

# THE SUPPLEMENTAL SECURITY INCOME PROGRAM

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## HEARING

BEFORE THE  
SUBCOMMITTEE ON HUMAN RESOURCES  
OF THE  
COMMITTEE ON WAYS AND MEANS  
U.S. HOUSE OF REPRESENTATIVES  
ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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MAY 20, 2004  
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**SERIAL 108-57**

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**THE SUPPLEMENTAL SECURITY INCOME  
PROGRAM**

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**THURSDAY, MAY 20, 2004**

U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON WAYS AND MEANS,  
SUBCOMMITTEE ON HUMAN RESOURCES,  
*Washington, DC.*

The Subcommittee met, pursuant to notice, at 10:14 a.m., in room B-318, Rayburn House Office Building, Hon. Wally Herger (Chairman of the Subcommittee) presiding.

[The advisory announcing the hearing follows:]

# ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON HUMAN RESOURCES

FOR IMMEDIATE RELEASE

CONTACT: (202) 225-1025

May 13, 2004

No. HR-10

## **Herger Announces Hearing on the Supplemental Security Income Program**

Congressman Wally Herger (R-CA), Chairman, Subcommittee on Human Resources of the Committee on Ways and Means, today announced that the Subcommittee will hold a hearing on the Supplemental Security Income program. **The hearing will take place on Thursday, May 20, 2004, in room B-318 Rayburn House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, oral testimony at this hearing will be from invited witnesses only. Witnesses will include representatives from the Social Security Advisory Board, the Social Security Administration Office of the Inspector General, and the U.S. General Accounting Office. However, any individual or organization not scheduled for an oral appearance may submit a written statement for consideration by the Subcommittee and for inclusion in the printed record of the hearing.

### **BACKGROUND:**

The Social Security Administration's (SSA) Supplemental Security Income (SSI) program is a means-tested Federal assistance program that provides monthly cash benefits to the Nation's needy blind, disabled, or elderly individuals. In fiscal year 2005, 6.9 million individuals are expected to receive \$38.4 billion in SSI payments averaging about \$425 per month. At an April 29, 2004 Subcommittee hearing on SSI, the Commissioner of Social Security discussed challenges in program administration and simplification, possible improvements in the disability determination process, and opportunities to better assist disabled SSI recipients in returning to work.

The 1996 Welfare Reform Law (P.L. 104-193), the Foster Care Independence Act of 1999 (P.L. 106-169), and the Social Security Protection Act of 2003 (P.L. 108-203) included provisions designed to improve the SSI program and address concerns about fraud and abuse. These changes included ending disability determinations based on drug addiction or alcoholism, barring fugitive felons and parole violators from receiving benefits, establishing a bounty system to prevent prisoners from illegally receiving benefits, enhancing the ability of SSA to detect and collect overpayments, strengthening penalties for fraud and abuse, and increasing protections for vulnerable SSI recipients. In addition, the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-170) contained provisions to help disabled individuals receive assistance to help them return to work.

In spite of these legislative changes and program improvements, challenges remain in the SSI program. For example, even as the U.S. General Accounting Office (GAO) removed SSI from its list of programs at high-risk for fraud and abuse in January 2003, it added a new high-risk area encompassing a range of Federal disability programs, including SSI. A recent GAO report highlighted residency violations as an area of ongoing program concern. The Social Security Advisory Board focused on program stewardship and the disability determination process in a statement included in the May 2003 SSI annual report and conducted a forum on the definition of disability in April 2004. In his September 2003 semiannual report to

Congress, the SSA Inspector General identified improper payments, management of the disability program, and service delivery among significant management issues that continue to confront SSA.

In announcing the hearing, Chairman Herger stated, "While we've made dramatic progress in reforming SSI over the past few years, SSA Commissioner Barnhart testified recently that there are still many areas of the program that need to be addressed. At this hearing we will hear more about the current operation of the SSI program and expert suggestions for improvement from those directly involved in overseeing and reviewing the operation of SSI."

#### **FOCUS OF THE HEARING:**

The hearing will review the operation of the SSI program, including anti-fraud provisions in law and policy, and consider further measures to improve program performance and better prevent fraud and abuse.

#### **DETAILS FOR SUBMISSION OF WRITTEN COMMENTS:**

**Please Note:** Any person or organization wishing to submit written comments for the record must send it electronically to [hearingclerks.waysandmeans@mail.house.gov](mailto:hearingclerks.waysandmeans@mail.house.gov), along with a fax copy to (202) 225-2610, by close of business Thursday, June 3, 2004. In the immediate future, the Committee website will allow for electronic submissions to be included in the printed record. Before submitting your comments, check to see if this function is available. **Finally**, due to the change in House mail policy, the U.S. Capitol Police will refuse sealed-packaged deliveries to all House Office Buildings.

#### **FORMATTING REQUIREMENTS:**

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be submitted electronically to [hearingclerks.waysandmeans@mail.house.gov](mailto:hearingclerks.waysandmeans@mail.house.gov), along with a fax copy to (202) 225-2610, in WordPerfect or MS Word format and MUST NOT exceed a total of 10 pages including attachments. Witnesses are advised that the Committee will rely on electronic submissions for printing the official hearing record.

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

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

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

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

Chairman HERGER. Welcome to this morning's hearing on the Supplemental Security Income (SSI) program. I apologize that we are running a few minutes late to all our witnesses and everyone in the audience. As noted during our hearing last month with Social Security Commissioner Barnhart, SSI provides \$3 billion of benefits monthly to nearly 7 million individuals. The SSI Program functions as a safety net for the Nation's neediest elderly and disabled citizens.

As we have heard, the Commissioner is working on reforms of the disability process, program simplification, work incentives and administrative challenges in the SSI Program. Her testimony provided us important insights as we review the SSI Program. Today, we continue that review and continue to ask some very basic questions. How is SSI working? How can the eligibility process be improved? Can vulnerable beneficiaries be better protected? Can more be done to reduce fraud, waste and abuse? How can we encourage more SSI beneficiaries to prepare for or go to work?

Today, we will hear from several key organizations with SSI oversight responsibility as well as from a leading representative of SSI recipients. The U.S. General Accounting Office (GAO) played a critical role in informing SSI reforms included in the 1996 welfare reform law and related legislation. The GAO recently removed the SSI Program from its list of programs at high risk of fraud and abuse, which is real progress, but the same report suggested that disability programs in general remain vulnerable to fraud and abuse, so there is more work to be done.

Today's testimony highlights that the SSI Program, in recent years has paid more than \$100 million in benefits to people who should not have collected them, because they lived outside the United States. That is shocking and something we need to fix. The Social Security Inspector General (IG) has played an important role in preventing and identifying fraud and abuse in the SSI Program, including implementing laws preventing prisoners and fugitive felons from illegally collecting benefits.

Today, Acting IG Patrick O'Carroll will review these efforts, including the savings that have been achieved and the 19,000 fugitives apprehended so far. The Social Security Advisory Board (SSAB) has done important work on disability programs, calling for fundamental changes and recently engaging experts in a wide-ranging discussion of the definition of disability and the implications of possible changes. We also will hear from two groups with day-to-day experience with SSI, the National Association of Disability Examiners (NADE) and the Consortium of Citizens with Disabilities (CCD). Their representatives will provide us with useful insights and further suggestions for program improvement based on their important perspective about how the program really works.

I thank all of our witnesses for joining us today. We appreciate their past efforts to help improve the way SSI works and look forward to today's testimony about how to strengthen, update and improve the SSI Program so that it will better meet the needs of beneficiaries and taxpayers. Without objection, each Member will have the opportunity to submit written statement and have it in-



cluded in the record at this point. Mr. Cardin, would you like to make an opening statement?

[The opening statement of Chairman Herger follows:]

**Opening Statement of The Honorable Wally Herger, Chairman, and a Representative in Congress from the State of California**

Welcome to this morning's hearing on the Supplemental Security Income (SSI) program.

As noted during our hearing last month with Social Security Commissioner Jo Anne Barnhart, SSI provides \$3 billion of benefits monthly to nearly seven million individuals. SSI functions as a safety net to the nation's neediest elderly and disabled individuals.

As we have heard, the Commissioner is working on reforms of the disability process, program simplification, work incentives, and administrative challenges in the SSI program. Her testimony provided us important insights as we review the SSI program.

Today we continue that review by asking very basic questions—how is SSI working, how can the eligibility process be improved, can vulnerable beneficiaries be better protected, can more be done to reduce fraud, waste, and abuse, and how can we encourage more SSI beneficiaries to prepare for or go to work?

Today we'll hear from several key organizations with oversight responsibility over SSI, as well as from a leading representative of SSI recipients.

The General Accounting Office (GAO) played a critical role in informing the SSI reforms included in the 1996 welfare reform law and related legislation. GAO recently removed the SSI program from its list of programs at high risk of fraud and abuse, which is real progress. But the same report suggested that disability programs in general remain vulnerable to fraud and abuse. So there is more work to be done. Today's testimony highlights that the SSI program in recent years has paid more than \$100 million in benefits to people who should not have been collecting them because they lived outside the U.S. That's shocking, and something we need to fix.

The Social Security Inspector General has played an important role in preventing and identifying fraud and abuse in the SSI program, including implementing laws preventing prisoners and fugitive felons from collecting benefits. Today Acting Inspector General O'Carroll will review these efforts, including the savings that have been achieved and the 19,000 fugitives apprehended so far.

The Social Security Advisory Board also has done important work on disability programs, calling for fundamental changes and recently engaging experts in a wide-ranging discussion of the definition of disability and the implications of possible changes.

We also will hear from two groups with day to day experience with SSI—the National Association of Disability Examiners and the Consortium of Citizens with Disabilities. Their representatives will provide us with useful insights and further suggestions for program improvement, based on their important perspectives about how the program really works.

I thank all of our witnesses for joining us today. We appreciate their past efforts to help improve the way SSI works, and look forward to today's testimony about how to strengthen, update, and improve the SSI program so that it will better meet the needs of beneficiaries and taxpayers.

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Mr. CARDIN. Well, thank you very much, Mr. Chairman. I join you in welcoming our panel here today. This is a very important subject, and I share your concern about the integrity of any program that is created by Congress and the important role that we play and this Subcommittee plays in oversight to make sure that the program is working the way Congress intended and that the moneys are properly being disbursed.

Seven million elderly and disabled Americans depend upon the SSI benefits, and as Social Security Commissioner Barnhart mentioned just a few weeks ago, the SSI recipients are the poorest of

the poor. So, I think we have a dual responsibility, Mr. Chairman, first to make sure that this program is providing the needed help to this very, very vulnerable population and second to make sure of the integrity of the program. I hope that we will carry out both of those responsibilities.

We must also recognize that the effort to improve the SSI Program also depends upon SSA having adequate resources, and this Subcommittee has been on record historically about the concerns on the budget support for the SSA, and once again, I point out that we cannot expect them to perform miracles unless we are prepared also to support that with the adequate resources.

Since 1993, Congress has passed no less than bills that included provisions designed to curb fraud and abuse and to improve the management of the SSI program. When Mrs. Johnson was Chair of this Subcommittee, I joined her in 1999 when we passed the Foster Care Independence Act (P.L. 106-169), which generally sought to help children aging out of our foster care system, but it also contained changes in the SSI provisions. The law provided new authorities to detect and collect SSI overpayments. It prevented from individuals from disposing of resources to gain eligibility, and it included new penalties for deliberate fraud.

Mr. Chairman, I remain willing to consider other changes to improve the integrity and administration of the SSI Program, but I would also urge this Subcommittee to look at whether the program is currently providing the necessary help to this most vulnerable population. I point out, Mr. Chairman, that SSI has not been increased for 32 years, which means that, in fact, we have seen a 75-percent reduction in the real value of the SSI payments, and that should be of concern to this Subcommittee. One of the income exclusions provides for a very small reward for past work by allowing \$20 of Social Security benefits to be added to SSI benefit without any penalty. The second exclusion allows the first \$65 in monthly earnings to be disregarded from SSI eligibility.

If these income disregards had simply kept pace with inflation over the last three decades, the general exclusion would be worth \$85 a month rather than \$20, and the earning exclusion would be worth \$280 a month rather than \$65 a month. Now, that may seem like large amounts of money. Maybe it does not seem like large amounts of money. Today on the floor of Congress, we will be voting on a bill to increase the income for eligibility of the child credit from \$110,000 to \$250,000.

Mr. Chairman, if we have time to consider that legislation, do we not have time to provide a small increase in the help for the poorest of the poor? Serving on this Subcommittee, we take on a responsibility to advocate on behalf of those who are not very effective in having their voices heard here in Congress, and I would hope that we would find time to provide additional relief to this very vulnerable population.

I also urge this Subcommittee to consider extending SSI assistance to elderly and disabled refugees, all of whom have fled political and religious persecution in their home countries. Two months ago, I joined a bipartisan group of Members on this Committee in introducing legislation to provide a 2-year extension for these refugees, who often have no other source of income. Given that the Ad-

ministration also has called for extending the refugee SSI benefits, I hope we can address this issue quickly.

Without congressional action, up to 10,000 refugees could lose assistance by the end of this year and thousands more in the years to come. Mr. Chairman, reducing fraud is a very important responsibility. Rewarding work is an important goal of this Subcommittee; helping refugees. I hope that we can move on all three of these fronts, and I look forward to hearing the testimony of our witnesses and working with the Chairman and the Members of this Subcommittee to bring out legislation that can improve the effectiveness of the SSI Program. Thank you, Mr. Chairman.

[The opening statement of Mr. Cardin follows:]

**Opening Statement of The Honorable Benjamin L. Cardin, a Representative in Congress from the State of Maryland**

Mr. Chairman, the SSI program provides benefits to nearly 7 million elderly and disabled Americans who have few, if any, other resources. As Social Security Commissioner Barnhart testified a few weeks ago, SSI recipients are the "*poorest of the poor*." We have an obligation to the taxpayer to ensure that only truly needy individuals are receiving these benefits, but we also have a moral duty to help the least fortunate among us.

As we consider suggestions to ensure the integrity of the SSI program, I hope we will always remember both of these responsibilities.

We must also recognize that efforts to improve the SSI program are unlikely to yield much success if the Social Security Administration lacks sufficient resources to implement them.

Since 1993, Congress has passed no less than ten bills that included provisions designed to curb fraud and abuse and to improve the management of the SSI program.

I joined with Mrs. Johnson in one such endeavor in 1999. The Foster Care Independence Act, which generally sought to help children aging out of foster care, also included a series of SSI provisions.

The law provided new authorities to detect and collect SSI overpayments, it prevented individuals from disposing of resources to gain eligibility, and it included new penalties for deliberate fraud.

I remain willing to consider other suggestions for improving the administration of SSI, but I believe this Committee cannot afford to ignore other pressing needs within the program.

For example, the income disregards for SSI have not been increased for 32 years B meaning they have *lost more than 75% of their real value*.

One of these income exclusions provides a very small reward for past work by allowing up to \$20 of Social Security benefits to be added to the SSI benefit without any penalty. The second exclusion allows the first \$65 in monthly earnings to be disregarded from SSI eligibility (after that, every \$2 of earnings reduces the SSI benefit by \$1).

If these income disregards had simply kept pace with inflation over the last three decades, the general exclusion would be worth \$85 a month, rather than \$20; and the earnings exclusion would be worth \$280 a month, rather than \$65.

In addition, the resource limit for SSI eligibility (\$2000) needs to be updated to account for inflation since it was last raised 15 years ago. Continued inaction on these issues undercuts our stated desire to promote and reward work within the SSI program.

I also urge the Committee to consider extending SSI assistance to elderly and disabled refugees, all of whom have fled political and religious persecution in their home countries. Two months ago, I joined a bipartisan group of Members on this Committee in introducing legislation to provide a two-year extension for these refugees, who often have no other source of income.

Given that the Administration also has called for extending refugees' SSI benefits (for one year), I hope we can address this issue quickly. Without Congressional action, up to 10,000 refugees could lose assistance by the end of this year, and thousands more in the years to come.

Mr. Chairman, reducing fraud is important, but so is rewarding work and helping refugees. I hope we can move forward on all three. Thank you.

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Chairman HERGER. Thank you, Mr. Cardin. Before we move on to our testimony, I want to remind our witnesses to limit their oral statements to 5 minutes. However, without objection, all of the written testimony will be made a part of the permanent record. Today, we will be hearing from Mr. Robert E. Robertson, Director of Education, Workforce and Income Security Issues at the GAO; Ms. Martha Ford, testifying as Co-Chair of CCD Social Security Task Force; Mr. Patrick O'Carroll, Acting IG of the SSA; Ms. Martha Marshall, President-Elect of NADE; and Dr. David Podoff, a member of the SSAB. Mr. Robertson?

**STATEMENT OF ROBERT E. ROBERTSON, DIRECTOR, EDUCATION, WORKFORCE, AND INCOME SECURITY ISSUES, U.S. GENERAL ACCOUNTING OFFICE**

Mr. ROBERTSON. Thank you and good morning, Mr. Chairman, Mr. Cardin. I have been told that the mikes are live, so I will not go through the requisite tap, tap, tapping here before I start. I would like to thank you for the opportunity to be here this morning to discuss SSA's oversight of residency requirements for individuals who receive SSI. As you know, recipients who fail to establish residency in accordance with SSI Program guidelines or who do not report absences of 30 days or more may be overpaid and are, therefore, subject to monetary penalties and administrative sanctions.

Our remarks today are based on some work that we issued last year, and I am going to touch basically on three areas. First, I will discuss the magnitude and the characteristics of the overpayment problems relating to residency violations, and I will move on to summarizing some of the principal weaknesses in SSA's administration of the program that inhibit the agency's ability to identify and deter these types of violations, and finally, I will end by highlighting some of the actions that SSA has taken in response to the recommendations contained in our report.

Let me first talk about the size of the problem. Between 1997 and 2001, SSA detected overpayments of about \$118 million for residency violations. However, it is important to recognize that this figure represents only those violations that were detected, which may be only a fraction of the violations that occur each year. In fact, prior studies and special projects by SSA and its Office of the IG show that residency violations are a pervasive problem, at least in some field offices.

For example, SSA and IG studies estimate that in some regions of the country, as much as 26 percent of all recipients are in violation of residency requirements. Additionally, the extent of violations appears to vary by geographic region, with overpayments being more prevalent in several large metropolitan areas. In particular, we found that 54 percent of all overpayments detected by SSA between 1997 and 2001 occurred in just five states, those being California, Florida, Illinois, New Jersey and New York. Finally, we found that recipients born outside the United States ac-

counted for at least 87 percent of all detected residency overpayments.

Let me now move to talking about the weaknesses that impede SSA's ability to detect and deter residency violations. In this regard, we basically found three principal problems: first, the agency relies heavily on self-reported information from recipients to verify domestic residency. More specifically, SSA field staff often rely on recipients' own assertions and accept minimal documentation from them such as rent receipts or letters from neighbors or clergy. Such documents, as you know, can easily be manipulated.

The second broad problem area inhibiting SSA's ability to deal effectively with residency violations concerns the agency's limited use of tools that it has at its disposal to identify and deter possible violators. For example, while SSA routinely employs a risk analysis system to help identify SSI recipients who are more likely to incur overpayments due to excess income or resources, it does not use this tool to specifically consider and target potential residency violators.

A model that we developed and tested to predict residency violations suggests that SSA could, in fact, make better use of its risk analysis system to detect and prevent these types of violations. Additionally, while some of the field offices we visited found home visits for verifying residency to be cost-effective under certain circumstances, SSA has not systematically implemented this tool in other offices. Other tools that the agency has made only limited use of are monetary penalties and administrative sanctions.

Finally, in addition to the weaknesses stemming from heavy reliance on self-reported information and the limited use of available detection and deterrence tools, we reported that SSA had not adequately pursued the use of independent third-party data to help detect residency violations. This data included emerging immigration databases and recipient bank account information.

Mr. Chairman, let me just conclude my remarks by summarizing the actions that SSA is planning to take in response to our report's recommendations. These include several agency initiatives such as investigating the potential for obtaining access to foreign automated teller machines to track banking transactions, requesting assistance from State Medicaid fraud investigators to help SSA perform more home visits, and investigating the potential of examining arrival/departure records maintained by the Homeland Security office. It is too early to assess how effective these initiatives will be, however, these plans do represent positive first steps and a willingness to explore additional ways to strengthen the integrity of the program, and on that positive note, I will end my prepared remarks and answer questions at the appropriate time.

[The prepared statement of Mr. Robertson follows:]

**Statement of Robert E. Robertson, Director, Education, Workforce, and Income Security Issues, U.S. General Accounting Office**

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here to discuss the Supplemental Security Income (SSI) program. The Social Security Administration (SSA) administers the SSI program, which is the nation's largest cash assistance program for the poor. SSI provides financial assistance to people who are age 65 or older, blind or disabled, and who have limited income and resources. In 2003, about 6.9 million recipients were paid

about \$36 billion in SSI benefits.<sup>1</sup> Benefit eligibility and payment amounts for SSI recipients are determined by complex and often difficult to verify factors such as individual living arrangements, including whether a person resides in the United States (U.S.). Thus, the SSI program tends to be difficult to administer and susceptible to overpayments.<sup>2</sup> In recent years, SSA has identified a general increase in the amount of annual overpayments made to recipients who are not present in the U.S. as required by SSI program guidelines—a problem we refer to as “residency violations.”<sup>3</sup>

My testimony today focuses on a report we issued in July 2003 in response to a request from this subcommittee.<sup>3</sup> You asked us to (1) determine what is known about the extent to which SSI benefits are improperly paid to individuals who are not present in the U.S. and (2) identify any weaknesses in SSA’s processes and policies that impede the agency’s ability to detect and deter residency violations.

In summary, SSA detected overpayments of \$118 million for residency violations between 1997 and 2001,<sup>4</sup> but interviews with the Office of Inspector General (OIG) and agency officials suggest that the agency only detected a portion of the violations that occur each year, at least in some parts of the country. The extent of violations appears to vary by geographic region, with overpayments being more prevalent in several large metropolitan areas in five states—California, Florida, Illinois, New Jersey, and New York. We also found that recipients born outside the U.S. accounted for at least 87 percent of all residency overpayments. Three kinds of weaknesses have historically impeded SSA’s ability to detect and deter residency violations. First, to verify domestic residency, the agency has often relied on self-reported information from recipients and visual inspection of documents that can be easily manipulated, such as rent receipts and letters from neighbors or clergy. Second, the agency has historically made limited use of tools at its disposal to detect possible violators, such as its risk analysis system to screen for high-risk cases more likely to result in overpayments. Third, SSA has not adequately pursued the use of independent, third-party data, such as emerging immigration databases or recipient bank account information, to help detect residency violations.

