



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Statement for the Record

**Hearing on the Social Security Disability
Fraud Scheme in New York**

**Subcommittee on Social Security
House Committee on Ways and Means**

January 16, 2014

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

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The Consortium for Citizens with Disabilities (CCD) is a working coalition of national organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of the 54 million children and adults with disabilities in all aspects of society. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability programs and the Title XVI Supplemental Security Income (SSI) program.

The Co-Chairs of the CCD Social Security Task Force submit this Statement for the Record of the January 16, 2014, House Ways and Means Social Security Subcommittee hearing on the Social Security Disability Fraud Scheme in New York.

Approximately 100 former police officers, firefighters and others were recently indicted in New York City for allegedly fraudulently obtaining Social Security Disability Insurance benefits. The allegations are extremely troubling, and if true, these individuals' actions are nothing short of deplorable.

We condemn any misuse of the Social Security disability programs. Any individual who seeks to abuse vital programs like Social Security does so at the expense of the millions of disabled workers for whom benefits provide essential economic security -- and must be brought to justice.

We encourage anyone who suspects abuse of the Social Security disability programs to report it via Social Security's hotline 1-800-269-0271 or online at www.oig.ssa.gov.

At the same time, we must take care not to paint Social Security's disability programs with the brush of the few who aim to defraud it, without putting them in the context of the millions of individuals who receive benefits appropriately and for whom Social Security is a vital lifeline.

Social Security's disability programs are a core component of our nation's Social Security system, which keeps millions of hardworking Americans and their families out of poverty. Extremely strict eligibility requirements mean that fewer than four in ten applicants are approved for disability benefits, even after all stages of appeal. Demonstrating eligibility requires extensive medical evidence, and many individuals are denied benefits despite significant disabilities and chronic illnesses. Benefits are modest but vital – averaging just over \$500 per month for Supplemental Security Income and approximately \$1,130 per month for Social Security Disability Insurance (SSDI). For many, disability benefits make it possible to secure stable housing and purchase food, life-sustaining medications, and other basic necessities. Disability benefits can be the difference between life and death for many Americans.

The SSDI program provides vital and much-needed economic security and access to health care for individuals whose impairments are so severe that they preclude substantial work. We recognize the importance of ensuring that Social Security disability payments are only made to people who are entitled to receive them and that the amount of the payments are accurate. The Social Security Administration (SSA) does a good job of ensuring that payments are accurate. Acting Commissioner Colvin pointed out in her testimony at the January 16, 2014, Subcommittee hearing that SSA has one of the lowest error rates in the government, with a less than 1% rate of inaccurate payments for the SSDI program. Although this low error rate is good compared to other government agencies and programs, the undersigned organizations of the CCD Social Security Task Force believe that more needs to be done to prevent overpayments and are concerned that recent appropriations decisions will undermine these efforts.

SSA Requires Adequate Resources for Program Integrity

SSA must have sufficient resources to meet the service needs of the public and ensure program integrity. SSA's administrative budget is only about 1.4 percent of benefits paid out each year. With the baby boomers entering retirement and their disability prone years, SSA is experiencing dramatic workload increases at a time of diminished funding and staff. For the two years prior to fiscal year (FY) 2014, Congress appropriated \$421 million less for SSA's program integrity efforts (such as medical and work continuing disability reviews and Title XVI redeterminations) than the Budget Control Act of 2011 (BCA) authorized. Over the three years prior to FY 2014, SSA received nearly \$1 billion less for its Limitation on

Administrative Expenses (LAE) than the President's request, and lost over 11,000 employees since FY 2011.

We are encouraged that the recently enacted budget bill for FY 2014 includes full funding of the FY 2014 BCA level for SSA's program integrity reviews. This will allow SSA to significantly increase continuing disability reviews (CDRs).

Adequate LAE is essential to preventing service degradation and ensuring that SSA can provide timely and accurate payments and perform necessary program integrity work, including:

- **Disability claims processing.** Adequate resources support claims processing and disability determinations at the initial levels so that the correct decision can be made at the earliest point possible and unnecessary appeals can be avoided. Inadequate staffing at field offices and state Disability Determination Services (DDS) leads to increased workload at the hearing level. Disability claims may be less thoroughly developed, leading to incorrect denials of benefits and more appeals. Additionally, the significant progress made in recent years at the hearing level in reducing average wait times until hearings and shrinking the disability claims backlog has eroded due to the lack of needed resources.

- **Pre-effectuation and continuance reviews¹ of DDS determinations.** As required by the Social Security Act, SSA conducts pre-effectuation reviews of at least half of all DDS initial and reconsideration allowances for Title II (Social Security) and Title XVI (Supplemental Security Income) adult disability benefits. SSA also reviews a number of DDS Title II CDR determinations that result in continuation of benefits. For every dollar spent in FY 2011 on these reviews SSA estimates a lifetime savings of about \$11 in Title II and Title XVI benefits.²

- **Disability Determination Services quality review.** SSA has implemented multiple levels of quality review at the DDS level. For example, SSA requires all DDSs to have an internal quality assurance function, and also operates an Office of Quality Performance (OQP) which conducts quality assurance reviews of samples of initial and reconsideration determinations of the DDSs.

