you. Thank you very much.

Over the past year the SSA has published multiple proposed rules, and taken administrative action independent of Congress that would obligate an estimated $40 billion of new mandatory spending. Under what statutory authority do you believe that you can make these changes?

And are there, in your view, any limits to that authority?

Mr. O'MALLEY. Well, Mr. Chairman, certainly there is there is limits within the law, and just a little while ago we were talking about some of those things.

It is interesting. I meet on a regular, every-month basis with claimants' representatives, as well as advocates. And especially among the claimants' representatives, I mean, they are people from all over the country, Democrats, Republicans alike. And they have been waiting a long time for a confirmed commissioner that would put forward many of these regulations.

One of them I know that you and I spoke about was PIE, the Payroll Information Exchange, which could limit overpayments. So that one is now moving. Social Security numbers and government records, the—and the rental subsidy policy for SSI recipients.

Now, all of those have a—all of those have a bit of a price tag. Some of them come out of the trust fund, and I would argue—or submit to you, rather—that those have already been paid for by and don't contribute to the debt because they have been paid for by the people that have paid into Social Security. Others, where SSI is concerned, will have a cost, but there will also be some administrative savings.

Now, having said all of that, we still have to publish these. We still have to get, you know, public comment back on these. But there has been a lot of thought and a lot of deliberation on these. I don't want you to think for a second that all of a sudden, you know, we just started rubber-stamping a bunch of these and sending them through the door. They have been stuck at Social Security in some cases for years, and I hope it will make the program better and improve our customer service and the purpose of the Act, and I think your congressional intent, which is to serve people who are in need in better and faster and more timely and accurate ways.

Chairman SMITH. Thank you, Commissioner.

Thank you, Chairman.

Chairman FERGUSON. Thank you. Next we will recognize the cheerful and happiest man in Congress, a former fellow mayor, and the gentleman from New Jersey, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman. It is a wonderful day in the neighborhood today. [Laughter.]

Mr. PASCRELL. Good to see another mayor.

Mr. O'MALLEY. Good to see you, Mayor.

Mr. PASCRELL. Social Security is like a priceless heirloom in a family, but not one fully maintained. There is a backlog. In fact, 2024 is going to be worse than 2023, projected, in terms of folks that are working to bring service to people. You are getting 12,000 beneficiaries every week, new ones.

So regardless of how you slice it, there are many on both sides of the aisle who understand it, have studied it, and think we need to do something different.

The former President of the United States doesn't think we should do very much different. His answer is we need more cutting in Social Security. He says it. He doesn't hide it. We have a clear choice about Social Security right now. You didn't say it, I didn't say it. That form of President said it. He continues to say it. So the delays of 218, 225 days are not going to be reduced very much if we continue the path where we are.

I was the first Member of Congress to ask that this Administration remove the failed predecessor in your job. He was appointed by the former President.

Tens of millions of Americans rely on Social Security for their lives. Yet between 2018—excuse me, 2019 and 2023, the wait time rose 86 percent. Who speaks for these people? Have they no spokesperson? Who speaks for people old like myself? If you don't, don't think any of us are going to jump up.

How do we ratchet up SSA's volume of disability case reviews for Americans receiving disability insurance and Supplemental Security Income?

Commissioner, yesterday the study committee of our brothers and sisters on the other side made up of 80 percent of colleagues across the aisle called for increasing the retirement age, now tying it to life expectancy. I do not know about you, but I do not think Americans should be forced to work until they drop dead. Can you give us your thoughts on the dangerous proposal?

Mr. O'MALLEY. Well, Mr. Chairman, the—you know, the beautiful thing about this program is that 80 percent of Americans support it, regardless of party, and they want their government to strengthen it and expand it, not to cut it, contract it, or gut its customer service. I think that is a phenomenal consensus in a time of polarized politics, that 80 percent of the American people want us to expand it.

To those who—for those who would advocate, you know, raising the age, I think we have to be mindful of people that really do hard work, hard labor their whole lives, and who die sooner than those of us that are privileged enough to be able to, you know, do work that is not as, you know, taxing on our bodies and our physical well-being.

So I have never supported that myself. Your job is the policymaker, and every day I have to remind myself that my job is to improve customer service and leave the policy to you. But I also can't deny that once upon a time, before I got promoted, I was in elective office and I used to run for office, but I never advocated those sorts of policies.

Mr. PASCRELL. Mr. Chairman, can I ask a question without getting an answer? I just want to let it hang out there. [Laughter.]

Mr. PASCRELL. Is that all right with your approval?

Chairman FERGUSON. Yes, sir.

Mr. PASCRELL. Thank you.

Chairman FERGUSON. I hope I am not going to regret this. [Laughter.]

Mr. PASCRELL. No, you won't regret it.

We all have a fascination with the nation of immigrants. What is SSA doing to ensure we do not block access to disability assistance for certain non-English speakers?

The whole issue of immigration in Social Security, and where we would be without the immigrants getting into the system is one which I think—you need to address clarity.

Chairman FERGUSON. My dear friend——

Mr. PASCRELL. Thank you, Mr. Chairman.

Chairman FERGUSON [continuing]. I let you ask the question. I didn't know you were going to preach a sermon.

Mr. PASCRELL. Thank you.

Chairman FERGUSON. So with that I will turn to my colleague from Ohio. We are going to go to two to one here.

So, Mr. Carey, you are now recognized.

Mr. CAREY. Thank you, Chairman.

Thank you, Commissioner, for being here today. I am going to focus my questions on overpayments, so if you wanted to get your notes for that.

Commissioner, I was disturbed to learn that there are people who are getting notices demanding tens of thousands of dollars for overpayments that went unnoticed by SSA for years. On December 13 I sent a letter with my colleague, Emilia Sykes from Akron, and five other Ohioans requesting information on how SSA processes improper payments, including overpayments.

I was made aware right before this hearing—in fact, I believe the time stamped was 1:55 that I did finally get a response from your office. I will have time to read through that response later today. But I do have a couple questions for you.

How much time, on average, does it take for SSA to determine an overpayment has occurred after a person has actually received the funds?

And is there any limit on how long SSA has to establish the debt after the actual overpayment has occurred?

Mr. O'MALLEY. Let me answer—let me break down. Those are two questions.

Mr. CAREY. Right.

Mr. O'MALLEY. With regard—let me back up a second.

Beginning February 5 we began a process of looking for one hour every two weeks at what we can do to untangle this Gordian knot of the overpayments. That review actually, fortunately for my service, began in October, right around the same time as that 60 Minutes expose that showed those stories of those Americans who, through no fault of their own, had 100 percent of their benefits intercepted and caused them a horrible financial calamity.

So there are several things that we have already done, and there are more things that we are doing. One of the things we have done is we have ended, as of March 25, the process of intercepting 100 percent of benefits if the person doesn't, you know, respond to the notice.

Second, we are going to shift the burden away from asking the claimant to prove they weren't at fault. That should be on the agency.

Third, we are going to allow repayment plans instead of just within the next 36 months. Instead, 60 months to alleviate the burden.

And finally, we are going to make it easier for overpaid beneficiaries to request a waiver of repayment.

The answer to the first part of your question, how long does it take us to discover it, is the product of two things. It depends on what the nature of the overpayment was, and it also depends partly on the staffing that we have available.

I have talked about the——

Mr. CAREY. Real quick——

Mr. O'MALLEY [continuing]. Staffing being——

Mr. CAREY. Commissioner, real quick.

Mr. O'MALLEY. Yes, sir.

Mr. CAREY [continuing]. Because my time is going to run out. So just in the case—except in the cases of fraud and other fault on the part of a beneficiary, do you think it is reasonable to surprise folks with recovering notices for old debts because it took the SSA too long to identify them?

Mr. O'MALLEY. No sir, I don't. But the length of time that it takes us to discover it is a product of staffing being at 27-year lows.

In other words, I don't believe—we don't believe, from the studying we have done for the last four months, that there is more errors—in other words, more overpayments. But we can clearly see that the average amount of those payments has gone up because it takes us longer to discover them.

Mr. CAREY. And on average, how many people are receiving these overpayments?

I know we had a discrepancy in the last time I asked that question, so I figured you came prepared to give a correct——

Mr. O'MALLEY. Yes.

Mr. CAREY [continuing]. Answer on that.

Mr. O'MALLEY. Yes, sir. We are better now. There are, to the best of our knowledge, information, and belief, there are—over the fiscal years 2019 to fiscal year 2023—I will just give you 2019 and 2023.

Mr. CAREY. Okay.

Mr. O'MALLEY. So total unique individuals in title 2 was 990,821. In fiscal year 2023 it was 986,912.

In terms of SSI overpayment individuals—and keep in mind, this is, like, every month they have to prove how much they have earned, and that sort of thing, or send in their pay stubs—in fiscal year 2019 it was 1,375,000. In fiscal year 2023 it was one 1,310,000.

But as I said, what we saw was that, because of staffing being at a 27-year low, it takes us longer to catch up with those overpayments when we discover them.

Mr. CAREY. Thank—Commissioner, my time has expired.

And Mr. Chairman, I yield back.

Chairman FERGUSON. Thank you, Mr. Carey. The gentleman from Arizona is now recognized.

Mr. SCHWEIKERT. Thank you, Mr. Chairman.

Mr. Commissioner, Governor I actually think you have one of the most interesting jobs. I have always been fascinated with the math. So let's bang through some of these real quick so we have a couple of moments for actual—some conversation.

Would you consider—there is a program called Ticket to Work.

Mr. O'MALLEY. Yes, sir.

Mr. SCHWEIKERT. It was always meant to be somewhat optimistic. And is there a chance of moving whoever leads that into sort of your management cabinet so it gets more focus, more attention, and maybe more use?

Mr. O'MALLEY. Yes, sir, perhaps. I am on a steep learning curve. And one of the things that I have learned, though, is that when it comes to Ticket to Work, it is a well-intended program, but it is a program that we have not promoted.

Mr. SCHWEIKERT. It is almost exactly the point, is how do we make it meet its mission? Because it is something that had both left and right support, so——

Mr. O'MALLEY. Yes, it is two things. It is not only promoting the program, it is not only educating our front-line staff about it. There is probably some changes necessary so the ENs, the Employment Networks, are able to submit on behalf of third parties—I mean as a third party, those payment verifications.

But it also, as I understand it so far—I could be wrong—sometimes in big bureaucracies people tell you one thing, and when you ask five more whys, you find out another.

Mr. SCHWEIKERT. Why does that sound so familiar?

But look, you have our interest. So——

Mr. O'MALLEY. It requires, I think, some more staffing as—in addition to just, you know, printing up more fliers and pushing out more notice.

Mr. SCHWEIKERT. As time goes on, if one of your senior staff would ever be willing to communicate with us, we would like to sort of understand it better.

Mr. O'MALLEY. Yes, I would like to get back to you in short order on that.

Mr. SCHWEIKERT. Second, several months ago I think we had one of the Social Security actuaries with us, and there was a comment made that is burned in my head, and that was when we get to expiration of the trust fund in, what is it, 8 or 9 fiscal years, that the commissioner may have authority to say, okay, high-income earners, you get a 40 percent cut, low-income earners, you only get a 5 percent cut.

Have you ever had response from your legal staff on an opinion whether you have that authority?

Mr. O'MALLEY. I haven't, I have not had that opinion from them. I had one U.S. Senator tell me that in the Social Security commissioner's office drawer there is a whole bunch of magic wands. I can assure you I looked in that drawer. There were no magic wands.

Mr. SCHWEIKERT. But at some point I want to make sure, if you have that authority, then we need to work with you. If you don't have the authority, we have to try to not obfuscate our own responsibilities.

Mr. O'MALLEY. I will inquire more deeply.

Mr. SCHWEIKERT. Okay.

Mr. O'MALLEY. Can I talk a little bit? I don't want to take your time.

Mr. SCHWEIKERT. Well, I want to hit on——

Mr. O'MALLEY. Okay.

Mr. SCHWEIKERT [continuing]. One other. If you ever have a conversation with the IRS commissioner——

Mr. O'MALLEY. Yes, frequently.

Mr. SCHWEIKERT [continuing]. They did an experiment last year, a small one, and it was kept fairly quiet. But it was using a chat AI for answering the phones, providing service. Early data on that, it was remarkably accepted and functional. They are expanding it this year.

There may be a learning curve there, because if part of your backup is the inbound phone calls, the ability to adopt technology—because, let's be honest, hiring people in—when you see our labor force structure, is hard and difficult. So please consider that as a backbone.

One of the other things I would like to make—because originally I was going to say some very snarky things; I bit my tongue because this is too important—I would love a moment where, you know, one of my friends here from, I believe it is Connecticut, cares deeply about Social Security. I am fixated on the math. Obviously, it is your—could we ever bring in your actuaries, my PhD economists from the Joint Economic Committee? Because we had a couple of—our smartest team spent months, it took months because of how hard it is to get responses and actuarial data from your actuaries, from our own folks on our side because population data, retirement data, labor force participation, there is all sorts of things that go on here.

But my fear is we don't tell the truth about the math. We use 2034 as our date, and I have actually done multiple floor speeches on this. We actually have the actual total shortfall by—if you tax—raise the cap $400,000 and up, just remove it, you still have a $417 billion shortfall in the 1 year. So remember, the first year of shortfall is $616 billion short. And raising the cap takes care of 358, and then you lose another 59 in general fund revenues. So you have an over $400 billion shortfall. Getting rid of the cap completely, you still have another well over $300 billion shortfall.

Why the morality of this I am so concerned about is it is a great political issue. It will be, as your own actuary said, we double senior poverty the day the trust fund is emptied.

Mr. O'MALLEY. Yes, sir.

Mr. SCHWEIKERT. And the solutions we give here are only covering about a third of the shortfall. We are going to have to have some very uncomfortable conversations, both the left and the right, to make this math work.

With that, I yield back.

Chairman FERGUSON. Thank you.

Mr. LARSON. I think a vote would be good.

Chairman FERGUSON. Thank you, Mr. Chairman——

Mr. SCHWEIKERT. Maybe a vote on math that is actually real.

Mr. LARSON. And on people associated with the math.

Chairman FERGUSON. We will—let's—gentlemen, both—if you all want to have that discussion in the back room, go ahead. We are going to continue on, and the gentlelady from California, Ms. Chu, is now recognized.

Ms. CHU. Commissioner O'Malley, thank you for being here.

One of my top priorities on this committee is improving outcomes for children and youth in the foster care system, as we know that without appropriate documentation, including Social Security cards, foster youth transitioning out of care can't travel, secure employment, obtain housing, or continue their education. I have heard from foster youth about this, and I have also heard from the LA County Department of Children and Family Services.

So in January of last year, I sent a letter to the Administration detailing these challenges faced when the foster youth are trying to secure Social Security cards. These challenges stemmed from differences in the Social Security Administration's regional enforcement of the agency's document requirement policies. For example, regional SSA offices appear to be using inconsistent application approval procedures, including for what they consider acceptable documents for Social Security card requests for children and foster youth.

I do appreciate that the Administration responded to this letter to let me know that they had contacted LA County and local Social Security field offices about the concern, but I understand that challenges remain. So can you talk about what SSA is doing to ensure that foster youth can smoothly and reliably secure their Social Security cards?

Are there ways that Congress can help you improve this process?

Mr. O'MALLEY. Congresswoman, thank you for your question, thank you for your letter, and also thank you for your concern in fighting for kids in foster care. As a former mayor of Baltimore and a former governor, I have spent a fair amount of effort and time trying to do better by kids as they age out of foster care. And sadly, I saw a lot of the similarities to reentry programs in another context, although in this context it is kids who are reentering and, we hope, a life of independence outside of foster care.

There is a couple of things we need to do much better as an agency. There are many things we need to do much better, I should say. And we are discovering some of those.

Training really took a hit during COVID, and we haven't recovered from it since. So we do find disparate, different applications of our rules, depending on what region you are in, and even from one field office to another. So we have to improve on our training.

Secondly we have been slow—in our aversion to risk and our duty to safeguard the program, we have been slow to embrace some technologies that Americans take for granted everywhere, like electronic signatures or state records that are e-certified. There are many things we need to do to ease the traditional requirements of paper documents in order to make sure that people—in this case, foster kids—have what they need from the agency so that they can be successful in moving forward.

The most important thing you could do, the most important thing you could do for the agency is to pass the President's budget. It would be a solid step in the right direction.

And to the gentleman who was talking about the Social Security Trust Fund and the longer term, we need to get back to operating on 1.2 percent of our annual benefit outlays. That was the way it was in 2018, 2017, 2016, and going back. But now we are down to less than one percent. And for those of you that are concerned about what this does to the trust fund and the 2034 depletion event, bringing Social Security funding back up to the traditional 1.2 percent would only advance that depletion event by 30 days.

Ms. CHU. Well, I hope that you will monitor the situation, that we can stay in touch on this issue in terms of improvements made, because these are the most vulnerable kids who really need that help.

And I did want to ask about the 2024–2025 President's budget request, because I am very disturbed by these 38 minutes that you are on hold for the 800 system and the 8 months that disability applicants are waiting on average. And we know that it made a big difference when we gave funds to the IRS to improve their services. And what would be the major thing that you think would improve if the President's budget was approved?

Mr. O'MALLEY. The major thing would be our ability to hire agents and train the agents so that they can answer those calls.

We are suffering from a 24 percent attrition rate in our teleservice centers. We have some work to do ourselves. The contractor on our phone system needs to deliver what has been promised.

But the most important thing in that President's budget is the ability to hire more teleservice centers. And we are getting—and we are anxious to do that. These folks are like the Tuskegee Airmen, you know, they are character without any recognition for them to hang in there answering call after call of really angry, impatient people, and then deal patiently with them.

I visited all nine regions of the country in my first month on this job, and I would listen for 40 minutes or an hour on the other, you know, on whatever you call it, the copilot headset next to these teleservice centers. Man, they are my heroes, and we need to do better by them. They are overwhelmed, stressed out, and—but still, every day they are trying to make it work. Hiring more teleservice centers people is $79 million of that President's budget—of the President's proposed budget.

Ms. CHU. Thank you, I yield back.

Chairman FERGUSON. Thank you. The gentleman from the great State of Utah, Mr. Moore, you are now recognized.

Mr. MOORE of Utah. Thank you, Chairman. Thank you to all the chairmen and to all the ranking members that we have here today for holding this hearing. We appreciate it.

This is, you know, not the attention-getting stuff that you will see on the evening news tonight about this work when we talk actuaries, we talk Social Security. This is what matters to virtually every American. This is what matters, and we have to get this right.

I represent the 1st district of Utah, and it is one of the larger processing centers for the IRS, and I have, you know, in this committee have gotten to get even closer to that work, and heard from them, had a chance to talk to the commissioner from the IRS, as well. And I think there is a strong correlation, just like my colleague from Arizona mentioned, about the need to modernize. And so I wanted to talk a little bit about that.

But first, I appreciate your comments on the foster care adoption, and seeing these kids time out. These aren't just two to three percentage points that go into homelessness or drug addiction. This is—these kids turn 18, 19, this is massive percentages. And so I appreciate the chairman for the Work and Welfare Subcommittee for focusing on that.

I have something for the record, Chairman, a letter from Mr. David Camp, CEO of the National Organization of Social Security Claimants' Representatives to this committee that details the efficiencies that we have already seen simply by allowing for digital sharing of information between representatives and claimants.

Chairman FERGUSON. So ordered.

[The information follows:]

NOSSCR | NATIONAL ORGANIZATION OF SOCIAL SECURITY CLAIMANTS' REPRESENTATIVES ESTABLISHED 1979

March 8, 2024

U.S. House of Representatives
Ways and Means, Social Security Subcommittee
1139 Longworth HOB
Washington, DC 20515

Chairman Ferguson, Ranking Member Larson, and Members of the Subcommittee:

The National Organization of Social Security Claimants' Representatives (NOSSCR) is a specialized bar association of thousands of attorneys and advocates who represent Social Security disability claimants nationwide throughout the adjudicative process. Given our dedicated practice area, we are uniquely positioned to work with SSA to provide timely and accurate disability decisions.

I am writing to follow up on my testimony provided to your committee on October 26, 2023, in the hearing on "Improving Social Security's Disability Adjudication Process." As you recall, a focus in that hearing was the need for SSA to modernize systems and drop barriers to the assistance provided by representatives.

I have good news.

As you are aware, two months after my testimony, Martin O'Malley was confirmed as the new Commissioner of Social Security. He has rapidly expanded SSA's public-private partnerships while applying existing SSA resources to build modern methods for efficient communication.

Our first example is SSA's sharing of a "list of initial and reconsideration cases."[1]

For many years we asked that SSA provide electronic verification of representation. When a representative filed an application on behalf of a claimant or entered on a pending claim, it was extremely difficult to confirm that SSA received and processed the documents. Representatives resorted to calling, writing, and faxing SSA—often repeatedly for months—simply to confirm that initial entry forms had been processed. This was a frustrating waste of resources for both representatives and SSA.

---

[1] Recently updated educational materials from SSA help representatives understand how to use the list. https://www.ssa.gov/ar/docs/AR_Status_Reports_UserGuide-508.pdf (pages 13-14).

1300 I St NW Suite 825 • Washington, DC 20005 • (202) 849-6466 • nosscr@nosscr.org • www.nosscr.org

On January 20, 2024, after collaborating and testing with the representative community, SSA launched a "list of initial and reconsideration cases" providing information digitally and securely to representatives. A representative can check the list to confirm that the claimant's case is correctly associated with the representative. This simple step has already produced significant efficiencies.

NOSSCR recently surveyed members to estimate the savings produced by this modernization. Extrapolating from these responses to the estimated total savings for SSA, this is our report:

- Monthly reduction in communications to SSA: **42,000 letters or faxes**
- Monthly reduction in telephone calls placed to SSA: **43,000 calls**

Notably, these savings are for SSA and likewise for the representatives—meaning we can help more claimants and provide better service.

Please note this is just a start. We are working with Commissioner O'Malley's teams to continue this progress. Thank you for your oversight of SSA's work, and we look forward to working together to advance SSA's vital mission.

Sincerely,

David Camp
Chief Executive Officer

cc: Commissioner of Social Security Martin O'Malley

Mr. MOORE of Utah. Thank you.

Despite spending more than a decade and $300 million through its Occupational Requirements Survey to procure updated jobs data from the Bureau of Labor Statistics, the SSA is still using a Dictionary of Occupational Titles from 1977. That was last partially updated over 30 years ago to make disability determinations.

At a hearing in October we heard how the use of the Dictionary of Occupational Titles, DOT, disadvantages some who are truly disabled and advantages others who may be able to work because it includes outdated job listings like a phonograph cartridge assembler but, unlike the ORS, it doesn't include jobs like a web developer, right? We have modernized since the 1970s, right?