In response to our report recommendations, SSA indicated that it is considering implementing several initiatives that may provide a more complete picture of residency violations in the SSI program and improve its ability to detect and prevent such violations in a more efficient, timely manner. These include investigating the potential for obtaining access to foreign automated teller machines to track banking transactions over time, requesting assistance from state Medicaid fraud investigators to help SSA perform more home visits to verify recipients’ residence, and investigating the potential of examining arrival/departure records maintained by the Department of Homeland Security to identify recipients who leave the country for more than 30 consecutive days. While it is too early to assess how effective these initiatives may be, we support SSA’s commitment to studying this problem further and its willingness to explore new data sources and improvements to existing processes as a way of detecting potential violations in a more timely manner. Thus, we view these initiatives as positive first steps. However, sustained management attention to identifying and preventing residency violations will be needed to further strengthen the integrity of the SSI program.

### Background

Individuals may apply for SSI benefits at any of about 1,300 SSA field offices. During the initial interview, SSA staff solicit information on applicants’ financial situation and the disability being claimed. Applicants are required to report any information that may affect their eligibility for benefits, such as income, resources, and their living arrangements (including current residence). Similarly, once individuals receive SSI benefits, they are required to report changes in their address or residence to SSA in a timely manner. The Social Security Act (Section 1614 (a)(1)(B)(i)) requires that an individual be a resident of the U.S. to be eligible for SSI payments. SSA guidelines define a resident of the U.S. as a person who has established a dwelling in the U.S. with the intent to live in the country. Section 1611(f) of the act also provides that no individual is eligible for SSI payments for any month during all of which the individual is outside the U.S. Recipients who fail to establish residency in accordance with SSI program guidelines or do not report

<sup>1</sup> This figure includes both federal funds and state supplemental funds.

<sup>2</sup> In 2001, outstanding SSI debt and newly detected overpayments for the year totaled \$4.7 billion.

<sup>3</sup> See U.S. General Accounting Office, *Supplemental Security Income: SSA Could Enhance Its Ability to Detect Residency Violations*, GAO-03-724 (Washington, D.C.: July 29, 2003).

<sup>4</sup> More recent data on overpayments due to residency violations were not available at the time of this testimony.

absences of 30 days or more may be overpaid, and subject to monetary penalties and administrative sanctions such as suspension of benefits. Similarly, SSI recipients who become ineligible for SSI benefits because they violate SSI residency guidelines may also be ineligible to receive Medicaid benefits.

To a significant extent, SSA depends on program applicants and current recipients to accurately report important eligibility information. To verify this information, SSA may use computer matches to compare SSI records against recipient information in records of third parties such as other federal agencies. SSA also periodically conducts “redetermination” reviews to verify important eligibility factors, such as income and resources, to determine whether recipients remain eligible for benefits after the initial assessment.

#### **SSA Detected Overpayments of \$118 Million for Residency Violations over 5 Years, but More May Go Undetected**

SSA detected overpayments of \$118 million for residency violations between 1997 and 2001, but interviews with OIG and SSA officials suggest that the agency detects only a portion of the violations that occur each year, at least in some parts of the country. Special initiatives of limited duration conducted by SSA and its OIG have uncovered additional residency overpayments. According to our own analysis of SSA’s data, residency overpayments appear to vary by geographic region, with the majority of overpayments having been detected in several large metropolitan areas. Finally, we determined that most of the overpayments detected during this period were attributable to recipients who were born outside the U.S.

#### **Residency Violations May be More Prevalent than SSA Has Detected**

SSA detected an average of about 46,000 recipient residency violations annually between 1997 and 2001, resulting in \$118 million in overpayments. While SSA’s data show that less than 1 percent of all SSI recipients violate residency requirements annually, SSA field staff and OIG officials suggest that the problem may be more prevalent. For example, over the past few years, SSA and its OIG have initiated a number of studies estimating that residency violations in certain regions of the country may represent as much as 26 percent of SSI cases in those areas. These local studies were generally limited in duration and were performed within specific geographic areas:

- A 1997 SSA and OIG joint study of SSI residency used home visits in southern California to identify potential residency violations. The study concluded that about 25 percent of SSI recipients in one field office were living outside of the country. The study also determined that 47 percent of SSI recipients from this field office could not be located at their reported residence, an indication that they may be violating residency requirements.
- A 1998 OIG eligibility study in El Paso, Texas, found that about 26 percent of recipients investigated were violating residency requirements. This project identified about \$3 million in residency overpayments.
- In 1998 and 1999, joint SSA/OIG studies examined 32,641 recipients in New York and California who had not used their Medicaid benefits for at least 1 year.<sup>5</sup> Using redetermination reviews, these studies found that 1,281 recipients (about 4 percent) were living outside the U.S.<sup>6</sup> Many Violations Are Geographically Concentrated

#### **Many Violations Are Geographically Concentrated**

Our analysis of SSA’s data showed that overpayments due to residency violations are more prevalent in a number of large metropolitan areas. For example, overpayments from violations detected in Los Angeles County, California, represented 10.5 percent of the nation’s SSI residency overpayments between 1997 and 2001. Overall, we found that just 15 counties in 5 states—California, Florida, Illinois, New Jersey, and New York—accounted for 54 percent of all residency overpayments detected by SSA during this period. (See fig. 1.) In addition to Los Angeles County, there were other counties with a significant percentage of SSI residency overpayments: Queens County, N.Y. (5.2 percent); New York County, N.Y. (5.0 percent); Kings County, N.Y. (4.8 percent); San Diego County, Calif. (4.1 percent); and Bronx County, N.Y. (3.5 percent). Moreover, of approximately 3,000 U.S. counties, 50 accounted for 77

<sup>5</sup> The rationale for targeting these cases was that financially needy individuals who were aged or disabled are likely to use Medicaid services on a regular basis. Thus, SSI recipients who have not used Medicaid for long periods of time may have left the U.S. or died.

<sup>6</sup> These studies considered the effect of only one potential indicator of residency violations—Medicaid nonutilization.

percent of all residency overpayments detected by SSA during this time. (See fig. 1.)

FIGURE 1: TOP 15 COUNTIES FOR SSI RESIDENCY OVERPAYMENTS, 1997–2001



Source: S&D

#### Most Overpayments Were Made to Recipients Born Outside the U.S.

SSA's data also showed that individuals born outside the U.S. accounted for at least 87 percent of all SSI residency overpayments between 1997 and 2001.<sup>7</sup> Residency overpayments were most common among recipients who were born in Latin America, the Caribbean, and South/Southeast Asia, but included other areas as well, such as the Middle East. Recipients from the Philippines accounted for the greatest amount of residency violations or \$24 million of all SSI residency overpayments during this period. SSA data also showed that recipients from just 14 countries and 1 U.S. territory accounted for about 73 percent of all residency overpayments during this period. These include the Dominican Republic, (12.3 percent), Mexico (7.6 percent), Puerto Rico (7.5 percent), India (7.1 percent), and Iran (3.4 percent). (See fig. 2.)

<sup>7</sup>The percentage of total residency overpayments attributed to recipients born outside of the U.S. may be higher than 87 percent because SSA could not identify a specific country of birth for recipients that represent about \$10 million in SSI overpayments.



FIGURE 2: TOP 15 COUNTRIES OF ORIGIN FOR SSI RESIDENCY OVERPAYMENTS, 1997–2001



Source: GAO



<sup>a</sup> Puerto Rico is a United States territory.

### **Reliance on Self-Reported Information and Other Vulnerabilities Have Impeded SSA's Ability to Detect and Deter Violations**

SSA's ability to detect and deter residency violations has been impeded by three kinds of weaknesses. First, the agency has relied heavily on self-reported information from recipients to determine domestic residency, often without independently verifying such information. Second, SSA has made insufficient use of its existing tools for identifying potential violations, such as its risk analysis system to screen for high-risk cases. SSA has also not made optimal use of redetermination reviews, home visits, monetary penalties, and administrative sanctions to deter future violations. Finally, the agency historically has not made adequate use of independent data sources from other federal agencies or private organizations to detect nonresidency of SSI recipients.

### **SSA Has Relied Heavily on Self-Reported Information That Can be Manipulated**

SSA has relied on self-reported information, such as documents and statements from recipients, to establish proof of U.S. residency. Our prior work has shown that about 77 percent<sup>8</sup> of all payment errors in the SSI program were attributable to recipients who do not comply with reporting requirements.<sup>9</sup> In our recent review, about half the SSA field staff we interviewed reported that they relied on recipients to self-report important information with respect to travel outside the U.S. SSI program guidelines have generally directed SSA staff to accept recipients' assertions concerning residency unless they have reason to question the accuracy of their statements. If SSA field staff have reason to believe that a recipient has been outside the country for more than 30 days, they may request additional documentation such as a plane ticket, passport (or similar evidence which establishes date of entry into the U.S.), or a signed statement from one or more U.S. residents such as neighbors, clergy, or others who may have knowledge of the individual's whereabouts. However, program guidelines do not require field staff to perform any additional verification steps to establish recipients' residency.<sup>10</sup>

We also learned that some of the documents accepted by SSA as proof of residence are subject to manipulation or forgery. For example, staff in one field office noted that documents such as rent receipts can be purchased from a local drugstore and easily forged. Other field staff said that statements from neighbors could be falsified or manipulated to support assertions that an individual has not traveled outside the country. Field staff also reported that recipients may use multiple passports in order to conceal extended stays outside the country. For example, staff in two SSA regions we visited said that SSI recipients sometimes use a foreign passport to exit and re-enter the country while maintaining a separate, "clean" U.S. passport for evidence of continuing residency.

Given the agency's reliance on self-reported information, SSA field staff often used their personal experience, judgment, and ad hoc interviewing procedures to detect potential residency violations. In particular, SSA field staff have looked for inconsistencies in recipient statements or a recipient's inability to answer simple questions about where they live. For example, recipients may be asked about the names of people living in their household, or basic facts about their neighborhood such as the location of a well-known landmark. Staff may also ask whether a recipient owns property outside the U.S. Questionable or inconsistent answers to such questions may result in requests to provide additional documentation. However, effectively identifying residency violators has often depended on the experience and persistence of individual staff.

Our review also found that the procedures for documenting recipients' residency varied widely among the offices we visited, in particular, the number and types of evidentiary documents requested by staff. While staff in several offices reported that they often request only the most basic documentation required by SSI program guidelines, staff in other offices told us that they routinely ask for additional documentation for recipients, such as a second passport or other travel documents to de-

<sup>8</sup>This figure represents data from fiscal years 1991 through 1995.

<sup>9</sup>See U.S. General Accounting Office, Supplemental Security Income: Action Needed on Long-Standing Problems Affecting Program Integrity, GAO/HEHS-98-158 (Washington, D.C.: Sept. 14, 1998).

<sup>10</sup>SSI program guidance allows field staff to use home visits in selected circumstances, such as in response to a report from a third party that a recipient is outside the U.S. In addition, home visits may be employed if a recipient fails to provide information requested by SSA staff, or if a recipient does not respond to letters and/or telephone calls from staff asking them to appear at the local office. However, program guidelines give field office managers discretion in determining when to use home visits and allow them to take into consideration factors such as the safety of staff who perform such visits.

termine whether the individual has been outside the country for more than 30 days. While these steps are not required, some field staff reported that they have been effective in identifying potential violators and deterring future violations. SSA staff reported a number of reasons for different documentation requirements such as variance in individual office policies, personal preferences based on experience, time pressures to complete cases, and the inability to effectively verify supplied documentation.

### **SSA Has Not Fully Exploited Its Tools for Detecting and Deterring Program Violations**

SSA has not made optimal use of several tools that could be used to detect residency violations. These include its “risk analysis system” for screening cases more likely to result in overpayments, its “redetermination reviews” of recipients’ eligibility, and home visits to verify recipients’ whereabouts. SSA has used statistical risk analysis techniques for many years in the SSI program to identify recipients who are more likely to be overpaid due to excess income or resources. Since SSA lacks adequate staff resources to conduct an annual review of every recipient, it uses this technique to identify recipients who are most likely to have a change in their eligibility status or benefit amount.<sup>11</sup>

Despite the proven effectiveness of its risk analysis system to help the agency identify cases with the highest potential for overpayments, SSA has not used this tool to specifically identify potential residency violations. To determine whether it would be possible for SSA to more effectively identify potential residency violators by using its existing systems, we developed and tested a statistical model of factors possibly associated with residency violations.<sup>12</sup> Using this model as a screen, we examined all recipients who were currently in violation of residency requirements as of April 2003,<sup>13</sup> and found that recipients born outside the U.S.—noncitizens as well as naturalized citizens—were more than 40 times as likely to be violating residency requirements than were native-born recipients. Similarly, recipients with prior residency violations were about 10 times as likely to be current violators compared with recipients who have no prior violations. We also found that recipients who used post office boxes were somewhat more likely to be receiving benefits outside the country than those without post office boxes. Given the potential usefulness of this limited modeling demonstration, it may be possible for SSA to expand and refine its risk analysis system to better target potential violators. SSA is studying the potential for refining its screening technique to improve its effectiveness for identifying recipients at high risk for residency violations.

Beyond the targeting problems we identified with SSA’s risk analysis system, we found that the agency was not using redeterminations as efficiently as it could despite the fact that SSA’s data and our prior reviews have documented their effectiveness for verifying recipients’ eligibility.<sup>14</sup> In particular, home visits were used infrequently during redetermination reviews according to staff in a number of offices we visited.

Those field offices that have used home visits as part of their redetermination procedures have found them effective. About half of the field offices we visited (9 of 17) employed home visits at least some of the time to verify whether recipients actually live at the address they report to SSA. For example, the SSA regional office in Dallas, Texas contracted with a private investigation firm to conduct residency home visits. Using these investigators, field offices within the region performed 4,200

<sup>11</sup> SSA’s risk analysis system incorporates about 48 different characteristics—or variables—to help the agency determine which recipients will be selected for annual redetermination reviews. Recipients identified as being at higher risk for overpayments are designated as High Error Profile cases and may be subject to more frequent reviews that entail personal contact with SSA field office staff. Those recipients identified as being less likely to incur an overpayment are designated as Medium or Low Error Profile and may only receive a redetermination conducted by mail rather than in person. Some Low Error Profile cases are only examined once every 6 years.

<sup>12</sup> The variables used in our model are not an exhaustive list of potential variables that SSA could use in its risk analysis system. They represent just a few of the characteristics that were frequently cited by prior reviews as well as SSA and OIG staff as potentially good predictors of residency violations.

<sup>13</sup> SSI recipients with residency violations were compared against recipients with no violations.

<sup>14</sup> SSA data show that, in 1998, refining the case selection methodology increased estimated overpayment benefits—amounts detected and future amounts prevented—by \$99 million over the prior year. SSA officials have estimated that conducting substantially more redetermination reviews would yield hundreds of millions of dollars in additional overpayment benefits annually. See U.S. General Accounting Office, Supplemental Security Income: Progress Made in Detecting and Recovering Overpayments, but Management Attention Should Continue, GAO-02-849, (Washington, D.C.: Sept. 6, 2002).

home visits that uncovered at least \$2.1 million in additional overpayments between October 1997 and January 2003. According to SSA data, this project achieved a benefit-to-cost ratio of almost 8 to 1. Similarly, the California Department of Health Services has worked cooperatively with SSA field offices in the San Diego area by conducting residency home visits. Because Medicaid eligibility is often directly tied to SSI eligibility, identifying residency violations may save funds from both programs. Between October 2000 and September 2002, state Medicaid investigators identified about 1,600 SSI recipients with residency violations. In one instance, state investigators discovered an SSI recipient who was using a residence in southern California as a mailing address, while actually residing in Tijuana, Mexico, for at least 8 years. In another case, state investigators found an SSI recipient using a post office box in southern California as a mailing address, although the recipient was in fact living in San Felipe, Mexico, since 1982. Because the state provides these investigative services to SSA free of charge, it is highly cost-effective. To address this issue, SSA is currently exploring the potential for having states assist in performing home visits using their Medicaid fraud investigators. According to SSA, 27 states and the District of Columbia have expressed an interest in assisting in this effort.

In terms of deterring future violations, we found that existing monetary penalties and administrative sanctions are rarely, if ever, used in the offices we visited.<sup>15</sup> For example, about 72 percent of the field staff we interviewed said that penalties or sanctions are not used in their offices, or are only used occasionally. National data on SSA's use of monetary penalties and administrative sanctions also suggest that these tools are not routinely utilized for recipients who fail to report important information that can affect their eligibility, including absences from the country. In a recent report, we estimated that at most about 3,500 recipients were penalized for reporting failures in fiscal year 2001.<sup>16</sup> Under the law, SSA may impose monetary penalties on recipients who do not file timely reports about factors or events that can affect their benefits. A penalty causes a reduction in 1 month's benefits. Penalty amounts are \$25 for a first occurrence, \$50 for a second occurrence, and \$100 for the third and subsequent occurrences. The penalties are meant to encourage recipients to file accurate and timely information. However, a large number of staff we interviewed noted that monetary penalties are too low to be an effective deterrent against future residency violations.

The Foster Care Independence Act of 1999 (Pub. L. No. 106-169) gave SSA authority to impose administrative sanctions on persons who misrepresent material facts that they know, or should have known, were false or misleading. In these circumstances, SSA may suspend benefits for up to 24 months. Despite having this authority, we found that benefit suspensions are rarely if ever used by field staff for residency violators. In fact, administrative sanctions were only imposed in 21 cases nationwide as of January 2002.<sup>17</sup> A substantial number of staff told us that they rarely use sanctions because the process for imposing them is often time-consuming and cumbersome. In addition, some staff reported that SSA management does not encourage the use of penalties or sanctions to deter residency violations. SSA is currently evaluating its policies for imposing monetary penalties and administrative sanctions.<sup>18</sup>

#### **SSA Had Not Actively Pursued Third-Party Data Sources to Detect Potential Violators**

While SSA uses third-party information to verify certain aspects of recipients' eligibility such as income, we found that the agency has historically lacked adequate outside data sources to verify that recipients are residents of the U.S.<sup>19</sup> The agency currently receives periodic paper reports from immigration officials on noncitizens who have current and planned absences from the U.S. and sends them to the appropriate SSA field offices for follow up. However, these procedures are only effective for recipients who voluntarily report their absence to immigration officials. Thus, SSA will remain limited in its ability to independently verify the residency of SSI recipients who deliberately seek to conceal extended periods outside the country. Over half of the SSA managers and field staff we interviewed told us that access to automated immigration data would help them to more accurately verify recipients' residency. We have recommended that SSA consider using a new system called

<sup>15</sup> Prior GAO reports indicate that monetary penalties and administrative sanctions may be underutilized in the SSI program. See GAO-02-849.

<sup>16</sup> See GAO-02-849.

<sup>17</sup> Ibid.

<sup>18</sup> Ibid.

<sup>19</sup> For example, SSA routinely uses information from the Department of Health and Human Service's National Directory of New Hires to verify SSI recipients' income.

the U.S. Visitor and Immigrant Status Indicator Technology system (US VISIT) to verify some recipients' entry and exit from the country. It is currently being used by the Department of Homeland Security and will incorporate existing entry-exit databases. When fully implemented, this system will provide a mechanism to monitor major ports of entry/exit in the U.S., including land crossings, seaports, and airports. As noted previously, SSA is examining the potential for obtaining access to the system to identify SSI recipients who reside outside the U.S. for more than 30 consecutive days.

SSA has also not fully utilized its authority to obtain independent data from other sources such as financial institutions as a tool for detecting potential residency violations. The Foster Care Independence Act of 1999 (FCIA) granted SSA new authority to verify recipients' financial accounts. To implement this authority, SSA issued proposed regulations on its new processes for accessing financial data in May 2002.<sup>20</sup> In September 2003, the agency issued its final regulations. SSA is testing processes to access the records of financial institutions and credit bureaus to detect unreported income or resources of SSI applicant and recipients. However, it is not clear whether SSA plans to use financial institution data more broadly to detect potential residency violations. In particular, it may be missing potentially helpful sources of information such as data on recipients who conduct banking transactions outside the U.S. using ATMs. As noted previously, a large proportion of the residency overpayments SSA detected between 1997 and 2001 were tied to recipients who originated in various countries in Latin America and South/Southeast Asia. However, SSA currently has no way to identify recipients who withdraw SSI benefits from ATMs outside the U.S. Information we obtained from a national financial data vendor indicates that it is now possible for authorized users to obtain detailed information on individuals' financial transactions from a large number of national and international institutions. SSA may be able to obtain data for recipients whose SSI benefits are direct-deposited into a U.S. bank and then withdrawn from automated teller machines outside the country over extended time periods. In response to our recommendation, SSA has indicated that it would explore the feasibility of obtaining such information to identify recipients who reside outside the U.S. for more than 30 consecutive days.

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Mr. Chairman, this concludes my prepared statement. I will be happy to respond to any questions you or other Members of the Subcommittee may have.

Chairman HERGER. Thank you, Mr. Robertson. Ms. Ford to testify?

**STATEMENT OF MARTY FORD, CO-CHAIR, SOCIAL SECURITY TASK FORCE, CONSORTIUM FOR CITIZENS WITH DISABILITIES**

Ms. FORD. Chairman Herger, Mr. Cardin, thank you for this opportunity to testify. The SSI Program is critically important to nearly 6 million people who receive benefits based on disability or blindness. The SSI is the only source of income for the majority of SSI beneficiaries. The CCD Task Force would like to thank the Subcommittee for the improvements to the SSI Program that were included in the Social Security Protection Act (P.L.108-203). The SSI provisions, the ticket to work provisions and the important provisions regarding representative payees will benefit many beneficiaries.

About 300,000 SSI beneficiaries use the work incentives in SSI and engage in work despite their severe disabilities. This suggests that with some additional steps to eliminate barriers, it may be

<sup>20</sup>See Access to Information Held by Financial Institutions, 67 Fed. Reg. 22021 (now codified at 20 C.F.R. pt. 416).

possible to increase the numbers of SSI beneficiaries with disabilities who are able to reduce or eliminate their need for SSI cash assistance. However, the promise of work incentive programs, for the promise to be realized, SSA must deal with its inability to track wages and adjust benefit levels when working beneficiaries report earnings. There is a lot of discussion in the testimony today regarding overpayments, but I think it is very important to note the fact that for a beneficiary who uses the work incentives in SSI, overpayments will be part of the normal course of business.

Due to retrospective accounting, there will be overpayments when an SSI beneficiary works. These overpayments should be adjusted within 3 months of the individual's work. However, when the earnings information is not recorded accurately or in a timely manner, large overpayments can result. This is a nightmare to people with extremely low incomes and becomes a major barrier to future work.

There must be a plan to assure the accurate and timely recording of beneficiary earnings reports and the timely adjustment of benefit payments to reflect reported income. This is critical for the success of any efforts to encourage beneficiaries to work. Since 1996, refugees and other humanitarian immigrants fleeing persecution who are elderly or disabled can receive SSI for 7 years, with the expectation that they will become citizens within that time. We now know that that is not the case for many now receiving SSI. The President's budget proposed an important 1-year extension of benefits. We urge passage of H.R. 4035, the SSI Extension for Elderly and Disabled Refugees Act, which will provide for 2 years' additional benefits and include the lookback for those who have already been hit by the 7-year limit.