- **Review of Administrative Law Judge (ALJ) decisions in a manner consistent with law.** While ALJs have qualified decisional independence, they are required to follow SSA laws, regulations and policies. SSA has implemented a quality review process for ALJ decisions. In FY 2011, the SSA Office of Disability Adjudication and Review (ODAR) established a new Quality Review (QR) initiative and opened four new Branches in the Office of Appellate Operations. The QR Branches review a computer-generated sample of unappealed favorable ALJ decisions (over 7,000 in FY 2012), pre-effectuation, and then refer cases to the Appeals Council for possible review. If the Appeals Council accepts review, it can remand or issue "corrective" decisions, which may involve changing the favorable ALJ decision to a "partially" favorable decision or to an unfavorable decision. There is also some post-

¹ "Pre-effectuation" refers to reviews conducted before benefits are authorized to be paid. Accordingly, "continuance reviews" and "post-effectuation reviews" are conducted after benefit authorization.

² Social Security Administration, June 27, 2013, Annual Report on Social Security Pre-Effectuation Reviews of Favorable State Disability Determinations, Fiscal Year 2011.

effectuation review of ALJ decisions. While these ALJ decisions cannot be changed, post-effectuation review enables targeted examination of compliance with agency policies and policy guidance and additional training as needed to ensure high quality decision-making.

- **CDRs and redeterminations.** SSA is required by law to conduct CDRs in all cases where the beneficiary's condition is expected to improve, or where improvement is considered possible, to ensure that benefits are paid only as long as the individual remains eligible. SSA estimates that every \$1 spent on medical CDRs saves the federal government \$9, but reports a current backlog of 1.3 million CDRs. We are hopeful that the additional resources in the FY 2014 budget will allow SSA to significantly increase the number of medical and work CDRs and SSI redeterminations it is able to conduct. Work CDRs are discussed in more detail below.

- **Cooperative Disability Investigations (CDI).** SSA and the Office of the Inspector General (OIG) jointly established the CDI Program in 1998. Twenty-five CDI units across the U.S. investigate individual disability applicants and beneficiaries, as well as potential third parties who facilitate disability fraud. SSA or DDS personnel make referrals to a CDI unit for investigation, and CDI units also accept reports from the public via a toll-free telephone hotline and an online web form. Investigations uncovering fraud or attempted fraud can result in a denial, suspension, or termination of benefits, civil or criminal prosecution, and/or imposition of civil monetary penalties, and/or sanctions on claimant representatives for violation of SSA's ethical standards. Since the program's inception in FY 1998, CDI efforts have resulted in \$2.2 billion in projected savings to SSA's disability programs, with more than \$860 million just over the last three years, as Acting Commissioner Colvin noted in her testimony for this hearing.

Delay in Processing Work CDRs Due to Inadequate Staffing Results in Significant Overpayments and Hurts People with Disabilities

An SSDI beneficiary who goes to work is required to report his or her earnings to SSA so that a work CDR can be performed and benefits can be adjusted when appropriate. If the earnings report is processed in a timely manner, the benefits are adjusted and no overpayment results. However, if SSA lacks the staff to process earnings reports in a timely manner, the beneficiary is likely to receive an overpayment. The longer the delay in processing, the larger the overpayment will be. According to January 2012 testimony by Acting Commissioner Colvin before this Subcommittee,³ SSA has allocated additional resources to work CDRs, targeting cases with the oldest earnings reports – those more than a year old. During the hearing, she stated that it takes more than 270 days on average for SSA to complete a work CDR. Every month that passes from the time that a beneficiary reports earnings before a work CDR is completed increases the likelihood of a large overpayment.

This delay in processing of earnings reports often has a very detrimental impact on people with disabilities. When beneficiaries faithfully notify SSA of earnings or other changes that may reduce their benefit payment amounts, as noted above, it may be months or years before SSA sends an overpayment notice to the beneficiary, demanding repayment of sometimes tens of thousands of dollars of accrued overpayments. It is shocking to beneficiaries to

³ "Securing the Future of the Social Security Disability Insurance Program: Combating Waste, Fraud, and Abuse," Subcommittee on Social Security, House Committee on Ways and Means, January 24, 2012.

receive these notices, when they reasonably assumed that SSA had processed the information they submitted, and it is challenging, if not impossible, for someone subsisting on benefits alone to repay the overpayments. Many individuals with disabilities are wary of attempting a return to work out of fear that this may give rise to an overpayment, resulting in a loss of economic stability and health care coverage upon which they rely.

SSA needs to develop a better reporting and recording system and promptly adjust benefit payments –thus preventing these overpayments. It is important to note that, in and of themselves, **overpayments do not indicate fraud or abuse as beneficiaries are encouraged to work if they are able.** The problems arise when reported earnings are not properly recorded and monthly overpayments are not properly adjusted. SSA must have adequate resources and staffing to allow the agency to reduce both the backlog and processing time of earnings reports.

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Conclusion

The Social Security Administration works hard to ensure program integrity, but it requires adequate resources to do so. It has been deprived of adequate administrative resources to conduct necessary program integrity work for several years. We look forward to working with Congress to enable the Social Security Administration to ensure that benefits are paid to the right person, in the right amount, and at the right time — and to implement the array of critical safeguards that exist in current law.