And can you help me understand why this updated data hasn't been used, and why the SSA still relies on the outdated DOT, which contains job listings that haven't existed in our economy for decades?

Or if you can enlighten us with improvements in this area, I would be totally interested.

Mr. O'MALLEY. Yes, sir. As you might imagine, given our budget straits and the lowest staffing we have had in 27 years, to look at spending more money on a program that has already spent a lot of money and no result, I had to, in good conscience, put the brakes on that for right now.

And I am taking a second look at it, doing a deeper dive. It is my understanding that this contract is extremely labor intensive, and it is also my understanding that any change to the DOT will create different winners and losers, as any policy choice will in a program.

So Congressman, I haven't entirely figured it out myself, but it is a great source of embarrassment for this agency to be, you know, asked why it is that we still have seal killers and nut sorters and phonograph cartridge makers as occupations when they haven't been here for a long time. We should, at the very least, start removing those obsolete jobs from the list, and I think perhaps there is something we can learn from other advanced and developed nations as to how they stay in touch with a rapidly changing economy.

And the OIS is certainly another alternative.

Mr. MOORE of Utah. I think there is some really productive literature out there. It is my understanding this is mostly paid for, and I think there is a—to have the will, we can find the way on this.

I experienced it in my own family. I have a young boy who is eight years old. He is going to have a different path in life. I know he is going to be a contributing member. He is going to find a job that works for him, right? And he is going to have challenges up until that point, but he is going to find a lane. And I want to make sure we are doing what we can to strip out arbitrary, you know, useless data and modernized with this.

AEI has a great book, American Renewal, that has a whole chapter on what can be used and what can be done to this to enhance what we can get out of our population and our communities right now, because there is a whole group of people that want to work, that want to contribute. And I am confident we can do much better in this.

I won't have time to be able to dig into the top ten legacy systems, but consider our office an office that will dig into this as much as possible. It works for—it is important for my district for the IRS to be able to modernize their technologies.

And, you know, as we have mentioned earlier, the same could go, and we can use these—we improve people's work experience by investing in these technologies to make their job satisfaction go up. You get better productivity out of them, and we will see better hiring come from this type of stuff. So I encourage you to push as much as possible on this.

Mr. O'MALLEY. Congressman, thank you. I totally agree with you, and I would really like to work with you.

Mr. MOORE of Utah. Thank you.

Chairman FERGUSON. The gentlelady from California, Mrs. Steel, is recognized.

Mrs. STEEL. Thank you, Mr. Chairman.

And thank you for coming, Commissioner. This is just my statement. And you know what? I have been hearing just so much from you, low staffing, and then, you know, you need more staffing. But actually, Social Security Administration is spending $1.7 billion for information technology services to maintain and modernizing IT infrastructure, as well as digital and automated services. So if you can add that, I don't think you should ask more staffing and you have the way too low staffing. Having said that, I am not asking you about that answer. But you know what? You really have to go back and study.

Social Security improper payments, many of which occur by no fault of those who have been improperly paid, place a heavy burden on the recipients who often face the difficult and time intensive process to resolve the issue with the Social Security Administration. So overpayment also cost taxpayers billions and take valuable resources away from the Social Security Administration that could be used for other purposes.

So nine years ago that—actually, Congress authorized that payroll information exchange you just briefly mentioned, and Chairman Smith was asking, and then you answered that it is moving. So I just need really quick—I have just one more question.

So it has been launched, when, and what is the result, and how this PIE is going, and which direction?

Mr. O'MALLEY. Yes, the Payroll Information Exchange, the regs for that will be published this April. But depending upon the comments back, we hope to be able to implement it in July.

We have had to move money out of that IT budget because 90 percent of that IT budget goes to tape together old legacy systems: COBOL, green screen. But with a new CIO from California, we are moving around dollars in order to implement PIE. And we have already done a lot of the pre-testing work on it in anticipation of these regulations. And so, fingers crossed, I would look forward to that being in use by the end of this summer.

Mrs. STEEL. Well, you know what? You are bringing CIO from California. When we do exactly opposite of what California government does, we are very successful. I love California, I love the weather, and I want to save California. That is the reason that I am staying there.

Another leading cause of overpayment in the SSI program is undisclosed financial accounts. To address this, SSA implemented the Access to Financial Institutions program in 2011. AFI helps the SSA verify bank account balances when processing SSI applicants.

Currently, SSA examines any bank accounts where the reported balance is over $400, but initiated a study to explore reducing this threshold to 0. This study was put on hold during COVID. In 2022, SSA Office of Inspector General recommended that SSA agree to revisit this study in 2023.

Have you revisited this study, and do you have the result to share with the committee?

Will the SSA be reducing the AFI threshold to zero and use it for every SSI applicant to further reduce burdensome, improper payment to SSI recipients?

Mr. O'MALLEY. Congresswoman, I am on a steep learning curve, and I am learning something new every day. One of the things I have learned about SSI is that, while it is only about 4 percent of our benefits, it is about 38 percent of our administrative costs. I am not specifically aware of any results of that study to change that COVID-era rule, but I would ask your permission to look into that and get you a proper answer promptly.

Mrs. STEEL. I would love to get that. Thank you very much for——

Mr. O'MALLEY. Thank you.

Mrs. STEEL [continuing]. Coming to the hearing today.

I yield back.

Chairman FERGUSON. Thank you. The gentlelady from California, Ms. Sánchez, you are now recognized.

Ms. SÁNCHEZ. Thank you, Mr. Chairman.

And I want to welcome you, Commissioner O'Malley. Thank you so much for your time today.

Mr. O'MALLEY. Thank you.

Ms. SÁNCHEZ. Social security is really vital to our nation's economy, and I have been a member that has consistently supported increased funding for Social Security, which is more than I can say for some of my colleagues on this dais.

In fact, just yesterday, the Republican Study Committee released their budget proposal, which included even more aggressive cuts to Social Security, suggesting a $1.5 trillion reduction over the next decade. And as you stated, Commissioner, years of underfunding have already eroded SSA's customer service and other basic operations. After accounting for inflation, SSA's funding for basic operations has fallen by approximately 17 percent and, as a result, SSA has lost roughly 10,500 full-time workers over the past decade.

In my district there is an SSA Office of Hearing Operations, and some of my constituents that are employed there recently shared some stories about the difficulties of understaffing, and they outlined an agency-wide issue. And while I appreciate your encouragement of the hard-working folks who are serving their country as SSA employees, I think we can all agree that these employees deserve to be paid a decent wage and to be fully staffed.

Commissioner O'Malley, what can Congress do to help ensure that SSA can restore not only strong customer service, but adequate staffing for field and hearing operations offices?

Mr. O'MALLEY. Congresswoman, thank you for your question. Thank you for your concern for Social Security.

Your numbers are spot on. We are dealing—we are serving more beneficiaries than ever. During COVID we saw a slight dip in disability applications. But now, for the last three years, disability applications are going back up, as well. And as you know, if a person is denied, they go to the next level of hearing and in the hearing offices.

There are some bright spots in all of this. I think it was Arnold Toynbee that said that man progresses—and he meant men and women—progress in response to adversity. And certainly, COVID was a lot of adversity for the office of—what we call the Office of Administrative Hearings. We have shifted to doing hearings by teleconference and also video, something that was a necessity during COVID. But now that we have come out of COVID, we find that most of the claimants, 70 percent of whom are represented, prefer the teleconference and prefer the video.

Having said all of that, there is nothing more important that you could do for those employees than to restore a level of adequate funding that this agency was able to spend for every year prior to 2018. We operated on 1.2 percent of our overhead more efficiently and more effectively than any other insurance corporation on the planet. And yet we have now been cut.

Ms. SÁNCHEZ. Yes.

Mr. O'MALLEY. I mean, and I don't pretend—Mr. Chairman, I don't think it was intentional by Congress. But in nine years we haven't even had a budget or appropriations hearing.

And the good news is—I think it is good news—is that because the customer service is funded out of the same dollars people have already paid for benefits, this doesn't add to the Federal debt.

Ms. SÁNCHEZ. Yes.

Mr. O'MALLEY. It is there. You can't tell people, oh, we have got your benefits, and eventually, by 2034, we are going to create another long-term fix, but in the meantime we are going to allow your customer service to be cut.

Ms. SÁNCHEZ. Yes.

Mr. O'MALLEY. I truly believe that, if you are able to support the President's budget for restoring staffing and eventually getting us back up to our traditional 1.2 percent, you are not only going to restore trust in this agency's customer service, you are going to restore a lot of trust in the ability of the Republic to serve its people.

Ms. SÁNCHEZ. Yes, I have a question about the President's budget, but I hope my colleagues will heed your warning and join me in calling for an increased Social Security budget for fiscal year 2025 and beyond.

I appreciate your commitment to trying to get Social Security back on track. And I know that you and President Biden are aiming to address the devastating staffing shortages which affect not only those who rely on Social Security, but the workers who help provide those benefits.

I want to say that President Biden's budget proposal includes 12 weeks of universal, comprehensive, paid family and medical leave, like the proposal that we passed out of this committee in Build Back Better in 2021. At that time, every single Ways and Means Republican voted against a paid leave plan for workers. But paid leave is really vital to working Americans. And as a mother myself, I know how difficult it can be to balance parenting and a demanding job.

I just want to ask, Commissioner O'Malley—and I will take your response in writing, it doesn't have to be verbal right now—but do you consider universal paid leave a critical feature of that plan?

And again, I will take your answer in writing after. Thank you.

Ms. SANCHEZ. And I yield back.

Chairman FERGUSON. I thank the gentlelady.

The gentleman from Iowa, Mr. Feenstra, you are now recognized.

Mr. FEENSTRA. Thank you, Mr. Chair.

Thank you Mr. O'Malley, for being here today. I greatly appreciate it. I see you were a mayor of Baltimore, a lot of moving parts when you do that. I was a city administrator, so——

Mr. O'MALLEY. What city?

Mr. FEENSTRA. A small community in Iowa, Hull. So——

Mr. O'MALLEY. Where is that?

Mr. FEENSTRA. In the northwest corner. But——

Mr. O'MALLEY. I have probably been there.

Mr. FEENSTRA. Yes, you probably have. It is—and those jobs is where the rubber hits the road, and that is what I want to talk about today.

You are a trustee, and so you are in charge of providing Congress with an accurate financial picture of the health of our Social Security Trust Fund. We all know that in 8 to 10 years, you know, there is going to be a catastrophic cliff that is going to happen in that Social Security recipients, if we don't do anything, could see an up to a 30 percent reduction in their Social Security. And that is coming, I think, from your office.

How can we tell and advise government and people that, hey, this is real. I mean, this isn't something that is made up. I mean, I worry about this immensely. And I think you and Congress have to do our part to change this dynamic. And I just want your thoughts on that.

Mr. O'MALLEY. Yes, sir, thank you. And I think there is probably nothing that gets quite as many eyeballs on publications on the Internet as the screaming headlines that say your Social Security is about to go away in a few years, especially given the fact that 50 percent—for 50 percent of seniors, that is the difference between poverty and——

Mr. FEENSTRA. That is right.

Mr. O'MALLEY [continuing]. And living in dignity.

The good news is, you know, the governance to choose. And I believe that we have the ability to extend solvency for the foreseeable future, just like Tip O'Neill and Ronald Reagan and Howard Baker did back in 1982. People remember that nostalgically, as if Tip O'Neill and Ronald Reagan had a beer and decided to fix it. But it was only up on the deadline.

I don't think we should wait until the deadline. I have had a lot of great conversations with people of both sides of the aisle, including Senator Cassidy on the other side of the Hill, and Mike Rounds. And the truth is, it is only when enough Democrats and Republicans come together for these tough things——

Mr. FEENSTRA. And I agree with that. And I know it is Congress's idea, or Congress has to do this. But I also need you, as Social Security trustees, to advocate for, hey—you know, and create proposals.

Also, I think the CBO needs a 10-year outlook. I created a bill that would do this. It is an easy—an understandable graph to accurately forecast where this is going to be. If we each year do not do anything, it gets even more and more cataclysmic. And I think we are missing the point on that.

You know, you think about Social Security makes up one-fifth of our Federal spending in this—in our budget, one-fifth. That is very significant. And it is an unfunded liability that we got to tackle.

Anyway, I want to get to something else. Child welfare agencies often enroll eligible children, and then they collect and use child's SSI or survivor's benefits to defray the cost of that child foster care. And yet, many of our children and their parents that have these children in foster care have no idea that they are getting an SSA benefit.

There is a letter that you sent out that says, "I am committed to taking action first, and quickly as possible, as I plan to solicit public input on how Federal and state governments can ensure a more reasonable conservation of the SSA funds for these vulnerable children." So are you looking at changing rules here or making rules?

I mean, this is, again, very serious stuff that no one knows how much is being taken, and these children don't even realize that payment is being made on their behalf.

Mr. O'MALLEY. Correct. As a governor and as a mayor, I am certainly sensitized to the bad outcomes of kids aging out, as they say, aging out of foster care, being given their clothes in a plastic bag on their birthday, and told good luck.

There are a number of states that already have created new rules. In fact, in 17 states they have had bills in the last year or two that would require the conservation of some of those dollars.

Mr. FEENSTRA. Right, so do you think we should create a rule? Are you creating a rule? And do you think the Federal Government should create law? What is your thought?

Mr. O'MALLEY. If I can create a rule, I will.

Mr. FEENSTRA. Okay.

Mr. O'MALLEY. And I look to do that very quickly.

Mr. FEENSTRA. Okay.

Mr. O'MALLEY. If I can't, and I need your authority based on what our counsel tells us, I will come back to you. Because for eight percent—it is not all of the kids in foster care——

Mr. FEENSTRA. That is right.

Mr. O'MALLEY [continuing]. But for the eight percent that receive benefits——

Mr. FEENSTRA. Perfect.

Mr. O'MALLEY [continuing]. We can do better.

Mr. FEENSTRA. Yes, thank you. That is what—I appreciate that. And I humbly ask that you have got to—again, go back to my first question, is that we have got to get down to the bottom and making sure that CBO and everybody knows how Social Security is going to dramatically change in 8 to 10 years if we do nothing.

Thank you, and I yield back.

Mr. O'MALLEY. Thank you.

Chairman FERGUSON. The gentleman from Florida, Mr. Steube, you are now recognized.

Mr. STEUBE. Thank you, Mr. Chairman.

This past fall the Social Security Subcommittee held multiple hearings regarding the failure of the Social Security Administration to administer payments to beneficiaries. Commissioner, I would like to follow up on the last time the former acting commissioner—and I probably won't pronounce this right—Kijakazi?

Mr. O'MALLEY. Kijakazi.

Mr. STEUBE. I will let you say that—spoke before us, which was on October 18, 2023.

I would also ask unanimous consent to submit her testimony for the record from that hearing.

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON SOCIAL SECURITY
UNITED STATES HOUSE OF REPRESENTATIVES

OCTOBER 18, 2023
STATEMENT FOR THE RECORD

Kilolo Kijakazi,
ACTING COMMISSIONER
SOCIAL SECURITY ADMINISTRATION

Committee Chair Ferguson, Ranking Member Larson, and Members of the Subcommittee:

Thank you for inviting me today to discuss a very important issue. Chair Ferguson, Ranking Member Neal, and Representative Larson, it is good to see you again. I was pleased to visit each of you in our field offices in your districts.

For those who I have not previously met, I am Kilolo Kijakazi, and I am honored to represent the thousands of skilled and dedicated employees of the Social Security Administration (SSA). For more than 30 years, I have researched and pursued ways in which government and the private sector can help support the American public. No institution personifies that goal more than SSA.

Today, I will describe the overpayment process, factors contributing to the occurrence of overpayments, what we are doing to make improvements, and how we work with the public when they are overpaid. SSA is continually improving how it serves the millions of people who depend on our programs. We are working to prevent improper payments from occurring, correcting underpayments, and making it easier to navigate the overpayment debt recovery and waiver processes.

Background

SSA programs and services are vital to the public, and the scope of our work is enormous. For more than 85 years, Social Security has provided income security for retirees, individuals with disabilities, and families that lose a wage-earner. Almost 90 percent of workers over the age of 65 receive Social Security benefits.

In Fiscal Year (FY) 2023, we project that we:

- Served almost 30 million visitors in our field offices;
- Answered about 30 million phone calls to our National 800 Number;
- Processed over 400 million online transactions;
- Posted about 299 million earnings items to workers' records;
- Processed over 18 million original and replacement Social Security card applications;
- Completed almost 6.7 million claims for retirement benefits; and
- Completed 2.5 million non-medical redeterminations of eligibility and 550,000 full medical continuing disability reviews, safeguarding the integrity of our benefit programs.

As we perform these many tasks, we also take seriously our responsibility to ensure eligible individuals receive only the benefits to which they are entitled, and to safeguard the integrity of benefit programs to better serve our customers. Our employees work hard to pay the right person the right amount at the right time. Ensuring program stewardship is one of our three agency strategic goals.

To that end, SSA pays approximately $1.4 trillion in benefits to more than 71 million people each year. Our payment accuracy rates are high; however, overpayments can occur given the number of people we serve, the frequent changes in their circumstances, and the statutory complexity of the programs. Regarding the Social Security program itself, which includes payment to retirees, surviving spouses, and disabled workers, only one half of one percent of paid amounts are overpayments – an extremely low percentage.

For the SSI program, overpayments also represent a small percentage of payments—about 8 percent—and the higher overpayment rate is due primarily to the statutory complexity of the program itself, which requires frequent payment adjustments that may be triggered by events—such as increased earnings—after the payment is made.

I want to emphasize that the SSI program is intended to provide income to support basic needs to some of the most vulnerable members of society. Its very design provides flexibility – payment rates can be changed rapidly if a given recipient's situation turns for the worse or improves. However, this responsiveness can increase the likelihood of improper payments. Because payments and eligibility depend on each individual's changing circumstances, recipients must report to SSA in real time to ensure they receive the correct amounts. The SSI program is challenging to administer and more susceptible to incorrect payment amounts.

Overpayment Debt Establishment and Recovery - Background

We have an important stewardship responsibility to our recipients and to taxpayers. While we strive to prevent improper payments before they happen, we also work to ensure we clearly notify recipients of debts and provide options for people to question or appeal an overpayment. We can also help those who want to establish repayment plans, or who seek waiver of the debt.

Under federal law, SSA must pay beneficiaries only the amounts authorized by law *and* must seek recovery of overpaid amounts,[1] unless circumstances warrant waiver of such overpayment. There are no statutory time limits on recovering overpayments, and Federal law requires that SSA use specific recovery methods, including mandatory adjustment from benefits owed to the

[1] *See* 42 U.S.C. § 404(a)(1) ("Whenever the Commissioner of Social Security finds that more or less than the correct amount of payment has been made to any person under this title, proper adjustment or recovery shall be made. . . ."); 42 U.S.C. § 1383(b)(1)(A); 31 U.S.C. § 3711(a)(1) ("The head of an executive, judicial, or legislative agency shall try to collect a claim of the United States Government for money or property arising out of the activities of, or referred to, the agency"); 31 C.F.R. § 901.1(a) ("Federal agencies shall aggressively collect all debts arising out of activities of, or referred or transferred for collection services to, that agency.").

individual.[2] Additional collection tools are authorized for certain overpayment debts.[3] SSA is required by law to notify individuals before we use certain collection tools.[4]

We quickly notify people once we establish an overpayment by mailing a notification with information about the debt and options. The notice explains that the person was overpaid, a general reason for the overpayment, and the amount (including a monthly breakout of the overpayment). The notice generally requests full and immediate refund and describes the proposed rate of withholding. For example, SSI withholdings are limited to 10 percent of the benefit, given the economic vulnerability of these beneficiaries. In addition, the notice explains the person's appeal rights, as well their right to request a waiver or a different rate of withholding. The notice also tells the overpaid person that we will not take any action to recover the overpayment until 60 days after the date of the overpayment notice. There is no time limit for requesting a waiver.

SSA strives for continuous improvement, and we are taking action to improve the overpayment and recovery process. We are updating our processes and procedures, and working with people if they seek to appeal or to explore potential repayment options or waivers, when allowed by law.

New Customer-focused Review of Overpayment Procedures and Policies

Our payment accuracy rates remain high. My goal is to ensure we pay the correct amounts and make it easier for people to understand their options when overpayments do occur. We have heard from our customers, stakeholders, and our own employees how difficult it can be to understand and navigate an overpayment debt.

As we continue our effort to improve our customers' experience and work to better support our employees, I am designating one of my senior executives to lead a team to review improvements we can make. This employee will work out of the Office of the Commissioner and report directly to me. I am confident that this individual's strong operational and programmatic background will drive timely, pragmatic, and thoughtful recommendations.

The review process will involve a holistic assessment of how our administrative procedures influence our overpayment process. It will involve the collection of information including input across all levels of the organization, especially front-line employees, to understand in greater

---

[2] *See* 42 U.S.C. § 404(a)(1)(A) ("With respect to payment to a person of more than the correct amount, the Commissioner of Social Security shall decrease any payment under this title to which such overpaid person is entitled…" See also 42 U.S.C. § 1383(b)(1)(A).

[3] *See* 42 U.S.C. § 404(f) ("With respect to any delinquent amount, the Commissioner of Social Security may use the collection practices described in sections 3711(f), 3716, 3717, and 3718 of title 31 and in section 5514 of title 5, all as in effect immediately after April 26, 1996.") See also 42 U.S.C. §1383(b)(5)(A).

[4] *See, e.g.*, 31 U.S.C. §§ 3716(a)(1) and 3720A(b).

depth the administrative factors that contribute to overpayments. It will also consider how people experience our interactions with them during the overpayment recovery process. We will examine our policies and procedures—including our regulations—to determine where administrative updates to the overpayment recovery and waiver process may reduce the complexity and burden for the people we serve. This is our first week of the review, so we are still developing the scope.

In-Process Improvement Efforts

Overpayments—given their complexity, effect on the public, and impact on program integrity —have been on our radar and process improvements are already underway. Some of these improvements are targeted at making it easier for beneficiaries to navigate the recovery and waiver processes, while others work to prevent overpayments from occurring in the first place.

- *Simplified Waiver Request Form*

  For instance, we released a streamlined overpayment waiver request form that is easier to understand and less burdensome for people to use. This was an extremely important step forward, as internal agency reviews and external auditors pointed to the prior waiver form (SSA-632) as an obstacle to waiving overpayments. We used focus groups to increase our understanding of our customers' experience with the prior waiver form. Many people found the waiver process to be overwhelming, and the form itself to be long and complex. The streamlined waiver request form simplifies language and explains where less documentation is required for SSA to waive collection. We are pleased to have rolled out the new form last month to help our beneficiaries who are facing overpayments.