We also urge you to consider H.R. 2187, the SSI Modernization Act, which includes an important package of modest SSI improvements. It would double the earned and unearned disregard amounts that Mr. Cardin mentioned, which has not changed since the inception of the program, and it would increase accountable resource levels for individuals and for married couples. These have not been increased or adjusted for inflation since 1989. The resource limit is the highest level of countable savings an SSI beneficiary can have to address a myriad of unexpected costs for emergencies. The bill would also index the dollar levels in future years so that the value of these improvements is not lost over time.

It is critical that SSA improve its process for making disability determinations. People with disabilities by definition have limited earnings from work, and they are often forced to wait years for a final decision. This is damaging not only to the individual and family but also to public perception of the program. We applaud Commissioner Barnhart for establishing as a very high priority her administration's efforts to improve the disability determination process. We also applaud her work in making the design process an open one.

We strongly support the efforts to reduce unnecessary delays for claimants and to make the process more efficient so long as they do not affect the fairness of the process. Changes at the front end of the process may have a significant beneficial impact on improving the backlogs and the delays later on in the appeals process by

making a correct disability determination at the earliest possible point. Our complete written comments to Commissioner Barnhart on her proposals are available for the record.

Finally, we urge that SSA be provided with the resources to fully meet its administrative responsibilities. We support the President's budget request for fiscal year 2005 for the limitation on administrative expenses, and in addition, we support removing SSA's limitation on administrative expenses from any caps on domestic discretionary spending. Again, I thank you for this opportunity to testify, and we look forward to working with the Subcommittee and the SSA on these issues. Thank you.

[The prepared statement of Ms. Ford follows:]

**Statement of Marty Ford, Co-Chair, Social Security Task Force, Consortium for Citizens with Disabilities**

Chairman Herger, Representative Cardin, and Members of the Subcommittee, thank you for this opportunity to testify regarding the operation of the Supplemental Security Income program.

I am Director of Legal Advocacy for The Arc and UCP Public Policy Collaboration, which is a joint effort of The Arc of the United States and United Cerebral Palsy. I am testifying here today in my role as co-chair of the Social Security Task Force of the Consortium for Citizens with Disabilities. 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 XVI Supplemental Security Income program and the Title II disability programs.

The SSI program is critically important to many people with disabilities. As Commissioner Barnhart reported when she testified before the Subcommittee recently, 6.9 million individuals received federally administered monthly SSI benefits in March 2004. This group is composed of 1.2 million individuals who receive benefits based on being aged 65 or older, 5.7 million people receive benefits based upon disability, and 95,000 people receive SSI based upon blindness.

The monthly benefit paid to these eligible individuals averages \$425. In addition, SSI is the only source of income for the majority of SSI recipients. In December 2002, 51.8 percent of all SSI beneficiaries received the full federal payment, including 54.8 percent of SSI recipients who are disabled and 51.6 percent of SSI recipients who are blind, meaning that they basically have no other source of income.<sup>1</sup>

We also know that at the end of 2002, there were 17,271 SSI beneficiaries (based on disability) participating in the 1619(a) cash assistance work incentive and another 82,177 former SSI beneficiaries (based on disability and blindness) participating in 1619(b)—continuing to receive Medicaid while they are working.<sup>2</sup> Overall, including those recipients whose earnings did not exceed the Substantial Gainful Activity level of \$800 per month (and thus they received regular SSI and are not counted in the 1619 cash assistance figures), 254,407 individuals receiving SSI based on disability and 5,148 individuals receiving SSI based on blindness had some earned income in December 2002.<sup>3</sup>

The numbers of those SSI beneficiaries engaged in work despite their disabilities, while modest, are still significant and suggest that, with some additional steps to eliminate work disincentives—such as SSA ensuring the timely recording of earnings and updating of benefit payments to eliminate overpayments—it may be possible to increase the numbers of SSI recipients with disabilities who are able to reduce or eliminate their need for SSI cash assistance in the future.

**Social Security Protection Act**

On behalf of people with disabilities, the CCD Social Security Task Force thanks the Subcommittee for the improvements to the SSI program that were included in the Social Security Protection Act, P.L. 108–203. While many of the SSI provisions appear very technical and help to simplify the program for purposes of SSA's administration of it, these provisions will also be important to those beneficiaries and

<sup>1</sup>Annual Statistical Supplement, 2003, Table 7.C1, Social Security Administration

<sup>2</sup>Id. Table 7.F3

<sup>3</sup>Id. Table 7.D1

claimants affected by them. In addition, some of the provisions to clarify the Ticket to Work and Work Incentives Improvement Act will benefit SSI beneficiaries. Finally, the important provisions regarding representative payees will benefit those SSI beneficiaries who need the assistance of representative payees in managing their benefit payments.

#### **Work Incentives and Overpayment Issues**

As you know, the SSI program includes several incentives for beneficiaries to work and test their ability to become self-sufficient. Commissioner Barnhart addressed several of these work incentives in her testimony last month. For the success of these work incentive programs, including the Ticket to Work program, to be realized, SSA must address its current inability to track wages and adjust benefit levels when working beneficiaries report earnings. As the system stands now, the chronic problem of overpayments to beneficiaries is a major barrier to efforts to assist beneficiaries in working or returning to work.

Overpayments, with the resulting letters from SSA stating that the beneficiary may owe SSA thousands of dollars in back benefits, are such a nightmare to many people that the potential for the existing work incentives in the SSI and Title II programs is limited. CCD has recommended that SSA develop and establish a reliable, efficient, beneficiary-friendly method of collecting and recording information regarding a beneficiary's earnings and adjusting benefits appropriately in a timely manner. The system must stop punishing the beneficiary for SSA's inability to properly track and act upon the earnings information.

Commissioner Barnhart's April testimony discussed a pilot project designed to test beneficiary reporting of income using touch-tone and voice-prompt telephone technology. We look forward to the results of this study. More importantly, we look forward to implementation of a nationwide program which will ensure the accurate and timely recording of beneficiary earnings reports and the timely adjustment of benefit payments to reflect the reported income. This is critical for the success of any efforts to encourage beneficiaries to work.

We are also interested in how SSA will respond to concerns raised about the inability of SSI beneficiaries to truly take advantage of the Ticket to Work program due to an interpretation that the Ticket program authorizing language requires total elimination of cash benefits rather than some reduction in benefits. For SSI beneficiaries, the offset of \$1.00 of benefits for each \$2.00 of earnings—a very important work incentive—sets a much higher threshold for elimination of benefits. As a result, it would be better if providers could receive payment when SSI beneficiaries' earnings reduce the amount of their SSI benefits, rather than completely eliminate any SSI payment. Until this issue is resolved, SSI beneficiaries are less likely to benefit from the Ticket program than others.

#### **Refugees and Other Humanitarian Immigrants**

Since 1996, Congress has limited the time that refugees, persons granted asylum, Cubans and Haitians with refugee-like status, and other humanitarian immigrants who have fled persecution and who are elderly or disabled, can receive SSI. They are eligible to receive SSI only for seven years. The thinking was that it was reasonable to assume that these humanitarian immigrants would be able to become citizens within seven years of their arrival in the United States and that then their SSI eligibility would continue because they were citizens. We now know that is not the case for some people receiving SSI. As of December 2003, about 2,400 refugees and other humanitarian immigrants had lost SSI eligibility because of the time limit. This year, over 7,500 refugees and humanitarian immigrants will reach the seven-year limit and could lose SSI eligibility (some may not, if they are able to establish citizenship fast enough). Between 2004 and 2010, the Social Security Administration estimates that about 48,000 refugees and humanitarian immigrants will reach the seven-year limit.

The President's budget proposal for fiscal year 2005 acknowledges that the seven-year limit is flawed and proposes a one-year extension of benefits. If enacted, the President's proposal would offer important short-term relief. CCD supports H.R. 4035, the SSI Extension for Elderly and Disabled Refugees Act, introduced by Representatives Cardin and Houghton, and co-sponsored by Ways and Means Committee Members Nancy Johnson, English, Levin, Stark, Rangel, and Becerra, as well as other Members of the House. This bill will provide two additional years of benefits for refugees and other humanitarian immigrants, and includes a "look-back" for those who have already been hurt by the seven-year limit. Given the long waits now being experienced at Citizenship and Immigration Services, we worry that even this two year extension will be inadequate. However, it would be an important start. Because of the nature of the problems facing these particular immigrants and the cir-



cumstances under which they come to the United States, we believe that ultimately Congress should eliminate any limit on receipt of SSI by refugees and other humanitarian immigrants who are elderly or disabled, as it did recently in the Food Stamp Program.

#### **Improvements to the SSI Program**

Representative Cardin has introduced H.R. 2187, the SSI Modernization Act, which includes an important package of modest SSI improvements that we urge this Subcommittee to consider. The bill would double the unearned income disregard from \$20 to \$40. Making this change would provide modest helpful support to those SSI recipients who have another source of income, most commonly a Social Security retirement or disability benefit. The bill also would double the earned income disregard from \$65 to \$130. This would improve an important work incentive by allowing SSI beneficiaries with disabilities who attempt to work to hold on to a little more of their earnings. The amounts disregarded for earned and unearned income have not changed since the inception of the SSI program. The proposed modest increases will help these individuals to cover their costs of working—while they are allowed to deduct impairment-related work expenses when their benefits are calculated, they are not able to deduct other work expenses. By allowing them to retain a little more of their earnings, they will be better able to meet the costs of working.

The Cardin bill also would increase the countable resource level in SSI from \$2,000 to \$3,000 for an individual and from \$3,000 to \$4,500 for a married couple. An increase in the SSI resource limits is long overdue. These limits have not been increased or even adjusted for inflation since 1989 and remain far below their inflation-adjusted values in 1974, when the program first paid benefits. When the SSI program was first implemented in 1974, the resource levels were \$1,500 for an individual and \$2,250 for a couple. Had these original amounts been indexed, the SSI resource levels in 2004 would be \$5,705 for an individual and \$8,558 for a couple. In inflation-adjusted terms, the resource-eligibility limits have fallen 65 percent.

In 1984, Congress increased the resource-eligibility levels over a five year period. They have remained frozen since 1989 at the current \$2,000 and \$3,000. If the 1989 resource-eligibility levels had been adjusted for inflation, the resource-eligibility levels in 2004 would be \$3,024 for individuals and \$4,536 for married couples.

The resource limit represents the highest level of countable savings an SSI recipient can have to address any of a myriad of unexpected costs or emergencies, such as a needed home or car repair. Just \$2,000 in savings does not provide much of a cushion for an elderly person or a person with a disability who may need to repair his or her roof or fix the transmission on their car which allows them to shop and go to medical appointments. The current limit also frustrates the ability of those SSI recipients with disabilities who are working and would like the chance to save for things like home ownership, or home or vehicle modifications. While increasing the limit by \$1,000 will not completely address this problem, it would be a move in the right direction and lessen the problems created by the current very low limit.

With regard to all three of these changes, the Cardin bill also would index the dollar levels in future years, ensuring that the value of these improvements is not lost over time.

#### **Improvements to Disability Determination Process**

For people with disabilities, it is critical that SSA improve its process for making disability determinations. People with severe disabilities who by definition have limited earnings from work often are forced to wait years for a final decision. This is damaging not only to the individual with a disability and his or her family, but also to public perception and integrity of the program.

We applaud Commissioner Barnhart for establishing as a high priority her administration's efforts to improve the disability determination process. We also applaud her work in making the design process an open one. She has sought the comments of all interested parties, including beneficiaries and consumer advocacy organizations, in response to her initial draft. We believe the resulting discussions will have a positive impact on the proposals as they are refined into official proposals for rule-making. We have submitted a written response to the Commissioner on her initial draft proposal and I will highlight our key recommendations here.

We strongly support efforts to reduce unnecessary delays for claimants and to make the process more efficient, so long as they do not affect the fairness of the process to determine a claimant's entitlement to benefits. Changes at the "front end" of the process can have a significant beneficial impact on improving the backlogs and delays later in the appeals process, by making correct disability determinations at the earliest possible point. Emphasis on improving the "front end" of the process is appropriate and warranted, since the vast majority of claims are allowed at the

initial levels. However, any changes to the process must be measured against the extent to which they ensure fairness and protect the rights of people with disabilities.

We strongly support efforts to implement the electronic disability folder, AeDIB, since it has great potential for improving the adjudication process and is critical to the success of any changes. We believe that it will reduce delay caused by moving and handing-off files, allow for immediate access by any component of SSA or a DDS working on the claim, and allow adjudicators to organize files to suit their preference. An over-arching concern is to ensure that claimants and their representatives will have appropriate access to the files. Other concerns include a guarantee that the electronic file will contain all of the claimant's evidence in an exact, unalterable electronic copy of the original. In addition, claimants should not be precluded from presenting available evidence in any format. We have urged SSA to ensure protection of original documents, which are valuable and sometimes irreplaceable evidence, by requiring that exact, unalterable electronic copies of all originals be permanently maintained in the electronic folder. Otherwise, we could not support this move toward a fully electronic record.

We believe that SSA must maintain the independence and ensure the quality of medical experts, consultative examiners, and vocational experts. While electronic access to disability claims folders will make it possible for experts in different parts of the country to assist in determining disability for claimants, especially those with rare or uncommon impairments, ensuring the independence of the opinions the experts render will be critical to fair decision-making.

We recommend that there not be a separate appeal from the proposed Reviewing Official (RO) level to the Administrative Law Judge level. The RO should issue only allowances or one type of decision that is not an allowance—a "pre-hearing report"—and the report should be sent to the claimant in all cases that are not fully favorable to the claimant. To guarantee the claimant's right to a de novo hearing at the ALJ stage, the Reviewing Official's decision should not be entitled to more weight or a presumption of correctness when considered by the ALJ.

The official record on the case should not be closed after the ALJ decision. The claimant should retain the right to submit new and material evidence after the ALJ decision. However, if the Commissioner determines that the record should be closed, there should be a good cause exception to submit new and material evidence. We strongly support the submission of evidence as early in the process as possible. However, there are many legitimate reasons why evidence is not submitted earlier and thus why closing the record is not beneficial to claimants including: (1) the need to keep the process informal; (2) changes in the medical condition which forms the basis of the claim; and (3) the fact that the ability to submit evidence is not always in the claimant's or representative's control. For these reasons, the record should not be closed to new and material evidence submitted after the hearing decision.

The claimant's right to request review by the Appeals Council should be retained. Because of the important Appeals Council functions that benefit claimants, we have urged the Commissioner to retain the claimant's right to administrative review of an unfavorable ALJ decision. If the Appeals Council is not retained, we have urged the Commissioner to ensure that its review functions are carried out by some other appropriate entity within SSA. In fact, we believe that any consideration of eliminating the Appeals Council should be postponed because changes at the earlier levels of the process may relieve pressure on the later stages of the administrative process.

Our complete comments to Commissioner Barnhart on her proposed revisions to the disability determination process are available for the record should the Members of the Subcommittee wish to see them.

#### **Limitation on Administrative Expenses**

Improving the disability determination process, including reducing the backlog and processing times, must remain a high priority. We urge commitment of resources and personnel to resolve the exorbitant waiting times and make the process work better for people with disabilities.

First, SSA must be provided with the resources to fully meet its administrative responsibilities. We support the President's budget request for FY 2005 for \$8.878 billion for the Limitation on Administrative Expenses, a 6.8 percent increase over the FY 2004 appropriation.

In addition, we support removing SSA's Limitation on Administrative Expenses budget authority from any caps on the domestic discretionary spending category. Removal of the LAE from any domestic discretionary spending caps would remove it from competition with other health, education, and human needs programs for limited funds. It would allow for growth that is necessary to meet the needs of the com-

ing baby-boomer retirement years (including the retirement of SSA and state DDS personnel); continue the efforts to improve the processing time for initial applications and appeals, particularly through technological improvements; continue the efforts to ensure integrity in the program through CDRs and other redeterminations; and allow for replacement of staff in a timely manner and to provide for adequate training and mentoring. Even if the LAE were removed from any domestic discretionary caps, SSA's LAE would still be subject to the annual appropriations process and Congressional oversight. Currently, SSA's administrative expenses total less than 2% of benefit payments paid annually. Congress would still maintain its role in ensuring continued administrative efficiency.

Again, thank you for this opportunity to testify on these important issues. The CCD Social Security Task Force looks forward to working with the Subcommittee and the Commissioner on the issues of importance to people with disabilities in the Supplemental Security Income program.

**On Behalf of:**

American Association of People with Disabilities	National Law Center on Homelessness and Poverty
American Association on Mental Retardation	National Organization of Social Security Claimants' Representatives
American Foundation for the Blind	Paralyzed Veterans of America
American Council of the Blind	Research Institute for Independent Living
American Network of Community Options and Resources	The Arc of the United States
Bazelon Center for Mental Health Law	Title II Community AIDS National Network (THICANN)
Brain Injury Association of America	United Cerebral Palsy
National Alliance for the Mentally Ill	United Spinal Association
National Association of Councils on Developmental Disabilities	Volunteers of America
National Association of Disability Representatives	

Chairman HERGER. Thank you, Ms. Ford. Mr. O'Carroll to testify.

**STATEMENT OF PATRICK P. O'CARROLL, ACTING INSPECTOR GENERAL, SOCIAL SECURITY ADMINISTRATION**

Mr. O'CARROLL. Good morning, Chairman Herger and Mr. Stark. It is a pleasure to participate in this important hearing on the SSI Program. In 1997, the GAO designated SSI a high-risk program. Since then, SSA has taken several significant steps. As a result, GAO removed SSI from its high risk list in January 2003, noting improved financial integrity and management. Today, I will discuss SSI from two perspectives: management of the disability process and improper payments. I will also discuss the impact of the Social Security Protection Act of 2004.

Managing the disability process remains a major challenge for SSA, due to concerns about timeliness and quality of service. In her April 29 testimony, the Commissioner said SSA's accelerated electronic disability system (AeDIB) will reduce delays. We are particularly interested in its electronic signature and system security implications and will continue monitoring this initiative closely. Fraud is another challenge to SSA's disability programs. One great success is our collaboration with SSA in the Cooperative Disability Investigation (CDI) program. The CDI units are composed of IG special agents, SSA personnel and State or local law enforcement;

CDI obtained evidence to resolve questions of disability fraud. Eighteen units have opened since 1998.

In the first half of fiscal year 2004, CDI saved SSA programs almost \$64 million by identifying fraudulent claims. In fiscal year 2003, CDI saved almost \$100 million. Since its inception, CDI has denied or terminated over 5,000 claims. For example, a California husband and wife stole \$456,000 in SSI benefits and bilked \$2 million from elderly victims. The woman was representative payee for her husband and children, who both received disability benefits for mental impairments, and CDI found each family member had several fictitious identities. The husband and wife received a 10-year prison sentence, and they must pay restitution in the amount of \$1.5 million.

The second perspective from which we observe advances in the SSI Program is improper payments, payments that should not have been made or that were made for incorrect amounts. The Committee on Ways and Means has been a key supporter of legislative initiatives related to prisoners, fugitives and representative payees; SSA has made progress in suspending benefits to prisoners. The SSA actuary estimated that \$4.9 billion would be saved between calendar years 1995 and 2003 with the prisoner program.

Federal law also bars SSI for fugitive felons and for probation and parole violators. Our fugitive felon program assists law enforcement with locating and apprehending criminals, and SSI data contributed to arresting 3,300 fugitives in the first half of 2004 and over 19,000 arrests since the program's inception in 1996. For example, 2 fugitive sweeps in Detroit resulted in over 200 felony arrests. We estimate SSA saved SSI \$83.4 million between August 1996 and February of 2003. The agency is currently attempting to recover another \$207 million in overpayments made to fugitives.

Another concern is the representative payee program. If beneficiaries cannot manage their own benefits, SSA selects representative payees to do so. Over 5 million representative payees manage payments for nearly 7 million beneficiaries. Our audits of this program have identified deficiencies with financial management and accounting for benefit receipts and disbursements, vulnerabilities in safeguarding payments and poor monitoring and reporting of changes in beneficiary circumstances. We have recommended numerous corrective actions.

We have also opened over 3,800 investigations of representative payees, identifying over \$32 million in fraud and resulting in 765 convictions. For example, an organizational representative payee called Payees 'R' Us handled about 200 beneficiaries. Its director embezzled over \$107,000. After our investigation, she was sentenced to 10 months imprisonment and ordered to pay full restitution.

I would like to conclude by discussing the impact of the Social Security Protection Act. This milestone bill provides new safeguards for Social Security and SSI beneficiaries. It also enhances other program protections. For several years, we have assisted this Subcommittee in recommending measures embodied in the new law. It expands our Fugitive Felon Program by including Old-Age, Survivors and Disability Insurance (OASDI) beneficiaries and representative payees, and this could produce a fourfold increase in

our fugitive felon workload. The new law also strengthens the representative payee program and our ability to deal with dishonest representative payees. I look forward to working with Congress and the Commissioner to help SSA meet this and other challenges. I would be pleased to answer any questions.

[The prepared statement of Mr. O'Carroll follows:]

**Statement of Patrick O'Carroll, Acting Inspector General, Social Security Administration**

Good morning, Chairman Herger, Mr. Cardin, Members of the Subcommittee. As the Acting Inspector General of Social Security, it is a pleasure to join you today for this important hearing on the status and progress of the Social Security Administration's (SSA) Supplemental Security Income (SSI) Program. As Commissioner Barnhart noted in her testimony of April 29, 2004, SSI has come a long way since 1997, when the General Accounting Office (GAO) designated it a high-risk program because SSA lacked an effective plan to address the level of debt created by overpayments. GAO also said the Agency had difficulty determining initial medical and non-medical eligibility for the program, as well as continuing eligibility of program participants.

Since then, SSA has taken a number of significant steps to address these concerns. Most notably, the Agency issued an SSI Corrective Action Plan. This report reflected the serious nature of SSA's commitment to SSI improvement. It focused on four areas: commitment to timely processing of continuing disability reviews (CDRs), improved prevention of overpayments, increased overpayment detection, and increased collection of debt. As a result of the Agency's efforts, GAO removed the SSI program from its high-risk list in January 2003, noting SSA's progress in improving the financial integrity and management of the program. GAO commended SSA for its action obtaining legislation both to prevent and to collect overpayments, as well as administrative actions to strengthen SSI program integrity.

Due to SSA's many accomplishments, as well as the work of this Subcommittee and the Subcommittee on Social Security to enact legislation drawn from recommendations made by GAO and by our office—SSA's Office of the Inspector General (OIG)—the SSI program has improved significantly.

Today, I will discuss several important actions the Agency has taken to meet the challenge of strengthening SSI. I will discuss our office's evaluation of these improvements to—and status of—the SSI program from two perspectives: management of the disability process and improper payments. Finally, I will also comment on the impact of the *Social Security Protection Act of 2004*.

**Management of the Disability Process**

Due to concerns about the timeliness and quality of service, management of the disability process remains a major management challenge for SSA. This area includes the Disability Insurance (DI) and SSI programs, which provide payments to individuals based on disability. GAO echoed our concerns when it added all Federal disability programs across the Federal government to its 2003 high-risk list.

