



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

STATEMENT FOR THE RECORD

**Hearing before the
House Ways and Means Committee
Subcommittee on Human Resources**

**Protecting the Safety Net from Waste, Fraud, and Abuse
June 3, 2015**

**Statement submitted by the Co-Chairs of the
Social Security Task Force,
Consortium for Citizens with Disabilities**

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

Kate Lang, Justice in Aging
Jeanne Morin, National Association of Disability Representatives
Webster Phillips, National Committee to Preserve Social Security and Medicare
TJ Sutcliffe, The Arc of the United States
Ethel Zelenske, National Organization of Social Security Claimants' Representatives

Chairman Boustany, Ranking Member Doggett, and Members of the Subcommittee, we are submitting this Statement for the Record as Co-Chairs of the Consortium for Citizens with Disabilities (CCD) Social Security Task Force, on "Protecting the Safety Net from Fraud, Waste, and Abuse."

CCD is a working coalition of national consumer, advocacy, provider, and professional organizations working together with and on behalf of the 54 million children and adults with disabilities and their families living in the United States. The CCD Social Security Task Force focuses on disability policy issues in the Title II disability programs and the Title XVI Supplemental Security Income (SSI) program.

The focus of this hearing is extremely important to people with disabilities. SSI cash benefits, along with the related Medicaid benefits, are the means of survival for over 8 million individuals

with severe disabilities. SSI benefits help people with significant disabilities meet their basic needs for housing, food, and clothing, and secure essential services and medical care. SSI benefits also play a central role in helping people with significant disabilities live in the community, rather than in restrictive, costly institutions.

Proper and timely application of the SSI financial eligibility criteria is important. The SSI program is a very complex program to administer.

Proper administration of SSI benefits is critical and has long been of interest to the CCD Social Security Task Force.

The SSI program is very complex and benefits can change each month due to income and resource fluctuations and changes in living arrangements. There are complex program rules and delays in receiving income data. The agency has struggled over the years to improve its accuracy rate for SSI payments – both for overpayments and for underpayments. Yet, the vast majority of payments are free of an overpayment or underpayment. Given the complexity of the statutes governing the disability programs and the volume of work, some overpayments are unavoidable. The complexity of the return-to-work provisions is exacerbated when a beneficiary receives both SSDI and SSI, because the beneficiary is subject to two different sets of rules. More than 30 percent of Title XVI beneficiaries aged 18-64 also receive Title II benefits.¹

While the Social Security Administration (SSA) recognizes that the SSI program rules are challenging for administrators of the program, we believe that the program is much more difficult for SSI beneficiaries to understand and follow accurately. SSI applicants and beneficiaries are under tremendous financial stress when they apply for SSI and while they are using SSI benefits (the maximum federal SSI benefit of \$733 per month pays only about 75 percent of the federal poverty level for an individual). They often experience other stressful situations, including food insecurity, possible homelessness, and personal and family crisis due to economic hardship. For some, the very disability for which they have turned to the SSI program adds its own pressures to the situation and, in some cases, makes navigating the complexity of the SSI program extremely difficult.

For these reasons, we believe that SSA must exercise caution to ensure that beneficiaries are protected, particularly where they are unable to navigate the system and need assistance in correcting errors. While there may be ways to improve the process from the perspective of the Administration, the bottom line evaluation must be how the process affects the very claimants and beneficiaries for whom the system exists. We believe that the critical measure for assessing initiatives for achieving administrative efficiencies must be the potential impact on claimants and beneficiaries. Proposals for increasing administrative efficiencies must bend to the realities of beneficiaries' lives and accept that people face innumerable obstacles when they apply for and rely upon disability benefits. SSA must continue, and improve, its established role in ensuring that beneficiaries are fully protected in the process and must design its rules and procedures to reflect this administrative responsibility.

¹ Table V.F1. Percentage of SSI Federally-Administered Recipients in Current-Payment Status with Participation in Selected Programs Based on SSA Administrative Records, December 2013. Social Security Administration, *2014 Annual Report of the SSI Program*, http://www.socialsecurity.gov/oact/ssir/SSI14/V_F_OtherPrograms.html.

Update the SSI asset and savings limits

For many years, the Task Force has recommended that Congress increase the SSI asset limit and income disregards and index them annually for inflation. The monthly unearned income disregard for an individual has remained at \$20 and the earned income disregard for an individual has remained at \$65 plus one-half of remaining earnings since the inception of the SSI program in 1972.² Similarly, the SSI asset limit of \$2,000 for an individual or \$3,000 for a couple has not changed since 1989. Neither the income disregards nor the asset limit are indexed for inflation.