- *Payroll Information Exchange*

  A vital tool in overpayment reduction is the Payroll Information Exchange (PIE), authorized under the Social Security Act. Once fully implemented, the PIE process will work to prevent overpayments on the front end – before they even occur. Under the traditional process of SSI and disability insurance administration, the burden of reporting wages falls on the recipient. PIE will allow SSA to electronically access wage and employment data from a payroll data provider (PDP) for individuals who authorize us to obtain it. Because the electronic wage data can be obtained faster, and with less effort, than recipient reporting, we also will be able to make needed adjustments to payments before those payments have been issued, and our recipients will have reduced individual reporting.

  In January 2021, we published a Federal Register Notice (FRN) to notify the public about our planned information exchange. Since the publication of the FRN, we have continued to refine the processes that will allow us to integrate PIE payroll data into our systems, and, in some cases, automatically adjust recipients' monthly benefits. We have worked with a PDP to perform appropriate testing of the data exchange and to refine the data they provide us.

While it has taken longer than we intended to develop, we needed to make sure the PIE process truly worked – that we were getting it right. We recently completed an accuracy study, comparing PDP data to paystub information we received directly from beneficiaries. While completing the study took time, I am pleased to say that it confirmed the payroll data we receive through PIE is highly accurate and exceeds self-reporting accuracy rates. We also want to ensure we are considering policies and procedures to provide due process protections.

The next step is to publish regulations. SSA's Notice of Proposed Rulemaking (NPRM) will provide policy and procedures regarding the authorization form, the exchange, and beneficiaries' reduced reporting responsibilities. We recently submitted a draft NPRM for formal inter-agency review. The NPRM will inform both the final rule and our plans, including the timeline, for implementation. PIE will improve payment accuracy and reduce reporting burdens, and we look forward to implementing it as quickly as feasible.

- *Administrative Overpayment Waiver Reform*

We intend to publish a proposed rule changing our overpayment recovery waiver rules to streamline processes and reduce burden, so eligible individuals can more easily seek debt relief. Our goal is to ensure that overpayment recovery does not unduly burden those in underserved, vulnerable, or marginalized communities.

- *Notice Simplification*

We recognize how critical it is for the public to understand the information we share, including the improper payment notices they receive from us. Our Office of Communications received an A+ for organizational compliance and an A for writing quality from the Center for Plain Language. I have asked this office to assist in making our overpayment notices more user-friendly and easier to understand.

The Role of Resources in Overpayment Recovery

Our budget directly drives the level of service we can deliver, including systems improvements and staffing to stay current with our workloads. Our dedicated employees are doing their part to restore and improve service while working within our current funding levels. Each day, our employees serve field office visitors, answer questions, take claims on the phone, hold hearings, pay benefits, and complete countless other workloads. Building the capacity to meet the public's expectations for timely customer service requires sustained and sufficient funding and staffing levels.

Many of our systems are old and we have had to retrofit them as our programs evolves. This includes both our benefit and program payment systems and our notice systems. Modernization requires sustained funding and complex updates. We have made some strides over time, including through debt management modernization, although work remains.

In FY 2023, we began to rebuild our workforce after ending FY 2022 with the lowest staffing level in 25 years. We must have sufficient staff to keep up with workloads, including to ensure timely processing if a beneficiary timely reports a return to work or a change in living arrangement so we can adjust to the correct payment amount.

Conclusion

In closing, I again want to thank you for the invitation to discuss steps we are taking to improve our overpayment-related policies and procedures to better serve our customers and improve program stewardship. Complex workloads like this one are ripe for improvement, especially as we focus on the experience of the people who count on all of us to prevent overpayments from happening and making it easier to navigate the recovery and waiver processes when they occur. I look forward to hearing the results of our review and identifying what more we can do.

Thank you for the opportunity to testify today, and I look forward to your questions.

Commissioner, as you may know, the acting administrator provided incomplete, unverified, and misleading data to this committee related to overpayments at that hearing. We were especially concerned that SSA failed to disclose this mistake for weeks after it was first identified, and only disclosed it to the committee after being forced to do so pursuant to a FOIA request. This is unacceptable, and it makes me wonder what else is going on at the agency, considering the continuous mistakes and the lack of transparency. Are you aware of that interaction?

Mr. O'MALLEY. Yes sir, I am.

Mr. STEUBE. Is that—is she still with the agency?

Mr. O'MALLEY. Yes, she is. She is serving in a senior adviser position, and she is performing many of the duties of—we don't have an acting deputy, so she is performing many of those duties.

Mr. STEUBE. So has there been any investigation by you as to why she lied to this body, and misrepresented the numbers? Is there going to be an investigation as to why it was misrepresented to us what the numbers were?

Mr. O'MALLEY. Congressman, I don't blame you at all for being skeptical for—and asking tough questions. But I can tell you from my 90 days of trying to untangle and get to the bottom accurately of the overpayment causes, the numbers of people separate from the numbers of debts—because some people have more than one debt—sometimes people have a debt and then they have a second overpayment from another time——

Mr. STEUBE. Well, somebody had to have either provided her with those numbers that she then misled Congress of, or she knew what the real numbers were and misled the committee because she didn't want to represent the totality of the failures of the Administration. So one of those two things happened. And if I was the administrator—why do you say no?

Mr. O'MALLEY. I can——

Mr. STEUBE. It—okay, all right, let's go back. Do you agree that she misrepresented the amount to this committee?

Mr. O'MALLEY. Yes, but I don't believe it was intentional.

Mr. STEUBE. Okay.

Mr. O'MALLEY. I can assure you——

Mr. STEUBE. So if it wasn't intentional, was it somebody that provided her the wrong information?

Mr. O'MALLEY. Well, and I am sure when they gave it to her they didn't think it was wrong, either.

Congressman, I can assure you, in 90 days of looking at this, nobody 5 months ago really had a grasp of what the cause and the effects and the results of the overpayments were. We have a much better grasp of that now, and I would be glad to provide that to you. And we have much more accurate numbers now.

Mr. STEUBE. Okay. Well, in my exchange with her she basically said that they are accountable—and I have already entered the transcript for the record—they are accountable because they hold themselves accountable, which doesn't make any sense.

So can you give me a different or more coherent answer about how there will be accountability for mistakes at the Social Security Administration, when the mistakes are being made by the people who work there and it is affecting taxpayers?

Mr. O'MALLEY. Yes, sir. You know, we—the agency—and I am new to the agency, you know, I didn't come up in the culture of the agency, but they have a mantra that their mission is to get the right amount to the right person at the right time. And by and large, we do so.

Yes, we were—I was surprised to find, when we actually looked at the actual number of overpayments and the trend over time, there is not more overpayments than there have been over the last five years. But because of the decline in staffing to 27-year lows, and it taking us longer to catch up with those overpayments, the amount of the overpayments is higher now than it was pre-COVID times.

So when we make a mistake, though, this—it might only look on paper like it is one half of a percent or two percent, but that is a lot of Americans. And we need to do better——

Mr. STEUBE. So my question was, are you doing anything to ensure that this isn't happening again?

Like, is there going to be——

Mr. O'MALLEY. Yes, sir.

Mr. STEUBE [continuing]. Consequences for people who work in your agencies who make mistakes?

Mr. O'MALLEY. Yes. Well, certainly. And if they do it intentionally, pretty dire consequences.

A number of the committee staff have come to our Security Stat. And Congressman, I would invite you to come and see how we are improving the accuracy of our data and the sharing of that data every day. And——

Mr. STEUBE. All right, I want to shift because I have only got 30 seconds left.

Mr. O'MALLEY. Okay.

Mr. STEUBE. On page five of her testimony—this is the last time she was before this committee—she stated, and I quote, "We intend to publish a proposed rule changing our overpayment recovery waiver rules to streamline processes and reduce burden so eligible individuals can more easily seek debt relief. Our goal is to ensure that overpayment recovery does not unduly burden those in underserved, vulnerable, or marginalized communities."

And I asked her specifically about communities of color, which is what she was referring to. Commissioner, do you believe that your agency should consider race as a factor in determining benefits?

Mr. O'MALLEY. No, I do not, although I do believe we should always be mindful of the disparate impact of our policies, and also of our congressional mandate to make sure that this program—that people have equal access to this program, regardless of race, creed——

Mr. STEUBE. So you can assure——

Mr. O'MALLEY [continuing]. Color, or where they live.

Mr. STEUBE [continuing]. This committee today that someone's race, religion, gender will not be a factor in the overpayment recovery rule that the former acting commissioner referenced in her testimony?

Mr. O'MALLEY. Yes, I can assure you of that. And at the same time, we will be very mindful of—not to put up any barriers for anybody to be able to access overpayments—I mean, rather, the remedy of overpayments not of their making.

Mr. STEUBE. My time has expired, I yield back.

Chairman FERGUSON. Okay, thank you. We are going to go get one more person here.

Commissioner O'Malley, as you will find out very quickly here, schedule is a mere suggestion of the possibility of what might could happen if everything goes well. We have a vote series that has been called.

Mr. Smith, I am going to call on you. Then we will recess until immediately following the last vote series. Mr. Smith, you are recognized.

Mr. SMITH of Nebraska. Thank you, Mr. Chairman.

And thank you, Commissioner, for sharing your time here today. I appreciate hearing you reflect on the changes that have been made that hopefully are heading customer service in a better direction within the Social Security Administration.

I am very concerned that, you know, not enough progress has been made before now accepting the responsibility of this proposal to administer paid family leave. You know, I think we saw problems at IRS when they took on the new responsibilities of becoming a payment distribution agency during COVID, making their customer service problems even worse than they were prior. And I just have significant concerns.

You know, there is staffing shortages everywhere, you know, and there are various complications with teleworking and so forth. I think you have made some changes to that, as well. But I just have serious reservations that Social Security can or should accept the paid family leave administration. And should the administration—Social Security Administration not focus on properly implementing and administering the existing programs before proposing to undertake such a massive new program as paid family leave?

Mr. O'MALLEY. Well, certainly, Congressman, we need to get back to the 1.2 percent overhead that we traditionally have been able to use to provide the customer service we need to.

Having said that, we could also administer paid family leave, provided, as the President has provided in his budget, there is the staffing that goes with this.

But you are right. If we go down to——

Mr. SMITH of Nebraska. Staffing from where?

Mr. O'MALLEY. What, the funding for it?

Mr. SMITH of Nebraska. Well, the funding might be there, but that does not actually fulfill the staffing needs that exist.

Mr. O'MALLEY. Well, we would have to hire up staff in order to do it.

Mr. SMITH of Nebraska. And where do you believe those employees would be found?

Mr. O'MALLEY. Oh, there is—there are people who want to work at our agency who we can't hire because of a hiring freeze and a lack of money.

There are people—I think we need to change our strategy as an agency. I think we target too much on college graduates and not enough on high school and community college graduates. And with proper training, that could really be an investment that holds for a long time.

You know, we used to have a program at SSA called—what was it? Something about students. Stay in School, Kids. And I met people in Kansas City and town halls, employee town halls across the country. They have now been with the agency 40 years, but they said, "I was a Stay in School, Kid when they hired me 40 years ago out of high school," so we could hire them if there is the money for it.

Mr. SMITH of Nebraska. So it is your assessment, though, that you have a surplus of applicants?

Mr. O'MALLEY. Yes——

Mr. SMITH of Nebraska. Now?

Mr. O'MALLEY. Yes, sir. I believe we have no shortage of applicants. We had a big hiring spike thanks to, you know, the anomaly that you all approved in the budget last year. And we are—with direct hiring authority, we were able to hire up pretty quickly.

Sadly, though, in the flood of highest beneficiaries and customers ever and our training taking a knock, we saw a lot of them quit in their first year because of how overworked and overwhelmed they were.

Mr. SMITH of Nebraska. Just for verification, is it still the case that walking in without an appointment is less of a wait than calling in over the phone?

Mr. O'MALLEY. It depends on which phone. In our field offices, the calls get answered in three to five minutes, on average. On the 1–800 number, the week ending March 8 we had gotten it down to 31 minutes, but it has averaged 39, 49, and some individual calls—you will hear horror stories from your constituents, I am sure, that people are waiting an hour.

I heard one story of a person——

Mr. SMITH of Nebraska. But shouldn't the 800 number be even more efficient than——

Mr. O'MALLEY. You would think. This is our thirty-fifth anniversary of the 1–800 number. And back in the day, when Social Security advanced new customer service technologies, they were all very, very proud of it, and it was more effective. But given problems during COVID, and procuring a new system, and the failure of that system to work properly, it has made the 800 number a real challenge.

And I had a call with the CEO of Verizon, who assured me just a couple of days ago that he would get back to me before the end of the week about how they can resolve what is essentially failing business intelligence at the center of that system that leads to a lot of dumped calls every day, or what some in the industry—their industry, not mine or yours—would call polite hang-ups. I don't think any hang up is polite when somebody has been on hold for an hour.

Mr. SMITH of Nebraska. I know it can be very frustrating.

In the interest of time, I will yield back.

Chairman FERGUSON. Thank you. We will stand in recess until immediately following this vote series.

[Recess.]

Chairman FERGUSON. Welcome back. We are in session. The gentlelady from Wisconsin is recognized for five minutes.

Ms. Moore, the floor is yours.

Ms. MOORE of Wisconsin. Thank you so much, Mr. Chairman, and thank you for your indulgence.

And I want to thank you, Mr. Commissioner. Nice to see you in this role, putting people over politics.

I was very interested in some of the line of questioning I heard from my other colleagues here. I think it is really appropriate for them to be concerned about the error rates, especially when it creates a situation where people have liabilities. And of course, like, they are burdened with paying it back. And I appreciate that you have limited the amount that you would recoup at one time.

And of course, the customer service wait times. When I heard 20 minutes, I was about to say that person must have had an inside track or something to only wait 20 minutes. It must have been a prince, or king, or somebody, because that is not my experience.

But I guess I want you to sort of draw the nexus between the lowest rate of employees in the last 20 years and the efforts to cut Social Security, and how that is a nexus, or contributes to the error rate. Is there a nexus between low customer service and not being able to improve capacity?

Mr. O'MALLEY. Yes, Congresswoman. The nexus, I would say—I mean, overall, Social Security is a customer-facing agency that is all about customer service. Even the people that are working in IT, it is to the end—the purpose of serving the beneficiary customer, the people that paid in, worked hard their whole lives. And as part of that, until 2018 anyway, part of what they paid for was a high level of customer service so they weren't on hold for an hour, they didn't die waiting for a disability determination to be made.

That has been eroded because, I mean—and as I said at the outset, I am really grateful to the chairman and this committee for even holding a hearing on Social Security's budget, because we haven't had a budget hearing here in nine long years. I mean, I know it is Ways and Means, and I understand the nuances, but the fact remains that by not having a budget and not focusing on this, essentially we have seen nine years of decline so that we are now operating on less than one percent. In fact, it is 0.94, that is——

Ms. MOORE of Wisconsin. You can't get blood out of a turnip, can't expect you to perform.

So I am going to ask you some more questions. Thank you. You have an Enterprise Scheduling System, the ESS, and also My Social Security Portal web-based services. I am the co-chair of the congressional Foster Youth Caucus, bipartisan. And you know, one of the things that we have learned from foster youth is that sometimes they have a hard time accessing services to which they may be entitled. So is this Enterprise Scheduling System available to them, as minors, or only to their caretakers or payees?

Mr. O'MALLEY. That is a great question, and I do not know the answer.

Ms. MOORE of Wisconsin. Okay.

Mr. O'MALLEY. But I can check it out and get back to you, Congresswoman.

Ms. MOORE of Wisconsin. Yes, I think that that is really a barrier that they sort of, you know, identify.

So there are a lot of complaints, I think, about women not getting back into the workforce, or disabled people, would-be disabled people not being in the workforce. But I just want to comment that the United States is the only country in the OECD that doesn't have unpaid leave for maternity leave. And, of course, the U.S. and South Korea are the only countries that don't have some sort of paid leave for illness. And I am wondering if the President has thought about that in terms of his budget.

And, you know, and we have people taking care of their sick and elderly folks, and we pay a half-trillion dollars a year for uncompensated care. What does the President's budget do——

Mr. O'MALLEY. Yes, ma'am. It is my understanding that the President has proposed paid family leave, and also with staffing and—funding for staffing included that the Social Security Administration would administer. We can do that, especially since there is staffing and dollars for the staffing to do it. And I would think it is high time, for all of the reasons you pointed out.

Ms. MOORE of Wisconsin. And I have one last question.

Mr. O'MALLEY. Yes, ma'am.

Ms. MOORE of Wisconsin. I have some born-again Christians who are on SSI, and they feel guilty because they can't get married, they don't think. They don't want to shack up and live together. And they say that, as SSI recipients, they can't get married. Is that a bias that has some basis in your belief about fraud, or—this is a group of people who feel persecuted.

Mr. O'MALLEY. Yes, ma'am. As I understand it so far—and I am learning every day—this very, very complex program to administer has an inherent sort of marriage bias in it because it—there is—they have to calculate—if two people are in the same household, it can reduce the amount that they qualify for, because the assumption is that they are both, you know, sharing some expenses in that household. It has the effect that you just outlined of discouraging people from being married.

Ms. MOORE of Wisconsin. Well, maybe we can revisit it when I have more time, Mr. Chairman.

Chairman FERGUSON. I just wasn't sure where you were going to go with the shacking up comment. I am just glad you didn't ask——

[Laughter.]

Ms. MOORE of Wisconsin. Well, you know——

Chairman FERGUSON [continuing]. The advice of a——

Ms. MOORE of Wisconsin. All I can say is that I have relied on Republicans to find me a husband in the past, and they have not done so. [Laughter.]

Ms. MOORE of Wisconsin. And so you just have to do what you have to do.

Chairman FERGUSON. My goodness, I better not respond to that.

Ms. MOORE of Wisconsin. I yield back.

Chairman FERGUSON. Thank you, my friend.

You know, I would like to thank you, Commissioner, for being here again. Thank you for hanging around while we had that vote series.

This was a very informative hearing, we appreciate the candor of your answers. I get a sense of sincerity that you are trying to do the right thing here. You are new on the job. We want to be partners in helping our constituents get the services that they need, and do it in an efficient way. We look forward to future conversations.

I would also like to say that members have two weeks to submit written questions to be answered in writing. Those questions and your answers will be made part of the formal hearing.

With that, the subcommittee is adjourned.

[Whereupon, at 5:29 p.m., the subcommittees were adjourned.]

MEMBER QUESTIONS FOR THE RECORD

The United States House of Representatives
Committee on Ways and Means
Joint Social Security and Work & Welfare Subcommittee Hearing
with the Commissioner of the Social Security Administration, Martin O'Malley
March 21, 2024

Questions for the Record for
The Honorable Martin O'Malley, Commissioner of Social Security

Chairman Drew Ferguson

Question 1: ***The Social Security Administration (SSA) has spent more than a decade and over $300 million to procure updated occupational data from the Bureau of Labor Statistics through its Occupational Requirements Survey (ORS) to replace the decades out of date data contained in the Dictionary of Occupational Titles (DOT) and improve disability determinations. Experts both within and without the SSA have confirmed that the ORS data is not only valid, but ready to be put to use. However, in response to a question from Rep. Blake Moore (R-UT) about why this data hasn't been put into use, you stated that you "put the brakes" on it and are "taking a second look at it."***

a. Has the SSA conducted any studies or analyses related to the quality, validity, or accuracy of the ORS data? If so, please provide the results of these reviews to the Committee.

Since ORS was established as a test survey in October 2012, the Bureau of Labor Statistics (BLS), in cooperation with SSA, has conducted studies and analyses to ensure the quality, validity, and accuracy of the ORS data:

- FY 2013 – conducted three phases of data collection testing and summarized the findings: Phase 1, Phase 2, Phase 3;
- FY 2014 – completed and summarized six feasibility tests to refine ORS methodology tested in previous phases;
- FY 2015 – conducted preproduction testing and contracted a methodological report about job demands in determining eligibility for disability benefits;
- FY 2016 – examined how jobs have changed over time and how jobs may change in the future to inform ORS data updates. See Dynamics of Occupational Change (2016);
- FYs 2015 and 2018 – continued to conduct tests and analyses as data collection advanced from Wave 1 to Wave 2, such as job observation tests;
- FY 2022 – evaluated measurement objectives from published results and incorporated changes for Wave 3 in FY 2023 to produce data more relevant to SSA's disability programs. See Occupational Requirements Survey: Third wave testing report (U.S. Bureau of Labor Statistics (bls.gov)); and
- FY 2022 – used outside research to examine methods of imputing missing values in the ORS. See Imputing Missing Values in the Occupational Requirements Survey (2022).

b. Has the SSA conducted any studies or analyses of the effect of the use of ORS data on allowances? If so, please provide the results of these reviews to the Committee.

SSA continues to evaluate options for updating vocational policy that would incorporate the ORS survey. This evaluation includes assessing the newly released set of ORS Wave 2 data. We will share the results of the evaluation once finalized.

c. Can you provide more details about the "second look" that is being taken for the ORS data, the criteria that are being used to evaluate the data, and a timeline for completing this additional review? Will you commit to sharing the results of this review with the Committee?

As noted in question 1a, SSA has been working with BLS since October 2012 on developing, testing, and administering the ORS, which includes updated requirements of work in the national economy. We use information about requirements of work when considering an individual's ability to do their past work or other work in the disability determination process.

SSA recently received (and we are analyzing) the complete set of ORS Wave 2 data from BLS and are considering next steps for its use. Given the time and taxpayer dollars already invested in this important endeavor, I have asked BLS to work with us to reduce the cost of the ORS while maintaining the quality of the data and continuing our vital partnership.

Yes, we will keep you updated as progress continues.

Question 2: ***You recently announced a series of policy changes related to improper payments, including decreasing the default overpayment withholding rate for Social Security beneficiaries from 100 percent to the higher of 10 percent or $10 and notifying beneficiaries in repayment status of this new policy by mail.***

a. Can you confirm whether you intend to make this policy change through notice and-comment rulemaking or by another means such as by changing subregulatory policy guidance?

We are using an existing regulatory flexibility to change our current practice of withholding 100 percent of benefits to recover an overpayment. Our regulations recognize that full withholding is not required when it will deprive a person of income needed for ordinary and necessary living expenses.

We have updated our employee operating instructions to account for this change and in late June we finished updating our systems so that they automatically apply the default, 10 percent rate effective with withholding arrangements beginning August 2024.