Several initiatives SSA has tested to address concerns about its disability process, have not resulted in significant improvements. However, the Commissioner has introduced a comprehensive long-term approach to improve the Agency's disability process, which SSA expects to shorten its disability processing times. We will continue to evaluate these more recent initiatives to determine their effectiveness and report to you on the Agency's progress once data is available.

In her April 29 testimony, the Commissioner stated that the linchpin for SSA's strategy is the development and implementation of its electronic disability claims system, the Accelerated Electronic Disability System (AEDIB). She described AEDIB as "a major Agency initiative that is moving all components involved in disability claims adjudication and review to an electronic business process through the use of an electronic disability folder." When fully implemented, the Agency expects each component to be able to work claims by "electronically accessing and retrieving information that is collected, produced and stored as part of the electronic disability folder." The Commissioner believes AEDIB will reduce delays that currently result from mailing, locating, and organizing paper folders. We are particularly interested in the electronic signature and systems security implications of AEDIB, and will continue to closely monitor the development of this key initiative.

Fraud is an inherent risk in SSA's disability programs. Some unscrupulous people view SSA's disability benefits as money waiting to be taken. A key risk factor in

the disability program is individuals who feign or exaggerate symptoms to become eligible for disability benefits. Another key risk factor is the monitoring of medical improvements for disabled individuals to ensure those individuals who are no longer disabled are removed from the disability rolls. We will continue to work with the Agency to prevent and detect such fraud.

#### The Cooperative Disability Investigations Program

One area that has shown great success is our collaborative effort with SSA in addressing the integrity of the disability programs through the Cooperative Disability Investigations (CDI) program. The CDI program's mission is to obtain evidence that can resolve questions of fraud in SSA's disability programs.

CDI units are composed of Office of Investigations (OI) special agents and personnel from SSA's Office of Operations, State Disability Determination Services and State or local law enforcement. They use their combined skills and specialized knowledge to combat fraud, waste, and abuse in the disability program. Eighteen units have been opened in 17 States since fiscal year (FY) 1998 with 2 units open in Texas.

Last year, GAO acknowledged the CDI program's successes by noting that we have increased the level of resources and staff devoted to investigating fraud and abuse. Our CDI teams identify fraud and abuse before benefits are approved and paid. In the first half of FY 2004, the CDI units saved SSA's SSI and Old Age, Survivors and Disability Insurance (OASDI) programs almost \$64 million by identifying fraud and abuse related to initial and continuing claims within the disability program. In FY 2003, the CDI Program saved almost \$100 million. Since the inception of the program, over 5,000 claims have been denied or terminated.

Due to the great success of these units, we hope to add additional CDI units on a year-to-year basis, depending on available funds. As an alternative, we would also consider adding staff to our more successful units.

Four recent cases highlight the successes of the CDI Program. A California woman served as representative payee for her husband and her multiple children. They all received disability benefits for mental impairments. The Oakland CDI unit investigation found that each family member established several fictitious identities and improperly obtained \$456,309 in SSI disability benefits, as well as county welfare benefits. The family also bilked some \$2 million from several elderly victims. The husband and wife were arrested and charged with 28 counts of criminal malfeasance, including grand theft charges for the SSI payments. Each was sentenced to a 10-year State prison term, and the couple was ordered to pay joint restitution of over \$1.5 million to SSA, Alameda County, and their elderly victims. The family's benefits were terminated.

In another large-scale case, our New York CDI unit recently completed its investigation of a \$1.3 million SSI fraud committed by several organized groups in Brooklyn, NY. The Brooklyn DDS contacted the CDI Unit about a pattern of applications containing no treatment for alleged mental disabilities. Our investigators observed the applicants performing activities they claimed they could not perform, such as leaving home, shopping, and driving. We determined that several of these SSI frauds had begun in the 1970s and 1980s. This investigation resulted in 35 arrests, 24 felony convictions, and court-ordered restitutions, forfeitures, and judgments totaling more than half a million dollars. Many of those convicted were also incarcerated.

In another CDI case, a 23-year-old man filed for disability benefits, alleging brain damage and mental retardation caused by exposure to toxic fumes at a chemical plant. Our Houston CDI Unit, assisted by local police, arrested him at a girlfriend's house on an outstanding felony warrant for failure to register as a sex offender. After the arrest, our investigators found he was able to talk, communicate well and follow directions. The man's claim was denied.

Finally, our New York CDI investigated a man who received SSI benefits for paralysis, alleging such limitations that he spent his days watching television and needed his mother to do chores. Our CDI Unit investigation revealed the subject was running a \$30 million dollar sports betting operation and was alleged to be a captain in the Gambino crime family. His W-2 earnings statements showed annual earnings of \$75,000 for managing a restaurant. SSA determined his earnings precluded eligibility and he was arrested for grand larceny. The subject was incarcerated on racketeering charges, and his sentencing on the SSI case is pending.

#### Improper Payments

Another perspective from which we observe Agency progress in the SSI program is improper payments—payments that should not have been made or that were

made for incorrect amounts. To combat improper payments, Congress enacted the Improper Payments Information Act in November 2002, and the Office of Management and Budget (OMB) issued guidance in May 2003 implementing this new law. Under this law, agencies that administer programs with a significant risk of improper payments estimate their annual amount of improper payments, and report this information in their Performance and Accountability Reports. SSA has undertaken many projects to identify and improve areas where it could do more to reduce improper payments and/or recover amounts overpaid. The Agency has been working to improve its ability to prevent overpayments and underpayments by obtaining beneficiary information from independent sources sooner and/or using technology more effectively. In this regard, SSA has initiated new computer matching agreements, obtained on-line access to wage and income data, and implemented improvements in its debt recovery program.

In FY 2003, SSA issued over \$500 billion to almost 50 million beneficiaries and recipients with \$33 billion in SSI payments to about 6.8 million individuals. Even the slightest error in the overall process can result in millions of dollars in overpayments or underpayments. Working with SSA, we have made great strides in reducing benefit payments to prisoners and SSI payments to fugitive felons, and these efforts continue. For example, we recently completed a review of the Agency's efforts which concluded that SSA has made significant efforts over the past several years to identify, prevent, and recover SSI overpayments.

#### Halting Benefits for Prisoners

One early sign of SSA's commitment to SSI program integrity was the halting of benefit payments to prisoners. Less than a year after SSA became an independent agency, we estimated in an audit report that the annual cost to SSA in erroneous payments to prisoners was \$48.8 million, and we recommended that SSA seek legislation to facilitate the exchange of information with Federal, state, and local prison authorities. Such legislation was enacted in 1999 and payments to more than 69,000 prisoners were suspended in FY 2000 based on more than 260,000 prisoner alerts received in large part because of that legislation. SSA's actuary estimated in 1998 that \$4.9 billion would be saved between calendar years 1995 and 2003 by stopping OASDI and SSI payments to prisoners. In July 2003, we completed a follow-up review and found that SSA has made progress in obtaining, processing, and suspending Social Security benefits to prisoners, as well as collecting overpayments from prisoners.

Currently, SSA receives prisoner data from all 50 States and over 3,000 county and local facilities. Since the incentive payment program began in 1997, SSA has paid 5,196 penal institutions over \$113 million in incentive payments. Suspension of benefits to prisoners saves approximately \$500 million annually.

We are currently assessing the accuracy of incentive payments to prisons. The incentive payment provisions in the Social Security Act were established to encourage the reporting of inmate data which would allow SSA to suspend SSI and OASDI benefits to prisoners in a timely manner. Once our review is complete, we will provide you with our findings and recommendations.

#### The Fugitive Felon Program

Federal legislation bars SSI for fugitive felons and for probation and parole violators, and provides for the exchange of certain SSI information with law enforcement agencies under specified conditions. Such fugitives are denied Federal assistance and parallel aid is also provided to law enforcement for their apprehension.

Our highly successful Fugitive Felon Program assists law enforcement with locating and apprehending criminals, making our neighborhoods safer. The program uses automated data matches to compare warrant information from the National Crime Information Center (NCIC), the Federal Bureau of Investigation, the United States Marshals Service, and State agencies with SSI rolls. During FY 2003, we identified approximately 38,000 subjects receiving SSI payments—over 3,000 per month—resulting in over 6,500 apprehensions. SSA data contributed to the arrest of 3,329 fugitives in the first half of FY 2004—and over 19,000 arrests since the program's inception in 1996.

Let me cite three recent examples. Our Chicago Field Division participated in a three-day fugitive sweep in FY 2003 as part of the Violent Crimes/Street Gang Alliance Task Force that combined the resources of Federal, State, county and local law enforcement agencies from the Detroit metropolitan area. Our agents contacted approximately 100 fugitives receiving SSI benefits to lure them to our office for arrest. Our agents were directly responsible for the arrests of 46 felons, and the sweep resulted in over 100 arrests for a variety of felony offenses including arson, criminal sexual conduct, felonious assault, narcotics and firearms violations, malicious de-

struction of property and animal fighting. The operation followed a similar three-day fugitive felon sweep that resulted in 100 arrests for crimes including assault with intent to murder, assault with intent to do great bodily harm, armed robbery, criminal sexual conduct, home invasion, weapons violations, auto theft, and various probation and parole violations.

In another fugitive felon case, our Los Angeles Field Division investigated an SSI recipient who violated his probation following his conviction for robbing a bank. Our investigators determined that he had an extensive criminal history involving numerous violations for both theft and bank robbery. He was taken back into custody without incident by our special agents and United States Marshals Service deputies near the Social Security office in Pomona.

In Fall 2003, a Florida man sought for killing a local pastor was featured on "America's Most Wanted." NCIC submitted his arrest warrant to our Fugitive Felon Program. We discovered that his SSI record indicated he had recently changed his address to a homeless shelter in San Diego, California. A citizen contacted the police after recognizing the man from a "wanted" flier our Los Angeles Field Division and the San Diego Violent Crimes Task Force distributed. The fugitive was arrested near the shelter minutes later. His SSI payments were also terminated.

In a fugitive felon report issued last year, we estimated that SSA saved the SSI program \$83.4 million between August 1996 and February 2003. This included \$74.1 million in SSI payments that might otherwise have been paid to fugitives had SSA not taken administrative action to suspend their monthly payments and \$9.3 million in SSI overpayments recovered from fugitives. Also, the Agency is attempting to recover about \$207 million in overpayments paid to fugitives.

#### Benefits Fraud

Eligibility for the SSI program is often complex and difficult to verify. Several factors need to be considered, such as an individual's income, resource levels, and living arrangements. Further, because individual financial circumstances also often change, SSA must frequently reassess recipients' continuing eligibility for benefits. As a result, the SSI program tends to be difficult and labor intensive to administer. These factors also make the SSI program vulnerable to overpayments.

Our office is constantly working to prevent and detect fraud that would result in the improper payment of SSI. For example, we have taken aggressive action in conjunction with SSA to stop erroneous payments to deceased individuals. This includes front-end detection of such payments and controls to prevent them, as well as detailed investigations to locate wrongdoers when the system breaks down.

In 1997, as a result of the *Robinson/Reyf* class action lawsuit settlement, SSA implemented procedures that payment checks were issued by SSA be replaced immediately after a non-receipt report is filed. This has resulted in some fraudulent non-receipt reports. To ensure these payments are issued appropriately, in close coordination with SSA's regional staff, we have initiated an aggressive investigative project into replacement check fraud, in which people ask for a replacement check to be issued, falsely claiming they never received the original.

For example, in a recent investigation, seven representative payees who received a combined 20 SSI checks each month engaged in a replacement check fraud scheme. Our Atlanta Field Division determined the seven repeatedly called the SSA toll-free number to fraudulently report non-receipt of their legitimate monthly checks, and then cashed the duplicate checks when they arrived. One was incarcerated, and the remaining six were sentenced to varying terms of probation. The seven were ordered to pay restitution totaling \$48,655 to SSA.

In FY 2003, we reviewed SSA's process for issuing replacement checks and found that SSA needs to improve its monitoring of replacement check requests, overpayment recovery actions, and deterrents such as administrative sanctions. In response, the Agency revised its procedures and controls over its replacement check policy, as well as its recovery of related overpayments. We will continue to monitor the Agency's progress in this area.

#### Representative Payee Fraud

Another area of concern is the Representative Payee Program. When SSA determines a beneficiary cannot manage his/her benefits, SSA selects a representative payee, who must use the payments for the beneficiary's needs. About 5.3 million representative payees manage payments for 6.7 million beneficiaries for all of SSA's programs. Over 2.3 million SSI recipients have representative payees. In managing the representative payee process, SSA must provide appropriate safeguards to ensure they meet their responsibilities to the beneficiaries they serve. To assist SSA in this effort, we completed a number of initiatives to determine whether representative payees had effective safeguards over the receipt and disbursement of Social



Security benefits, and to ensure that Social Security benefits are used and accounted for in accordance with SSA policies and procedures.

Additionally, since FY 2001, our audits have identified deficiencies with the financial management and accounting for benefit receipts and disbursements; vulnerabilities in the safeguarding of beneficiary payments; poor monitoring and reporting to SSA of changes in beneficiary circumstances; as well as inappropriate handling of beneficiary-conserved funds and the charging of improper fees. As a result of these audits, the Agency has both agreed to and implemented numerous recommendations for corrective actions aimed at strengthening the control and accounting of funds by representative payees.

Our audit work has shown that closer attention to the initial selection process could resolve many potential problems before they arise, so it is critical that SSA more thoroughly screen potential representative payees. In October 2002, we issued a report that identified 121 individuals serving as representative payees whose own SSI benefits were stopped by SSA because they were fugitive felons or parole or probation violators. SSA policy at that time did not prohibit fugitive felons and parole or probation violators who have not been convicted of a crime involving a Social Security program to serve as representative payees. In a March 2003 audit we quantified the number of representative payees who were fugitive felons regardless of whether they were receiving SSI payments. In this audit, we estimated that fugitives could manage approximately \$19 million in Social Security funds each year if SSA did not take action to replace them as representative payees. The recent passage of the Social Security Protection Act bars fugitives from serving as representative payees. Therefore, SSA can now take extra precautions to protect its most vulnerable beneficiaries.

Once representative payees have been selected, it is also incumbent upon SSA to adequately monitor them to ensure that benefits are being used as intended to aid the beneficiary and that the representative payees continue to be suitable.

To date, we have opened over 3,800 investigations of representative payees. Those investigations have identified over \$32 million in fraud, and have resulted in over 765 convictions. Three recent cases illustrate our successes combating representative payee fraud.

“Payee-R-Us,” an organizational representative payee service in Washington State, handled as many as 200 vulnerable beneficiaries including individuals who were mentally disabled, for which it received a monthly fee per client. Its executive director embezzled over \$107,000 in payments. In one egregious example, a homeless beneficiary was unaware of his approximately \$15,000 retroactive benefit check that the executive director had embezzled for her personal use. After our Seattle Field Division’s investigation, she pleaded guilty to representative payee misuse and Social Security fraud. She was sentenced to 10 months’ imprisonment and ordered to pay \$107,292 in restitution directly to 88 victims.

A Kansas man was representative payee for several recipients and beneficiaries of Department of Veterans Affairs (VA) and SSA benefits for several years. He converted their benefits to his personal use, telling agents after his arrest he needed the money to pay for his drinking habit, and he admitted selling at least three recipients’ farms for more than \$70,000 each. Our office worked with VA’s OIG to bring charges, and he was sentenced to 12 months house arrest wearing an electronic monitor, 3 years supervised probation, a special assessment fee of \$300, and restitution in the amount of \$490,625.

We have the same problem in non-SSI cases as well. For example, our Atlanta Field Division investigated a Florida woman who stole an acquaintance’s identity to obtain a North Carolina ID card. Then she “created” two children by providing SSA false birth certificates to get SSNs for them. After altering marriage and divorce documents and claiming she had married a known deceased man she portrayed as the children’s father, she received SSA survivor’s benefits for the fictitious children as their representative payee. We found she had previously collected SSA survivor benefits for herself and another fictitious child. Our investigation revealed five false identities she used to obtain valid SSNs to open bank accounts and private mailboxes for the SSA funds. She was sentenced to 27 months’ incarceration, ordered to pay SSA restitution of \$79,627, and required to participate in a Federal Bureau of Prisons drug rehabilitation program.

#### Partnerships with U.S. Attorneys

Placing attorneys in several United States’ Attorneys’ Offices (USAO) as Special Assistant United States Attorneys (SAUSA) is an important law enforcement tool in fighting benefits fraud. This partnership enables us to have cases that are developed by our investigators criminally prosecuted—cases that would normally be declined due to the limited resources of the various USAOs. OIG currently has a full-

time SAUSA in Los Angeles and part-time SAUSAs in New Haven and Memphis. Likewise, SSA's Office of General Counsel has assigned several attorneys to act as SAUSAs in other major metropolitan areas.

In one such case, an Arizona family received more than \$200,000 in SSI payments between 1990 and 2003 for the mother and all six of her children, based on various alleged mental and learning disabilities. Our Los Angeles Field Division investigation revealed that many of the children not only attended college, but excelled academically. Also, several of the children led community and school-based sports teams. As a result of a plea agreement, the mother agreed to make full restitution, and could spend more than 4 years in prison after she is sentenced later this year.

#### The Civil Monetary Penalty Program

Another important enforcement tool in the fight against fraud, the Civil Monetary Penalty (CMP) program, provides for the imposition of penalties and assessments against individuals who make false statements or representations of material fact to SSA in connection with the application for or retention of SSI and DI benefits. The CMP program is often used when cases investigated by the OIG are declined for criminal and civil prosecution by the USAO. The law allows for the imposition of up to \$5,000 in penalties for each false statement or representation made to SSA. In addition, we are authorized to impose an assessment of up to twice the amount of any SSI or DI benefits improperly paid as a result of the false statement or representation. Since FY 1998, we have imposed over \$2.6 million in penalties and assessments against those who mislead SSA. When neither criminal action nor imposition of a CMP is possible, we refer the details of our investigation to SSA so that the Agency can pursue administrative sanctions to protect program integrity.

In one recent case, a non-governmental claimant representative made numerous false statements to SSA in connection with his attempt to obtain or continue SSI and DI benefits for his clients. He altered sections, deleted information, and forged physician signatures on medical assessment forms to obtain favorable disability hearing decisions for his clients. He was disqualified from representing Social Security claimants, and we imposed a \$25,000 CMP.

#### **Impact of the Social Security Protection Act of 2004**

The *Social Security Protection Act of 2004*, the work of three Congresses, is a milestone bill. It provides new safeguards for Social Security and SSI beneficiaries who have representative payees, and will enhance other program protections. We called for a number of the measures embodied in the new law for several years.

This new legislation will provide significant new authority to our office to protect the Social Security number (SSN), SSA employees, and the Social Security Trust Funds. It is a significant expansion of OIG's responsibility. I congratulate the Ways and Means Committee for this comprehensive, diligent effort, and am honored that we could contribute our insight and recommendations to improve the integrity of SSA programs and operations.

The new legislation expands our Fugitive Felon Program beyond SSI beneficiaries to include OASDI beneficiaries and representative payees. In our audit report issued last year on the SSI fugitive program, we estimated that approximately 7,988 individuals were ineligible for SSI payments in February 2003 because of outstanding felony warrants, but were eligible for OASDI benefits totaling \$4 million for that 1 month. At the time—prior to enactment of the *Social Security Protection Act*—we noted that if the Social Security Act were amended to preclude payment of OASDI benefits to fugitives, SSA could save approximately \$48 million over the next year by withholding the monthly OASDI benefits to these 7,988 fugitives.

These savings can now become a reality with the passage of the law, combined with SSA's and OIG's efforts to implement it with current resources. Additionally, I mentioned earlier that SSA data has contributed to the arrest of over 19,000 fugitives since the program's inception in 1996. With the passage of the *Social Security Protection Act*, we expect our monthly workloads to increase substantially.

The *Social Security Protection Act* will also significantly strengthen the Representative Payee Program and our ability to deal with dishonest representative payees. It allows for the imposition of CMPs against representative payees who misuse benefits paid on behalf of their clients. The new law also allows SSA to fully compensate beneficiaries defrauded by unscrupulous representative payees, and bars fugitive felons from serving as representative payees.

This is an important new safeguard.

Conclusion

I am certainly proud of the contributions our office has made toward the detection and prevention of fraud and the overall security of the SSI program. While there undoubtedly remains more to be done, SSA should be proud of the significant changes it has made in the SSI program, and the improvements brought about by those changes.

I look forward to working with Congress and the Commissioner to help SSA meet these and other challenges. Thank you, and I would be pleased to answer any of your questions.

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Chairman HERGER. Thank you, Mr. O'Carroll. Ms. Marshall to testify?

**STATEMENT OF MARTHA MARSHALL, PRESIDENT-ELECT, NATIONAL ASSOCIATION OF DISABILITY EXAMINERS, LANSING, MICHIGAN**

Ms. MARSHALL. On behalf of NADE—

Chairman HERGER. Ms. Marshall, if you could maybe bring the microphone a little closer.

Ms. MARSHALL. I would like to thank Chairman Herger—

Chairman HERGER. Thank you.

Ms. MARSHALL. Ranking Member Cardin and Members of the Subcommittee for the opportunity to be here today. The NADE agrees with Commissioner Barnhart that SSI beneficiaries are among the most vulnerable Members of our society. For them, SSI is truly a program of last resort and is the safety net that protects them from complete impoverishment. For that reason, we are concerned with the Commissioner's proposal and congressional initiatives to require pre-effectuation reviews of 50 percent of State agency Disability Determination Service (DDS) allowances of SSI adult claims.

We question the rationale for increasing the Federal quality review for DDSs, a component that allows approximately 40 percent of initial claims, while there is no such corresponding review of decisions made at the administrative law judge level, a component that allows approximately 65 percent of claims. Clearly, this targeted review of DDS allowances does not support the Commissioner's stated objective of allowing those claims that should be allowed as early in the process as possible. In fact, by targeting DDS allowances, SSA sends a message to the DDSs to deny more claims, forcing claimants to pursue their claims to the administrative law judge level. This message only serves to increase the appeal rate and the overall administrative costs of the program.

In addition, if the review concludes the DDS allowance to be correct, the review process itself delays payment to disabled citizens who by the very nature of their claim are in dire financial need. Rather than increase pre-effectuation reviews, NADE believes the more effective use of resources to promote stewardship and ensure program integrity would be to increase the number of CDI units. Anti-fraud efforts such as these offer a visible and effective front-line defense for program integrity and serve as a visible and effective deterrent to fraud. Instead of sending a message to the public that encourages appeals and increases administrative costs, the

message sent to the public should be that it is not worth the risk to try to defraud the program.

The NADE also supports SSA's plans to increase the number of redeterminations to ensure greater payment accuracy. It is also critical that continuing disability reviews be conducted in a timely manner. These reviews are not only cost-effective, saving approximately \$9 for each dollar invested. They play an important role in the return to work incentive. An individual who knows that his or her claim will be reviewed at the appropriate time is more likely to explore vocational options. Unfortunately, with the increase in initial claims and the loss of targeted funds specifically designed to handle this workload, CDIs are likely to be delayed.

