



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

**Recommendations to Support SSA's Program Integrity Work
June 2014**

The Social Security Administration (SSA) has one of the lowest error rates in the government, with a less than 1% rate of over-payments for Social Security Disability Insurance (SSDI).¹ Although this low error rate compares favorably to other agencies, more should be done to support SSA's program integrity work.

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.

From FY 2011 to FY 2013, 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. During those years, SSA 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 nearly 11,000 employees since FY 2011. With the FY 2014 appropriations, Congress provided SSA with funding to significantly increase the number of medical continuing disability reviews (CDR), from 429,000 in FY 2013 to 510,000 planned for FY 2014; however, SSA faces a backlog of approximately 1.3 million medical CDRs.²

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, will be eroded due to the lack of needed resources.
- **Pre-effectuation and continuance reviews³ 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 Continuing Disability Review

¹ Social Security Administration, April 2014, Accountable Official's Annual Report, Executive Order 1350, Reducing Improper Payments, http://www.ssa.gov/improperpayments/documents/AO_Report_2014.pdf.

² Statement of Marianna LaCanfora, Acting Deputy Commissioner for Retirement and Disability Policy, Social Security Administration before the House Committee on Oversight and Government Reform, Subcommittee on Energy Policy, Health Care and Entitlements, April 9, 2014, http://www.ssa.gov/legislation/testimony_040914.html.

³ "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.

(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.⁴

- **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-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.⁵ SSA also requires resources to conduct work CDRs for beneficiaries whose earnings suggest that they may no longer be eligible for benefits, as well as annual redeterminations for all Title XVI beneficiaries to ensure continued income and resource eligibility.
- **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.⁶

Improving the Disability Determination Process

Improving the disability determination process at the initial levels can go a long way towards reducing the disability claims backlog, making the process more efficient for all parties involved, and enhancing accuracy in decisions and payments. Needed improvements include:

⁴ Social Security Administration, June 27, 2013, Annual Report on Social Security Pre-Effectuation Reviews of Favorable State Disability Determinations, Fiscal Year 2011.

⁵ Beatrice Disman, Regional Commissioner, New York Region, Social Security Administration, Statement for the Record, September 19, 2013, House of Representatives, Committee on Ways and Means, Social Security Subcommittee.

⁶ The Hon. Patrick O’Carroll, Inspector General, Social Security Administration, Statement for the Record, “Challenges Facing the Next SSA Commissioner,” April 26, 2013, before the House of Representatives, Committee on Ways and Means, Social Security Subcommittee.

1. **Expand existing tools for expediting disability determinations.** SSA already has in place several successful methods of expediting disability determinations for claimants whose conditions are so severe that they clearly meet the Social Security disability standard. These include the Quick Disability Determinations (QDDs), Compassionate Allowances, and terminal illness (“TERI”) cases. Compassionate Allowances allows SSA to quickly identify claimants with severe, often terminal conditions such as certain advanced cancers and life-threatening neurological disorders, for which there is broad agreement that the severity of the impairment without question meets the Social Security disability standard. Quick Disability Determinations (QDD) uses a computer-based predictive model to identify cases where a medical eligibility is highly likely and medical evidence is readily available, enabling the DDSs to expedite case processing. Initiatives such as QDD and Compassionate Allowances allow SSA to review cases more efficiently, while expediting approval for claimants with the most severe conditions and illnesses.

2. **Improve development of evidence earlier in the process.** Improvements at the initial levels facilitate thorough development of claims and enable SSA to make the correct decision early on in the process. Inadequate case development at the DDS level can result in inappropriate denials and increased workload at ODAR, due to more appeals as well as more cases requiring additional development, leading to longer wait times at the hearing level. Recommendations include:
 - Provide more assistance to claimants at the application level regarding necessary and important evidence so that all impairments and sources of information are identified, including non-physician and other professional sources. This is especially important for claimants with mental impairments and limited English proficiency.

 - Ensure that questionnaires and forms are understandable to claimants and as free of jargon as possible, as well as appropriately tailored to specific types of impairments and probative of information that addresses the disability standard as implemented by SSA. This “language” barrier can lead to incomplete applications missing key details needed for full development of the claim.

 - As with paper records, electronic records need to be adapted to meet the needs of the SSA disability determination process. Many providers submit evidence electronically; these records are based on the providers’ needs but often do not address the SSA disability criteria.

 - Provide better explanations to medical providers. SSA and DDS forms and questionnaires should provide better explanations to all providers, in particular to physician and non-physician treating sources, about the disability standard and should ask questions that are probative of evidence and information relevant to the standard. Unclear, hard to understand forms can result in incomplete responses as well as delays in obtaining medical evidence, even from supportive and well-meaning doctors.

 - Improve the quality of consultative examinations. Steps should be taken to improve the quality of the consultative examination (CE) process. There are many reports of inappropriate referrals (e.g., to providers with the wrong specialty given the claimant’s condition(s)), short perfunctory examinations, and failure to provide an interpreter during the exam. In addition, there should be more effort to have the treating physician conduct the consultative examination, as authorized by SSA’s regulations.