At the end of June, we began mailing one-time notices to current beneficiaries whose withholding rate exceeds 10 percent. This notice informs beneficiaries of the change in the default withholding rate and encourages them to contact us if they want us to reduce their withholding rate. In addition to this one-time notice, we have been using various communication channels to inform and encourage beneficiaries to contact us if they want to reduce their withholding amount. Since the end of July, we have had over 12,700 individuals contact us and negotiate a reduced repayment rate.

b. Can you provide the Committee with an analysis of the programmatic and administrative costs of the SSA's recent overpayment policy changes?

The change in the default overpayment withholding rate will result in $8 billion in additional Social Security program costs (in the form of reduced overpayment recovery) over fiscal years 2024 through 2033. We estimate ongoing annual administrative savings of approximately $25 million, or 200 work years. Estimated savings are due to:

- fewer requests for a lower rate of withholding;
- fewer manual actions to adjust the rate of withholding; and
- less time spent developing overpayment recovery.

We also estimate that we incurred a one-time initial cost of approximately $8 million to:

- send notices about this policy change to individuals who currently have more than 10 percent of their monthly benefit withheld;
- process requests for a lower withholding rate;
- implement systems changes to adjust the 100 percent default rate of withholding; and
- update policies.

c. Will you commit to sharing with the Committee the administrative and programmatic costs of all future policy changes that will cost more than $1 billion, whether made through notice-and-comment rulemaking, changes to subregulatory policy, or by other means?

Yes. We will be glad to provide this information, as appropriate.

Question 3: The SSA deals with some of the most personal and sensitive information on virtually all Americans. With so many of your employees working from home who have access to this data, what measures do you have in place to ensure that this data says secure and that family members, visitors, or others with access to a teleworker's workspace can't view this information when it comes up on a screen, hear it when it's discussed on a work call, or otherwise gain access to this information?

We take seriously our responsibility to protect the sensitive information in our possession from unauthorized disclosure. SSA's telework policy and telework agreement requires that employees protect and prevent the disclosure of personally identifiable information (PII) and safeguard their government property while teleworking. Employees are equipped with a laptop secured under Homeland Security Presidential Directive 12 standards and a headset, which they use at both the official duty station and alternate duty station (ADS). Teleworkers must maintain an approved designated ADS that is conducive to business with a workspace that is secure and free of hazards. Failure to exercise these responsibilities may result in termination from telework or removal from service, as appropriate.

Teleworkers also use a Virtual Private Network (VPN) at the ADS to ensure a secure connection to agency systems. The employee's VPN traffic is secured using encryption methodologies that meet agency and Federal guidelines. We also use security features like an alert that prompts employees to review and provide justification before sending emails containing potential PII to a non SSA.gov recipient.

Additionally, employees receive annual reminders and training on safeguarding PII, agency information, and government equipment. They must also sign agency systems sanctions notices annually, acknowledging the penalties for misuse.

Question 4: A key element of customer service and benefit delivery is accurate and timely communications with beneficiaries. While there are significant challenges with USPS, the SSA has claimed it is aiming to improve the notification process. When it comes to overpayment notices:

a. **How frequently do these notices fail to reach the addressed individual?**

We estimate our undeliverable rate ranges from 3-5 percent. In FY 2023, our agency produced around 2.67 million overpayment notices, and we estimate approximately 80,000 to 133,000 notices failed to reach the addressed individual. Our process for handling undeliverable mail can be found here.

b. **Have you looked into ways beyond mail to improve how these notices are sent and ensure they reach their intended recipient?**

Yes. We recently established a dedicated Notice Review Team (NRT) which is tasked with reviewing and improving our overall notice delivery processes, including overpayment notices.

c. **What would be the pros and cons of offering additional notification options?**

We recognize the efficiencies that could be gained by expanding notification options like text and email for the public and our employees. We are exploring the feasibility of using these options, including identifying dependencies and operational and legal considerations. Generally, notification options would need to ensure secure messaging, interoperability across our systems, and the availability of agency resources.

d. **What are the obstacles to providing additional, legally sufficient, notice options?**

Please refer to our response to question c above.

Question 5: For both FY 2022 and 2023, what was the average unit cost to process:

a. **A retirement claim;**

b. **A survivors claim;**
c. **A disability insurance claim;**
d. **A Supplemental Security Income (SSI) claim; and,**
e. **A concurrent claim?**

For questions 5-8, we are only able to provide the annual average unit costs. Additionally, we do not track unit costs for retirement and survivors claims separately. The costs to process a concurrent claim are shared between the DI and SSI Disabled claims.

Annual Average Unit costs	FY 2022	FY 2023
Retirement and Survivors Claim	$ 220	$ 230
Disability Insurance Claim	$1,180	$1,247
Supplemental Security Income Non-Disabled Claim	$ 472	$ 421
Supplemental Security Income Disabled Claim	$1,050	$1,075

These unit costs include:
- payroll for the time employees spend processing the work (e.g. in field offices, program service centers, and State DDSs),
- a share of headquarters/staff component payroll
- information technology systems (IT), and
- other objects (e.g., rent, postage, guards, and other non-payroll, non-IT costs).

Question 6: For both FY 2022 and 2023, what was the marginal cost to process:
a. **An additional retirement claim;**
b. **An additional survivors claim;**
c. **An additional disability insurance claim;**
d. **An additional SSI claim; and,**
e. **An additional concurrent claim?**

See response to Questions 5.

Question 7: For both FY 2022 and 2023, what was the annual unit cost to administer:
a. **A retirement benefit;**
b. **A survivors benefit;**
c. **A disability insurance benefit;**
d. **An SSI benefit; and,**
e. **A concurrent benefit?**

See response to Questions 5.

Question 8: For both FY 2022 and 2023, what was the marginal cost to administer:
a. **An additional retirement benefit;**
b. **An additional survivors benefit;**
c. **An additional disability insurance benefit;**
d. **An additional SSI benefit; and,**

e. **An additional concurrent benefit?**

See response to Questions 5.

<u>Representative Mike Carey</u>

Question 1: As of March 25, you said that SSA ceased the interception of 100 percent of an overpaid beneficiary's monthly Social Security benefit by default if they fail to respond to the demands for repayment. Will this apply to those whose benefits were already being intercepted at 100 percent? And will these individuals benefit from the new 10% withholding rate?

We are updating our systems to automatically apply the default, 10 percent withholding rate to new Social Security benefit withholding arrangements that go into effect beginning August 2024. Except in uncommon situations (such as when an overpayment was due to fraud), beneficiaries who currently have more than 10 percent being withheld are eligible for the 10 percent withholding rate, but they will need to contact us and request it.

At the end of June, we began mailing one-time notices to current beneficiaries whose withholding rate exceeds 10 percent. This notice informs beneficiaries of the change in the default withholding rate and encourages them to contact us if they want us to reduce their withholding rate. In addition to this one-time notice, we have been using various communication channels to inform and encourage beneficiaries to contact us if they want to reduce their withholding amount. As of the end of August, we have sent over 155,000 notices and 24,947 individuals contacted us and negotiated a reduced repayment rate.

Question 2: If someone is already in the repayment process, but would potentially benefit from the new repayment policy, will they be able to renegotiate their rate over a long period of time?

Yes. Except in a few, uncommon situations (such as when an overpayment was due to fraud), Social Security beneficiaries are eligible for the new, default 10 percent withholding rate.

Question 3: If your agency is going to allow individuals to renegotiate their current repayment rates, how are you notifying individuals of this?

Please see our answer to Question 1.

Question 4: Since you have released the new improper payment policies has your agency received an influx of individuals trying to re-negotiate their payments plans? And if so, how do you plan to account for that influx?

As outlined in the response to Question 1, the agency has sent notification to anyone on our records currently repaying an overpayment at a rate greater than the new 10 percent default rate. The response to these notices has been significant and we have seen a spike in call volumes to our Debt Management staff in our 6 Processing

Centers who are fielding the calls. We expect calls/responses to the notices will continue into October. As a result, the final number of individuals who are able to renegotiate a lower rate will rise well beyond the 24,947 we have already seen.

Over the long-term, however, we expect the lowering of the default withholding rate to decrease the number of individuals who choose to contact the agency in the future to establish a different repayment plan.

Question 5: Will individuals be able to reapply for a waiver under the new waiver policy that shifts burden of proof to the agency? If so, how are you notifying those in repayment of this policy shift.

We have not implemented this change but expect to by the end of the fiscal year. We are developing a communications plan for this and other changes.

Question 6: Are there any policies that the Overpayment Review Team recommended but SSA did not have the authority to implement?

The Overpayment Review Team has not identified changes that SSA would need additional authority to implement at this time.

Question 7: Lastly, will you commit to working with all Members of Congress to ensure that they have the most up to date information on the improper payment policies? Congressional staff including caseworkers are the ones receiving these calls from constituents, and it is imperative that they are armed with the most up to date information to share with constituents.

Yes. We will be glad to keep Members of Congress apprised of current information on our improper payment policies.

Representative Jimmy Gomez

Question 1: Could you affirm your commitment to reopening the SSA field office in San Juan and restoring needed services to the people of Puerto Rico?

Yes. We are working with the General Services Administration (GSA) to procure suitable permanent space for our San Juan office.

Since its temporary closure in April 2023, due to the lessor's inability to maintain the space, we redirected our employees and the public to our nearby Carolina and San Patricio offices.

Additionally, in April 2024, SSA and GSA secured temporary space for the San Juan office, which we expect to occupy in October 2024.

Question 2: Will you work with the Committee to address inequities in SSI funding and ensure the residents of Puerto Rico have access to the benefits they deserve?

As noted in the Budget, the Administration looks forward to improving the Supplemental Security Income (SSI) program to help low-income older Americans and people with disabilities afford their basic needs. This includes working with Congress to extend SSI eligibility to Puerto Rico and the U.S. Territories, providing parity with the rest of the United States.
Your testimony highlighted the SSA's severe challenges with recruitment and retention, noting that attrition was 10 percent at field offices and 22 percent at the national toll-free number in 2023. As the agency struggles with staffing shortages and subsequent backlogs in its ability to serve the public, it is critical to evaluate the conditions provided for SSA employees in their workplace as a potential root cause of such high attrition rates. I would like to inquire about how SSA could, with additional resources, improve benefits for its workers—primarily in childcare and student loan assistance programs that almost every other federal agency provides.

Question 3: For example, SSA, unlike many other federal agencies, doesn't offer any kind of student loan repayment benefits. If Congress were to increase agency funding to provide SSA with the money needed to implement this program and make SSA a more competitive employer, what would implementing a student loan repayment program cost?

We agree that implementing student loan repayment would be a great benefit for our employees. However, we have not received appropriate funding to implement such a program. We estimate it would cost SSA $90 million to implement and maintain a student loan repayment program.

Question 4: Also unlike many other federal agencies, SSA does not offer childcare subsidies to its workforce. If Congress could increase agency funding, what would it cost to implement a childcare assistance program similar to those offered by other large federal agencies?

We agree that implementing a childcare subsidy would be a great benefit for our employees. However, we have not received appropriate funding to implement such a program. At this time, we do not have a specific cost estimate. We appreciate your support for increased funding to implement such a program. We would be glad to provide cost information once we have specific details.

Representative Darin LaHood

Question 1: ***Following up on my question at the hearing, last June, Congress passed the bipartisan Fiscal Responsibility Act (FRA). A key part of the FRA included the equivalent of a PAYGO for agency rulemaking. It established a new requirement that if a proposed rulemaking cost exceeds $1 billion over ten years or $100 million in any given year, when an agency finalizes the rule, it must either propose to undertake one or more administrative actions to reduce spending or publish a waiver of such requirement by the Director of the Office of Management and Budget (OMB). In the past year the SSA has published at least three proposed rules that exceed $1 billion in estimated costs: the "Omitting Food from In-Kind Support and Maintenance Calculations" proposed rule ($1.5 billion); the "Expand the Definition of Public Assistance Household" proposed rule ($15.9 billion); and the***

"Intermediate Improvement to the Disability Adjudication Process" proposed rule ($20.3 billion). At the hearing you indicated your plans to finalize all three rules in 2024 and fully comply with the FRA. On Wednesday, March 27, 2024, the SSA finalized the "Omitting Food from In-Kind Support and Maintenance Calculations" rule. This final rule did not include one or more administrative actions to reduce spending or a waiver of such requirement by the Director of OMB.

To clarify, does the SSA intend to comply with the FRA requirement and publish information regarding how the cost of these rules will be offset through other administrative or regulatory actions? And if not, will OMB be issuing a waiver of such requirement when the rules are finalized?

SSA has complied with the Fiscal Responsibility Act (FRA) requirements as follows:

Section 266 of the FRA states the "title shall not apply to administrative actions with direct spending cost of less than-- (1) $1,000,000,000 over the 10-year period beginning with the current year; or (2) $100,000,000 in any given year during such 10-year period."

For the final rule:

- Omitting Food from In-Kind Support and Maintenance Calculations, we estimated direct spending effects of less than $100 million for 2024;
- Expand the Definition of Public Assistance Household, we estimated direct spending effects of less than $100 million for 2024; and
- Intermediate Improvement to the Disability Adjudication Process, we stated in the final rule, "The Director of OMB has waived the requirements of Section 263 of the FRA of 2023 (Pub. L. 118-5) pursuant to section 265(a)(2) of that Act."

Question 2: ***I am sure you would agree that millions of disabled Americans want to work and are able to work, they just need the right tools and incentives to help them move towards self-sufficiency. We must do all we can to design our programs to help disabled Americans achieve their full potential.***

In the President's FY25 Budget, you proposed to authorize SSA to refer Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) beneficiaries to State Vocational Rehabilitation Services. The stated goal is to increase beneficiaries' access to vocational rehabilitation services, particularly for SSI transition-age youth who are not eligible for services through the Ticket to Work program.

Can you provide any additional context on this legislative proposal? What constraints does the SSA currently have associated with making referrals to vocational and rehabilitative services for youth, and how can Congress help to remove those barriers?

SSA does not currently have the authority to release the names and contact information of disability beneficiaries to state vocational rehabilitation agencies. The legislative proposal in the President's Budget would provide us that authority. In particular, the Budget proposes increasing beneficiaries' access to vocational rehabilitation services, particularly for SSI transition-age youth who are not eligible for services through the Ticket to Work program. The Budget assumes that SSA will only make referrals upon the State agency's request and that beneficiaries' participation would be voluntary. We would be glad to work with your office on this issue.

Representative Bill Pascrell, Jr.

Question 1: Tens of millions of Americans rely on Social Security for their very lives. Yet between 2019 and 2023, the average wait time rose 86% to over seven months. Commissioner, how do we ratchet up SSA's volume of disability case reviews for Americans receiving disability insurance and Supplemental Security Income so they are not waiting over seven months?

Reducing disability determination processing times is one of my top priorities. We are addressing this challenge through SecurityStat, which helps us set specific goals, choose leading actions to implement those goals, and track our progress. We encourage you to visit our Security Stat website (through the link provided above) to see exactly how we are confronting the wait times that rose significantly during the COVID-19 Public Health Emergency. We have more work to do, but we recently implemented many changes that have resulted in key agency accomplishments and improved our service to the public.

Question 2: Commissioner, we are a nation of immigrants. What is SSA doing to ensure we do not block access to disability assistance for certain non-English speakers?

SSA provides free qualified interpreter and translator services for Limited English Proficient (LEP) and Deaf/Hard of Hearing (D/HOH) individuals both in person, by phone and through written communications. SSA also has a Spanish language website, web access to documents in over 15 languages through the Multi-Language Gateway, and contracts for translations in over 200 languages. Additionally, we continually recruit bilingual employees and train staff on the needs of LEP and D/HOH individuals.

More information is available in our Language Access Plan for Fiscal Years 2024-2026.

Question 3: For decades, the Windfall Elimination Provision and Government Pension Offset have limited payments to police, firefighters, and teachers. I know Congress must amend this policy for our public employees. In the meantime, what can we do to clarify eligibility, so applicants know why the cases are taking so long or why they are being denied?

Through our various outreach efforts and our See how your pension may affect your benefits webpage, we provide useful information such as:

- clearer explanations of the rules and policies related to Windfall Elimination Provision (WEP) and Government Pension Offset (GPO);

- when WEP and GPO may or may not apply to someone; and
- which benefits could be affected by each type of reduction.

This webpage also includes a self-service calculator for individuals to estimate their maximum WEP or GPO reduction, and instructions on how to contact us for help obtaining a more exact estimate of their WEP or GPO reduction.

We redesigned the *Social Security Statement (Statement)* in 2021 to make it easier to read, use, and understand based on an individual's age group and earnings situation, which includes targeted language and a supplemental fact sheet for those workers with five or more years of non-covered earnings to further explain the impact that pensions based on those earnings has on Social Security benefits.

We encourage you to share these resources with your constituents. We would also be glad to work with your office to help facilitate additional outreach needs or they may directly contact their local SSA Regional Communications Director about outreach opportunities.

Representative Lloyd Smucker

The Social Security Administration is working on 2,885 claims for individuals in Pennsylvania's 11th Congressional District, which includes Lancaster and York Counties. Of those, my staff are working on 116 specific casework issues. I spoke with my casework team before last week's hearing, and there have constituents who are awaiting hearings at the Office of Hearings Operations, which have been delayed due to the retirement of one of the Administrative Law Judges. A number of these cases have been transferred from Harrisburg, PA to other OHO offices for scheduling or decision. Some of these constituents have been waiting for over a year for a decision.

I respectfully request that you fill these vacant Administrative Law Judicial vacancies as quickly and as efficiently as possible.

We share your concerns and are doing everything possible to ensure timely processing of hearings for your constituents and the American public nationwide. We are making notable progress: For the first time in 30 years, the number of cases pending a hearing is below 300,000. More information can be found here.

As for administrative law judge (ALJ) hiring, SSA is mindful of the importance of having sufficient staff to address our workloads. Our FY 2025 President's Budget request supports hiring for the critical role of ALJs in FY 2025.

Representative Michelle Steel

Question 1: ***A leading cause of overpayments in the SSI program is undisclosed financial accounts. To address this, SSA implemented the Access to Financial Institutions (AFI) program in 2011. AFI helps the SSA verify bank account balances when processing SSI applications and redeterminations. Currently SSA examines any bank account where the***

reported balance is over $400 but initiated a study to explore reducing this threshold to $0 to ensure all financial information is captured. This study was put on hold during COVID. In 2022, the SSA Office of Inspector General recommended, and the SSA agreed, to revisit this study in 2023. The same OIG report noted that SSA does not currently use AFI for every SSI applicant but is studying the possibility of expanding its use to every applicant.

Have you revisited this study, and do you have the results to share with the Committee? Will the SSA be reducing the AFI threshold to $0 and use it for every SSI applicant to further reduce burdensome improper payments to SSI recipients?

We are considering the feasibility of conducting an AFI Study in FY 2025 to determine the return on investment and impact of further reducing the AFI threshold to $0. We would be glad to share any results with the Committee, once available.

Representative Claudia Tenney

Question 1: ***One of the key programs SSA uses to encourage work and reduce reliance on cash benefits for disabled Americans is the Ticket to Work program. The Ticket to Work program is federal employment support program that allows eligible SSI and SSDI beneficiaries to obtain employment services, vocational rehabilitation (VR) services, or other support services from approved providers to achieve specified work goals. Sadly, of the nearly 12.3 million eligible beneficiaries in 2023, only 311,375 (or 2.53%) were participating in Ticket to Work. This is well below the envisioned 7% rate when Ticket to Work was first passed in 1999. In its 2021 report, the Government Accountability Office found that Ticket to Work participants earnings were $2,451 more per year than non-participants but most participants remained unemployed five years after starting TTW. The same report concluded that from 2005-2015 the costs of running the Ticket to Work program exceeded savings by $806 million. The SSA's last full evaluation of the program was in 2013. last year SSA awarded a contract to evaluate the program again.***

What does the SSA hope to achieve from this new evaluation? Do you have plans or ideas on how to boost participation in Ticket to Work or address this cost-benefit imbalance?

The new evaluation of the Ticket to Work program will help us assess the effectiveness of the program and better understand what aspects of the program work effectively and for whom. We will achieve this by seeking input from program participants and service providers to identify barriers to participation and areas that might be improved. An evaluation design report is due late in FY 2024; a Ticket programs access and participation report is due early in FY 2026; and the final evaluation summary is due in FY 2027.

Question 2: ***Receiving an overpayment, or even the fear of receiving an overpayment, can discourage work and enrollment in work-incentive programs like Ticket To Work. In September 2021, the Government Accountability Office (GAO) testified at the Senate Finance Committee that the three key disincentives to work faced by disability beneficiaries are 1) loss of cash and medical benefits, 2) fear of overpayments, and 3) complexity of rule surrounding work. The GAO also found in a recent report that Ticket to Work participants are twice as***

likely to receive an overpayment as nonparticipants. Thus, due to SSA's failure to adequately address improper payments we are effectively discouraging individuals from participating in the very activities and programs designed to help them re-enter the workforce and build their lives. This is purely an administrative fix.

What administrative actions, Commissioner, are you taking to address improper payments on the front end so that these are no longer such a disincentive to work?

SSA is taking various actions to address the difficulty our disability beneficiaries have regarding overpayments. For example, we simplified our in-kind support and maintenance policy to help our beneficiaries avoid overpayments by reducing the number of items they must calculate and submit to SSA in short timeframes. In addition, implementation of our Payroll Information Exchange (PIE) will allow us to reduce manual reporting errors as well as the reporting burden for individuals who authorize us to obtain their wage information through this process. PIE will also help to reduce improper payments.

PUBLIC SUBMISSIONS FOR THE RECORD

March 21, 2024

The Honorable Drew Ferguson
Chairman
Subcommittee on Social Security
Ways & Means Committee
1139 Longworth House Office Building
Washington, DC 20515

The Honorable John Larson
Ranking Member
Subcommittee on Social Security
Ways & Means Committee
1129 Longworth House Office Building
Washington, DC 20515

The Honorable Darin LaHood
Chairman
Subcommittee on Work and Welfare
Ways & Means Committee
1139 Longworth House Office Building
Washington, DC 20515

The Honorable Danny Davis
Ranking Member
Subcommittee on Work and Welfare
Ways & Means Committee
1129 Longworth House Office Building
Washington, DC 20515

Dear Chairmen Ferguson and LaHood and Ranking Members Larson and Davis:

AARP, which advocates for the more than 100 million Americans age 50 and older, thanks you for holding today's important hearing with the newly confirmed Commissioner of Social Security, Martin O'Malley. Social Security has an unparalleled nearly 90-year track record of success, is incredibly popular with the American people, and serves as a lifeline for millions of older Americans and their families. Congress should and must do more, therefore, not only to protect Social Security, but also to improve the vital services provided by the agency.