Adequate resources are also needed to enable SSA and the DDSs to process the special Title II disability workload. In September 2003, Commissioner Barnhart presented her approach to improving the disability determination process. This approach was designed to shorten decision times, pay benefits to people who are obviously disabled much earlier in the process and test new incentives for those with disabilities who wish to remain in or return to the workforce.

Both formally and informally, NADE has provided extensive feedback to the Commissioner on her new approach, and NADE fully supports all efforts to allow earlier access to health care, treatment and rehabilitation needs of disabled individuals, as well as efforts to assist those individuals who wish to return to work by providing them the needed resources. We agree with Commissioner Barnhart that successful implementation of AeDIB is a critical feature of any new approach to SSA disability determinations. We support these new technologies.

However, without sufficient support, adequate resources and proper equipment, any attempt at an efficient, paperless process will meet with failure. While technology can be expected to reduce handoffs, eliminate mail time and provide other efficiencies, technology is merely a tool. It cannot replace the highly skilled and trained disability examiner who evaluates the claim and determines an individual's eligibility for disability.

Although the Commissioner's approach envisions that quick decisions for those who are obviously disabled would be adjudicated in regional expert review units, NADE believes that the DDSs are better equipped in terms of adjudicative experience, medical community outreach and system support to fast track claims and gather evidence to make a decision timely, accurately and cost-effectively. Establishing a regional expert unit to handle this workload constitutes an additional handoff of a claim with no value added to the process. Likewise, NADE does not support assigning the responsibility for quick decisions to the SSA field office. Even with additional training, we do not believe SSA claims representatives will have the knowledge and skills necessary on an ongoing basis to adjudicate these claims.

To summarize NADE's key recommendations, we would suggest—we believe that only those strategies with the most beneficial outcome for all entities should be implemented. We would suggest expanding CDI units to all States rather than increasing reviews of DDS allowances. The quick decisions in the DDS that maintain

medical consultants on site in the DDS fully integrate the single decisionmaker into any new disability process, utilize the current infrastructure of disability hearing offices as an interim appeals step, provide dedicated funding for redeterminations, CDIs and special Title II workloads, implement the AeDIB with adequate infrastructure, support and proper equipment. Thank you.

[The prepared statement of Ms. Marshall follows:]

**Statement of Martha Marshall, President-elect, National Association of Disability Examiners, Lansing, Michigan**

Chairman Herger, Ranking Member Cardin, and members of the Subcommittee, thank you for providing this opportunity to present the views of the National Association of Disability Examiners (NADE) on the status of the Supplemental Security Income (SSI) program, anti-fraud and abuse initiatives, and suggestions for additional program improvements.

NADE is a professional association whose mission is to advance the art and science of disability evaluation and to promote ongoing professional development for our members. The majority of our membership is employed in the state Disability Determination Service (DDS) agencies and are directly involved in the adjudication of claims for Social Security and Supplemental Security Income (SSI) disability benefits. However, our membership also includes SSA Field Office and Central Office personnel, attorneys, physicians, and claimant advocates. It is the diversity of our membership, combined with our extensive program knowledge and "Hands on" experience which allows us to view problems in the Social Security and SSI disability programs from a broad perspective and to offer solutions which reflect a pragmatic realism.

NADE members, whether in the state DDSs, the SSA Field Office, SSA Headquarters, OHA offices or in the private sector, are deeply concerned about the integrity and efficiency of both the Social Security and the SSI disability programs. We believe that those who are entitled to disability benefits under the law should receive them; those who are not, should not. Although, in January 2003, the U.S. General Accounting Office (GAO) removed SSI from its list of programs at high-risk for fraud and abuse, it added a new high-risk area encompassing a range of Federal disability programs, including SSI. We would concur with this assessment. While we strongly believe that the vast majority of applicants are not out to defraud the disability program(s), every disability examiner is aware of at least some level of questionable activity on the part of some applicants and/or their representatives. Efforts undertaken by Congress and SSA to combat fraud are cost-effective and provide valuable protection to the victims of those who purposely attempt to defraud the program.

NADE agrees with Commissioner Barnhart that, "SSI beneficiaries are among the most vulnerable members of our society . . . By any measure, SSI recipients are among the poorest of the poor. For them, SSI is truly the program of last resort and is the safety net that protects them from complete impoverishment". For that reason, we are concerned with the Commissioner's proposal and Congressional initiatives to require pre-effectuation reviews of fifty percent of state agency (DDS) allowances of SSI adult cases, "in order to correct erroneous SSI disability determinations." ***We question the rationale for increasing the federal quality review rate for the DDSs, a component that allows approximately forty percent of initial claims, with an FY 2002 net accuracy rate of 98.5% for allowances, while there is no such corresponding review of decisions made at the Administrative Law Judge (ALJ) level, a component that allows approximately sixty-five percent of claims, with a decisional accuracy rate in FY 2002 of 90%.***

NADE does not believe that increased review of DDS allowance decisions represents an appropriate use of scarce resources. We are not aware of any study that evaluates the end result of claims appealed to the Administrative Law Judge level that were initially allowed by the DDS but later denied after the claim was returned by the federal quality review component. Anecdotal evidence suggests that many of these claims are eventually allowed during the appeals process.

The decision regarding an individual's eligibility for benefits should be objective and unbiased. There is no evidence that increased review of DDS allowances achieves SSA's Strategic Goals. Nor does it support the objective of allowing those claims that should be allowed as early in the process as possible. In fact, by targeting DDS allowances SSA sends a message to the DDSs to deny more claims, forc-

ing claimants to “Pursue their claims to the Administrative Law Judge level.” This “Message” only serves to increase the appeal rate and the overall administrative costs of the program. *In addition, if the review concludes the DDS allowance to be correct, the review process itself delays payment to disabled citizens who are frequently in dire financial straits.*

For several reasons the SSI disability program is more labor intensive and difficult to administer than the Title II disability program. Both medical eligibility and exact payment amounts are determined by complex, ever-changing rules. Individuals applying for SSI disability benefits are, by definition, very poor. Most have little or no ongoing medical treatment or treating sources able to provide comprehensive records. SSI applicants are strong candidates for manipulation by others for financial gain. They are often the victims of others whose mission is to defraud the SSI program. ***Rather than increased pre-effectuation reviews, NADE believes a more effective use of resources to promote stewardship and ensure program integrity would be to increase the number of Cooperative Disability Investigation (CDI) units.***

To combat disability fraud, CDI teams rely on the combined skills and specialized knowledge of OIG investigators, state and local law enforcement officials and SSA and state DDS personnel. As experts in the disability area, NADE members play a key role in the process of detecting fraud and abuse within SSA’s disability process. Our members have a unique opportunity to observe and assist in the process of detecting fraud and abuse. Both the Social Security Advisory Board and SSA’s Office of Inspector General have stated in previous reports and congressional testimony that the experienced disability examiner is the most effective weapon SSA has at its disposal to combat fraud.

CDI units, which first became operational in 1998, have allowed SSA to avoid improper payments of over \$159 million. NADE supports the continued expansion of the CDI units to combat fraud and abuse in the disability program. Anti-fraud efforts such as these offer a visible and effective front-line defense for program integrity, and serve as a visible and effective deterrent to fraud. Instead of sending a message to the public that encourages appeals and increases administrative costs, the message sent to the public should be that it is not worth the risk to try to defraud the program.

In November 2002 SSA issued a Notice of Proposed Rulemaking (NPRM) to conduct pilot projects “wherein we will request photographic identification from individuals filing for title II and title XVI disability benefits in specified geographic areas covered by the pilot projects. In addition, we would require individuals to allow us to take their photograph and we would make these photographs a part of the claims folder. We would permit an exception to the photograph requirement when an individual has a sincere religious objection. This process would strengthen the integrity of the disability claims process by helping to ensure that the individual filing the application is the same individual examined by the consultative examination (CE) physician.” NADE supports such projects and urges Congress to provide appropriate resources to continue and increase these and other effective anti-fraud activities.

NADE also supports SSA’s plans to increase the number of re-determinations to ensure greater payment accuracy. This would help ensure that claimants receiving SSI benefits are, in fact, eligible to do so. It is also critical that Continuing Disability Reviews (CDRs) be conducted in a timely manner. CDRs are not only cost effective, saving approximately \$9 for each \$1 invested, they play an important role in any return to work incentive. An individual who knows his or her claim will be reviewed at the appropriate time is more likely to explore vocational options. Unfortunately, with the increase in initial claims and the loss of targeted funds specifically designated to handle this workload, CDRs are likely to be delayed.

Adequate resources and staffing will be needed to ensure that these initiatives are effectively meeting our stewardship responsibilities. Additional adequate resources are needed to enable SSA and the DDSs to process the Special Title II Disability Workload. These individuals are receiving SSI but have been found to be potentially eligible for some type of Social Security disability benefit.

In her September 25, 2003 testimony before the House Ways and Means Subcommittee on Social Security Commissioner Barnhart presented her approach to improving the disability determination process. This approach was designed to “shorten decision times, pay benefits to people who are obviously disabled much earlier in the process and test new incentives for those with disabilities who wish to remain in, or return to, the workforce.” Both formally and informally, NADE has provided extensive feedback to the Commissioner on the new approach. Our comments are summarized below. A flow chart incorporating NADE’s suggestions was included in our April 29, 2004 Statement for the Record, and our complete comments and the accompanying flowchart are available on our website at [www.nade.org](http://www.nade.org).

NADE fully supports all efforts to allow earlier access to health care, treatment and rehabilitation needs of disabled individuals, as well as efforts to assist those individuals who wish to return to work by providing them the needed services to allow them to do so. We believe that early intervention efforts will provide improved service to the American public by providing needed treatment and services earlier in their disease process. This early intervention has the potential to decrease the life-long disability payments that some individuals receive once they have been determined eligible for benefits. Although few details are available in the Commissioner's approach regarding potential demonstration projects, it appears that individuals chosen for participation in these projects could be screened based upon age, education, work history and claimant allegations. This type of data is currently collected in the initial disability interview; using these types of screening criteria would not require system changes or other modifications to the existing process. Therefore, NADE believes that a trained "Technical expert in disability" in a SSA field office could screen applicants for disability into these demonstration projects. Oversight of these projects could be done on a regional basis by regional expert units as proposed by the Commissioner.

NADE agrees with Commissioner Barnhart that successful implementation of eDIB is a critical feature of any new approach to SSA disability determinations. NADE remains supportive of these new technologies as a means for more efficient service to the public. We believe that SSA's goal of achieving an electronic disability claims process represents an important, positive direction toward more efficient delivery of disability payments. In order for an electronic folder to be successful, it is an absolute necessity that adequate infrastructure support and proper equipment to make the process work effectively and efficiently is in place. Without sufficient support, adequate resources and proper equipment, any attempts at an efficient paperless process will meet with failure. *While technology can be expected to reduce hand-offs, eliminate mail time and provide other efficiencies, technology is merely a tool. It cannot replace the highly skilled and trained disability examiner who evaluates the claim and determines an individual's eligibility for disability benefits in accordance with Social Security federal rules and regulations.*

NADE strongly supports the Commissioner's emphasis on quality as described in the new approach. By including both in-line and end-of-line review, accountability can be built into every step. We believe that this will promote national consistency that, in turn, will build credibility into the process.

Although the Commissioner's approach envisions that "quick decisions" for those who are obviously disabled would be adjudicated in Regional Expert Review Units, NADE believes that the DDSs are better equipped in terms of adjudicative expertise, medical community outreach, and systems support to fast track claims and gather evidence to make a decision timely, accurately, and cost effectively. Previous attempts at separating the components of the decision making process demonstrated that the perceived improvements are less effective in practice than in theory. DDSs already process at least twenty percent of allowance decisions in less than twenty-five days. DDS disability examiners are well versed in the evaluation of disability onset issues, unsuccessful work attempts and work despite a severe impairment provisions to quickly and efficiently determine the correct onset for quick decision conditions.

Establishing a regional expert unit to handle this workload constitutes an additional hand-off of a claim with no value added to the process. We see no need to add another layer of bureaucracy to process quick decisions when such cases are already "triaged" and handled expeditiously by the DDS. In order to implement a regional expert unit for quick decisions, SSA would need to change its existing infrastructure to make these decisions and provide for hiring, training and housing staff. In addition, business processes would have to be developed to secure and pay for medical evidence of record.

Likewise, NADE does not support assigning the responsibility for Quick Decisions to the SSA Field Office. Even with additional training, we do not believe that SSA Claims Representatives will have the knowledge and skills necessary *on an ongoing basis* to adjudicate these cases. We are also concerned that assigning this responsibility to the SSA Field Offices will invite jurisdictional disputes between the DDSs and the SSA Field Offices as to what types of cases or alleged impairments actually constitute potential for "quick Decisions." In addition, we would point out that some Field Offices already struggle with the concept of recognizing presumptive disability claims and TERI (terminal illness) cases. Adding additional conditions or expanding their responsibilities in this area will require extensive time-consuming and expensive training to an already lengthy claims representative training period. **Experience with the Disability Claims Manager pilot demonstrated that there is**

**too much complexity in both the claims representative and disability examiner positions to “merge” them into one.**

NADE would not oppose SSA Claims Representatives recommending cases for potential quick decisions but we do suggest that more extensive in-line quality assurance and end-of-line quality control be applied to this new process to ensure that those claims that deserve to be identified as having potential for “quick Decisions” are so identified and that those that do not, are not so identified.

NADE is strongly opposed to the Commissioner’s proposal to remove onsite Medical Consultants from the DDS. As an integral part of the DDS adjudicative team, DDS medical consultants play a vital role in the disability evaluation process, not only in reviewing medical evidence and providing advice on interpretation, but also in training and mentoring disability examiners, as well as performing necessary public outreach in the community. The DDS medical consultant interacts with disability examiners on a daily basis and offers advice on complex case development or decision-making issues. He/she maintains liaison with the local medical community and has knowledge of local care patterns and the availability of diagnostic studies and state regulations to facilitate the adjudication process within the complex Social Security system.

Most disability applicants have multiple impairments involving more than one body system and require a comprehensive view of the combined limitations and resultant impact on function. Specialty consultants with limited scope and experience cannot fully assess the combined effects of multiple impairments on an applicant’s functioning. The SSA programmatically trained DDS medical consultant has the education, clinical experience and decision-making skills, along with expertise in evaluating medical records and disease conditions and making prognosis predictions regarding a claimant’s function and future condition, to more accurately assess the case as a whole.

DDS medical consultants are not only medical specialists—physicians, psychologists or speech/language pathologists— they are also SSA program specialists. *There is a very real difference between clinical and regulatory medicine and it takes at least a year to become proficient in Social Security disability rules and regulations.* The DDS medical consultant’s unique knowledge of SSA’s complex rules and regulations and regional variants of those regulations, their medical expertise in many fields and knowledge of local medical sources, and their familiarity with DDS examiner staff, quality assurance specialists and supervisors, make them an invaluable asset to the DDS’s and the SSA Disability Program as a whole. It is critical that this expertise be on-site in the DDSs and readily available to the disability examiner for case consultation and questions. *If, as proposed under the Commissioner’s approach, DDS disability examiners are to adjudicate primarily the more complex disability claims, then it becomes even more important to maintain DDS medical consultants on-site.*

The SSI disability program is unique among disability programs. The disability examiners who evaluate claims for SSI disability benefits must possess unique knowledge, skills and abilities. Those who adjudicate SSI disability claims are required, as a matter of routine, to deal with the interplay of abstract medical, legal, functional and vocational concepts. *It takes years before an individual becomes adept at this complex task.* Disability examiners are required by law to follow a complex sequential evaluation process, performing at each step, an analysis of the evidence and a determination of eligibility or continuing eligibility for benefits before proceeding to the next step. Adjudication of claims for SSI disability benefits requires that disability examiners be conversant (reading, writing and speaking) in the principles of medicine, law and vocational rehabilitation. The disability examiner is not a physician, an attorney or a vocational rehabilitation counselor. Nevertheless, during the course of adjudication he or she must extract and employ major concepts that are fundamental to each of these professions.

The U.S. General Accounting Office declared in one of their reports to Congress that: “The critical task of making disability decisions is complex, requiring strong analytical skills and considerable expertise, and it will become even more demanding with the implementation of the Commissioner’s new long-term improvement strategy and the projected growth in workload. NADE concurs with this assessment. A disability examiner must have knowledge of the total disability program as well as proficiency in adult and child physical and mental impairment evaluation, knowledge of vocational and job bank information and the legal issues which impact on case development and adjudication.

NADE has long supported an enhanced role for the disability examiner and increased autonomy in decision-making for experienced disability examiners on certain cases. We were pleased, therefore, that in NADE’s discussions with Commissioner Barnhart, we were told that it was her intent in the new approach to en-



hance the disability examiner's role in the disability process. In order to achieve that, we believe that the Single Decision Maker (SDM) from the highly successful Full Process Model project and currently operating in the prototype and ten other states, should be fully integrated into the new approach. (Under the SDM model, medical sign-off is not required unless mandated by statute.)

Decisions regarding disability eligibility can be considered to be on a continuum from the obvious allowances on one end, through the mid-range of the continuum where only careful analysis of the evidence by both adjudicator and physician can lead to the right decision, and finally to the other end of the continuum where claims are obvious denials. It is at both ends of the continuum where the disability adjudicator can effectively function as an independent decision-maker. Using SDM to make the disability determination and retaining the availability of medical consultant expertise for consulting on cases without requiring doctor sign off on every case promotes effective and economical use of resources. It is prudent to expend our medical and other resources where they can most positively impact the quality of the disability claim.

Of all the "reengineered" disability processes proposed or piloted in the past, the SDM process has been the most successful. It has had a more positive impact on cost-effective, timely and accurate case processing than any other disability claims initiative in many years. Statistical results have shown that disability examiners operating under the SDM model in the twenty states where this concept was tested have the same or better quality than disability examiners operating under the traditional disability adjudication model. Studies of the SDM have demonstrated its value as an integral part of the Social Security Administration's disability claim adjudication process. ***NADE strongly believes that the SDM model should be integrated fully in any new initial claims process, expanded to Continuing Disability Reviews and adopted as standard procedure in all DDSs.***

The Commissioner, in her approach, has proposed establishment of a federal Reviewing Official (RO) as an interim step between the DDS decision and the Office of Hearing and Appeals (OHA). NADE agrees that an interim step is necessary to reduce the number of cases going to the OHA as much as possible. An interim step laying out the facts and issues of the case and requiring resolution of those issues could help improve the quality and consistency of decisions between DDS and OHA components. NADE supports an interim step because of the structure it imposes, the potential for improving the accuracy of DDS decisions and processing time on appeals, and the correction of obvious decisional errors at the initial level before a hearing. The establishment of uniform minimum qualifications, uniform training and uniform structured decision-writing procedures and formats will enhance the consistency and quality of the disability decisions. *NADE is not convinced, however, that customer service is improved from the current process if this remains a paper review at this interim step.*

NADE believes that this interim step should include sufficient personal contact to satisfy the need for due process. We do not believe that it needs to be handled by an attorney as proposed by the Commissioner. There is little, if any, data that supports a conclusion that this interim step needs to be handled by an attorney. In fact, a 2003 report, commissioned by the Social Security Advisory Board to study this issue, recommended that this position **NOT** be an attorney.

Decisions made at all levels of adjudication in the disability process are medical-legal ones. NADE believes that Disability Hearing Officers (DHOs) can handle the first step of appeal between the DDS initial decision and the ALJ hearing. DHOs are programmatically trained in disability adjudication as well as in conducting evidentiary hearings. Using trained Disability Hearing Officers instead of attorneys will be substantially less costly. In addition, there is currently an infrastructure in place to support DHOs and using such a structure will prevent creation of a new costly and less claimant friendly federal bureaucracy. Since this infrastructure is already in place, national implementation of the DHO alternative can occur very quickly.

NADE supports closing the record after the Administrative Law Judge's decision since this decision will, under the Commissioner's proposed approach, represent the final decision of the Commissioner of Social Security before any subsequent appeal to the federal courts. We support providing the assistance of programmatically trained medical and vocational experts to the Administrative Law Judges.

NADE supports elimination of the Appeals Council review step. *We have long advocated establishment of a Social Security Court.* As long as judicial review of disability appeals continues to occur in multiple district courts across the country, a bifurcated disability process will continue to exist as different DDSs operate under different court rulings and regulations depending upon what part of the country the claimant lives in. Both the Social Security and SSI disability programs provide a

vital safety net for an extremely vulnerable population. It is essential that these programs operate effectively while protecting beneficiaries and taxpayers alike from fraudulent payment and wasteful practices.

In summary, NADE's key recommendations are to implement only strategies with the most beneficial outcome for all entities. These are:

- Expand CDI units to all states instead of increasing reviews of DDS allowance decisions

- Provide dedicated funding for redeterminations, CDRs and special Title II workloads.

- Implement eDIB with adequate infrastructure support and proper equipment.

- Keep Quick Decisions in the DDS.

- Maintain Medical Consultants on-site in the DDS.

- Fully integrate the SDM into any new disability process.

- Utilize the current infrastructure of DHOs as an interim appeals step.

- Recognize that technology is only a tool. It does not replace the highly skilled trained disability examiner.

NADE appreciates this opportunity to present our views on the SSI program, problems and solutions, and we look forward to working with the Social Security Administration and the Congress as the Commissioner continues to refine her approach to improve the disability process.

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Chairman HERGER. Thank you, Ms. Marshall. Dr. Podoff to testify?

**STATEMENT OF DAVID PODOFF, MEMBER, SOCIAL SECURITY  
ADVISORY BOARD**

Dr. PODOFF. Chairman Herger, Congressman Cardin, Members of the Subcommittee, on behalf of the SSAB, I want to begin by commending you for holding this hearing on the SSI Program. The SSAB is chaired by Hal Daub, who during the late eighties, was a colleague in the House of many of you on this Subcommittee. Chairman Daub was unable to be in Washington today. He asked me to give you his best wishes and to tell you that he very much would have like to be here with you today. I will focus on four subjects: stewardship, simplification, disability administration and the definition of disability.

Program stewardship is important both to taxpayers and to beneficiaries. Taxpayers have the right to expect that their tax dollars will be spent accurately, and beneficiaries have the right to expect that their benefits will be accurately determined and administered. In its numerous visits to Social Security offices, the board has found SSA employees to be hardworking and dedicated. With its current level of resources, the agency has been forced to defer important stewardship actions while still seeing unacceptable backlogs in processing claims. Continuing disability reviews, SSI eligibility redetermines and overpayments collection efforts all pay for themselves many times over. Failing to fund them is not a cost-effective approach. I would note that legislation originated by the Committee on Ways and Means and enacted this year will help the agency meet its stewardship responsibilities.

The Social Security Protection Act of 2004 gave SSA several additional tools. In particular, the board was gratified that one of its specific recommendations for helping to collect overpayments was included in the bill. The complexity of the SSI Program makes it more difficult and time-consuming to administer, more error-prone

and harder for beneficiaries to understand and comply with. Again, H.R. 743 included some commendable simplification provisions, but the program remains very complex. At your April 29 hearing, Commissioner Barnhart said that the agency has a working group developing further ways to simplify the program, and we are looking forward to learning of the group's recommendations.