 - Increase reimbursement rates for providers. To improve provider response to requests for records, appropriate reimbursement rates for medical records and reports need to be established. Appropriate rates should also be paid for CEs and for medical experts who testify at hearings, to ensure availability of qualified medical professionals. Appropriate reimbursement rates would also increase the frequency with which treating physicians agree to conduct CEs at SSA’s request, enabling

adjudicators to obtain additional medical evidence from a treating source already familiar with the claimant's condition(s) and medical history.

3. **Help claimants obtain representation earlier in the process to assist with development.**

Representatives play an important role in obtaining medical and other information to support their clients' disability claims and helping SSA to streamline the disability determination process. They routinely explain the process and procedures to their clients with more specificity than SSA. They obtain evidence from all medical sources, other treating professionals, school systems, previous employers, and others who can shed light on the claimant's entitlement to disability benefits. Given the importance of representation, the Social Security Act requires SSA to provide information on options for seeking legal representation, whenever the agency issues a notice of any "adverse determination." This statutorily required information is typically provided only once the claimant has requested a hearing before an ALJ. SSA should provide claimants with more information on options for representation before and during the initial application process.

Improving the Hearings and Appeals Levels

1. **Issue hearing notices further in advance of the hearing.** Increase the advance notice of the hearing date from the current 20 days to 75 days. More notice will allow claimants and representatives more time to obtain medical evidence before the hearing and make it far more likely that the record will be complete when the ALJ reviews the file before the hearing. The 75-day time period has been in effect in SSA's Region I states since August 2006 and, based on reports from representatives, has worked well.
2. **Provide more training and guidance to adjudicators.** This training and guidance should focus on policies that are frequently misapplied, e.g., standards for weighing medical evidence, the role of non-physician evidence.
3. **Support technological improvements, so long as they do not infringe on claimant's rights.** SSA has implemented a number of significant technological improvements that have helped claimants and their representatives and made the process more efficient for SSA. These include Electronic Records Express, which allows registered claimants' representatives to submit evidence electronically; online access to claimants' electronic folders; electronic filing of appeals; and the use of video hearings.
4. **Support expedited screening initiatives.** SSA has implemented a number of initiatives to accelerate decisions, without sacrificing accuracy. For example, the Senior Attorney Program allows senior staff attorneys in hearing offices to issue fully favorable decisions in cases that can be decided without a hearing (i.e. "on the record"). A related program, the Virtual Screening Unit, is made up of about 100 Office of Disability Adjudication and Review (ODAR) senior attorneys who remain in their local hearing offices and screen electronic folder cases identified by the national ODAR office for favorable decisions.

Ensure Proper Payments for Beneficiaries Attempting to Work

The Social Security Act offers multiple work incentives for Title II and Title XVI disability beneficiaries to attempt to work. Timely and accurate administration is essential to ensuring that beneficiaries can successfully use these critically important work incentive programs, including ensuring that beneficiaries can attempt work without fear of underpayment, overpayment, or improper suspension or termination of benefits. To ensure proper payments, beneficiaries are required to report earnings. Unfortunately, delays in SSA processing of earnings reports mean that even when beneficiaries faithfully notify SSA of earnings or other changes that may reduce their benefits, it may be months or years before SSA processes their earnings reports, resulting in needless overpayments and additional work for SSA Field Offices and payment centers, as well as great anxiety and stress for beneficiaries when they receive overpayment notices, demanding repayment of sometimes tens of thousands of dollars of accrued overpayments.

- **SSA needs to develop a better earnings reporting and recording system and to promptly adjust benefit payments – thus preventing these overpayments.** This should include providing for online wage reporting for Title II and Title XVI beneficiaries. 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. Problems arise when reported earnings are not properly recorded and monthly payments 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.
- **SSA should consider using its Continuing Disability Review Enforcement Model to help prevent overpayments before they happen.** The Continuing Disability Review Enforcement Model is a computer algorithm that determines which disability cases should be prioritized for review to minimize large overpayments due to income from earnings, and initiate recovery efforts. This tool is an excellent example of how technology can increase efficiency and program integrity. SSA should also use it to target beneficiaries most in need of counseling about their benefits and reporting responsibilities, to prevent overpayments before they happen.
- **Congress should reauthorize SSA’s Title II demonstration authority to permit SSA to evaluate methods of strengthening and simplifying work incentives.** SSDI beneficiaries face a complex set of rules regarding earnings, and, if concurrently eligible for SSI, assets. Demonstrations allow SSA to test ways to help beneficiaries to attempt to work, including methods to reduce complexity, simplify administration, and potentially reduce improper payments. SSA has demonstration authority for its Title XVI programs, but Title II demonstration authority expired in 2005. Congress should extend SSA’s Title II demonstration authority to enable SSA to test options such as the **Work Incentives Simplification Pilot (WISP)**. Under the WISP, work would no longer be a reason for terminating SSDI benefits. SSA would continue to pay cash benefits for any month in which earnings were below the established threshold, but would suspend benefits for any month in which earnings were above the threshold. SSA would evaluate whether this pilot simplification reduces the number of improper payments due to work and allows the agency to redirect those administrative resources to other areas.

The CCD Social Security Task Force has developed a number of recommendations for strengthening and simplifying the Title II and Title XVI work incentives to make it easier for beneficiaries to navigate the system, particularly when attempting to work. Many of these recommendations have the potential to also simplify administration and reduce improper payments. For a fuller discussion, see: <http://waysandmeans.house.gov/UploadedFiles/TTWWIATest.pdf>.