The extremely low income disregards mean that many SSI beneficiaries' earnings trigger an overpayment for even relatively modest amounts of work. Nearly half (about 43 percent) of SSI beneficiaries who work earn less than \$200 per month.³ Increasing the earned income disregard and indexing it for inflation would help beneficiaries and make it easier for them to work. For SSA, it has the potential to reduce the agency's administrative workload for these low-wage earners, reduce overpayments, and perhaps lead to administrative savings.

Raising the asset limit and income disregards will also provide working beneficiaries the opportunity to save for home ownership, education, or retirement, and will protect their access to Medicaid.

For these reasons, we recommend raising both the asset limit and income disregards to the amounts that they would have been if indexed since their inception. A recently introduced bill, H.R. 2442, the "Supplemental Security Income Restoration Act of 2015" would increase the resource limit and income exclusions for SSI beneficiaries.

Adequate resources for program integrity activities

The integrity of the Social Security and SSI disability programs must be protected and cases of true fraud should be uncovered. However, we are always concerned about the potential effect that major changes in the SSI and Title II disability programs would or could have on people with disabilities, particularly those with cognitive or mental impairments. In the fraud and abuse context, our concern is that claimants and beneficiaries must be treated fairly and be given consideration whenever their impairments might influence their understanding of their actions or the consequences of their actions. It is with those concerns in mind that we approach all proposals addressing fraud and abuse

SSA must have sufficient resources to meet the service needs of the public and ensure program integrity. SSA's administrative budget is less than 1.3 percent of benefits paid out each year.⁴ 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. Over Fiscal Years (FY) 2012-2013, Congress appropriated \$421 million less for SSA's program integrity efforts (such as

² U.S. House of Representatives, Committee on Ways and Means (2008) *Background Material and Data on the Programs within the Jurisdiction of the Committee on Ways and Means*.

³ Table 46. Blind and disabled recipients who work and their average earnings, by selected characteristics. Social Security Administration, December 2013. *2014 Annual Report of the SSI Program*, http://www.socialsecurity.gov/policy/docs/statcomps/ssi_ast/2013/sect07.html#table46.

⁴ Source: <http://ssa.gov/budget/FY16Files/2016BO.pdf>, p.7.

medical and work Continuing Disability Reviews and Title XVI redeterminations) than the Budget Control Act of 2011 (BCA) authorized. Over the last three years, SSA has received nearly \$1 billion less for its Limitation on Administrative Expenses (LAE) than the President's request, and by the end of FY 2013 lost over 11,000 employees since FY 2011. In FY 2015, SSA received \$218 million less for LAE than the President requested.⁵ This lack of funding has significant implications for SSA's ability to perform its program integrity and other workloads. The President's FY 2015 budget request would have allowed SSA to complete 98,000 more Continuing Disability Reviews (CDRs) and 367,000 more SSI non-medical redeterminations this fiscal year than the agency now plans to perform.⁶

Adequate LAE is essential to preventing service degradation and ensuring that SSA can provide timely and accurate payments and perform necessary program integrity work. While we support bills that increase the amount of program integrity work that SSA will perform, it is necessary to increase the funding SSA receives by a commensurate amount in order to prevent further degradation of SSA's customer service due to trade-offs that would need to be made to accommodate a growing program integrity workload. We have significant concerns about provisions that increase the program integrity workload without providing SSA increased resources to complete those activities.

Pending legislation

Several recently introduced bills were discussed at the hearing. We have concerns about the possible negative impact these bills could have, if enacted, on people with disabilities who are applying for or receiving Title II benefits or SSI disability benefits. Our concerns include, but are not limited to, the following.

- **H.R. 918: The “Social Security Disability Insurance and Unemployment Benefits Double Dip Elimination Act of 2015”**

Members of CCD and other organizations have expressed opposition to proposals to eliminate or reduce concurrent Social Security Disability Insurance (SSDI) and Unemployment Insurance (UI) benefits, including H.R. 918.⁷

SSDI and UI are vital insurance systems established for different purposes. Receiving UI and SSDI concurrently is legal and appropriate. This has been the long-standing position of the Social Security Administration and of the courts. Individuals qualify for SSDI because they have significant disabilities that prevent work at or above Social Security's Substantial Gainful Activity level (earnings of \$1,090 per month, in 2015). At the same time, the Social Security Act encourages SSDI beneficiaries to attempt to work, and those who have done so at a low level of earnings but have lost their job through no fault of their own may qualify for UI. As highlighted in a 2012 Government Accountability Office report, less than one percent of individuals served by SSDI and UI receive concurrent benefits, and the average quarterly concurrent benefit in fiscal year 2010 totaled only about \$3,300 (or an average of \$1,100 per month).