Simplification is not easy to achieve. There are always costs and beneficiary impact ramifications, but it is a goal that the agency and the Congress should continue to pursue. The agency is currently working on AeDIB, as you have heard, creating a wholly electronic disability determination system. The agency is also considering significant revisions in the adjudication process and developing a new quality management system.

These seem to hold promise for addressing many of the issues the SSAB and others have raised over the past several years. The board will closely monitor the development and implementation of these measures to see whether they can enable the agency to address the issues of consistency and fairness. The SSA also needs to thoroughly review its disability policy rules and regulations to determine where changes can be made to improve the quality and consistency of decisionmaking. Again, it is essential that adequate resources be made available. Failure to provide needed resources creates backlogs, undermines the ability of the agency to provide training and quality management and results in foregoing program integrity reviews that are highly cost-effective.

Some of the board's most recent work has focused on an even more fundamental issue underlying the disability program, namely, the concept of disability and its relation to work. We believe it is necessary to question whether the half-century-old definition of disability that is at the heart of our disability program is today consistent with the basic beliefs of our society about disability and work.

The present definition has a focus on inability to work that seems to undermine the motivations that are crucial to supporting the objective of enabling impaired individuals to achieve maximum self-sufficiency and independence. Moving away from that definition would very clearly involve significant programmatic changes that would have to be carefully developed and carefully implemented.

The board has addressed these issues in a report we issued last October and in a forum we sponsored last month. We believe this issue deserves serious consideration. Again, I thank you for the opportunity to discuss this important program with you today. I would ask that the board's recent SSI statement be included in the record. I would be pleased to answer any questions you may have.

[The prepared statement of Dr. Podoff follows:]

**Statement of David Podoff, Ph.D., Member, Social Security Advisory Board**

Chairman Herger, Congressman Cardin, Members of the Subcommittee, on behalf of the Social Security Advisory Board, I want to begin by commending you for holding this hearing on the Supplemental Security Income, or SSI, program. The Advisory Board is chaired by Hal Daub, who during the late 1980's was a colleague in the House of many of you on this Subcommittee. Chairman Daub asked me to give you his best wishes and to tell you that he would very much have liked to be here with you today. Unfortunately, he had prior commitments which prevented him from coming into Washington for this hearing. However, he has asked me to take

his place in giving you the views of the Social Security Advisory Board on the SSI program.

When Congress acted in 1994 to make the Social Security Administration an independent agency, it decided at the same time to set up a permanent bi-partisan Board to continually examine the important programs that agency administers and to make recommendations to the Congress, the President, and the Commissioner of Social Security as to how those programs can most effectively, in combination with other public and private programs, assure economic security. The Board's legislative charter directs it to make recommendations with respect to program policies and regulations as well as the quality of service that the Social Security Administration provides.

The Advisory Board has on a continuing basis carefully reviewed the Social Security programs and we have issued reports dealing with issues such as disability process and policy, program integrity, and service to the public. In these reports, we have addressed both the overall issues as they affect all Social Security programs and also the particular issues affecting Supplemental Security Income. In addition, since 1998 the Board has been publishing its views on the program in connection with the agency's annual SSI report to Congress. We have just this week completed our annual SSI statement, and I would like to submit a copy of that statement for the record. In this year's SSI statement, the Board focused particularly on program integrity and overpayments and also on the concept of disability in the SSI program.

The SSI program is of vital importance to the income security of many of our most vulnerable fellow citizens. As of April, nearly 7 million Americans were receiving federally administered payments, 1.2 million on the basis of being 65 or older, and 5.7 million on the basis of blindness or disability. All of them are required to meet stringent income and resource standards in order to qualify for benefits.

Today I would like both to look back at where we have come over the last several years and to look ahead at where I think we need to go. This Subcommittee, the Congress, and the Social Security Administration have taken some important steps to improve the administration of the SSI program over the last several years. I would like both to reflect on these improvements and suggest areas for further improvement.

I will focus today on four subjects: program stewardship, program simplification, the administration of the disability aspect of the program, and the need to re-examine some basic aspects of program design related to work and disability.

#### **Program Stewardship**

Program stewardship is important both to taxpayers and to beneficiaries. Taxpayers have the right to expect that their tax dollars will be spent accurately. And beneficiaries have a right to expect that their benefits will be accurately determined and administered. Since its beginnings, SSA has fostered in its employees a commitment to program stewardship. The phrase "the right check to the right person on time" has been repeated by generations of employees. But increasing workloads and declining resources have undermined this commitment to stewardship. Managers and employees throughout the administrative structure are frustrated that they lack both the time and the tools to live up to their standards.

I know that the Ways and Means Committee continues to look for ways to improve the agency's ability to provide proper stewardship. I would like to commend you for this year enacting the bill H.R. 743, the Social Security Protection Act of 2004. That bill gave SSA additional tools to help it carry out its responsibilities for program stewardship, especially with respect to representative payees. Provisions of the Act such as higher standards for organizational payees and new sanctions for misuse of benefits will be helpful to SSA.

But the agency will still have to do the time-consuming work of carefully selecting and monitoring representative payees. If vulnerable beneficiaries are to be protected from misuse of benefits, the agency will need to devote considerably more resources to screening and monitoring payees. SSA employees have told the Board that pressures to move the work make it difficult or impossible for them to spend the time they need to investigate carefully the qualifications of potential payees. SSA has taken steps to improve its administration of the representative payee program. A regional executive told the Board, however, that SSA is just scratching the surface on organizational payee problems. "The problems are deep, and it will take a tremendous amount of staff time to resolve them."

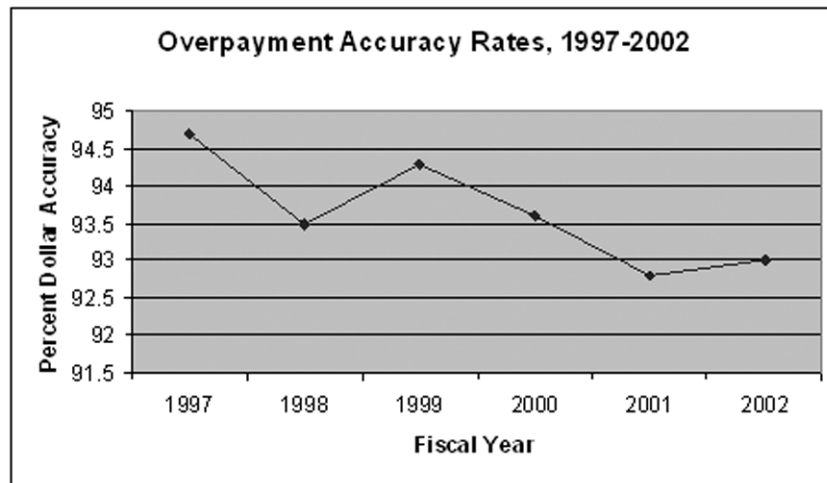
Achieving a high level of payment accuracy in the SSI program requires that the eligibility determinations be done carefully by well-trained and supervised employees who place a high value on getting the decision right. It also requires that recipi-

ents be adequately instructed on the importance of reporting events that might change their eligibility and that their reports of such events be promptly acted on.

In its reviews of the program, the Board has found several elements that have tended to work in the wrong direction. The work measurement system used by the agency tends to reward quantity of production rather than quality of product. That type of incentive, in combination with staffing shortages and lack of supervision, inevitably leads to a lowering of quality. For example, in our visits to field offices, employees have told the Board that they sometimes do not pursue certain lines of questioning (such as the details of living arrangements) because it takes too long to resolve the issues that may be raised. The Board has also heard from SSA employees and members of the public of delays—sometimes extensive—in making payment changes required by events reported by recipients.

Field office managers have consistently expressed to the Board their concerns about the quality of non-medical SSI work done in their offices. They say that pressures for a high volume of production prevent their employees from taking the time and care needed to ensure quality. They add that because of the reduction in management positions in field offices, they are unable to do quality reviews. A survey of field managers conducted last year by the National Council of Social Security Management Associations reinforces these concerns. The survey showed that only 7 percent of managers thought that the quality of work produced in their office had improved over the last two years, while 48 percent thought it had worsened.

SSA's accuracy rates support what we have been told by its employees. SSA conducts an annual stewardship study of the SSI program. The study examines a monthly sample of non-medical reviews of SSI cases in current-pay status. The study for FY 2002, the most recent available, shows a decline in non-medical accuracy since 1997, the year that GAO designated SSI a high-risk program. The overpayment accuracy rate for FY 2002 was 93.0 percent, compared to 94.7 percent in FY 1997. Applying the FY 2002 rate to the universe of \$34 billion in SSI payments results in a projection of \$2.4 billion in SSI overpayments. ("Overpayment accuracy" is determined on the basis of a sample study by subtracting overpaid benefits from total benefits paid and then dividing the result by total benefits paid.)

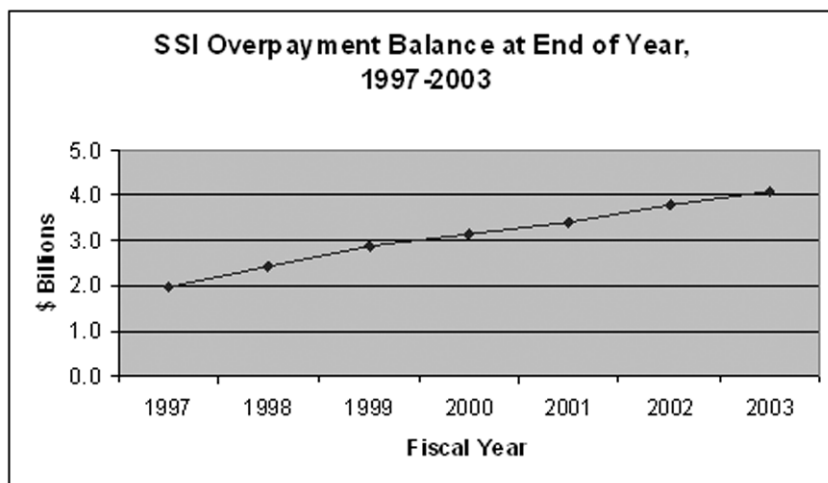


I want to make it clear that these shortcomings are no reflection on SSA's employees. In our numerous visits to regional and field offices, program service centers, teleservice centers, and hearing offices, we have found them to be hard-working and dedicated. But with its current level of resources, the agency has experienced serious deficits in the level of service that it is able to provide and has been forced to defer important stewardship actions while still seeing unacceptable backlogs in processing claims.

Two of SSA's most effective tools in preventing overpayments are redeterminations and continuing disability reviews (CDRs). Redeterminations look at the non-medical factors affecting payment eligibility and amount, while CDRs look at the medical factors. Redeterminations result in seven dollars in savings per dollar of cost, and CDRs save ten dollars per dollar of cost. But SSA's ability to conduct them depends on its administrative budget. This year, because the agency's appropriation

for administrative expenses was lower than the President's request, SSA will not conduct as many redeterminations and CDRs as planned. The agency is, therefore, losing programmatic savings well beyond the administrative resources involved.

When erroneous payments are detected, the agency has an obligation to attempt to recover the misspent funds. However, despite the fact that the collection of overpayments is a highly cost-effective activity, resource limitations have limited the agency's results in this area as well. The end-of-year SSI overpayment balance has doubled since the program was first put on the high-risk list, from \$2 billion in 1997 to \$4 billion in 2003. Although SSI overpayment collections increased in FY 2003 because of new "netting" software that automatically recovers overpayments when an underpayment is discovered, the SSI overpayment balance was \$305 million higher at the end of 2003 than at the end of 2002.



The law provides that overpaid beneficiaries may request a waiver of collection of the overpayment, which the agency may grant under certain conditions. An SSA executive has told the Board that field offices often do not pursue overpayment collection because the staffs are too busy, and it is easier for them to waive collection of the debt. We understand that SSA's Office of the Inspector General plans to issue an audit report this year evaluating SSA's waiver process and expects to issue a report in FY 2005 on undetected overpayments in SSA's disability programs. The Board commends these actions by the IG.

Before I leave the subject of overpayments, I want to point out that last year the Board sent a letter to the leadership of the Ways and Means Committee recommending a specific provision to help reduce outstanding overpayments. That provision allows SSA to collect outstanding SSI overpayments by offsetting the full amount owed against lump-sum retroactive Social Security payments. We are gratified that this provision was included in the legislation you enacted last year, the Social Security Protection Act of 2004 (H.R. 743). This will allow a substantial recovery—in the range of hundreds of millions of dollars—of existing overpayments that can be easily accomplished by offset against retroactive Social Security payments that SSA will be making in the near future.

#### **The Need for Simplification**

The need to simplify the SSI program is closely related to the problems of accuracy and incorrect payments. Over the last three decades, SSI policy has tended to become more complex. This complexity makes the program more difficult and time-consuming to administer, more error-prone, and harder for beneficiaries to understand and comply with. The degree of complexity is reflected in the fact that although SSI will account for only about 7 percent of SSA's benefit outlays in fiscal year 2004, it will account for 36 percent of the agency's administrative budget.

There seems to be a natural tendency for the SSI program to become ever more complex. Managing a national program involving income, resource, and living arrangements requires developing rules explaining how a multitude of situations should be handled fairly and uniformly. As unforeseen exceptions arise, subsections of the operating instructions proliferate. For example, SSA's operating instructions

for "Living Arrangements and In-Kind Support and Maintenance," which is just one part of the section on income, contains the equivalent of 250 single-spaced pages. Field Office employees have to deal with more than 150 current updates to those instructions on the topic of general income and resources alone. They include topics such as: ownership in fee simple or less than fee simple, validity of prepaid burial contracts/trusts in Minnesota, verifying the current market value of foreign property, and determining in-kind support and maintenance for a member of a religious order who moves into a private nonprofit residential care institution.

While this proliferation is understandable, it gives rise to other problems. Program rules are difficult to understand and to apply. Beneficiaries find it difficult to comply with program rules. Complexity contributes to errors in payments, which can cause hardship and frustration for beneficiaries and further add to the agency's workload.

SSA worked with this Subcommittee to include some provisions to simplify the program in the Social Security Protection Act of 2004. Simplification provisions included exclusion from countable income of small amounts of interest and dividends, easing the rules on infrequent unearned income, preventing triple counting of income in some circumstances, and provisions to help military families.

These changes are commendable, but as Commissioner Barnhart stated in her testimony on April 29, these provisions are a first step in simplifying the program. She noted that the agency has a working group developing further ways to simplify the program, and we are looking forward to learning of the group's recommendations.

We recognize the difficulty of simplifying the program without increasing program costs or disadvantaging groups of beneficiaries, and we commend SSA for its efforts in this regard and the Congress for its assistance. We encourage SSA and the Congress to take a broader look at simplification, to ask what the program would look like if they were to design it anew. For instance, there have been internal discussions within SSA of drastically simplifying the rules for in-kind support and maintenance. In our visits to field locations, we have heard suggestions that the SSI computations be changed from a quarterly to an annual basis. This would remove the need to conduct quarterly wage verification, a burden on both employers and SSA staff. Rules on living arrangements have also been singled out as an area that greatly complicates program administration.

We recognize that such simplification is a daunting task and will involve tradeoffs between program costs and administrative costs, but meaningful simplification will require that level of effort.

#### **Disability Program Administration**

In her testimony last month, Commissioner Barnhart discussed two extremely important disability initiatives, the Electronic Disability System (eDib) and her approach for improving the disability determination process, which addresses many of the issues the Board has identified in its reports on the disability program. The eDib initiative is now in its early roll-out stage and the agency is working on developing the details of its process reforms. In our report of January 2001, the Board said that the Social Security Disability programs were in need of fundamental change, and we commend Commissioner Barnhart for aggressively pursuing such change. As the eDib implementation proceeds and as the details of the process reforms develop, the Board will be carefully monitoring these changes and will be continue to work with and provide advice to the agency and the Congress.

In reforming the Social Security disability program, two crucial issues are consistency and fairness in disability decision making and the ability of the administrative structure to support future program needs.

For many years, both Members of Congress and others who have studied SSA's disability programs have expressed concerns about inconsistencies in decision making. For example, in FY 2002, while the average allowance rate for initial SSI disability claims was 38.5 percent, the allowance rate ranged from 27.8 percent in Tennessee to 57.6 percent in New Hampshire. While economic and demographic differences among states explain some of this difference, they do not explain all of it.

There are other indications that the difference in outcomes reflects differences in how claims are adjudicated. For example, the percentage of SSI disability beneficiaries in 2001 with a diagnosis of mental retardation varied from 14 percent in Massachusetts to 36 percent in West Virginia. And the percentage with a diagnosis of other mental disorders ranged from 22 percent in Louisiana to 49 percent in Massachusetts. There are apparent inconsistencies in denials as well as in allowances. In FY 2002, the percentage of claims denied because the disability was not expected to last for 12 months ranged from 2 percent in Rhode Island to 17 percent in Nevada. And the percentage of denials because the disability was not considered severe ranged from 2 percent in New Hampshire to 37 percent in Mississippi.

There also seem to be inconsistencies within State agencies. A study done for SSA examined the range of initial allowance rates across examiners in four State agencies. It found that the range of allowance rates was 10 to 19 percent greater than could be explained by random variations in the claims they examined. A large percentage of claims that are denied at the initial level are appealed to the hearing level, where the majority of decisions reverse the lower-level denial of benefits.

There are also geographic differences at the hearing level. In FY 2002, the national hearing-level allowance rate for SSI claims was 58 percent, with a range from 42 percent in Louisiana to 78 percent in Maine. There does not seem to be a correlation between high State agency allowance rates and low hearing reversal rates. In fact, the hearing-level allowance rate for New Hampshire, which had the highest initial-level allowance rate, was 74 percent, the third highest in the country.

The process changes underway at SSA include improved case management systems and the introduction of an end-to-end quality management system. To a considerable extent, whether those changes are successful will be measured by whether they can enable the agency to address these issues of consistency and fairness. The agency needs to be able to get the information to determine the degree to which the program's own policies and procedures—including their uneven implementation—are causing inconsistent outcomes in different parts of the country and at different levels of adjudication. And, having obtained that information, it needs to be able to address the problems that information reveals.

SSA should also thoroughly review its disability policy rules and regulations to determine where changes can be made to improve the quality and consistency of decision making. Both medical listings and vocational guidelines should be included in this review. Where possible SSA should write these rules and regulations more clearly and simply so that adjudicators in different states and different levels of decision making will interpret and use them in the same way. SSA should follow up with regular training across all levels of the process.

The Board is particularly concerned that, in a program where most decisions are based on vocational factors, the policy regulations in that area have not been revised for many years despite major changes in the nature of the national workplace. The Board is also concerned that vocational assessments continue to rely in large measure on an outdated Labor Department publication that is not being updated. The recently issued SSA strategic plan indicates a commitment on the part of the agency to remedying this situation. The Board believes the agency should place a high priority on fulfilling that commitment.

The current eDib and process reform initiatives represent an important recognition of the need to update the program's administrative structure to support future program needs. But, electronics and organizational changes will not alone be sufficient to meet the needs of appropriately managing this very complex and massive program.

Recent work by the General Accounting Office has highlighted human capital challenges at the State agencies that make disability determinations. There are more than 15,000 disability adjudicators throughout the disability system. Their qualifications and the rules and procedures they follow differ, sometimes dramatically. For example, adjudicators at the State agency and ALJ levels may receive vastly different training and draw upon very different resources. Factors such as these raise questions about how well the administrative structure will be able to handle the growing workload.

It is particularly essential that adequate resources be made available. Failure to provide needed resources does not save money. It creates backlogs, undermines the ability of the agency to provide needed training and carry out quality management, and results in foregoing program integrity reviews that are highly cost effective. The Board has commended the Commissioner for developing a 5-year service delivery budget that is based on the actual workload needs of the agency and that would eliminate the inappropriate backlogs by the end of the 5 years. The Board has urged and continues to urge Congress to provide those very necessary resources.

### **Disability and Work**

Some of the Board's most recent work has focused on an even more fundamental issue underlying the disability program, the concept of disability and its relation to work. You may recall that this is an issue that our Chairman, Hal Daub, raised when he last appeared before this Subcommittee in July 2002. In October 2003 we published a report titled *The Social Security Definition of Disability*. Last month we sponsored a day-long forum on the extent to which the current program is or is not consistent with appropriate national disability policy, and what changes might be made to the program structure and definition. Both the report and the text of the presentations at the forum are available on the Board's website, [www.ssab.gov](http://www.ssab.gov).



The definition of disability that is at the heart of the existing disability programs was developed some 50 years ago. We believe it is necessary to question whether that definition is today consistent with the basic beliefs of our society about disability and work. The present definition asks the applicant and the government to make a determination that substantial work is not possible. That, probably inevitably, creates a mindset that is inimical to the motivations that are crucial to supporting the objective of enabling impaired individuals to achieve maximum self-sufficiency and independence.

Moving away from that definition would very clearly involve significant programmatic changes. Given the importance of the disability programs, any such changes would have to be carefully developed and carefully implemented. A first step in addressing this issue would be a consideration of the choices policymakers would face, including the issue of the extent to which the desired results could be achieved by changes within the existing programs.

In our October 2003 report we discuss in detail a variety of policy issues that would need to be addressed. Along with several other questions, we asked:

- Can the current definition ever be administered fairly and accurately?
- What is the realistic potential of the disability population for work?
- How does a disability program fit into the overall and greatly changing picture of income security?
- Does the disability program, as currently defined, fail to meet the legitimate needs of a significant portion of the impaired population?
- What should be the role of the Social Security Administration if there is a major restructuring?

In considering SSI specifically, there is the additional issue of whether different approaches should be used for the DI and SSI programs. These two programs' beneficiaries differ in their work histories, education levels, and the nature of their disabilities, suggesting that approaches and incentives that work for one program might not work for the other. In addition, SSI beneficiaries have increasingly been receiving means-tested benefits from other programs as well, making their work incentive situation more complex. The benefit levels of the DI and SSI programs are also different. As of February 2004, the average DI worker benefit was \$862.60, while the average benefit for an SSI beneficiary age 18 to 64 was \$443.20. From a cost-benefit perspective, it is easier to justify incentives or supports for DI beneficiaries to return to work, since the potential program savings are greater. On the other hand, average wages in the economy have tended to rise faster than SSI income support levels. This would argue that failing to encourage and support work activity for SSI recipients puts them at an even greater disadvantage compared with DI beneficiaries whose benefit levels tend to increase with rising wages.

Our forum last month showed that there is a wide range of opinions among thoughtful observers of the disability programs but a basic agreement that these are important issues that deserve further discussion.

Again, I thank you for the opportunity to discuss this important program with you today, and I would be pleased to answer any questions you may have.

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## **SOCIAL SECURITY ADVISORY BOARD**

### **STATEMENT ON THE SUPPLEMENTAL SECURITY INCOME PROGRAM**

Public Law 104-193 requires that members of the Social Security Advisory Board be given an opportunity, either individually or jointly, to include their views in the Social Security Administration's annual report to the President and the Congress on the Supplemental Security Income (SSI) program.