The Importance of Social Security

According to the Social Security Administration (SSA), more than 67 million Americans are currently receiving the money they have earned from Social Security after a lifetime of hard work and contributions. Social Security is the principal source of income for over 40 percent of older American households, and roughly one in six older households depend on it for nearly all of their income. Despite its critical importance, people's average checks are modest. Nonetheless, Social Security lifts approximately 16.5 million older Americans out of poverty and allows millions more to live their retirement years independently, without fear of outliving their income.

Increased Funding for SSA Customer Service

AARP believes that older Americans and their families have earned not only their Social Security, but the right to receive timely and accurate services from SSA. Unfortunately, service at the agency has been declining for many years, largely as the result of underfunding from Congress. This trend must end now.

SSA simply does not have the resources it requires to provide all services promptly and properly to its customers. Between 2010 and 2023, SSA's operating budget shrank by 17 percent, even as the number of beneficiaries grew by 22 percent. SSA is also currently experiencing historic lows in staffing. It is not realistic to expect SSA to provide the necessary level of service to a growing customer base with a shrinking workforce and the continued failure of Congress to approve adequate funding. These failures are having very real consequences for the American people.

AARP often hears from our members who are frustrated, or worse, when interacting with the agency. Callers to SSA's National 1-800 number wait an average of 35 minutes for their call to be answered, with many hanging up long before then. American workers filing for disability benefits are experiencing the longest wait time ever for an initial determination. For those who are originally denied and seek a decision from an Administrative Law Judge, they must wait an additional year on average. Shockingly, more than 10,000 people die every year while waiting for a final decision on their disability claims.

To help SSA make necessary improvements to its customer service, Congress must make available increased funding for the agency. As such, AARP urges Congress to approve, at a minimum, the Administration's $15.5 billion request for SSA administrative expenses for the 2025 fiscal year. With this additional funding, which comes not from general revenue but from the Social Security Trust Funds, we expect the agency to make long-overdue improvements in service and hire top-quality staff to meet the needs of the American public.

Social Security has a responsibility and a duty to provide timely and quality service to the public, and Congress has a duty to ensure the agency has the resources necessary for SSA to fulfill its mission. We are already nearly halfway through the 2024 fiscal year, but Congress has lurched from one funding crisis to another, paralyzing agencies like SSA who need to hire staff and make long-term investments for the future. Given that this agency's dollars come mostly from the Social Security Trust Funds, not general revenue, Congress is effectively denying the American people the customer service they deserve and have already paid for via their payroll taxes.

We strongly urge Congress to reverse the trend of denying SSA the funding it needs, and to ensure those additional dollars are spent to improve customer service.

Social Security Deserves a Full and Open Debate

Congress must act to ensure Social Security remains strong for generations to come. According to the most recent Social Security Trustees' report, Social Security can continue to pay 100 percent of earned benefits until 2034. After that, and without action from Congress, Social Security can continue to pay about 80 percent of promised benefits for generations, falling to 74 percent in 2097. Social Security is not "going broke" as some have argued, but Congress does need to take action sooner rather than later to shore up the program's long-term finances and to ensure the future adequacy of Social Security.

At the same time, AARP calls on Congress to take up this important work in an open, transparent way. AARP believes the Ways and Means Committee, which has deep expertise and jurisdiction over Social Security, should be the lead on such efforts, not a new commission or "super committee." We strongly object to proposals to create new commissions or committees to address Social Security. If regular order is the gold standard for routine legislative matters, it certainly should be the standard for Social Security.

Moreover, let us be clear that debt and deficits in the general budget are not the correct lens through which to view changes to Social Security. Instead, any changes should focus on the financial and retirement security of the American people. Social Security is *not* a driver of the annual deficits or current national debt. It is not funded by general revenue but is instead self-financed. In fact, more than 90 percent of Social Security is financed by payroll tax contributions from American workers and employers; around 4 percent is from federal income taxes on some Social Security benefits; and around 6 percent comes from interest earned on U.S. Treasury bonds held by the Social Security Trust Funds. Any argument that claims that Social Security is a driver of the national debt – simply because it receives interest from the U.S. Treasury bonds it has purchased – is disingenuous at best.

Older Americans agree that Social Security should be protected in any discussion about the debt or deficit. According to AARP research, 85 percent of older Americans oppose targeting Social Security to reduce federal budget deficits. And this is consistent across political affiliation: 88 percent of Republicans, 79 percent of Independents, and 87 percent of Democrats strongly oppose cutting Social Security to reduce the debt.

Conclusion

Once again, thank you for holding today's important hearing. We look forward to working with you to ensure millions of older Americans and their families receive the high-quality service they deserve from SSA and to protect their hard-earned Social Security. If you have any questions, please feel free to contact me, or have your staff contact Tom Nicholls on our Government Affairs staff at tnicholls@aarp.org or (202) 434-3765.

Sincerely,

Bill Sweeney

Bill Sweeney
Senior Vice President
Government Affairs

CONGRESSIONAL TESTIMONY

STATEMENT FOR THE RECORD

BY

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO

BEFORE THE JOIN SOCIAL SECURITY AND WORK & WELFARE

SUBCOMMITTEES, HOUSE COMMITTEE ON WAYS AND MEANS

ON MARCH 21, 2024

**HEARING WITH THE COMMISSIONER OF SOCIAL SECURTITY,
MARTIN O'MALLEY**

AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES, AFL-CIO
80 F Street, N.W., Washington, D.C. 20001 (202) 737-8700 www.afge.org

Chairman Wyden, Ranking Member Crapo and Members of the Committee:

On behalf of the American Federation of Government Employees, AFL-CIO (AFGE) which represents over 750,000 federal employees at over 70 different agencies, we thank you for holding this important hearing on Social Security Administration's (SSA) FY 2025 budget proposal.

With offices in every state, AFGE represents over 44,500 SSA employees. AFGE employees at SSA help more than 67 million elderly, disabled, widows and orphaned children access the insurance benefits earned from working. These benefits, which only average $1,773 a month[i], help these families survive when they can no longer work because of age, disability or death of a family member. For about 40% of elderly beneficiaries, Social Security is their largest source of income in retirement.[ii] While 10% of seniors over the age of 65 are currently in poverty, without Social Security a whopping 39% of seniors would be in poverty.[iii] Social Security is also the largest and most successful children's anti-poverty program; nearly 4 million children of a disabled, retired, or deceased parent are helped by the program.

With the baby boom generation entering retirement years at a rate of 10,000 a day Social Security beneficiaries have increased by 22% from 2010 to 2023.[iv] However, SSA's operating budgets have not only failed to keep up, they have decreased by 17%.[v] This has led to a loss of 16% of SSA's workforce, nearly 10,000 workers, going from 66,989 full time equivalent employees (FTE) in FY 2010 to only 58,201 FTEs in FY22. For the public, this means long wait times for individuals in need to get the help they need. For example, average phone wait times were 35 minutes in February 2024, and disability claims wait on average 7.5

months for an initial claim and 2.5 years through the hearing level.

To better serve the public, the agency needs more front-line staff to process claims and to retain its experienced workforce. According to agency data, SSA only has 18,500 Claims Specialists in Field Operations. Yet in FY 23, it would have taken 29,300 work years to complete the existing Retirement, Survivor, and Disability claims. SSA needs thousands of additional Claims Specialists to process claims and prevent the backlog of cases from continuing to grow. Due to high attrition in the Customer Service Representative position (FY 2023 shows 15% attrition with Customer Service Rep positions in field offices, 21% attrition with Customer Service Representative positions in the SSA Tele-Service Centers), Claims Specialists are doing four different jobs. They are not only given claims cases at increasingly rapid rates, but now also answering general phone inquiries, serving walk-in customers at field offices, processing card applications and taking more complex cases. This results in employee fatigue and burn out and is the driving cause of higher than normal attrition (10% for employees in SSA Field Operations FY 2023, four points higher than historic averages).

Years of underfunding has left SSA employee benefits far behind those offered by other agencies. SSA is one of the only federal agencies that does not offer a student loan repayment benefit or childcare subsidies to its workforce. AFGE surveyed its members and found 76% believe their compensation does not reflect the importance, complexity, or volume of the work they perform. Employees frequently leave SSA for other federal agencies with better benefits and less stressful working conditions. An AFGE internal survey of SSA employees found that 54% of the workforce is considering leaving the agency in the next year. This is especially devastating to public service because many SSA positions require years of training and experience to become efficient. To improve public service, it is vital that SSA be able to compete with other federal agencies for the best workers. AFGE recommends recruitment and retention pay for employees to incentivize them to stay in their SSA career. AFGE also recommends bilingual differential pay to recruit and retain bilingual workers that offer undeniable cost savings and efficiency to SSA and on par with the private sector that offers 5-20% of base pay to multilingual employees after testing criteria are met.

Commissioner Martin O'Malley's confirmation has been a shot in the arm at the agency, where he has already enacted common sense reforms to improve efficiency and employee morale. He identified ways to afford employees more flexibility to stay productive on the job while also allowing managers to have more employees on hand to serve the public. But he can only do so much without the support of Congress. Last December, the Senate overwhelmingly confirmed Martin O'Malley to be SSA' Commissioner. It is now vital for you to support him and the public SSA serves by supporting the funding needed to modernize the agency.

Many of our older workers remember when SSA used to be one of the best places to work in the federal government and was properly resourced. If funding kept up with inflation since FY 2010, SSA's current budget would be nearly $16.5 billion.[vi]

President Biden requested $15.4 billion for SSA for FY 2025, an increase of $1.3 billion or 9% over the two-year period since FY 2023. This investment would improve public service and is an important first step in restoring the agency's staffing levels, which have reached record lows. However, even this increase barely keeps up with inflation. For example, Social Security found inflation to be

9.1 percent over the most recent two-year period (5.9% in 2022 + 3.2% in 2023). At a minimum, Congress must meet the President's modest proposed increase or else service at the agency will continue to deteriorate.

Not only should Congress fully fund the President's budget request; it should explore other ways to increase agency efficiency. In the Inflation Reduction Act, Congress gave the Internal Revenue Service (IRS) a much needed injection of funding through the creation of an $80 billion fund that could be spent down over the next ten years. A $20 billion fund could allow Commissioner O'Malley to modernize SSA and restore the agency's ability to serve the public. SSA also suffers by being subject to budget spending caps, despite the fact it has a dedicated revenue stream from FICA taxes and is supposed to be funded from the Trust Fund. Using the trust fund to bolster service could be done without any budgetary impact.

AFGE thanks you for holding this hearing on the Social Security Administration's budget and for considering our recommendations on behalf of this dedicated workforce. We urge you to fully fund SSA and look forward to working with the Committee to best serve the American public. If you have further questions about any of these issues, please contact Jeff Cruz at jeff.cruz@afge.org.

[i] SSA Monthly Statistical Snapshot, February 2024. Available at: www.ssa.gov/policy/docs/quickfacts/stat_snapshot/
[ii] SSA Fact Sheet. Available at: www.ssa.gov/news/press/factsheets/basicfact-alt.pdf
[iii] "President's Budget Strengthens Social Security," CBPP, March 11, 2024. Available at www.cbpp.org/blog/analyzing-president-bidens-2025-budget#Kathleen-Romig-311150PM
[iv] "Social Security Administration Needs Additional Funding to Avoid Exacerbating Customer Service Crisis," CBPP, September 22, 2023. Available at: www.cbpp.org/blog/social-security-administration-needs-additional-funding-to-avoid-exacerbating-customer-service
[v] "Social Security Administration Needs Additional Funding to Avoid Exacerbating Customer Service Crisis," CBPP, September 22, 2023. Available at: www.cbpp.org/blog/social-security-administration-needs-additional-funding-to-avoid-exacerbating-customer-service

[vi] Calculated using $11,447 (million) in FY 2010 Funding (www.ssa.gov/budget/assets/materials/2011/2011FullJustification.pdf) then using DOL's inflation adjustment calculator (https://data.bls.gov/cgi-bin/cpicalc.pl)

Comments of Karl Polzer - Center on Capital & Social Equity

U.S. House Ways & Means Committee hearing:

"Improvements to How Social Security Serves the Public"

March 21, 2024

Could long-term Treasury bonds and Fed financing help close Social Security's funding gap?

Summary

Besides facing a major long-term funding shortfall, Social Security is putting increased pressure on federal spending and pushing up annual deficits. Spending down Social Security reserves requires the Treasury to sell bonds. As the program moves toward debt financing organically, the paper below explores the possibility of adding long-term public debt and assistance from the Federal Reserve Bank as tools to deal with Social Security's financial shortfall. Experts differ widely on whether increased debt or general fund financing would be a positive change. Findings include:

- A related and deeper problem than how to structure Social Security's funding is demographic. The U.S. is not producing enough children or allowing sufficient immigration to build the type of workforce needed to sustain Social Security's current level of benefits.
- Bonds with longer terms than currently issued could help finance Social Security while benefiting private pension plans and insurance products under certain conditions. But the market for them may be limited.
- There are several ways Congress could provide liquidity or short-term funding for Social Security if needed.
- Increased levels of debt financing could affect legal and procedural protections for Social Security beneficiaries now receiving "entitlements" under the budget rules for mandatory spending.
- Proposals to channel Social Security funds into the stock market would significantly increase the amount of money Congress would have to raise through debt or taxes. One pot of funds would be needed to deal with the current Social Security shortfall, and another needed for stock purchases to fund the program in the future.
- The longer policymakers wait to deal with Social Security's funding problem, the more likely some kind of debt financing may be needed to maintain the program in the future.

Contact: kpolzer1@verizon.net

Could long-term Treasury bonds and Fed financing help close Social Security's funding gap?

Karl Polzer, Center on Capital & Social Equity

The author would like to thank Stephen Goss, William Emmons, Henry Aaron, Desmond Lachman, John Lowell, and Rusty Toler for comments and suggestions. They are in no way responsible for the paper's shortcomings.

The upcoming annual 2024 Social Security Trustees Report will likely echo previous warnings. The trustees last report, released almost a year ago, cautioned that, unless Congress changes the law, Social Security will only have enough money to pay about 80% of current benefits by 2034. That is when the program's reserves run dry, and it can only pay out what Social Security taxes bring in.

The program's actuaries calculate that long-term solvency will require raising Social Security tax revenues by one third or reducing benefits by one fourth -- or negotiating a combination of the two approaches. They project Social Security's 75-year deficit is about 1.3% of GDP. When the 2023 report was released, U.S. GDP was $24 trillion, 1.3% of which equaled about $388 billion. Multiply by 75 years and you get about $30 trillion as a rough estimate of the long-term funding gap. Social Security's annual cost is forecast to increase from 5.2% of GDP in 2023 to 6.3% in 2076 -- after the Baby Boom generation has passed away -- and then decline to 6.0% by 2097.

This paper explores the possibility of adding long-term public debt and assistance from the Federal Reserve Bank as tools to deal with Social Security's financial shortfall for several reasons. Though falling "outside the box" of conventional policy analysis, long-term debt could lessen the short-run pain of payroll tax increases or benefit cuts otherwise needed to balance its books. This policy approach is not a personal preference. I am not advocating for it. In order to evaluate it, I sought comments from experts in Social Security policy, actuarial science, economics, and the Fed and include some below.

One motivation for exploring debt financing was trying to push some of the cost of what is generally believed to be a "bulge" in Baby Boomer retirees to later generations. As discussed below, expert review of the article proved this assumption to be questionable at best. The number of Boomer births turns out to be more of a blip than a bulge.

Perhaps the strongest reason to explore debt financing is that it is already under way in an operational sense. As a result of the mechanics of spending down its reserves, Social Security already is moving toward financing its shortfall with bond sales. As I pointed out last year, after almost 40 years of rendering a surplus, Social Security's revenues dropped below expenditures in 2021. As a result, the federal government has had to raise an additional $56 billion in 2021, $22 billion in 2022, and an estimated $53 billion in 2023 to pay promised benefits. Social Security's annual funding shortfall is projected to reach $378 billion in 2032 (unadjusted for inflation) just before reserves run dry. (A thorough description of trust fund's history and function can be found in "Social Security Cash Flows and Reserves" by David Pattison, and a brief one here.)

Because the entire federal government is spending more than it takes in, drawing down Social Security reserves adds to current budget deficits. The government needs to raise additional funds to use Social Security reserves because they are, in effect, legally binding IOUs from one part of the government to another not backed up by marketable assets. Once the reserves are depleted, the government will need Congressional authority to tap new sources of revenue.

I hypothesized that long-term bonds might be able to help Social Security in many ways. If Congress, for some reason, waited until the last minute to act on the shortfall, they could help provide short-term funding and liquidity to prevent a sudden drop in benefits. Bonds could also be a significant part of a long-term financing solution.

For the sake of experiment, assuming U.S. GDP averages $30 trillion over the next 75 years, Social Security would need roughly $400 billion a year in additional funding. What would be the impact if the government financed about half of that amount ($200 billion) a year through long-term debt?

While financing experts no doubt could come up with better ways to engineer this, I offered a couple of options. Congress could authorize the Treasury to sell special 50-year to 100-year bonds to raise $200 billion (or whatever amount decided) each year and send the cash to the Social Security trust fund, which, in turn, would carry an obligation to repay the rest of the government when the bonds matured. In this way, the rest of the federal government would be loaning Social Security money, just as the social insurance program provided cheap financing to the rest of the government for decades as it generated a surplus during a period when the ratio of workers to beneficiaries was higher.

The longest-term US bond now issued by the US matures in 30 years. Already, fourteen OECD countries, most with slowing population growth and increasing life spans, have issued sovereign debt with maturities ranging from 40 to 100 years. A handful of large private-sector organizations including wealthy U.S. universities and health care networks have issued century-long debt. Buyers include pension funds and insurance companies managing long-term risk. Could long-term Social Security debt financing dovetail with future needs of private-sector retirement funds?

The Federal Reserve Bank could play a role in this. Much as the Fed has helped salvage financially distressed and insolvent banks, hedge funds, airlines, and insurance companies, Congress could authorize and direct it to acquire long-term Treasury bonds providing cash to Social Security as assets on its balance sheet. Under the current legal framework, the central bank cannot purchase Treasuries directly from the government. It can work with the Treasury to facilitate government spending. For example, through the 2020 CARES Act, Congress authorized sending $1,200 checks to individuals in families earning less than a certain amount while the Fed made sure that the government could finance that spending on favorable terms by buying large amounts of government bonds in the secondary market.

Asset purchases including these increased the Fed's balance sheet by $7.8 trillion between September 2008, just before the acute phase of the financial crisis, and the end of 2022 after the central bank stimulated the Covid-impaired economy, according to the St. Louis Fed. Would adding $200 billion a year in Social Security debt to its balance sheet be on a scale to pose significant risk to bank and financial system? How much would not pose a risk? Social Security debt could be separated from other Fed assets to minimize the impact on other reserves and potential risk shouldered by Fed member banks. The Treasury could work with the Fed to buy and sell bonds in its Social Security account in a way that facilitated monetary and fiscal policy goals as needed.

As the US economy recovered from the effects of the Covid epidemic, the central bank began reducing its balance sheet gradually (quantitative tightening) in June 2022 by not reinvesting all the proceeds of maturing securities, according to the Brookings Institute. By early January 2024, the Fed had reduced its assets from a peak of nearly $9 trillion to $7.7 trillion. Unless its reserves fall to much lower levels, their magnitude may have less of an impact on the economy than movements of assets on and off its balance sheet, which indirectly impact economic growth and interest rates.

One might argue that pumping billions of dollars in debt financing to Social Security beneficiaries each year instead of raising payroll taxes could have inflationary effects. On the other hand, macroeconomic effects might be muted because beneficiaries are expecting to receive benefits at that level. Most of the new money in the system would be used by low- and middle-income retirees and disabled persons to maintain current levels of consumption. Unlike loans to businesses, not much of it would be saved and invested in enterprises stimulating expansion of the money supply and resulting inflation. Minimizing the need to raise taxes could be helpful if there is risk of a recession.

While the Social Security trustees frame financial solvency in terms of pre-funding the program for 75 years, Social Security already is operating on a pay-as-you-go basis relying, along with the rest of the federal government, on increasing levels of debt financing. Though policymakers could shore up Social Security financing without it, long-term debt could be a useful tool in helping break deadlocks to reach compromise over a package of tax increases and benefit cuts.

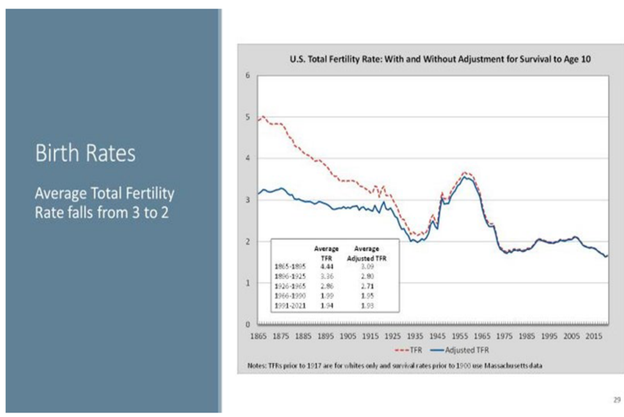
If Congress does not act, in about 10 years benefits for more than eighty million people will drop by 20%. In 2023, Social Security payments averaged $1,827 a month. The economic disruption of an average monthly cut of $365 would be enormous, not only for tens of millions of elder and disabled people and family members who could no longer pay all their bills, but also for food stores, landlords, medical providers, nursing homes, and others receiving their money downstream.

The longer policymakers temporize, the more jarring the economic and political impacts of re-financing the program are likely to be. So, why not use the leading institutions providing capital to the international economic engine to help stabilize the nation's most valued social insurance program?

Reviewer Comments

Debt timing, birth rates, immigration, and size of the future work force

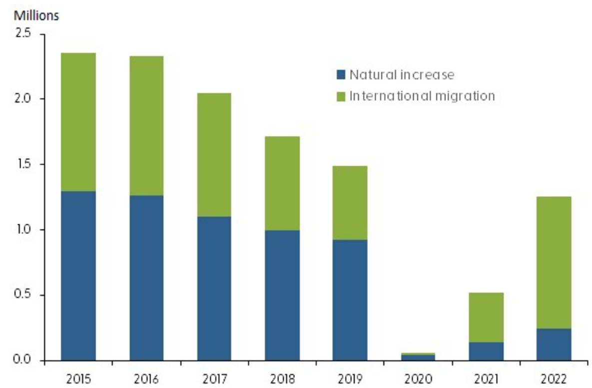
The most important criticism of the proposal is that its widely held assumption that the Baby Boomers constitute a generational "bulge" is incorrect. Social Security's chief actuary pointed out: "Births in the boom period (1946-65) were not extraordinary as the birth rate (per woman) averaged 3.3 in that period versus about 3.0 prior. Those births are perceived as a boom only because that generation has since led to much lower birth rates (2.0 or lower). The change in the age distribution of the population starting in 2008 is an increasing level shift in the population age distribution, and not a transient bulge. Given this is an apparent permanent shift, borrowing will not be an effective answer."