⁵ Source: <http://ssa.gov/budget/FY15Files/2015BO.pdf>, p. 8, and <http://ssa.gov/budget/FY16Files/2016BO.pdf>, p.8.

⁶ Source: <http://ssa.gov/budget/FY15Files/2015BO.pdf>, p. 9 and <http://ssa.gov/budget/FY16Files/2016BO.pdf>, p.9.

⁷ See <http://www.c-c-d.org/fichiers/CCD-Letter-DI-UI-03-17-15FINAL.pdf>.

These extremely modest benefits can be a lifeline to workers with disabilities who receive them, and their families – and as permitted by law are neither “double-dipping” nor improper payments. We are deeply concerned by any prospect of worsening the economic security of workers with disabilities and their families.

In addition, proposed cuts to concurrent benefits single out SSDI beneficiaries with disabilities, treating them differently from other workers under the UI program.

Finally, proposed cuts to concurrent benefits create new disincentives to work for SSDI beneficiaries, by penalizing individuals who qualify for both SSDI and UI because they have attempted to work, as encouraged by law. The creation of a new work disincentive runs directly counter to our shared goal of expanding employment opportunities for people with disabilities.

- **H.R. 2511: The “School Attendance Improves Lives (SAIL) Act”**

This bill would suspend SSI benefits for SSI childhood disability beneficiaries who are 16 and 17 years old if they miss a specified amount of school without appropriate medical documentation. The SAIL Act would require SSA to evaluate school attendance on a monthly basis, providing exceptions only for good medical cause. Youth who receive SSI may experience school absences for many legitimate reasons, and could experience significant hardship due to loss of benefits under the SAIL Act.

We are troubled that the bill does not take into account a number of concerns, including: (1) the impact of any benefit cuts on children receiving SSI; (2) reasons why these children receiving SSI benefits might have difficulty documenting excused absences as required by the bill; (3) additional reasons children might not attend school; and (4) the administrative burden the bill would place on SSA.

- **H.R. 2504: The “Control Unlawful Fugitive Felons (CUFF) Act”**

This bill would prevent individuals from receiving Social Security or SSI benefits if there is an outstanding arrest warrant for (1) alleged commission of a felony or a crime punishable by imprisonment of more than one year; or (2) alleged violation of a condition of probation or parole.

Currently, law enforcement agencies provide information to the SSA Office of Inspector General (OIG) on people who have outstanding felony arrest warrants for escape, flight to avoid prosecution, or flight-escape or who have violated conditions of probation or parole. SSA then compares the information to its files of people receiving SSI and Social Security benefits. If there is a match, the OIG works with law enforcement to attempt to locate the person and refers to SSA cases for suspension of benefits.

Suspension and/or denial of benefits based on an outstanding arrest warrant was SSA’s previous policy implementing the SSI prohibition (enacted in 1996) and the Title II prohibition (enacted in 2004). Litigation challenging the agency’s policy of relying on an arrest warrant ultimately resulted in court decisions finding the policy illegal and led to a change to comply with the court orders. If Congress enacts H.R. 2504, it would return SSA to a policy that was overly broad and led to much unintended harm to elderly and disabled beneficiaries.

SSA's initial implementation of the benefits suspensions was overly broad and likely more inclusive in its reach than originally intended. Of the more than 100,000 SSI beneficiaries affected (prior to the 2004 extension to Title II beneficiaries), a disproportionate number of them had serious mental impairments. Also, many were homeless. For people with mental impairments, including cognitive limitations, the beneficiary may not be aware of the violation, may not have understood the terms of parole or probation, or may have other misunderstandings about his/her legal status. A significant percentage of these cases involved relatively minor crimes that were committed many years ago and which prosecutors had no intention of pursuing.

Also, the agency's prior "bright line" approach, i.e., suspending payment of benefits solely on the basis of an outstanding warrant, was subject to procedural irregularities in many field offices around the country. There were many reports from advocates that beneficiaries were discouraged from filing appeals or outright denied the right to appeal by field office workers because the beneficiaries were presumptively deemed ineligible because of the mere existence of the outstanding warrant. While we recognize that denying these important due process rights is not consistent with SSA policy, the adoption of the "outstanding warrant" standard did play a role in the improper denial of appeal rights.

Conclusion

We look forward to continuing to work with the Members of the Human Resources Subcommittee to explore ways to improve the SSI program and to protect the vital income support function the program provides for some of the most vulnerable Americans.

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

Kate Lang, Justice in Aging
Jeanne Morin, National Association of Disability Representatives
Webster Phillips, National Committee to Preserve Social Security and Medicare
TJ Sutcliffe, The Arc of the United States
Ethel Zelenske, National Organization of Social Security Claimants' Representatives