We appreciate the opportunity to present our views on this important program, and we have asked the Social Security Administration to include the following statement of views in this year's annual report.

#### **VIEWS OF THE BOARD REGARDING THE SSI PROGRAM**

In its statements in previous annual reports, the Board has discussed a wide range of issues, including program integrity, the disability determination process, rehabilitation and employment services, research and program evaluation, and service delivery. All of these areas require continuing attention. We note in particular that the Social Security Administration is undertaking major revisions in the disability determination process and in the systems supporting that process. This is an encouraging development, and the Board expects to monitor those changes as they are implemented.

In presenting our views this year, we would like to comment on two aspects of the program. We will first comment briefly on program integrity in general and overpayments in particular. Then we will focus on the concept of disability embodied in the SSI program and the degree to which it meets the needs of the American people today. We have presented our views on the Social Security disability programs more fully in our October 2003 report, *The Social Security Definition of Disability*, available on our website, [www.ssab.gov](http://www.ssab.gov).

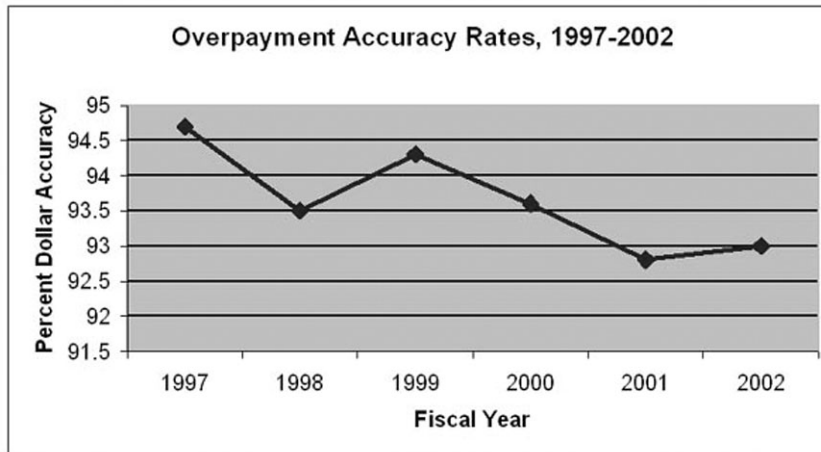
### PROGRAM INTEGRITY AND OVERPAYMENTS

In 1997 the General Accounting Office designated SSI a high-risk program because of its vulnerability to abuse and mismanagement, increasing overpayments, and poor recovery of outstanding overpayments. Last year, GAO removed the program from its high-risk list, noting SSA's progress in improving the financial integrity and management of the program. GAO noted SSA's actions in obtaining legislation to prevent and collect overpayments as well as administrative actions to strengthen SSI program integrity.

GAO also noted, however, that the impacts of SSA's actions were not yet fully realized. A look at some recent data shows that the SSI program continues to need attention. Payment accuracy is lower than in 1997, and the balance of identified SSI overpayments has climbed every year since 1997.

#### Payment Accuracy

SSA conducts an annual stewardship study of the SSI program. The study examines a monthly sample of non-medical reviews of SSI cases in current-pay status. The study for FY 2002, the most recent available, shows a decline in non-medical accuracy since 1997, the year that GAO designated SSI a high-risk program. The overpayment accuracy rate for FY 2002 was 93.0 percent, compared to 94.7 percent in FY 1997. Applying the FY 2002 rate to the universe of \$34 billion in SSI payments results in a projection of \$2.4 billion in SSI overpayments. ("Overpayment accuracy" is determined on the basis of a sample study by subtracting overpaid benefits from total benefits paid and then dividing the result by total benefits paid.)

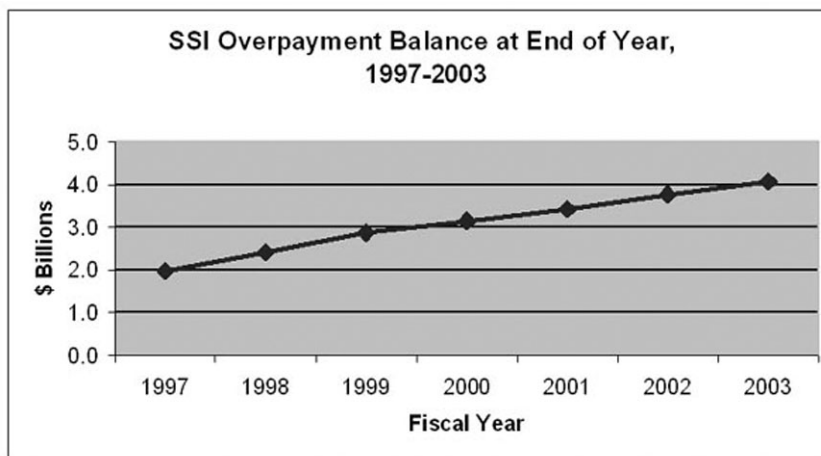


Field office managers have consistently expressed to the Board their concerns about the quality of non-medical SSI work done in their offices. They say that pressures for a high volume of production prevent their employees from taking the time and care needed to ensure quality. They add that because of the reduction in management positions in field offices, they are unable to do quality reviews. A survey of field managers conducted last year by the National Council of Social Security Management Associations reinforces these concerns. The survey showed that only 7 percent of managers think that the quality of work produced in their office had improved over the last two years, while 48 percent thought it had worsened.

#### Overpayment Collection

Although the collection of overpayments is a highly cost-effective activity, yielding about \$10 in recovered funds per dollar spent on the activity, resource limitations have constrained the agency's results in this area as well. The end-of-year SSI over-

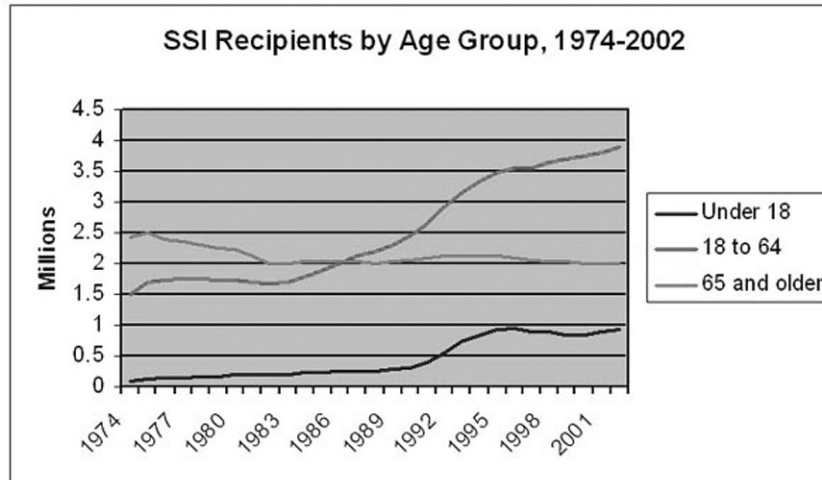
payment balance has doubled since the program was first put on the high-risk list, from \$2 billion in 1997 to \$4 billion in 2003. Although SSI overpayment collections increased in FY 2003 because of new “netting” software that automatically recovers overpayments when an underpayment is discovered, the SSI overpayment balance was \$305 million higher at the end of 2003 than at the end of 2002.



The law provides that overpaid beneficiaries may request a waiver of collection of the overpayment, which the agency may grant under certain conditions. As we pointed out in previous reports, we believe that waiver policies may be applied too loosely. This is not a criticism of SSA’s hard-working field office employees. Rather, it is a reflection of the shortage of staff in those offices. As an SSA executive has told the Board, field offices often do not pursue overpayment collection because the staffs are too busy, and it is easier for them to waive collection of the debt. SSA’s Office of the Inspector General should be commended for its plans to issue an audit report this year evaluating SSA’s waiver process and to issue a report in FY 2005 on undetected overpayments in SSA’s disability programs.

#### **THE CONCEPT OF DISABILITY IN THE SSI PROGRAM**

In discussions of Social Security disability programs, attention tends to center on the Disability Insurance program which accounts for annual expenditures of more than \$70 billion. However, the SSI disability program, although much smaller in benefit costs, represents a very large percentage of the disability caseload. Of the 10.5 million persons receiving benefits on the basis of disability, 3.6 million are qualified solely through the SSI program and another 1.3 million receive both SSI and title II disability payments. While the number of SSI aged beneficiaries has declined since the program was initiated in 1974, the number of disabled beneficiaries has grown substantially and continues to increase.



SSI beneficiaries are, in many respects, different from DI disabled worker beneficiaries. They tend to have less work history and a more tenuous connection to the workforce. They are more likely to have mental disorders. In 2002, 22 percent of SSI beneficiaries age 18 to 64 had a diagnosis of mental retardation, and 33 percent had other mental disorders. Only 9 percent had a musculoskeletal diagnosis. By contrast, only 5 percent of DI disabled workers have a diagnosis of mental retardation, 28 percent have other mental disorders, and 24 percent have a musculoskeletal diagnosis. One in three adult SSI beneficiaries have a representative payee, compared with less than one in eight DI disabled workers. SSI beneficiaries are poor, with 60 percent of those age 18 to 64 having no income other than their SSI benefits. These are very substantial differences. Consideration of any changes in program definition or structure should take these differences into account.

#### **Defining Disability**

When Congress established the Supplemental Security Income program in the Social Security Amendments of 1972, it adopted for that program the same definition that had been established for the Disability Insurance program. An applicant will be found to be disabled if he or she is “unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.” Because the inability to engage in substantial gainful activity is not a test readily applicable to children, the law defines disability for those under age 18 in terms of “marked and severe functional limitations.”

As we pointed out in our October 2003 report on the Social Security definition of disability, this definition has its roots in an earlier era when there was little expectation that those with severe disabilities could have any realistic expectation of participating in employment or aspiring to self-sufficiency. It seemed both feasible and reasonable to adopt a definition of disability that would attempt to draw a clear line between those who could and those who could not work.

While the definition of disability has remained unchanged throughout the 30 years of the SSI program and essentially unchanged since the Social Security disability insurance program was enacted a half-century ago, there have been many changes in the economy, in medicine, in rehabilitative technology, and in attitudes about disability and the disabled.

Medical advances and improved rehabilitative knowledge and technology have made it harder to draw a clear line between those who can and those who cannot work. The nature of work and the workforce has also changed. We have become much more of a service economy, in which it is harder to measure the degree to which medical impairments limit an individual’s ability to engage in employment. Indeed, in the early years of the Social Security disability program, over 90 percent of awards were based on the severity of applicants’ medical condition without the need for the highly individualized assessment of the combined impact of medical

and vocational factors that now is required in well over half of all allowed disability claims.

Attitudes about disability and work have also changed over the years. Changing public attitudes are reflected in the enactment in 1990 of the Americans with Disabilities Act that required employers to make reasonable accommodations as necessary to enable the employment of disabled individuals and that condemned stereotypic assumptions about the ability of disabled individuals to participate in, and contribute to, society.

#### **Work as an Objective of the SSI Disability Program**

Although it defines disability as the inability to do any substantial gainful work, from its beginning, the SSI program has also included elements aimed at helping or encouraging beneficiaries to engage in work activity. The legislation that established it included provision for payment to State Vocational Rehabilitation agencies for rehabilitation services to SSI beneficiaries. Other provisions aimed at encouraging work activity were included in (or have been added to) the SSI legislation.

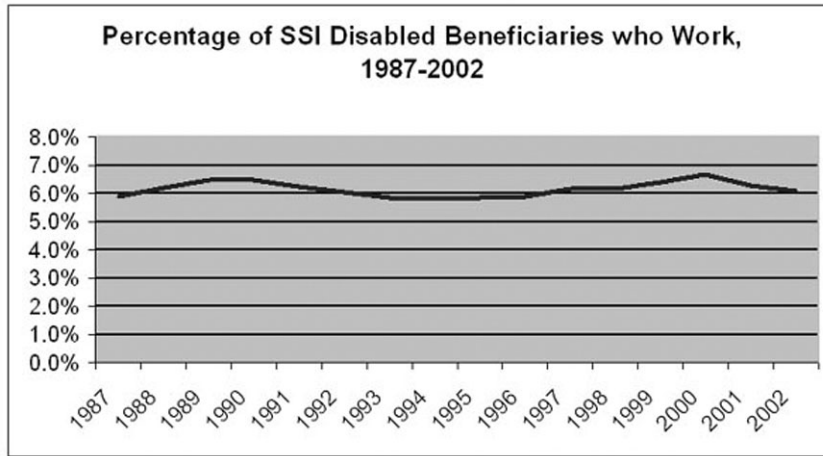
- Continuation of SSI—Beneficiaries who work may continue to receive SSI payments until their countable income exceeds the SSI limit. (For an individual getting only Federal SSI with other income only from earnings, the monthly benefit rate would be reduced to zero at a monthly earnings level of \$1,213.)
- Continuation of Medicaid eligibility—Medicaid eligibility will usually continue even if beneficiaries earn too much to receive SSI payments, if they cannot afford similar medical care and depend on Medicaid in order to work.
- Earned income exclusion—The first \$65 (\$85 if the beneficiary has no unearned income) of any monthly earned income, plus one-half of remaining earnings are excluded from countable income.
- Student earned income exclusion—For students under age 22 who are regularly attending school and neither married nor the head of a household, up to \$1,370 of earned income per month, to a maximum of \$5,520 per year, is excluded from countable income.
- Work expenses of the blind—Any income earned by a blind individual that is used to meet expenses needed to earn that income is excluded from countable income.
- Plan for achieving self-support (PASS)—A PASS allows a disabled or blind individual to set aside income and resources to get a specific type of job or to start a business. The income and resources that are set aside are excluded under the SSI income and resource tests.
- Reinstatement of benefits—Beneficiaries who have not been eligible for an SSI benefit for 12 months or less do not have to file a new application to reinstate SSI cash payments or Medicaid coverage.
- Impairment-related work expense exclusion—The cost of certain impairment-related services and items that a beneficiary needs in order to work are excluded from countable income for SSI purposes and are deducted from earnings when determining if work is substantial.
- Continued payment under a vocational rehabilitation program—Beneficiaries who medically recover while participating in a vocational rehabilitation program that is likely to lead to becoming self-supporting may continue to receive benefits until the program ends.

The Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 amended the Social Security Act to create the Ticket to Work program. The program provides DI and SSI disability beneficiaries with a Ticket that can be used to obtain vocational rehabilitation training, employment services, or other support services through public and private providers. TWWIIA also expanded the availability of health care services to working disability beneficiaries. The law provided several enhancements to Medicaid, including giving States more options in providing Medicaid coverage to people ages 16–64 with disabilities who work.

Participation rates in the program, however, have been low, and most Ticket to Work activity continues to involve State Vocational Rehabilitation agencies. Information on participation by SSI beneficiaries has not been published, and SSA's management information system does not make it readily available. This is troubling, especially in view of concerns expressed by the Ticket to Work Advisory Panel that program incentives are not adequate to induce providers to serve SSI beneficiaries.

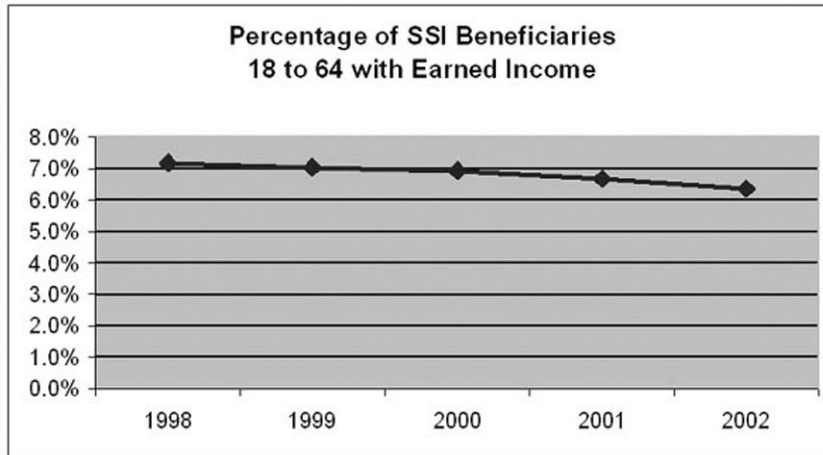
Data on work, rather than on program participation, show that the response to all of these incentives has been limited. Published data for the 18 to 64 age group are not available for the entire period since the program began, and figures on the number of SSI beneficiaries who work are not available for 1984 through 1986.

Since 1987, however, the percentage of all disabled SSI beneficiaries who work has fluctuated around 6 percent. A very substantial amount of that work activity is by beneficiaries with disabilities based on mental retardation. While that diagnosis accounts for 22 percent of the working-age SSI disabled population, it accounts for 42 percent of those who have work activity.



As of December 2002, of the 3.9 million SSI beneficiaries between the ages of 18 and 64 receiving a cash benefit, only about 246,000, or 6.3 percent of the total, reported having earned income. The average monthly earnings for this group was \$324. Out of this group, 17,000 had earnings above the substantial gainful activity (SGA) level (\$780 in 2002). Another 79,000 were above the SGA level and were receiving Medicaid but no cash benefit.

The percentage of beneficiaries of SSI cash benefits age 18 to 64 with earned income has fallen from 7.2 percent in 1998 to 6.3 percent in 2002.



The amount of work activity seems small in view of the incentives that have been provided, and it is particularly of concern that work activity seems to be less rather than more common despite the addition of numerous features aimed at encouraging work.

**Policy Questions**

We believe it is necessary to look beyond the existing incentives and disincentives and to question whether the definition of disability that is at the heart of the existing disability programs is consistent with our society's basic beliefs about disability

and work. The present definition asks the applicant and the government to make a determination that substantial work is not possible. That, probably inevitably, creates a mindset that is inimical to the motivations that are crucial to supporting the objective of enabling impaired individuals to achieve maximum self-sufficiency and independence. Moving away from that definition would very clearly involve significant programmatic changes. Given the importance of the disability programs, any such changes would have to be carefully developed and carefully implemented. A first step in addressing this issue would be a consideration of the choices policymakers would face, including the issue of the extent to which the desired results could be achieved by changes within the existing programs. In our October 2003 report we discuss in detail a variety of policy issues that would need to be addressed including:

- Can the current definition ever be administered fairly and accurately?
- What improvements are possible within the confines of the existing program and definition?
- Is the existing definition central to program acceptability?
- What is the realistic potential of the disability population for work?
- How effective are the current eligibility processes at drawing the line between the able and the disabled, and is significant improvement possible?
- How does a disability program fit into the overall and greatly changing picture of income security? How can the impact of disability programs on motivation to work be improved?
- Does the disability program, as currently defined, fail to meet the legitimate needs of a significant portion of the impaired population?
- Should work-oriented services be targeted on beneficiaries or on applicants?
- What should be the role of the Social Security Administration if there is a major restructuring?

In considering SSI specifically, there is the additional issue of whether different approaches should be used for the DI and SSI programs. These two programs' beneficiaries differ in their work histories and education levels, suggesting that approaches and incentives that work for one program might not be appropriate for the other. The fact that the nature of their disabilities is also different, with a much higher prevalence of mental retardation and other mental disorders in the SSI beneficiary population, also suggests that different approaches would be needed for them. In addition, SSI beneficiaries have increasingly been receiving means-tested benefits from other programs as well, making their work incentive situation more complex. The benefit levels of the DI and SSI programs are also different. As of February 2004, the average DI worker benefit was \$862.60, while the average benefit for an SSI beneficiary age 18 to 64 was \$443.20. From a cost-benefit perspective, it is easier to justify incentives or supports for DI beneficiaries to return to work, since the potential program savings are greater. On the other hand, average wages in the economy have tended to rise faster than SSI income support levels. This would argue that failing to encourage and support work activity for SSI beneficiaries puts them at an even greater disadvantage compared with DI beneficiaries whose benefit levels tend to increase with rising wages.

#### **Issues Related to Alternative Program Designs**

Changing the definition of disability would require a major redesign of all or part of the program. It would almost certainly have substantial implications for program costs, caseloads, and administrative resources. To the extent it involved changes in eligibility or benefit levels, a long transition would be needed to assure that current beneficiaries are not adversely affected.

Ultimately, policymakers would need to decide whether the monetary and social gains from such a major shift of direction are worth the monetary and social consequences that might result. There are several basic questions that would need to be answered about any alternative program, such as:

- What would be the appropriate definition (or definitions) of disability?
- Would it increase or decrease the extent of eligibility and the cost of the program?
- Would benefit levels differ from the existing program and in what ways?
- Would it continue to be administered by the Social Security Administration and, if not, by what agency or agencies?
- Would it emphasize services or just provide benefits under a different set of rules designed to rely on stronger economic incentives for working?

If Congress wanted to adopt a different definition of disability, many different structures and combinations of structures are possible. Some of the possible elements that might be considered include.

- Paying benefits based on an essentially medical definition of what constitutes a “severe” disability, not necessarily the same as the current adjudicative distinction between severe and non-severe, but not requiring a finding as to the impact of the disability on each individual’s ability to work.
- Divorcing eligibility for health benefits from eligibility for cash benefit programs, or perhaps, for certain categories of the disabled, providing the health care necessary for employment rather than cash benefits.
- Dividing the disability program into two programs. A “permanent” program roughly equivalent to the existing program would begin only after a longer waiting period (perhaps two or three years) or might be available immediately only to those with the most severe disabilities. A new temporary program would be available during that waiting period. The temporary program might differ from the permanent program by such things as having easier eligibility rules, different benefit levels, and stronger and perhaps more individualized medical and other services needed to support workforce participation. A temporary program might be administered by a different agency from SSA with SSA retaining responsibility for the “permanent” program. Many variants of this approach are possible depending on program objectives and costs.
- Changing the current all-or-nothing concept of disability eligibility to a program providing percentages of disability based (at least for less than 100 percent levels) on very specific medically determinable criteria. Changing the disqualifying event from “becoming able to work” to something roughly along the unemployment compensation lines of failure to seek or accept work.

### Conclusion

In issuing our October 2003 report on the definition of disability, we argued that this is an issue that needs attention. We have found widespread dissatisfaction with the existing system. It may be that, in the end, the existing definition will be retained, and ways will be found to administer it in a manner more consistent with society’s current approach to disability policy. Or it may be that only a definitional change will serve to meet the needs of today’s impaired population in a way that society can approve. In any case, the problems and inconsistencies of the existing system are significant and demand action.

To further the discussion of this subject, the Board sponsored a day-long forum on April 14, 2004 with presentations and discussion by experts and interested parties on the extent to which the current program is or is not consistent with appropriate national disability policy and what changes might be made to the program structure and definition. The text of the presentations is available on the Board’s website at [www.ssab.gov](http://www.ssab.gov).