Source: SSA Office of the Chief Actuary

In light of this and other comments, it would make sense to decrease the amount of debt in this financing "experiment" from 50% of the shortfall to somewhere in the range of 10%-25%. Baby Boomer parents had about 10% more children than preceding generations. We cannot be sure that the US birth rate will remain below two in the future though government actuaries and economists may be building that rate into their models. A complementary variable contributing to the size of the future workforce is the rate (and type) of immigration, which recently has been driving US population growth, according to new San Francisco Fed paper.

Annual U.S. population change, 2015–22



Source: Fed analysis using Census Bureau data.

Uncertainty about whether the workforce can grow sufficiently to provide the revenue to fund Social Security obligations may be the most significant finding in this exercise. To what degree can the native US population produce enough children, or its politics allow sufficient inflow of workers, to get the job done?

Could long-term bonds help?

Assuming debt plays a future role in Social Security's financing, one economist commented that long-term bonds might be helpful under certain conditions: "If the new bonds--call them SS bonds--were issued at maturities that overlap regular Treasury issuance, I suspect they would be expensive relative to simply issuing more Treasury debt. So your proposal would be a money-loser. If, however, SS bonds are issued only as super-long bonds, with 50 years to maturity or more, it becomes a question of whether their uniqueness would elicit sufficient specialized demand -- mostly from pension funds and insurance companies, I suspect -- to overcome their inevitable illiquidity and a hefty term premium. My intuition is that SS bonds of this type would be very expensive to issue. If there were a large demand for 50- to 100-year bonds, why wouldn't the Treasury have issued them already? In fact, the US Treasury has considered this and decided not to do it, even though some other countries have issued at those maturities."

At a national retirement security conference in late February, I asked an actuary whose firm manages several pension plans to weigh in. He said that there is a market for debt instruments that can spread risk and manage cash flow over 75 years among pension plans, and that US bonds would offer more security than foreign issuance. However, pension fund managers already have developed a work-around using "derivatives" as a substitute. It's unclear whether they would turn away from existing products if the US Treasury were to offer new very-long-term bonds.

The Fed and other sources of relief

Social Security could borrow money from other federal trust funds to deal with liquidity issues as it did from Medicare's beginning in 1982 as Congress worked on reforms establishing its current financing scheme. If a similar scenario recurred, it is unclear whether inter-trust-fund borrowing would be available or could provide the amount of money needed.

There is also precedent for Congress setting up a separate federal corporation to issue bonds to repay the debts of a trust fund. In 1989, Congress enacted such a scheme to bail out savings and loan (S&L) institutions that failed during the S&L crisis of the late 1980s and early 1990s. REFCORP issued bonds between 1989 and 1991. Over the course of more than six years, the Resolution Trust Corporation liquidated, bailed-out, or otherwise resolved, 747 insolvent S&Ls, and thrift institutions. This cost taxpayers almost $500 billion.

Responding to a scenario involving the Federal Reserve as a potential market maker and long-term holder of Social Security bonds, a former Fed economist provided these comments:

> "Even though this flies in the face of the Fed's preferred operating procedures -- hold only Treasury debt that mirrors the Treasury's outstanding issuance by maturity -- you should mention that there is precedent for what you propose. Large-scale asset purchases of federal agency debt and agency mortgage-backed securities made no sense from the traditional Fed perspective. But (former fed chairman) Ben Bernanke made the case that the Fed should prevent the mortgage market from collapsing, rather than waiting for Congress to do it. If a similar emergency occurred for Social Security beneficiaries, the Fed might well step in again. But a much better plan would be to pay for the shortfall out of government resources raised in regular Treasury auctions."

Is debt financing of any kind a good idea for Social Security?

Reviewer reactions to using debt as a future funding source for Social Security ranged from strong objection to acceptance, in part stemming from the state of the federal budget writ large. According to an economist from a conservative think tank:

> "My main reservation with your paper is that it is proposing added government debt financing to be bought by the Federal Reserve at a time when our public finances are already on a dangerously unsustainable path. At a time of cyclical strength and full employment, we are running a 6% of budget deficit. According to the Congressional Budget Office, on present policies we will continue to run deficits of that size for as

> far as the eye can see. That will soon take our debt level to a higher level in relation to GDP than that which we reached in 1945. This would seem to be inviting both a dollar crisis and a move to higher inflation that would constitute an unfair tax on the poor. Rather than adding to the debt problem, I think that a more appropriate way to address the social security crisis is through an equitable way to increase social security revenues and reduce expenditures."

Another economist predicted that Social Security would survive more or less intact with its shortfall covered by regular Treasury issuance. A third (from a left-to-center think tank) commented: "When you refer to long-term borrowing, that is simply general revenues by another name, but under whatever name it flies, some of it would be a good idea in my opinion. All good, but keep in mind that depositing funds borrowed today is nothing more than general revenues today rather than general revenues tomorrow." In the current fiscal situation of recurring budget deficits, tapping into general revenues means generating more debt.

Funding Structure, Legal and Procedural Protections

Many economists characterize Social Security's trust fund as a "fiction" obscuring that its benefit payments are "just another line item" in the federal budget. The trust fund, however, is part of a matrix of legal and procedural protections for Social Security beneficiaries receiving "entitlements" under the budget rules for mandatory spending. Unlike federal discretionary programs where spending levels are determined annually through appropriations, mandatory spending for entitlements like Social Security is open-ended, guaranteeing that eligible individuals receive benefits according to a pre-set formula. The government must allocate funds to meet the needs of all qualified individuals, even if spending exceeds overall budgetary limits set by Congress and the President. (The Social Security Administration's operating budget, however, is set by Congress in its annual appropriations process.)

If Congress includes general revenue in Social Security financing reforms, questions arise concerning whether, and to what extent, Social Security might retain its status as an entitlement and mandatory spending: Would the portion of benefits paid for by general funds retain this status? The portion covered by dedicated Social Security taxes? Could entitlement and mandatory spending status disappear altogether?

Could investing in equities help Social Security?

Over the years, there have been several proposals to invest trust fund dollars in the stock market in order to generate higher long-term gains than what lending to the rest of the government can yield. Sen. Bill Cassidy (R-LA) recently presented the latest iteration of a Senate study group proposal that would both close Social Security's current financing gap while also setting up a separate equity fund to help finance Social Security decades in the future. Aside from the higher risk posed by equity value fluctuation, because trust fund outflow now exceeds inflow, this proposal would significantly increase the amount of money Congress would have to raise through taxes or borrow. One pot of funds would be needed to deal with the current shortfall, and another needed for stock purchases to fund Social Security in the future. Pre-funding Social Security is more difficult than it has been in the past. Before putting Social Security funds at risk in the stock market, proponents might consider trying it with a dedicated funding stream of an agency with a much smaller budget. For example, what about a trial run with the Securities and Exchange Commission?

Final Observations

While I do not necessarily favor debt financing to help close Social Security's financing gap, the program's current structure is putting increased pressure on federal spending and pushing up annual federal deficits. The longer policy makers wait to deal with Social Security's funding problem, the more likely some kind of debt financing may be needed to maintain the program in the future. Long-term bonds could be part of that solution under certain conditions but probably could not play a major role. A related and deeper problem facing the US than how to structure Social Security's funding is demographic. The country is not producing enough children or allowing sufficient immigration to build the type of workforce needed to sustain Social Security's promised benefits.

Karl Polzer is founder of the Center on Capital & Social Equity.

Contact: kpolzer1@verizon.net

Sources and references:

The Ratio of Workers to Social Security Beneficiaries Is at a Low and Projected to Decline Further – Peterson Foundation

Birth rate - Wikipedia

The 2023 OASDI Trustees Report

The Federal Reserve's Balance Sheet: What It Is And Why It Matters | Bankrate

FRB: Why doesn't the Federal Reserve just buy Treasury securities directly from the U.S. Treasury?

Have Fed Asset Purchases Reshaped Bank Balance Sheets? Part 1- St. Louis Fed

Understanding the Federal Reserve Balance Sheet - Investopedia

How Does the Fed Reduce Its Balance Sheet? - Investopedia

Senate-Budget-Committee-Social-Security-hearing-statement-7-12-2023 – Karl Polzer - inequalityink.org

The Fed is bankrupt - The Hill

How will the Federal Reserve decide when to end “quantitative tightening”? - Brookings

U.S. Population Projected to Begin Declining in Second Half of Century – U.S. Census

The Baby Boom Cohort in the United States: 2012 to 2060 - U.S. Census

The Role of Immigration in U.S. Labor Market Tightness - San Francisco Fed (frbsf.org)

New immigration estimates help make sense of the pace of employment | Brookings

100 Year Bonds? Here's Why 'Ultra-Long' Bonds Have Caught on in 14 Countries and Counting - Fortune

What's in the 2020 Coronavirus Relief Law (CARES Act)? – The Balance

US Debt: $7.6 Trillion Will Mature in Next Year - a Third of the Total – Business Insider

Social Security Cuts: Proposals from 3 Politicians Could Slash Your Benefits -msn

Fed helicopter money: Could new tools allowing the Fed to pump money through 'the people' make U.S. monetary policy more equitable and effective? Karl Polzer - inequalityink.org

There's a way to save Social Security, but it involves taxing the rich – Washington Examiner op-ed

A Widening Gap in Life Expectancy Makes Raising Social Security's Retirement Age a Particularly Bad Deal for Low-Wage Earners - Karl Polzer – Society of Actuaries

2023 Conference Highlights - National Institute on Retirement Security (nirsonline.org)

Resolution Funding Corporation (REFCORP): Overview (investopedia.com)

The world's drowning in debt — brace yourself for economic turbulence (nypost.com)

National Deficit | U.S. Treasury Fiscal Data

Central Banks Need to Be Honest About Their Losses by Willem H. Buiter - Project Syndicate (project-syndicate.org)

The Role of Entitlement Programs in the U.S. Federal Budget (policyvspolitics.org)

Overview of Funding Mechanisms in the Federal Budget Process, and Selected Examples (congress.gov)

SEC Funding (cfainstitute.org)

Mandatory spending - Wikipedia

CCSE-work-on-Social-Security-and-retirement-savings-updated-Jan-2024.pdf (inequalityink.org)

UNIVERSITY OF BALTIMORE

School of Law
Saul Ewing Civil Advocacy Clinic

1420 N. Charles St.
Baltimore, MD 21201-5779

T: 410.837.5706
F: 410.837.4776
law.ubalt.edu

TO: Joint Social Security and Work & Welfare Subcommittee, US House of Representatives

FROM: Daniel L. Hatcher, Professor of Law, University of Baltimore School of Law

RE: Statement for the Record (protecting foster children's Social Security benefits), submitted for Hearing with The Commissioner of Social Security, Martin O'Malley held on March 21, 2024

DATE: April 2, 2022

Thank you to the Chairs and Members of the subcommittees for holding this hearing with the Commissioner of Social Security. I submit this statement for the record regarding questions raised to the Commissioner, addressing harmful state agency practices of taking foster children's SSI and OASDI (survivor) benefits.

Across the country, child welfare agencies have been misusing SSA's representative payee program to take resources from vulnerable foster youth. Often with the assistance of private contractors, the agencies search for children who may be disabled or have deceased parents and therefore potentially eligible for SSI or survivor benefits. The agencies apply on the children's behalf and then take control of the funds by applying to become the children's representative payee. Then, although the agencies' core purpose is to serve and promote the welfare of children, the agencies divert the children's money to government revenue rather than using the funds for the children's individualized needs and best interests as intended. The agency rationale is to pay back the cost of foster care, but children have no legal obligation to pay for their own care. And all of this is usually done without telling the children or the children's legal advocates. Disabled children desperately needing more help are never told they have SSI benefits that the agencies are taking. Foster children traumatized by their parents' deaths are not told their parents were able to leave them survivor benefits, as the agencies take the funds—depriving the children of using their own money to help themselves and stripping the children of the invaluable emotional connection the benefits could have provided to their deceased parents.

For over twenty years, I have been engaged in research, scholarship, and advocacy regarding this and interrelated poverty issues.[1] I was encouraged to hear SSA's Commissioner, Martin O'Malley, respond to excellent questions—indicating he wants SSA to use its existing powers to better protect foster children's benefits so they actually help the children.

In support of Commissioner O'Malley's indicated efforts, I am attaching legal memorandums that I previously provided to leadership at SSA and the Administration for Children and Families—at their request—summarizing existing authority of both agencies to stop state agencies from taking foster children's SSA benefits. Again, thank you for your attention to these important matters.

[1] *E.g*, Daniel L. Hatcher, Foster Children Paying for Foster Care, 27 Cardozo L. Rev. 1797 (2006); Purpose vs. Power: Parens Patriae and Agency Self-Interest, 42 N. Mex. L. Rev. 159 (2012); *The Poverty Industry: The Exploitation of America's Most Vulnerable Citizens*, NYU Press (June 21, 2016); Stop Foster Care Agencies from Taking Children's Resources, 71 Florida Law Rev. Forum 104 (2019).

Memorandum in Support

To: Social Security Administration

From: Daniel Hatcher, Professor of Law, University of Baltimore School of Law

Re: POMS Clarification of Representative Payee Fiduciary Role

Date: October 27, 2021

Thank you for the opportunity to discuss concerns regarding how state and county child welfare agencies are misusing foster children's Social Security benefits (including SSI and OASDI). During our meeting on October 21, 2021, SSA requested a memorandum in support of suggested clarification in POMS regarding representative payees' fiduciary role. The following provides the needed clarification and summarizes the legal framework necessitating the clarification.

Suggested Clarification:

Add the following or similar language to POMS GN 00602.001 (Use of Benefits): "When a child has been placed in foster care or other out-of-home care in the custody or care of a child welfare agency, the child's current maintenance needs are provided and paid for by the agency. Thus, the representative payee may not use the child's benefits to pay or reimburse the costs of care, and, consistent with the fiduciary role, the representee payee must conserve or invest benefits on behalf of the beneficiary (using available savings mechanisms that are exempt from relevant asset limits) or use the benefits for other existing and foreseeable needs that are not already provided by the child welfare agency."

Why Clarification is Necessary:

Under current practices, state foster care agencies seek out children who are disabled or have deceased parents, apply for Social Security SSI or OASDI benefits and apply to take control of the children's benefits as representative payee—all usually without notifying the children or their legal representatives. Then, once the agencies assume the fiduciary obligation as representative payee, the agencies use the children's benefits to reimburse themselves for agency costs that children have no legal obligation to reimburse (and that the state agencies are legally obligated to provide and pay for). Often, revenue maximization contractors help with the entire process.

The child welfare agencies' appropriation of children's SSI and OASDI benefits could not be a clearer violation of their fiduciary oblations. "There is no equitable principle more firmly established in our jurisprudence than that a fiduciary is under a duty of loyalty to his beneficiaries and cannot use the property of a beneficiary for his own purposes." *Gianakos, Ex'r v. Magiros*, 238 Md. 178, 185-86 (1965). The agencies incorrectly rationalize their breach of fiduciary obligation by claiming they can use foster children's SSI and OASDI benefits to reimburse "current maintenance" costs that the state agencies have paid for. As summarized below, the child welfare agencies are purposefully misinterpreting federal law.

The Social Security Act requires representative payees to act as fiduciaries, to use SSI and OASDI funds for the beneficiary's "use and benefit" and in a manner that they determine is in the beneficiary's best interest. 42 U.S.C. § 405(j); 20 C.F.R. § 404.2035(a) ("representative payee has a responsibility to [u]se the benefits received on your behalf only for your use and benefit in a manner and for the purposes he or she determines. . . to be in your best interests. . ."). This requirement is reiterated in the Social Security Administration's policy manual, the Program Operations Manual System ("POMS"). According to the POMS, a representative payee must exercise individualized discretion for each child beneficiary and apply the benefits "in the best interests of the beneficiary, according to his/her best judgment…." (POMS GN 00602.001 (Use of Benefits).

Within this framework, the payee/fiduciary can use the benefits to pay for current maintenance needs if those needs are not being provided for elsewhere. However, if current maintenance costs are already paid for, as in the circumstance of children in the custody of child welfare agencies, then the payee must either conserve the benefits or use the benefits for other foreseeable needs not already paid for by the agency. POMS GN 00602.001 (Use of Benefits) ("A payee must use benefits to provide for the beneficiary's current needs such as food, clothing, housing, medical care and personal comfort items, or for reasonably foreseeable needs. *If not needed for these purposes… the payee must conserve or invest benefits on behalf of the beneficiary…*")(emphasis added). *See also*, POMS GN 00602.001 (Payee Responsibilities and Duties)("The representative payee responsibilities and duties are to: • *meet with the beneficiary on a regular basis to ascertain his or her current and foreseeable needs; • use funds in the beneficiary's best interest; • conserve benefits not needed for the beneficiary's current needs . . .*")(emphasis added).

The obligations of a representative payee are therefore clear. The payee is a fiduciary and must exercise individualized fiduciary discretion in determining how to use a beneficiary's OASDI funds. The over-arching principle governing the exercise of discretion is to serve the best interests of the beneficiary. And, because the beneficiary's best interest is paramount, the payee's self-interests cannot be considered. POMS GN 00602.001 (Use of Benefits) (directing Social Security Administration staff to ensure that "*the payee understands the fiduciary nature of the relationship, and that benefits belong to the beneficiary and are not the property of the payee*.")(emphasis added).

Foster children do not have a debt obligation to pay for their own care. Rather, state and federal law explicitly requires the state foster care agencies to pay the costs of foster care services. *E.g.,* Md. FL § 5-527(b)-(c) (requiring that the "Department shall pay for foster care" for all foster children). Like state laws, Title IV-E of the Social Security Act requires state child welfare agencies to provide and pay for the current maintenance costs of foster children. Title IV-E mandates that states *"shall make foster care maintenance payments on behalf of each child… "* 42 U.S.C. § 672(a)(1) (emphasis added). The foster care maintenance payments must include "payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance… and reasonable travel….” 42 U.S.C. § 675(4)(A). Thus, Title IV-E requires state agencies to pay for the current maintenance costs that the agencies are wrongly reimbursing with children’s SSI and OASDI benefits.

Further, Title IV-E requires states to pay their share of the costs of care with state funds, and Title IV-E specifically prohibits states from using other federal funds (including SSI and OASDI benefits) to defray or replace the required state expenditures. 45 CFR § 75.306 explicitly prohibits state agencies from using money other than state funds to pay the cost of care. The regulation even specifically prohibits the use of other (non-IV-E) federal funds (which includes Social Security Benefits) for the state costs. *See also*, OFFICE OF INSPECTOR GEN., SOC. SEC. ADMIN., HAWAII DEPT. OF HUM. SERVICES – AN ORG. REP. PAYEE FOR THE SOC. SEC. ADMIN., A-09-08-28045 at 5 (2008) (citing then 45 C.F.R. § 92.24) (concluding that a foster care agency “must pay its share of the foster care costs with State funds,” that Federal regulations prohibit the agency “from using a child's OASDI benefits to reimburse itself for the State’s share of Title IV-E costs . . .”).

Such structure is consistent with court decisions holding that foster children, as the direct beneficiaries of this federal mandate, have privately enforceable rights to force states to pay the foster care maintenance payments on their behalf:

> Each of the cited provisions similarly discusses how the state must distribute benefits to each child…. 42 U.S.C. § 672(a)(1) (requiring that “each State with a plan approved under this part shall make foster care maintenance payments on behalf of each child”) (emphasis added). Plainly, these directives are both couched in mandatory terms and are unmistakably focused on the benefitted class, i.e., foster children.

Connor B. v. Patrick, 771 F. Supp. 2d 142 (D. Mass. Jan. 4, 2011). *See also*, e.g., *C.H. v. Payne*, 683 F.Supp.2d 865 (S.D. Ind 2010)(same). Given this enforceable right of foster children to force state agencies to pay foster care maintenance payments on their behalf, the state agencies cannot possibly have a countervailing ability to force the children to reimburse those same payments. As even further support for this obvious conclusion, in its training manual for organizational representative payees, the SSA explains that “paying legal guardianship fees would not constitute proper use of benefits” if the “’[g]uardianship costs and fees are included as part of a state's support obligation to the beneficiary…” SOCIAL SECURITY ADMINISTRATION, TRAINING ORGANIZATIONAL REPRESENTATIVE PAYEES, Unit 6, available at http://www.ssa.gov/payee/LessonPlan-2005-2.htm.

In addition to misinterpreting federal law, child welfare agencies have also wrongly relied on the Supreme Court’s decision in *Washington State Dep't of Social & Health Services v. Guardianship Estate of Keffeler*, 537 U.S. 371 (2003). (E. 67). In *Keffel*er, the Court’s sole holding is that a state agency did not violate the anti-attachment provision of the Social Security Act by applying children’s Social Security benefits to state foster care costs. The Court concluded the anti-attachment provision was not applicable, because the state agencies are not creditors to the children—because the children owe no debt for the cost of care. The Court noted that it was not addressing other legal concerns with the agency practices, including constitutional concerns and that the agency payees are acting inconsistently with their fiduciary obligations under § 405(j) of the Social Security Act. In fact, the Supreme Court explicitly indicated that such fiduciary concerns should be addressed by the SSA:

> Respondents also go beyond the § 407(a) [anti-attachment provision] issue to argue that the department violates § 405(j) itself, by, for example, failing to exercise discretion in how it uses benefits, periodically "sweeping" beneficiaries' accounts to pay for past care, and "double dipping" by using benefits to reimburse the State for costs previously recouped from other sources. These allegations, and respondents' § 405(j) stand-alone arguments more generally, are far afield of the question on which we granted certiorari.... Accordingly, we decline to reach respondents' § 405(j) arguments here, except insofar as they relate to the proper interpretation of § 407(a). *Respondents are free to press their stand-alone § 405(j) arguments before the Commissioner, who bears responsibility for overseeing representative payees, or elsewhere as appropriate.*

Id. at 390, n.12 (emphasis added).