We encourage the Administration and the Congress to carefully consider how the Social Security disability programs can better meet the high goals set by the Americans with Disabilities Act of assuring the disabled “equality of opportunity, full participation, independent living, and economic self-sufficiency.” In some respects this issue is particularly important for the SSI program since that has developed into a program primarily serving disabled individuals and since that program’s beneficiaries have perhaps even more to gain if they are provided with the incentives and support needed for self-sufficiency.

Hal Daub, *Chairman*  
 Dorcas R. Hardy  
 Martha Keys  
 David Podoff  
 Sylvester J. Schieber  
 Gerald M. Shea

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Chairman HERGER. Without objection, that will be included in the record. I thank each of you for your testimony, and Mr. Robertson, I want to thank you for your testimony based on last year’s report on SSI residency violations. I note that the SSA detected \$118 million in overpayments from residency violations between



1997 and 2001 involving about 46,000 recipients each year. Do you have any idea how much might have gone undetected by Social Security officials, and what share of the amount of overpayment detected was actually recovered?

Mr. ROBERTSON. Well, nationally, I do not have figures on the amount of overpayments that went undetected due to residency violations. I do know that at least in some regions of the country, there are significant levels of violations, and in our report, we identified a number of IG and SSA reports in which basically, they got some information on specific field offices and regions of this country in terms of the levels of violations related to residency violations. One of those studies, for example, indicated that—or they concluded that about 25 percent of all of the SSI recipients in a given field office were out of the country. In that same study, they found—or I probably should say that they did not find—

Chairman HERGER. Being out of the country is illegal—

Mr. ROBERTSON. Yes.

Chairman HERGER. To receive them if they are out of the country.

Mr. ROBERTSON. Right, and in that same study, they found that 46 percent of the recipients, SSI recipients, in that same field office actually were not residing at the residence that they were reported to be living in. So, that 25 percent could actually be a lower limit for that field office. So, again, in short, while we do not have national figures on the undetected amounts of residency violations, we do know that at least in certain regions of the country, they are significant.

Chairman HERGER. Do you know what percentage of that which was detected was recovered?

Mr. ROBERTSON. No, I do not.

Chairman HERGER. Okay; thank you very much. Now, I turn to Mr. Cardin to inquire.

Mr. CARDIN. Thank you, Mr. Chairman. I also want to thank all of our witnesses here today. I join the Chairman in concern on the residency issue. I think that is one area that we should be able to figure out a strategy to make sure that we are not paying benefits to those who are not eligible for benefits. Quite frankly, Mr. Chairman, I was figuring out a way whether we could not recycle that money into some of the provisions in H.R. 2187 so that we could put the money back into the program to help the people who really need it.

Ms. Ford, I very much appreciate you mentioning H.R. 2187, because I do think it is somewhat a mischaracterization to suggest that someone who is on SSI who one month might be receiving \$75 or \$80 in babysitting, which is an overpayment if they get their full SSI benefits; as I pointed out in my opening statement, we have not adjusted the offsets, the income offsets for 32 years, and to consider that a fraud or an overpayment for someone who gets under an income in 1 month of \$30 or \$40 a month, and all of a sudden, because that is not reported, we have an overpayment.

It seems to me that if we were to adjust these dollar amounts, it would encourage people to seek gainful income, gainful employment, without being penalized if we just modernized or brought up the date the value of the offsets. Therefore, we would get reports

showing less overpayment or fraud within the system if we would just allow these individuals to be able to have some reward for going out and trying to supplement their income.

Ms. FORD. I agree with you. I think that it is really important to make the distinction that overpayments in SSI are the normal course of business, because of the way the system is established, and there are quite a number of work incentives built into the program. The dollar for \$2 offset, when you earn \$2 and you lose \$1 of benefits, means that the SSI beneficiary will always be better off working than not working. Then, when you look at section 1619(a) and (b), that allow the individual to continue to keep their health care coverage and also work beyond the substantial gainful activity level, there are real incentives in SSI for people to work, and a lot of people do try that.

They should not be perceived as fraudulent in any way, simply because they have these regularly occurring overpayments. We have raised the issue with the SSA and with the Congress a number of times that there is not a good system right now within SSA to handle earnings reports by beneficiaries, and so, the overpayments then become larger, and when someone is hit with a very large overpayment and a letter that says you owe us thousands of dollars, and you have to pay, the desire to attempt work again is gone for many, many people.

Mr. CARDIN. I want to make it clear, I do not disagree with the \$2 earnings, \$1 offset. I agree with the amount of money that is the floor before that kicks in.

Ms. FORD. Sure.

Mr. CARDIN. I agree that it does encourage people to go out and earn, although I must tell you that the philosophy in this Congress is that a 50 percent tax bracket would be oppressive and confiscatory to everyone except the poorest of our poor. So, I think we do exercise sometimes here dual standards as to what incentives of work are all about. Dr. Podoff, I appreciate your comments in the definition of disability, and I do not disagree with you that we should be looking at a definition of disability that encourages work in the program itself. My concern is that SSA plays a critical role in trying to get people to work and providing financial support and services. If we change the definition of disability, I hope that you are not implying that the support services to encourage people to work would depend upon meeting a definition that may be more difficult, as you were explaining it.

Dr. PODOFF. Not at all, sir. I think we are basically exploring the issues. We have not on the board or anywhere else, really come to any conclusion how you change this. As we said, we had a conference on this just last month to look at these issues. On the contrary, I think the view would be that you really want to get the support services earlier on and that the way to keep people in the workforce is to identify the needs of folks early on, and rather than talk about getting people back to the workforce, we want to try to keep them in the workforce, and one of the ways that you might do this is figure out that they need some assistance with health care costs or certain special provisions, and so, when we are talking about redefining the definition of disability, we are not at all talking about trying to make it harder for people to get on the rolls.

What we are trying to do is make it easier for people to stay in the workforce.

Mr. CARDIN. Well, I appreciate that clarification, and I am glad I asked the question, because I think it was important to clarify that point. I think we all want to make it easier for people with disabilities to be able to go out and become employed but that we know that they need help, and we do not want to have disincentives within the system itself. Once again, Mr. Chairman, I thank all of our witnesses for their testimony today.

Chairman HERGER. Thank you again, Mr. Cardin, and I also thank our witnesses. Of course, our goal is to ensure that those who are needy are receiving these programs, and there is some \$3 billion a month that we are placing into this program, but it is also our responsibility to taxpayers to ensure that those who are not receiving them according to the law are not and how we can make this program as efficient as we can and make it work as well as we can. So, again, I thank each of you for testifying here. Mr. O'Carroll, if you could please review for us how the SSI used to provide benefits to fugitive felons and how today, we prevent fugitive felons from illegally getting these payments.

Mr. O'CARROLL. Mr. Chairman, originally, SSI was provided to fugitives and people that were absconders and parole violators, and because of legislation passed by this Subcommittee, we no longer do provide that. We applaud it, because what we were concerned about was having the U.S. Government pay people to flee from justice, and we have stopped that.

As you know, we have got about—we are looking at a savings of about \$83 million by identifying fugitives, turning them off of SSI benefits, and because it was so successful in the Title XVI or the SSI side, H.R. 743 now includes OASDI or retirement benefits for it. We feel that that will be probably about a fourfold increase in the amount of prisoners identified or fugitives identified, and also, it will probably have a significant amount in savings of dollars to the SSI Program. The other side of the Fugitive Felon Program that we like the most is that we are providing local law enforcement with information that results in the arrest of violent criminals. As we have said in my testimony, about 19,000 criminals, mostly violent criminals, have been taken off the streets because of this program, which is making America much safer.

Chairman HERGER. Thank you. Would you say, Mr. O'Carroll, that the SSA needs any assistance in collecting the more than \$200 million overpayments paid to fugitives you describe in page 5 of your testimony?

Mr. O'CARROLL. Yes, Mr. Chairman. We are looking at it in twofold: one, identifying them, because of the new work load that is coming at us, the four times the amount of people that we have been dealing with. We do feel it is significant, and we are including that in our appropriation request for the future. Also, SSA, from their side, is also looking for some remedies and some benefits to be able to track down those extra dollars and to be able to recoup some of those overpayments that have been made out there.

Chairman HERGER. Thank you very much. Now, the gentleman from California, Mr. Stark, to inquire.

Mr. STARK. Thank you, Mr. Chairman. Mr. Robertson, let me just see. Some of these numbers may not be within the purview of your expertise, but you may be able to give me an estimate just for the purposes of my question. What I see in some of the testimony here is that on the \$38 billion annual SSI payments, they are running somewhere around a 5-percent to 7-percent error rate. Am I in the ballpark?

Mr. ROBERTSON. In the last few years, it has been—I am not sure what you are talking about the error rate, but in the last few years, it has been about \$1.8, \$1.7 billion overpayment per year.

Mr. STARK. That is 5 percent; okay, by my numbers, with my shoes and socks on.

Mr. ROBERTSON. Well, it is roughly around that.

Mr. STARK. Okay. Do you know, for instance, what error rates might be in other government programs, U.S. Department of Defense contracting, Internal Revenue Service (IRS)?

Mr. ROBERTSON. I do not have that information with me today.

Mr. STARK. Well, what I am really getting at is that I think we owe a real debt of gratitude here to Mr. O'Carroll and Dr. Podoff; the only program with which I am familiar and have worked a long time is Medicare, where our error rate in Medicare in dollars almost equals the entire SSI system. We have 14 percent—and it ranges from 12 up and down; and that is not all fraud; it is about half fraud and half just mistake; you pay 80 million claims a day or a month, and you make mistakes.

So, you have got 7 million beneficiaries, Mr. O'Carroll. We have 5 times, 6 times that many Medicare beneficiaries, and we are about 12 times worse. So, what I am saying to both of you gentlemen is that you should go back and tell those employees that they are doing one heck of a good job. There is, I think, implicit—the IRS has about 5 percent. When you are dealing with millions, Mr. Chairman, of claims and hardworking employees, there are bound to be mistakes.

Mind you, if we have \$28 billion overpayments or error rate in Medicare, half of that is fraud; that means we have got \$14 billion worth of fraud being perpetrated by physicians, hospitals, pharmacists. These are not your normal sheep who are sneaking into the country and stealing money to go back to some foreign country. These are upstanding American citizens who are fleecing us. Sir?

Mr. ROBERTSON. I was going to say that one of the—obviously, one of the reasons we took this program off of the high risk was because we thought that they were doing a much improved job in program integrity issues, plus, if I can—

Mr. STARK. Go ahead.

Mr. ROBERTSON. This—the SSI Program is a very difficult program to enforce. The rules are complex, and—

Mr. STARK. Are not a large number of—Ms. Ford may answer this; you may know—of our beneficiaries under that elderly? Are not proficient in the English language; many of them, some of them disabled because of mental problems, so that it is conceivable to me, because I have a very great staff back in California, as I know the Chairman does, that we work on these SSI problems with the help, thank you very much, of SSA in both the Oakland—or San Jose and San Francisco and Oakland offices.

It is confusing, it is conceivable to me that some people go back home, and they did not know they were not supposed to get their check anymore. Also, some may be—but I just wanted to compliment you, and I want to compliment the Chairman for calling this hearing to call attention to the excellent job you are doing, and I hope you will continue. It is important, and maybe the folks over at Centers for Medicare and Medicaid Services and the U.S. Department of Health and Human Services could borrow these people for awhile, Mr. Chairman. If we got our error rate down in Medicare to where the error rate is here, we could pay for half of this whole system, and so, the taxpayers, we want to thank you all very much. Thank you. Mr. Podoff, did you want to make—

Dr. PODOFF. Thank you, Congressman. I just wanted to add, you know, as I emphasized in my statement that we have found on the board that there are nothing but very hardworking, dedicated people in the SSA, and while, obviously, no one likes errors, rates, and we would like to get it down, and with more resources, you could do more, and point out that in a few weeks, members of the board are going, as we often do, to do a field hearing, and we will be up in the Oakland, the Bay Area, looking at various offices, teleservice centers, DDS offices, and we can expect to learn from those people.

Mr. STARK. When are you going to be there? Do you know? Do you know when it is?

Dr. PODOFF. We are going to be there June 22, 23, 24—June 23 and June 24.

Mr. STARK. We will probably be back here, but I would love to have you meet some of our staff and some of our—we have three or four offices in the area who use the services and—

Dr. PODOFF. We will try to arrange something to see someone, but we always find very dedicated people when we go out there.

Mr. STARK. Thank you, Mr. Chairman.

Chairman HERGER. Thank you, gentleman from California. I would like to follow up on that questioning, and it has to do with how complicated it is, and perhaps a question to you, Dr. Podoff: in your testimony, on page 6, you stated, quote, “we encourage SSA and the Congress to take a broader look at simplification to ask what the SSI Program would look like if they were to design it anew”, close quote, and, Dr. Podoff, I can ask you what would your answer to that question be? What would be some of the significant changes you would consider in designing a program like SSI from scratch?

Dr. PODOFF. All these, of course, are provisional, because they all have, you know, complicated interactions, but certainly, one of the things one might look at is whether you would have an annual determination of income rather than a monthly; as we heard on the panel here, the fact that you have monthly determination creates all sorts of churning of money going on back and forward, temporary overpayments, so I think trying to simplify that; trying to simplify the issues with respect to living arrangements.

If I recall, there are several hundred pages of regulations which just talk about living arrangements, and as Congressman Stark said, we are dealing with people who are often—who are disabled; perhaps English is not their first language and have trouble under-

standing what those regulations mean. It is those kinds of things—you know, there is no magic bullet. I should point out that I first came to work for the SSA in 1973, and when I went to talk to one of my colleagues in the research office, and I asked them what they were working on, they said the disability program. We do not understand it. It is a problem. So, here we are 31 years later asking the same question. So, there are no magic bullets. I would also point out I think Commissioner Barnhart is on the right track. She is talking about the kinds of things she needs to do to simplify the process to get the claims folders in a form, an electronic form where we can track things better. To stress over and over again, none of this comes cheap from administrative resources. The agency needs more resources to help all those good people, and we believe there are payoffs to those administrative resources in terms of saving dollars on benefit payments.

Chairman HERGER. Thank you very much. Now, I turn to the gentleman from Washington, Mr. McDermott, to inquire.

Mr. MCDERMOTT. Thank you. Thank you, Mr. Chairman. We have already heard testimony that SSI is the major source of income for most people who are receiving it. Do you agree with that, Mr. Robertson?

Mr. ROBERTSON. The SSI is a source of income for those that are at the very bottom of the economic ladder, yes.

Mr. MCDERMOTT. So, that is their major source. I did some research on the old program when it was set up back in 1972, and it says here the building of our present Social Security program that would create a new Federal program administered by the SSA designed to provide a positive assurance that the Nation's aged, blind and disabled people would no longer have to subsist on below poverty-level incomes.

Now, if I—my math is right, if you take the \$564 and multiply it by 12, you get—\$6,440, and I think that the highest that—excuse me, it is \$5,768. If you look at what the poverty line is for people, for a single person, it is \$8,449. About two grand, two and a half grand below. Now, if you allow them \$65 a month before you start taking away, that is another \$680, which gets you up to \$6,440, \$2,000. What is the best way to get it to them, to get them up to the poverty level? To let them have more income or to raise the base amount that we give them?

Mr. ROBERTSON. I would respectfully suggest that that is beyond my—

Mr. MCDERMOTT. Okay; then, I will ask the rest of the panel.

Mr. ROBERTSON. That is probably a question for you guys.

Mr. MCDERMOTT. If we are going to follow the plan as we thought it was going to be in 1972 to keep people above the poverty line, how do we get the extra \$2,000 to them? Yes?

Ms. FORD. I would like to say you probably have to do a combination of both, allowing them to earn more income and increasing the base amount, because there are some people who are not going to be able to work at all or very little, so you need to address their needs. There are others who can work despite a severe disability that is lifelong, but they need ongoing support. So, probably a combination.

Mr. MCDERMOTT. How would you recommend we make the decision about how much to give which? Should we give another thousand? Is that—

Ms. FORD. We would love to work with you on that.

Mr. MCDERMOTT. Make them earn the other thousand. What?

Ms. FORD. I said we would love to work with you on that.

[Laughter.]

Mr. MCDERMOTT. I am looking; if the policy is a good one, that you say you do not will the most vulnerable people in the society to live in poverty, and this program is designed to get them out of it, it is not getting them out of it so—

Mr. ROBERTSON. It struck me; one of the things to consider now, also, is what David was talking about earlier, and that is another avenue for approaching this is to put the supports in early enough so that in essence, you are getting people back to work more quickly than you would have ordinarily, so that you are not even really fooling with that minimum level. Again, the idea being, okay, there are going to be some people that need support, but there is going to be another group that if you put the return to work supports in earlier in the program rather than at the end of the program the way it is now, they will not even bump up against that support ceiling.

Mr. MCDERMOTT. So, you are saying lift—maybe I did not catch that part of your testimony—was it your testimony, sir?

Dr. PODOFF. Yes.

Mr. MCDERMOTT. That we should raise the level of their disregard. They could earn \$300, \$400 a month—

Dr. PODOFF. I did not, sir, no.

Mr. ROBERTSON. Let me try again.

Mr. MCDERMOTT. Okay.

Mr. ROBERTSON. Right now—

Mr. MCDERMOTT. It is complicated, right?

Mr. ROBERTSON. It is. As everybody said, it is very complicated.

Mr. MCDERMOTT. We are expecting old people to figure this out, right?

Mr. ROBERTSON. Right now, the disability determination process is basically geared to determining incapacity rather than capacity to work, and I am oversimplifying now when I say that in essence, the current system makes you go through a very lengthy process to determine whether or not you are totally disabled to work, and at the end of that process, then, they say okay, now, let us see what supports we can give you to help you go back to the workplace. The SSA recognizes this as a concern, as a problem, and it has some demonstration projects now where it is trying to get the supports at the beginning of the process, and what I am suggesting with SSI as well as Disability Insurance—

Mr. MCDERMOTT. Moving from the pilot project to the whole program.

Mr. ROBERTSON. If you get the support at the beginning, then, maybe some of those people who would be dependent on SSI would not be as dependent on SSI at all, because they are going to be out in the workforce.

Mr. MCDERMOTT. Is the data in on their pilots, or is this one of these things we do pilots—

Mr. ROBERTSON. They are just starting the pilots, but you can do some lessons learned, so to speak, from the private sector, which has long-term disability insurers who basically, their programs are geared to getting people back to work, and as part of their programs, they have those services, those return to work services, aids, so forth at the beginning of the process, not at the end, so there are some lessons from there, I guess, we can talk about.

Mr. MCDERMOTT. Anybody else agree or disagree? Yes?

Dr. PODOFF. As we have all said, the board, the SSAB tries to take, you know, a broad-brush look at things, although we do go back in the field, and, as we said, talk to staff to learn things about the program. Aside from the fact, as said here about getting people—keeping people in the workforce, I think you need to also look at the interrelationship between SSI, Social Security and all sorts of other income support programs we have. Indeed, that is one of the broad-brush things the board is looking at, the interrelationship between all of these programs.

If you begin to change SSI, the basic benefit, then, you may have a problem whereby people who are working and are entitled to a Social Security benefit may not get any more as a result of working. While I certainly do not want to touch something about Social Security solvency in this hearing, because I know it may present lots of problems, I think in some of the proposals that people have brought up about changing Social Security, one of the things they are talking about is making sure that people who are in the workforce for 30 or more years will get a Social Security benefit which keeps them above poverty, which is not the case even with respect to Social Security, let alone SSI. So, when you begin to talk about trying to boost the income support for low-income people, I think you cannot just do it by isolating SSI. I think you also have to look at the interrelationship with Social Security and other income support programs, and that is a big bite of the apple to take right now.

Mr. MCDERMOTT. Mr. Chairman, if you would give me just one more second, the issue of health care, you get the benefits of Medicaid when you kick into SSI. Now, if you work your way up, you suddenly disqualify yourself for the Medicaid benefit, right? Is there any discounting that or waiver or whatever?

Ms. FORD. Well, if you use section 1619(b), you can work beyond all cash benefits and still maintain Medicaid if you need that in order to continue to work, if you cannot replace that kind of health coverage with your own income, so that is available under 1619(b).

Mr. MCDERMOTT. Tell me, explain to me what working beyond the cash benefits means.

Ms. FORD. Well, there is—

Mr. MCDERMOTT. I am getting \$564 now. If I work and make more than \$564—

Ms. FORD. No, you would actually have to make almost double that, because there is a cash offset for earnings. If you earn \$2, you lose \$1 of SSI benefits. So, it would be—at the break-even point, when your SSI benefit reduces to zero, you would move into section 1619(b), which means you are still technically a part of the pro-



gram, but you are not receiving cash anymore, but you can continue to receive your Medicaid.

Mr. MCDERMOTT. Is that true in all 50 States?

Ms. FORD. I am not sure, but we could find out, 1619(b) is supposed to be available in all 50 States, but there are some ramifications for the 209(b) States, and I am not entirely clear on that. We could find out.

[The information follows:]

Social Security Task Force  
Washington, DC 20005  
June 7, 2004

Hon. Jim McDermott  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative McDermott:

This is in response to your question during the Human Resources Subcommittee hearing on May 20, 2004 regarding the Supplemental Security Income program.

I had discussed the ability of an SSI beneficiary to receive continued Medicaid benefits even after SSI cash benefits have ended. You asked me if that was true in all 50 states. I indicated that I knew that there were some ramifications for people in section 209(b) states and that I would check.

In fact, there are problems with accessing Medicaid for some section 1619 users in 209(b) states. The individual must have been receiving Medicaid in the month before Sec. 1619(a) or (b) is triggered in order to be able to keep Medicaid benefits. The *2004 Green Book*, WMCP 108-6, p. 3-48, states:

Under section 1619(b), blind and disabled individuals can continue to be eligible for Medicaid even if their earnings take them past the SSI income disregard "break-even point." In some 209(b) States, workers may lose Medicaid eligibility before attaining 1619(a) or (b) status if they did not have Medicaid coverage the month before section 1619 status began, thus making this provision inoperable for those workers.

I hope this responds to your question. Thank you for this opportunity to provide additional information. Please let me know if I can provide any other additional information.

Sincerely,

Marty Ford  
Co-Chair

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Mr. MCDERMOTT. Okay; I would appreciate finding out the complexity. I have been watching this issue from watching senior citizens, where they have to spend down to a certain point to get into Medicaid, and it is a very tricky kind of game they have to play, and that seems to me the health care benefit would be one of the stickers for these people.

Ms. FORD. Well, you have a similar but slightly different problem for young people with disabilities who have to—where Medicaid, for instance, is the source of their long-term supports, their long-term care. In order to continue to receive the Medicaid that they need, they cannot have resources over the limit, and so forth, so some of the things you might do to help their situation would be, for instance, to increase the resource limits that individuals and couples can keep to have on hand in case of any kind of emergency, family or otherwise.

Chairman HERGER. The gentleman's time has expired, and again, I want to thank each of our witnesses for your outstanding testimony before our Subcommittee this morning. Your comments

will help us as we continue our oversight of the SSI program and look for new ways to strengthen and improve that program. The hearing stands adjourned.

[Whereupon, at 11:20 a.m., the hearing was adjourned.]