Thus, current child welfare agency practices of taking children's benefits to reimburse agency costs violates their fiduciary obligations and conflicts with the entire intended structure of the representative payee system. The practices necessitate clarification by the SSA in the POMS or elsewhere, that child welfare agencies acting as payees cannot use children's benefits to reimburse themselves for the costs of care.

cc: Amy Harfeld, Jill Hunter-Williams,

Memorandum

To: **Assistant Secretary January Contreras, US Dept. Of Health & Human Services, Administration of Children and Families; Associate Commissioner Aysha Schomburg, US Dept. Of Health & Human Services, Administration of Children and Families, Children's Bureau.**

From: **Daniel Hatcher, Professor of Law, University of Baltimore School of Law, Civil Advocacy Clinic.**

Re: **ACF Oversight Authority and Suggested Guidance regarding Child Welfare Agencies' Fiduciary Role and Protecting Foster Children's Resources (including Social Security, VA benefits, and other resources).**

Date: **September 5, 2022**

Thank you for the opportunity to meet on August 18, 2022, for the purpose of additional discussion regarding ACF's role in addressing ongoing concerns of how state child welfare agencies are misusing foster children's resources. For over twenty years, I have been engaging in research, scholarship, and advocacy regarding this and interrelated poverty issues—while simultaneously serving as an attorney and clinical law professor directly representing impoverished children and adults.

This memorandum is consistent and supportive of requested administrative actions in the document provided by Amy Harfeld dated August 10, 2022, which was in preparation for our meeting. As we discussed in the meeting, the core issue of those administrative requests is the urgent need for ACF guidance to indicate that child welfare agencies must protect foster children's resources rather than taking them. This memorandum therefore addresses that core issue, outlining ACF authority and providing suggested new guidance. Additional support may also be provided soon regarding the related administrative requests in Amy Harfeld's August 10, 2022 document.

This issue goes to the very heart of the purpose of state child welfare agencies—and the purpose of ACF—serving and protecting the best interests of children in need of care. In their current practices, child welfare agencies are abdicating this mission and directly harming children in their care by seeking out vulnerable foster youth and then taking their resources. Disabled children desperately needing more help are never told they have disability benefits that the agencies are taking. Foster children traumatized by their parents' deaths are not told their parents were able to leave them survivor benefits, as the agencies secretly take the funds—depriving the children of using their own money to help themselves and stripping the children of the invaluable emotional connection the benefits could have provided to their deceased parents. Further, the agencies in many states are also taking other resources from foster children, including VA benefits, cash assets, insurance, the children's own income, and more. For example, the Nebraska agency crafted a regulation so it can take virtually everything from foster children—even burial plots.[1]

Almost one year ago, during our last meeting on this issue on September 28, 2021, ACF asked for a summary of authority to exercise oversight over child welfare agencies regarding these issues. In response, I provided a memorandum dated October 4, 2021, explaining the authority. In our recent August 18, 2022 meeting, I was encouraged to hear Assistant Secretary Contreras indicate support for exercising oversight authority to appropriately address this harmful practice.

In response to requests and discussion during the meeting, this updated memorandum provides suggested new guidance and further outlines ACF authority.

ACF authority and duty to ensure that state child welfare agencies serve children's best interests.

Throughout the numerous federal laws and regulations regarding state child welfare agencies, the paramount purpose is unwavering: protecting and serving the best interests of children in need of care. And ACF in turn is the federal agency created with the purpose and authority to monitor and ensure that the child welfare agencies adhere to that mission.

For example, 42 U.S.C. § 622 requires that "a State must have a plan for child welfare services which has been developed jointly by the Secretary and the State agency . . ." The requirements for state plans focus on serving the children's best interests. And one section of plan requirements, for which ACF is intended to provide guidance and oversight, requires that the plan must "include a description of the services and activities which the State will fund under the State program carried out pursuant to this subpart, and how the services and activities will achieve the purpose of this subpart." The "purpose of this subpart" is provided in 42 U.S. Code § 621, and the very first listed purpose is "***protecting and promoting the welfare of all children***." Similarly, in 45 CFR § 1355.25 ("Principles of child and family services"), ACF provides clear principles that must guide state child welfare agencies. Below are just a few of the principles, directly indicating child welfare agencies should only act in the best interests of children and families:

(a) The safety and well-being of children and of all family members is paramount. . . [redacted for space]

As listed above, one of the principles specifically requires the agencies to help youth in ways that improve their future self-sufficiency—but when the agencies take the children's own resources, such actions directly conflict with these required principles.

Further, additional federal law set out in 42 U.S.C. § 675—again for which ACF is intended to provide oversight and guidance—requires child welfare agencies to develop individualized case plans for each child, again focused on serving the best interests of foster children and specifically requiring the agency to provide planning and services designed to help children in their future struggle for self-sufficiency: "services which will help such child prepare for the transition from foster care to a successful adulthood." In fact, the entire Chafee Foster Care Program for Successful Transition to Adulthood is intended to serve children's best interests in supporting their efforts for future self-sufficiency, but the child welfare agencies' actions in taking the children's resources directly undercuts the purpose of the program.

Further still, though guidance regarding permanency planning and child well-being dated January 5, 2021 (ACYF-CB-IM-21-01), ACF recognizes that "the best interests of the child is paramount." [redacted for space]

Moreover, federal agencies have stepped in repeatedly to curtail the racial disproportionality in the child welfare system. For example, a guidance letter was provided by the Department of Justice, Office of Civil Rights, and the Administration for Children and Families Compliance Section, indicating the importance "to ensure that child welfare agencies are aware of their responsibilities to protect the civil rights of children and families in the child welfare system."

Thus, the paramount purpose of child welfare agencies to protect and serve children's best interests—and not engage in actions that are harmful to the children—is clear. And ACF was created with clear authority and purpose to provide guidance and oversight to ensure that child welfare agency actions do not conflict with their core mission.

ACF has authority and obligation to provide oversight to clarify that child welfare agencies must protect foster children's resources rather than taking the resources to pay agency costs.

Appropriately addressing child welfare agencies' misuse of foster children's resources falls directly within ACF's authority and obligation to provide oversight and guidance to ensure the agencies serve children's best interests. To begin, all child welfare protections built into the federal statutory framework apply to all children in foster care, whether IV-E eligible or not. As ACF explains in existing guidance, federal law "requires that all of the protections set forth therein be provided to all children in foster care."[2] Then, 42 U.S. Code § 676 provides ACF with authority and obligation to provide guidance and oversight to ensure child welfare agencies adhere to their purpose, explaining HHS/ACF "may provide technical assistance to the States to assist them to develop the programs authorized under this part and *shall* periodically (1) evaluate the programs authorized under this part and part B of this subchapter . . ." (emphasis added).

Specifically addressing children's resources, 42 U.S. Code § 672(a) sets out a structure where the agencies are required to provide and pay for "foster care maintenance payments." Under the fundamental requirement, ***"[e]ach State with a plan approved under this part shall make foster care maintenance payments on behalf of each child*** who has been removed from the home of a relative . . ." (emphasis added). Foster care maintenance is defined in 42 U.S. Code § 675 as "payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. . ." As further evidence of this requirement, 42 U.S.C. § 622 indicates agency plans must "include a description of the services and activities ***which the State will fund*** under the State program . . . and how the services and activities will achieve the purpose of this subpart." (emphasis added). So, when child welfare agencies take resources from children to pay state foster care costs, the agencies are breaching their fiduciary role in conflict with federal law that requires the states to provide and pay for those costs—with state money, not by taking the children's resources. Further, the agencies' harmful practice does not even provide more revenue to the agencies, but rather supplants required state funding with the children's funds.

Thus, the structure requires that states pay for the foster care maintenance for *all* foster children, and then the states can claim a federal match for children who are IV-E eligible. (42 U.S. Code § 674). In fact, 45 CFR § 75.306 explicitly prohibits agencies from using money other than state funds to pay the cost of care. The regulation prohibits the use of other (non-IV-E) federal funds (including Social Security Benefits) for state costs. And the regulation also requires that the funds used to pay the state share must be consistent with the program objectives. If an agency takes children's resources for state costs, such actions are directly contrary to the agency's core objectives of serving children's best interests, including agency services that are supposed to aid the children in their future transition to self-sufficiency after leaving care. 45 CFR § 75.306 (3) & (5). Further, the regulation also requires that the funding states use for state costs must be "provided for in the approved budget when required by the HHS awarding agency."

Thus, ACF has authority to provide direction/clarification that state agencies must protect children's resources (including but not limited to Social Security) in a way that serves the children's best interests.

The authority of the Social Security Administration regarding representative payees does not restrict the authority of ACF to ensure child welfare agencies act in children's best interests and in compliance with federal law governing child welfare.

SSA's authority to provide guidance regarding representative payees does not restrict the authority and obligation of ACF to provide oversight and guidance ensuring that child welfare agencies act in children's best interests and in compliance with federal law governing child welfare. [redacted for space]

I previously provided another memorandum dated October 27, 2021 to SSA leadership in response to their request after a meeting on October 21, 2021. That memo provided analysis of how SSA can also issue clarified guidance specific to representative payees. [redacted for space]

Recommended guidance

ACF's Child Welfare Policy Manual provides interpretations and directives to agencies in all child welfare related issues. For example, in 8.4D question 2, ACF provides a directive regarding "How should the decision to apply for SSI or title IV-E benefits be made?" ACF explains that agencies must decide between seeking SSI or IV-E based on the child's best interests: "Information regarding the benefits available under each program should be made available by the title IV-E agency so that an informed choice can be made in the child's best interest.".

To provide policy guidance consistent with federal law and the mission of ACF and child welfare agencies, ACF should consider the following additions and clarifications to the manual:

1. [redacted for space]
2. Additional guidance in response to 8.4D, question 2. The suggested language is in bold in the excerpted answer below. The reason for this necessary language is to clarify that child welfare agencies must not use foster children's Social Security benefits or other children's resources to pay or reimburse the state share of foster care costs.

   Question 2. <u>How should the decision to apply for SSI or title IV-E benefits be made?</u>

   Answer

   The difference between title XVI (SSI) and title IV-E should be considered carefully by the decision maker when choosing whether to apply for either or both title IV-E or SSI benefits on behalf of the child. Information regarding the benefits available under each program should be made available by the title IV-E agency so that an informed choice can be made in the child's best interest. To achieve this goal, title IV-E agencies should exchange information regarding eligibility requirements and benefits with local Social Security district offices and establish formal procedures to refer clients and their representatives to the local Social Security district office for consultation and/or application when appropriate.

   To comply with their role of serving children's best interests, title IV-E agencies must not use a child's SSI or other resources to pay or reimburse foster care maintenance costs (as defined in 42 U.S. Code § 675) or state foster care costs.

3. Additional guidance in 8.1F TITLE IV-E, Administrative Functions/Costs, Match Requirements. The following new question and answer provided in bold below is necessary to clarify that child welfare agencies must not use foster children's Social Security benefits or other children's resources to pay or reimburse the state share of foster care costs.

Question 6. May children's resources be used to pay the state share of foster care costs?

Answer

No. Consistent with cost sharing requirements in 45 CFR § 75.306 and children's best interests, a child's resources (including Social Security Benefits, VA benefits, cash assets, trust accounts, insurance, inherited resources, the child's own income, or any other resource or asset belonging to the child) may not be used by the IV-E agency to pay or reimburse foster care maintenance costs (as defined in 42 U.S. Code § 675) or state foster care costs, whether or not a child is eligible for title IV-E.
[redacted for space]

Again, I sincerely thank you for your leadership at ACF, for the opportunity to meet, and for your indicated desire to address this important issue. Also, as we discussed in the meeting, I applaud ACF's recent improved guidance regarding child support enforcement in child welfare cases—which is a perfect complement to the suggested guidance in this memorandum. I am more than willing to talk further if helpful and can provide additional resources upon request.[3]

cc: Amy Harfeld, Jill Hunter-Williams, Ian Marx

---

[1] Neb. Admin. Code, 479 NAC 2–001.08 [redacted for space]

[2] ACF Child Welfare Policy Manual, 8.3C, TITLE IV-E, Foster Care Maintenance Payments Program, State Plan/Procedural Requirements, Question 1.

[3] Some of my past scholarship addresses more details of this and related issues. *E.g*, Daniel L. Hatcher, *Foster Children Paying for Foster Care*, 27 Cardozo L. Rev. 1797 (2006); *Collateral Children: Consequence and Illegality at the Intersection of Foster Care and Child Support*, 74 *Brooklyn L. Rev.* 1333 (2009); *Purpose vs. Power: Parens Patriae and Agency Self-Interest*, 42 N. Mex. L. Rev. 159 (2012); *The Poverty Industry: The Exploitation of America's Most Vulnerable Citizens*, NYU Press (June 21, 2016); Book Chapter, *States Diverting Funds from the Poor*, in Holes in the Safety Net: Federalism and Poverty (Ezra Rosser, ed., Cambridge University Press 2019); *Stop Foster Care Agencies from Taking Children's Resources*, 71 Florida Law Rev. Forum 104 (2019).

Office of the Inspector General
SOCIAL SECURITY ADMINISTRATION

Written Statement by
Inspector General of the Social Security Administration Gail S. Ennis
to the United States House of Representatives
Committee on Ways and Means
Subcommittees on Social Security and Work & Welfare
on a Hearing with
Commissioner of the Social Security Administration Martin O'Malley
on March 21, 2024

Introduction

Chairmen Ferguson and LaHood, Ranking Members Larson and Davis, and Members of the Subcommittees on Social Security and Work & Welfare, the Social Security Administration (SSA) faces numerous challenges, and the Office of the Inspector General (OIG) is committed to addressing those challenges through diligence and innovation to protect and preserve SSA's vital programs for the American people. It is critical for the committee to understand these challenges and how the President's Budget for Fiscal Year (FY) 2025 will address them.

The mission of SSA OIG is to serve the public through independent oversight of SSA's programs and operations. SSA OIG accomplishes that mission by conducting independent and objective audits, investigations, and reviews. Our oversight work significantly impacts the integrity, effectiveness, and efficiency of SSA's programs and operations.

While SSA focuses on administering programs and operations, SSA OIG searches for and reports systemic weaknesses in SSA's programs and operations and provides recommendations for program, operations, and management improvements. SSA OIG has consistently delivered valuable oversight information to SSA, the U.S. Congress, other stakeholders, and the public.

SSA OIG has identified and is responding to new and emerging challenges and threats, including pervasive imposter scams, challenges and fraud schemes caused by the Coronavirus (COVID-19) pandemic, and the rise of the latest threats and opportunities associated with cybersecurity and artificial intelligence (AI). In FY 2025, SSA OIG will address these issues timely using our available resources, all while continuing to meet our core mission.

President's Budget for Fiscal Year 2025

The President's FY 2025 Budget for SSA OIG requests $121.3 million in direct appropriations, which includes $2 million to remain available until expended for information technology (IT) modernization efforts. In addition, the budget requests that SSA transfer $19.6 million to SSA OIG for the direct costs of leading the jointly operated anti-fraud Cooperative Disability Investigations (CDI) program. These increases would help offset rising fixed costs; however, we continue to make tradeoff decisions with our resources to address emerging challenges.

The President's budget request will allow SSA OIG to perform its core mission of auditing and investigating SSA programs and operations. Further, the requested funding will allow us to take innovative steps forward by building our data analytics capacity, increasing data-driven decision-making, investing in IT and automation tools, and strengthening and building our workforce. These improvements will lead to a more nimble and responsive organization.

The Committee on Ways and Means should be aware SSA OIG received our first increase in base funding in FY 2022 after receiving no increases since FY 2016. The recent increases by the U.S. Congress have maintained SSA OIG's ability meet our core responsibilities.

In FY 2023, our auditors identified $1.9 billion in questioned costs and $565 million in funds that could be put to better use at SSA. In FY 2023, our investigators contributed to investigations that generated $179 million in monetary accomplishments through court-ordered restitution and recoveries, as well as projected future savings for SSA. Most importantly, our Return on Investment was 21-to-1 for the last several FYs, generating $21 in savings for every dollar the U.S. Congress provides SSA OIG.

Audit

As the Committee on Ways and Means knows, SSA's workforce consists of approximately 60,000 people, with over 1,500 offices nationwide and worldwide. These employees serve millions of customers annually.

Over the last several FYs SSA OIG has moved away from the historical practice in the Office of Audit (OA), which required each auditor to complete one annual audit. Audits were scoped accordingly. After examining this method and reviewing previous audits, SSA OIG concluded the status quo approach aimed to fix errors rather than get to the root cause of issues identified by our auditors. SSA OIG decided to change that approach.

OA leadership determined SSA OIG needed to produce larger and more complex audits to address the root cause of the issues facing SSA. Rather than having auditors work on individual audits, we restructured the process into audit teams to allow dedicated resources for each audit. The revised audits engage with the Agency and focus on actual results. Leadership recognized the team approach would reduce the number of audits per year but was confident it would increase the quality and impact of our work. This approach was correct. For several FYs, while we adapted to this new approach, our auditors produced fewer but also more complex audits. And, today, OA has increased its productivity while producing more impactful audits, issuing 43 comprehensive audit reports in FY 2023 that identified $1.9 billion in questioned costs and $565 million in funds that could have been put to better use.

OA continues working on impactful audits during FY 2024. As of January 2024, OA has 15 reports in process related to improving the prevention, detection, and recovery of improper payments.

Audits Addressing Vulnerable Populations

Since October 1, 2020, OA has completed seven audits identifying underpayments, potential underpayments, or untimely payments of funds due or benefits to vulnerable populations, such as child beneficiaries, widows, Supplemental Security Income recipients, surviving spouses, and beneficiaries whose medical condition was not expected to improve. Potential underpayments identified in these reports totaled almost $640 million.

OA has additional ongoing work that focuses on services provided to vulnerable populations. Specifically, we have work in progress to determine whether SSA implemented planned actions to reduce barriers to accessing its services. We are also looking at whether SSA follows policies and procedures to identify and expedite initial disability applications that qualify as priority cases, such as Quick Disability Determination, Compassionate Allowance, Terminal Illness, Military Casualty/Wounded Warrior/100% Permanent & Total Disability, Homeless, Presumptive Disability/Blindness, and Hardship cases, among others.

Some individuals cannot manage or direct the management of their finances because of their age and/or mental and/or physical condition. The U.S. Congress granted SSA the authority to appoint representative payees to receive and manage these beneficiaries' payments. A representative payee can be an individual or an organization. In September 2023, we reported that SSA did not take appropriate and timely action in response to alleged individual and organizational representative payees' misuse of benefits and made six recommendations to SSA. We continue to review issues impacting these vulnerable populations through in-progress work looking at the effectiveness of SSA controls and procedures for monitoring representative payees.

Cooperative Disability Investigation Program

SSA OIG has innovated processes to maximize our impact by expanding and realigning the CDI program to provide more coverage at a lower cost.

Presently, SSA OIG has 50 CDI units across the country, and we provide an SSA OIG investigator to run these anti-fraud units. CDI units, consisting of personnel from SSA, SSA OIG, state disability determination agencies, and state or local law enforcement, investigate disability fraud in SSA programs. SSA OIG worked with SSA to provide nationwide CDI coverage by October 2022, as the *Bipartisan Budget Act of 2015* intended.

In areas where we could not secure a local law enforcement partner, such as New Hampshire, Vermont, and Maine, SSA OIG and SSA collaborated on two approaches to provide CDI coverage and increase investigative capacity. First, we created CDI Hubs by consolidating SSA OIG and SSA personnel to cover multiple states. In instances when a local law enforcement partner is not present, the SSA OIG team leader covers that workload until a law enforcement partner can be secured. Second, SSA OIG harnessed the skillsets and institutional knowledge of reemployed annuitants to serve as CDI investigators. For example, the South New England Hub, which covers Connecticut and Rhode Island, has a reemployed annuitant serving as an investigator to help provide CDI coverage for Connecticut. A total of four hub models operate across the country to ensure CDI coverage.

In FY 2023, CDI efforts contributed over $75 million in projected savings and recoveries for Social Security programs and approximately $94 million for other Federal and state programs.

Since the program's inception, CDI efforts have contributed to projected savings of over $8 billion.

The President's Budget provides $19.6 million for the CDI program. In previous FYs, SSA OIG has had to assign existing investigative personnel to the CDI program, at the expense of other non-CDI investigative work. SSA's appropriations language provides the authority for SSA to transfer a portion of its Limitation on Administrative Expenses funding to SSA OIG to cover the costs associated with operating the CDI program.

While the additional CDI funding to date has supported a higher overall Full Time Employee (FTE) count for our office, our count of FTEs dedicated to our primary mission is still lower than in FY 2015. This is due to increased fixed costs, such as statutory employee pay raises. The FY 2025 budget request provides additional flexibility within SSA OIG's base appropriation and allows us to restore historical staffing levels for critical non-CDI hires.

Finally, with the FY 2025 Budget, SSA OIG will continue to conduct complex and large-scale investigations, develop and leverage partnerships and collaborations to accomplish investigative priorities to permit more effective investigative efforts.

IT Modernization

The $2 million set-aside for IT Modernization is critical in SSA OIG's efforts to modernizing administrative applications with business process management solutions. This account provides for the continued enhancement of SSA OIG's critical administrative systems, and the integration of internal applications with SSA systems, which will enhance data sharing capabilities with external partners. This includes SSA's Allegation Referral Intake System and SSA OIG's Case Management System. Further, the account will provide for modernizing cybersecurity functions and enhancing SSA OIG's cybersecurity posture in response to evolving cybersecurity mandates and vulnerability remediation. Further, it will increase staffing to fill software development, project management, and systems security needs.

Some of the modernization projects SSA OIG is undertaking will facilitate increased/enhanced use of analytics capability. SSA OIG established the Business Intelligence and Analytics Division within our Office of Information Technology in FY 2021. This division is undertaking several initiatives to maximize the available resources—both human and technical—to enhance its data maturation for SSA OIG. This division possesses analytical skills in the initial phases of data analytics and has supported SSA OIG investigative and audit efforts by expediting data analyses that used to take months to complete manually. Finally, in FY 2023, SSA OIG established an AI Task Force to conduct a critical study and review on how AI will assist the work of the Office of Audit and the Office of Investigations, but also to look at the challenges posed with more sophisticated AI-generated scams.

Examining and Leveraging AI

Public and private sector entities will continue to explore using AI technology as a tool to improve operations. As AI advances, governmental agencies, including SSA, will seek to leverage this emerging technology. While the use of AI has the potential to improve customer service and create efficiencies, AI could also be used to create and exploit synthetic identities to direct millions of dollars away from deserving SSA beneficiaries and recipients, similar to pandemic and imposter schemes.

In FY 2023, SSA OIG established an internal AI task force comprised of investigators, auditors, IT specialists, and lawyers to confront these issues. In FY 2025, SSA OIG's oversight responsibilities will increase significantly in this area to help identify and minimize vulnerabilities in agency systems, security, and programs. Significant investments will be required in hardware, software, and training to ensure SSA OIG personnel have the appropriate tradecraft to investigate AI-enabled criminal activity, protect vulnerable persons, and provide Federal and state prosecutors with the forensic data needed to successfully prosecute fraud against SSA.

In recent years, SSA OIG identified best practices and lessons learned from analytical and investigative work done combatting pandemic- and imposter-related fraud. These will serve as the foundation for developing additional tools and investigative techniques.

Coronavirus (COVID-19) Pandemic Fraud

One of the issues that has been of interest to the United States Congress is combatting Coronavirus (COVID-19) pandemic fraud. SSA OIG's Office of Investigations has played a critical role in Federal investigations related to the misuse of Federal pandemic relief funds. Using stolen identities and Social Security numbers was critical to pandemic relief-related fraud. The misuse of SSNs and identity theft in furtherance of fraud schemes related to *Coronavirus Aid, Relief, and Economic Security Act* programs, including the Paycheck Protection Program, Pandemic Unemployment Assistance, and Economic Injury and Disaster Loans, is no exception.

Addressing pandemic fraud required SSA OIG to shift workloads within our base appropriations. In FY 2023, SSA OIG contributed to 100 investigations related to COVID-19 pandemic relief programs, funds, and scams. Further, SSA OIG participates on the National COVID-19 Fraud Enforcement Task Force led by the U.S. Deputy Attorney General, and as many as 21 pandemic-related task forces and workgroups across the country. In FY 2024, SSA OIG anticipates expending $1.1 million on pandemic-related investigative workloads and audits. Further, SSA OIG has not received supplemental funding to address pandemic fraud. Federal agencies that administered pandemic relief programs did receive these types of additional funding.

Social Security Scams

SSA OIG has established a multidisciplinary team of professionals who develop and implement innovative approaches to combat Social Security-related and other government imposter scams through investigations, enforcement actions, and public outreach and education. SSA OIG's multipronged approach has helped significantly disrupt these scams. Our efforts have resulted in multiple arrests and convictions and eliminated many scam calls to potential victims.

Further, although SSA OIG has achieved remarkable results in the drop of SSA imposter scam-related complaints, according to the Federal Trade Commission (FTC), SSA imposter scams are still the number one government-related imposter scam and, with a recent increase in complaints, continue to be a challenge requiring the devotion of significant SSA OIG resources. Earlier this month, SSA OIG and SSA combined efforts on our fifth annual National Slam the Scam Day. The United States Senate passed a resolution supporting National Slam the Scam Day, sponsored by Senators Susan Collins and Mark Kelly, with original cosponsors Senators Mike Braun, Richard Blumenthal, Kyrsten Sinema, Marco Rubio, and Rick Scott.

SSA OIG remains engaged and committed to maintaining institutional knowledge to investigate these scams by working with Federal, state, and local partners, as well as consumer advocacy groups, to protect people from becoming victims. In FY 2024, SSA OIG expects to dedicate an estimated $3 million to combatting imposter scams, including funding for human capital resources and allegations management. In FY 2025, SSA OIG will continue to commit staff to analyze imposter scam allegations, develop investigative leads, and deploy effective investigative strategies to combat these fraud schemes. The FY 2025 Budget will allow SSA OIG to better anticipate, recognize, and efficiently mitigate new and emerging fraud schemes, including those related to pandemic relief and government imposter scams.

SSA OIG plans to work year-round on scam education. In addition, SSA OIG will continue to track scam allegations submitted to SSA OIG, issue scam alerts, and increase its social media presence by posting new scam tactics and anti-fraud reminders. In FY 2025, SSA OIG will deploy advanced data analytics and generative AI tools to expeditiously identify and flag clusters of the most egregious cases of fraud for immediate investigation.

Conclusion

Chairmen Ferguson and LaHood, Ranking Members Larson and Davis, thank you for the opportunity to submit a written statement on this important hearing with SSA Commissioner O'Malley. I believe it is essential for the Committee on Ways and Means to understand the breadth of issues SSA OIG will be focusing on in FY 2025. The dedicated employees of SSA OIG work each day to ensure the integrity of SSA programs and the funding provided by the U.S. Congress ensures the integrity of these programs.

Comments for the Record
U.S. House of Representatives
Committee on Ways and Means
Social Security and Work & Welfare Subcommittee
Joint Hearing on
The President's Fiscal Year 2025
Social Security Administration Budget
Thursday, March 21, 2024 at 2:00 PM

Michael Bindner
The Center for Fiscal Equity

Chairmen Ferguson and LaHood and Ranking Members Larson and Davis, thank you for the opportunity to address Administrator O'Malley's testimony.

General Approach

For obvious reasons, this year will be more hectic than the last. The budget and appropriations process needs to be simple. To do this, please just pass a consensus caretaker budget with two draft partisan supplemental bills, one of which can be enacted during the Lame Duck Session or at the beginning of the next Congress for the President-Elect to sign upon taking office, depending on who wins. Details are provided in our comments to the full Ways and Means Committee on the HHS budget.

If such a budget is enacted, use it as the basis for spending caps for a new Budget Control Act. Make the targets realistic and self-enforcing for purposes of Appropriations Committee allocations.

Contingencies

In the event the majority in the House shifts due to early retirements or insurrection indictments, the Senate majority and the House minority should have legislation ready to enact a Public Option, including reconciliation instructions for the FY24 budget year. Details are provided in our comments to the full Ways and Means Committee on the HHS budget.

Any change in control will only last through the special election cycle, this should be the second priority. The first must be amending the Electoral Count Act and the jurisdiction of the Ethics Committees to provide for the enforcement of the Fourteenth and Twentieth Amendments, including provisions for removing any such disability for members and/or the president-elect.

The President's Budget

The submitted budget strengthens Social Security in a way that ensures no benefit cuts; extends solvency by asking the highest-income Americans to pay their fair share; and improves financial security for seniors and people with disabilities. These priorities have not changed to a great extent. We will address these proposals in the order presented by OMB.

Social Security 2100 is the current "school solution" proposed by the Democrats. I hope that it clears both chambers, preferably on a bipartisan basis. However, as I mentioned in my 2019 comments to the Social Security Subcommittee, we can not stop because we have made the numbers work.

America Needs a Raise

Too many of the retired and disabled Americans (myself included) find it hard to make ends meet. The savaging of pension rights has made a decent retirement a rarity, as it is impossible for workers to both save and feed their families.

More is needed than simply reinforcing the status quo. Work must pay enough for workers to put money away, as the three-tooled retirement model requires. Note that an employee-ownership model would restore pensions and end the need for such furniture.

The President's proposal to restore the Child Tax Credit, which has already been passed by the House, is a major step in that direction. It is one of the two things that must be continued to meet our sacred trust for their retirement, as well as their present well being.

So that no one will simply use fecundity for their incomes, minimum wages must be increased for present workers. **Current retirement, survivors, disability and unemployment insurance and minimum wage levels are inadequate.** America needs a raise, which should be adjusted for inflation on an annual basis. Twice the current level, but with a shorter work week (and work day) would eliminate the incentive to cut work hours for lower wage employees to avoid paying benefits (as well as improvements to how healthcare is funded, which is a whole other subject).

Unemployment, retirement and disability insurance should at least match increased minimum wage levels on a full-time basis (but assuming 26 hour work week). This means that the minimum benefit, not the average, should be at least $1,600 per month.

The median benefit needs to be high enough so that no one who is disabled or retired requires either Food Stamps or housing subsidies to meet basic needs. Upwards of $2000 per month is necessary, especially as the vast majority of retirees do not bring large retirement funds with them into old age, and certainly not into disability.

Payments to dependent children for survivors and the disabled should be abolished and replaced with an enhanced CTC at the $1,000 per month level.

To increase benefits for retirees and the disabled, consider the higher minimum wage rates as wage inflation and readjust all prior work experience by this inflation. Combined with some of the tax rate adjustments in the proposed Act, raising the minimum wage will increase future revenues enough to pay for higher benefits.

The Federal Role in Causing Inflation and Inequality

Households making under the 90th percentile have been losing ground for almost half a century,while incomes above that amount have increased on a regular basis.

The source of inequality, aside from abandoning the 91% top marginal tax rate, is granting raises at an equal percentage rather than by an equal amount. When the 91% rate was repealed, incomes were fairly equal, so it was not an issue.

The federal government plays an outsized role in how salaries are determined through percentage based cost of living adjustments to government workers, beneficiaries, government contractors. The government can change this with the stroke of a pen. The private sector will follow suit with a higher minimum wage, adequate child tax credits (as described below) and paying individuals in training from ESL to community college the minimum wage to pursue their studies.

From here on in, adjust for cost of living for federal employees and contractors on a per dollar an hour rather than on a percentage basis (or dollars per month or week

for federal beneficiaries). Calculate the dollar amount based on inflation at the median income level. No one gets more dollars an hour raise, no one gets less dollars per hour in increases. Increase the minimum wage as above and consider decreasing high end salaries paid to government employees and contractors. Even without decreases, simply equalizing raises will soon reduce inequality. Why is this necessary?

Prices chaise the median dollar. The median dollar of income is actually at the 90th percentile, rather than the 77th percentile (which is about where the median is). This strategy will reduce inflation in both the long and short terms as prices adjust to decreases in higher salaried income.. **Let me repeat this - prices chase income dollars, not income earners.**

Raising Adequate Revenue

The President proposes that we raise the income ceiling to collect more money even though this would increase benefits to the wealthy. I propose that Congress lower the OASI tax ceiling so as to lower benefits with less drastic bend points, move Survivors Insurance for non-retirees, Health/Affordable Care Act payroll taxes and Disability Insurance entirely to a Subtraction VAT or Credit Invoice VAT as described in Attachment One - Tax Reform. A floor is also added so that EITC payments are no longer necessary.

The S-VAT will pay for increasing the Child Tax Credit beyond what the President proposes, to be distributed with pay rather than at the end of the year, and the higher minimum wage will end the need to subsidize low wage employers at the public trough.

The most important points are that, rather than raising income caps on payroll taxes, all value added for an employer is taxed, both labor and profit and, because there is no way to separate out individual income contributions to the tax, each employee will be credited the same amount – which allows for higher benefits without bend points. Such taxes also have no ceilings, so the S-VAT rate can be lower than both current law and the proposed legislation.

In 1998, when I participated in on-line discussions on Social Security personal accounts, I brought up the necessity of doing this. This idea raised the hackles of the privatizers much more than their desire to take advantage of riskier investment strategies. **The best way to kill talk of private accounts is to introduce redistribution on the front end and give organized labor proxies to vote worker shares.**

Finally, a word on Section 204 of Social Security 2100 regarding the Social Security Trust Fund. This is simply window dressing. The reality is that any trust fund balances must still be loaned to the Treasury and reimbursed with general income tax revenues or additional borrowing.

In our first submission to Congress in May of 2010, we addressed Trust Fund reimbursement issues. They are particularly applicable given the proposed funding increases in the subject legislation (which, if passed, would continue to have workers subsidize lower income tax rates for the few). They remain especially true today.

When Social Security was saved in the early 1980s, payroll taxes were increased to build up a Trust Fund for the retirement of the Baby Boom generation. The building of this allowed the government to use these revenues to finance current operations, allowing the President and his allies in Congress to honor their commitment to preserving the last increment of his signature tax cut.

This trust fund is now coming due, so it is entirely appropriate to rely on increased income tax revenue to redeem them. It would be entirely inappropriate to renege on these promises by further extending the retirement age, cutting promised Medicare benefits or by enacting an across the board increase to the OASI payroll tax as a way to subsidize current spending or tax cuts.

Increasing Affordable Housing Supply to Reduce Housing Costs

We disagree with the President's proposed subsidies. The best cure for housing affordability is higher income. The President's budget is on the right track regarding the Child Tax Credit. I would treble down on his amounts and distribute these funds through Old Age, Survivors, Disability and Unemployment Insurance payouts or with wages.

Urban renewal, which relocates poor and largely non-white people, leads to redevelopment that chases the 90th percentile. The tax incentives in the President's budget are exactly the wrong approach. Instead, reform the entire tax system so that most families do not have to file income taxes. By most, I mean 99%.

A Radical Change to Entitlement Spending

This is a new idea that deserves mention, just to think about for the future. There are many proposals to maintain incomes as technology eats jobs (although ChatGPT is not the demon we thought it was). Among them are a social credit payment, Kelso and Adler's Two Factor theory and Len Burman's proposal for a Universal Earned Income Tax Credit. The last makes the second tier economy permanent where now it is simply an ad hoc affair. It also does nothing for those with inadequate training.

Disability Insurance is hard to get and this dissuades getting off, regardless of programs such as the Ticket to Work. Making it easier to get some kind of benefit after normal unemployment without a disability filing and the associated lawsuit will encourage work and end reporting requirements to claim extra income. When income appears in the system above a certain level, give notice that benefits will stop - and an added bonus for doing so.

There is a large leaky bucket in social services at large and for disability insurance in particular, employing an army of social workers who would rather be doing client care than pushing paper and making determinations of whether the employer or employer was responsible for job loss and whether a family is entitled to benefits or not. There is another army of lawyers who fight disability claim denials and tax preparers (and revenue agents) that process earned income tax credit claims.

There is another army of tax avoidance professionals whose main product is tax minimization for upper middle class and wealthy families by selling retirement accounts and whole life policies (on commission).

There is yet another army fighting a losing battle against homelessness with public housing and hard to get subsidies ,with another who capitalize on these programs by offering substandard housing.

These armies include taxpayers in their battle plans. We can redirect these efforts with a few simple changes.

Unemployment and disability insurance can be "no fault" and paid automatically with a few simple steps to minimize fraud (multiple collections). They also need to pay more, as does baseline Social Security (which eighty percent of retirees rely on as their soul income).

Children can be provided for without Food Stamps or EITC paperwork or a parent on disability, or by being diagnosed themselves.

The system can also end the exploitation of the "working poor" who, with remedial education can learn themselves out of poverty to the extent that they are able, and who require a low tier economy that provides cheap goods and convenience food. The thing that gets in the way is the opportunity cost of not working to go to school. Including taking ESL.

Long-term unemployment insurance is offered as an option. There should not be an end date and should equal what is paid for a full-time, minimum wage job. This rate can be set at the level paid to retirees, as this level of income is at about that level anyway.

A stipend at this level can also be paid to students who are old enough to work through college or technical training - with all such training and education provided free of charge, ending the need for student loans and other grants and the process for administering them.

A refundable child tax credit, paid with wages, stipends or benefits ends the need for the EITC, SNAP, TANF and disability and survivors payments funded through Social Security.

Unemployment benefits are intended as an incentive to keep staff, although avoiding them has resulted in a wasteful system of punitive human resource policies to fire people for cause. Giving employers a refundable offset mitigates these incentives and results in their referral to other payers, especially schools, who would take over plan administration (rather than having government do so).

The main question is always how to pay for high Social Security, disability and unemployment benefits? The most appropriate way to pay some of it is an employer-paid subtraction VAT or net business receipts tax at the federal and state levels, with offsets to fund education and stipends for current and potential employees, as well as their children and the children of current employees. Ideally, what is collected by the government and redistributed will be zero.

The other part of the funding is a goods and services (value added) tax to take over funding the employer contribution for Social Security, as well as long term unemployment insurance.

The state level SVAT would fund education and related stipends and child credits (again, with offsets).

Individual employee FICA taxes will fund additional payments to retirees over and above long term unemployment insurance levels.

Personal and corporate income taxes will be abolished for all but the top 1% as part of the deal. To replace capital gains taxes, an asset value added tax will be levied for each transaction (explained elsewhere).

To avoid the abuse of keeping people on payroll who do nothing, refundable portions (paid by government) of offsets will be limited to SVAT + GST collections.

To review the bidding, the list of government functions abolished in a radical reform include punitive (rather than no-fault) unemployment insurance, temporary assistance to needy families (and its replacement with real education), disability insurance, the complicated earned income tax credit, supplemental nutrition assistance, inheritance taxes, employer paid FICA and personal and corporate taxation, as well as the associated private sector costs, housing subsidies and the need to lobby for services for the poor.

. . . . .

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

Attachment - Tax Reform, Center for Fiscal Equity, March 24, 2023

Synergy: The President's Budget for 2024 proposes a 25% minimum tax on high incomes. Because most high income households make their money on capital gains, rather than salaries, an asset value added tax replacing capital gains taxes (both long and short term) would be set to that rate. The top rate for a subtraction VAT surtax on high incomes (wages, dividends and interest paid) would be set to 25%, as would the top rate for income surtaxes paid by very high income earners. Surtaxes collected by businesses would begin for any individual payee receiving $75,000 from any source at a 6.25% rate and top out at 25% at all such income over $375,000. At $450,000, individuals would pay an additional 6.25% on the next $75,000 with brackets increasing until a top rate of 25% on income over $750,000. This structure assures that no one games the system by changing how income is earned to lower their tax burden.

Individual payroll taxes. A floor of $20,000 would be instituted for paying these taxes, with a ceiling of $75,000. This lower ceiling reduces the amount of benefits received in retirement for higher income individuals. The logic of the $20,000 floor reflects full time work at a $10 per hour minimum wage offered by the Republican caucus in response to proposals for a $15 wage. The majority needs to take the deal. Doing so in relation to a floor on contributions makes adopting the minimum wage germane in the Senate for purposes of Reconciliation. The rate would be set at 6.25%.

Employer payroll taxes. Unless taxes are diverted to a personal retirement account holding voting and preferred stock in the employer, the employer levy would be replaced by a goods and receipts tax of 6.25%. Every worker who meets a minimum hour threshold would be credited for having paid into the system, regardless of wage level. All employees would be credited on an equal dollar basis, rather than as a match to their individual payroll tax. The tax rate would be adjusted to assure adequacy of benefits for all program beneficiaries.

High income Surtaxes. As above, taxes would be collected on all individual income taxes from salaries, income and dividends, which exclude business taxes filed separately, starting at $400,00 per year. This tax will fund net interest on the debt (which will no longer be rolled over into new borrowing), redemption of the Social Security Trust Fund, strategic, sea and non-continental U.S. military deployments, veterans' health benefits as the result of battlefield injuries, including mental health and addiction and eventual debt reduction.

Asset Value-Added Tax (A-VAT). A replacement for capital gains taxes and the estate tax. It will apply to asset sales, exercised options, inherited and gifted assets and the profits from short sales. Tax payments for option exercises, IPOs, inherited, gifted and donated assets will be marked to market, with prior tax payments for that asset eliminated so that the seller gets no benefit from them. In this perspective, it is the owner's increase in value that is taxed. As with any sale of liquid or real assets, sales to a qualified broad-based Employee Stock Ownership Plan will be tax free. These taxes will fund the same spending items as high income and subtraction VAT surtaxes. There will be no requirement to hold assets for a year to use this rate. This also implies that this tax will be levied on all eligible transactions.

The 3.8% ACA-SM tax will be repealed as a separate tax, with health care funding coming through a subtraction value added tax levied on all employment and other gross profit. The 25% rate is meant to be a permanent compromise, as above. Any changes to this rate would be used to adjust subtraction VAT surtax and high income surtax rates accordingly. This rate would be negotiated on a world-wide basis to prevent venue seeking for stock trading.

Subtraction Value-Added Tax (S-VAT). Corporate income taxes and collection of business and farm income taxes will be replaced by this tax, which is an employer paid Net Business Receipts Tax. S-VAT is a vehicle for tax benefits, including

- Health insurance or direct care, including veterans' health care for non-battlefield injuries and long term care.
- Employer paid educational costs in lieu of taxes are provided as either employee-directed contributions to the public or private unionized school of their choice or direct tuition payments for employee children or for workers (including ESL and remedial skills). Wages will be paid to students to meet opportunity costs.
- Most importantly, a refundable child tax credit at median income levels (with inflation adjustments) distributed with pay.

Subsistence level benefits force the poor into servile labor. Wages and benefits must be high enough to provide justice and human dignity. This allows the ending of state administered subsidy programs and discourages abortions, and as such enactment must be scored as a must pass in voting rankings by pro-life organizations (and feminist organizations as well). To assure child subsidies are distributed, S-VAT will not be border adjustable.

As above, S-VAT surtaxes are collected on all income distributed over $75,000, with a beginning rate of 6.25%. replace income tax levies collected on the first surtaxes in the same range. Some will use corporations to avoid these taxes, but that corporation would then pay all invoice and subtraction VAT payments (which would distribute tax benefits). Distributions from such corporations will be considered salary, not dividends.

Credit Invoice Value-Added Tax (CI-VAT) Border adjustable taxes will appear on purchase invoices. The rate varies according to what is being financed. If Medicare for All does not contain offsets for employers who fund their own medical personnel or for personal retirement accounts, both of which would otherwise be funded by an S-VAT, then they would be funded by the I-VAT to take advantage of border adjustability.

CI-VAT forces everyone, from the working poor to the beneficiaries of inherited wealth, to pay taxes and share in the cost of government. As part of enactment, gross wages will be reduced to take into account the shift to S-VAT and CI-VAT, however net income will be increased by the same percentage as the CI-VAT. Inherited assets will be taxed under A-VAT when sold. Any inherited cash, or funds borrowed against the value of shares, will face the I-VAT when sold or the A-VAT if invested.

CI-VAT will fund domestic discretionary spending, equal dollar employer OASI contributions, and non-nuclear, non-deployed military spending, possibly on a regional basis. Regional CI-VAT would both require a constitutional amendment to change the requirement that all excises be national and to discourage unnecessary spending, especially when allocated for electoral reasons rather than program needs. The latter could also be funded by the asset VAT (decreasing the rate by from 19.25% to 13%).

Carbon Added Tax (C-AT). A Carbon tax with receipt visibility, which allows comparison shopping based on carbon content, even if it means a more expensive item with lower carbon is purchased. C-AT would also replace fuel taxes. It will fund transportation costs, including mass transit, and research into alternative fuels. This tax would not be border adjustable unless it is in other nations, however in this case the imposition of this tax at the border will be noted, with the U.S. tax applied to the overseas base.

Contact Sheet

Michael Bindner
Center for Fiscal Equity
14448 Parkvale Road, Suite 6
Rockville, MD 20853
301-871-1395
fiscalequitycenter@yahoo.com
mbinder@umd.edu

Committee on Ways and Means
Subcommittees on Social Security and Work & Welfare
Joint Hearing onThe President's Fiscal Year 2025
Social Security Administration Budget
Thursday, March 21, 2024 at 2:00 PM

All submissions must include a list of all clients, persons and/or organizations on whose behalf the witness appears:

This testimony is not submitted on behalf of any client, person or organization other than the Center itself, which is so far unfunded by any donations.