



# **SSDI insolvency and reform in spotlight - House Hearings and Reforms Being Developed**

The projected insolvency of accounts earmarked for Social Security Disability Insurance and reports of program abuse have prompted House Republicans to continue hearings on SSDI, searching for solutions. In hearings today and scheduled for March 20<sup>th</sup>, U.S. Congressman Sam Johnson (R-TX), Chairman of the House Committee on Ways and Means Subcommittee on Social Security, addresses the difficult issues confronted by SSDI. Solutions to problems with SSDI are also being developed by a group of state Secretaries of Human Services, AEI and the Brookings Institute. UWC is working with these groups to examine best practices in returning disabled workers to jobs that may be available in the job market.

Below are excerpts of statements from Chairman Johnson and the draft agenda of a conference scheduled on April 12<sup>th</sup> and April 19<sup>th</sup> to examine the problems and develop solutions. Employers should be engaged in the development of reforms not only because of the growing cost of SSDI, but also in improving the connection between injured workers and employment.

## **Statement Chairman Sam Johnson (R-TX) Subcommittee on Social Security Hearing on the Financing Challenges Facing the Social Security Disability Insurance Program**

March 14, 2013  
(Selected remarks as Prepared)

We begin our work during a time when the government is operating under a sequester, proposed by the President and agreed to on a bipartisan basis as part of the Budget Control Act in August 2011. The House twice passed legislation to replace the President's plan with smarter and more responsible cuts. Unfortunately, the President and the Senate ignored it.

Right now, America is over \$16 trillion in debt. That means every American owes more than \$52,000. Now is the time to work together to stop spending money we do not have. Like every American family and business, Social Security is challenged to tighten its belt and live within its means. The fiscal facts are that:

1. Under sequester, Social Security needs to reduce its operating budget by 3.35 percent, not the 5 percent cut all other domestic agencies must sustain. There are a lot of families and businesses in my district who have had to cut their budgets far more.
2. Social Security's operating budget has increased by 46 percent over fiscal years 2003 - 2013;
3. The Stimulus provided an additional \$1 billion to Social Security; and
4. The President cut the Commissioner's proposed fiscal year 2013 operating budget by 6 percent before it was submitted to the Congress -- the largest such cut made by President Obama during

his four years.

And let me be clear, even with Social Security having to tighten its belt, benefits will continue to be paid.

At a time when workers paying into the system have increased over 72 percent between 1970 and 2012, the number of people collecting disability checks has increased by over 300 percent, from 2.7 million to 10.9 million. By 2023, the number of beneficiaries will grow to 12.3 million and total benefits paid will reach over \$213 billion. That's a 57 percent increase over the \$135 billion paid in benefits in 2012. And unless Congress acts, in 2016 – just three years from now – disabled workers who can least afford it will be at risk of a 21 percent cut in their benefit checks. We don't have much time, we must act now.

Some of that growth is predictable because of an increase in the size of the overall workforce, the entry of more women in the workforce, and the aging of the baby boomers into their disability-prone years. And some of the growth is a consequence of Congress's decisions decades ago to expand the ways in which people could qualify for disability.

Our witnesses today will explain these numbers further, including the impact disability insurance has on other Federal spending, along with how the makeup of those receiving benefits has changed. In the hearing series, we also heard about the people who try to defraud the system by falsely claiming they are disabled. We heard that Social Security's efforts to conduct continuing eligibility reviews take a back seat to handling the growing workloads. That choice keeps costs higher, resulting in wasted taxpayer dollars and weakens public trust in the program. We heard how last century's view of disability hasn't kept up with this century's advances in medicine, technology, and the workplace, resulting in a program that pays people not to work.

GAO's High Risk Series Update issued just last month keeps the "high-risk" designation on the DI program because the medical criteria and occupational information relied on to make benefit decisions are still out-of-date. The fact that the DI program has been on this high risk list for 10 years is shameful.

In the hearing series we also heard how important it is to make the right decision as early in the process as possible. We walked through the lengthy and open-ended initial determination and appeals process that enables claimant representatives to drag out appeals in hopes of getting an award. We heard how "outlier" judges who award disability benefits in most of the cases they hear can't be managed or questioned about the decisions they are making on behalf of the agency, encouraging a process where who makes the decision and where you live may mean more than the medical evidence in the file. We also heard how the courts have taken it upon themselves to reinterpret Congress's will, creating inequities and inconsistencies in this program. We heard over and over that we must keep this program strong for those who truly cannot work– and I know that's important to everyone in this room.

Recently Dr. Ben Carson, an individual who overcame serious obstacles to become an accomplished neurosurgeon, commented that Americans are so concerned with political correctness that we are losing our ability to speak and hear the truth. We all want to do the right thing by those who can no longer work because of a serious illness or injury, yet in 2016 there won't be enough revenues to pay full benefits. Disabilities have a devastating effect on individuals and their families and every dollar of those disability checks matter.

It's time to speak the truth, work together, stay on target, and fix the disability program once and for all.

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**Another hearing will take place on Wednesday, March 20, 2013, in B-318 Rayburn House Office Building, beginning at 10:00 a.m.**

In announcing the hearing, Social Security Subcommittee Chairman Sam Johnson (R-TX) said, “**As we work to secure the future of this vital program, hard-working taxpayers deserve to know that disability decisions are fair, consistent and protected from con artists trying to cheat the program. In the past, Congress expanded the ways people can qualify for benefits. Instead of relying on objective standards to reach decisions, examiners and judges on the front lines have increasingly had to make more judgment calls. Given the advances in medical treatment and rehabilitation, we need to fundamentally understand how agency policies may be influencing decisions and determine whether these policies still make sense for the times we live in.**”

Under the Social Security Act, disability is defined as “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 twelve months.” The disability must be so severe that the person is unable to do any “substantial gainful work which exists in the national economy,” whether or not a specific job exists or the person would actually be hired. The disability must result from a physical or psychological condition that is “demonstrable by medically acceptable clinical and laboratory diagnostic techniques.”

The responsibility for making initial disability decisions is shared by the States and the Social Security Administration (SSA). All 50 States, plus the District of Columbia and Puerto Rico, maintain fully federally-funded agencies, known as Disability Determination Services (DDS), which decide initial and continuing eligibility for benefits. In making the initial determination, DDS examiners review the available medical evidence under a five-step sequential evaluation process.

The independent, bipartisan Social Security Advisory Board has raised concerns as early as its 1998 report, *How SSA's Disability Programs Can Be Improved*, about the complex administrative structure under which the Disability Insurance (DI) program operates, as well as the fact that eligibility is “fundamentally a judgmental process in which different decision makers will frequently have different views.” In 2001, the Board issued two reports: *Disability Decision Making: Data and Materials*, and a companion report *Charting the Future of Social Security's Disability Programs: The Need for Fundamental Change*. In these reports, the Board raised questions about the fairness and the consistency of the process, noting wide and unexplained variations in outcomes between different regions of the country and different levels of adjudication, as well as major changes in how disability is determined based on court decisions that have not been overturned by Congress.

In February 2012, the Board updated its *Aspects of Disability Decision-Making: Data and Materials*, noting the “longstanding lack of consistency in the disability determination process that may award benefits to individuals who do not meet the SSA disability criteria and deny benefits to individuals who do meet the criteria.” The Board stated that the “updated data continue to highlight significant questions about [the] SSA's disability decision-making process and about the disability programs....”

**UWC has been working with committee staff to develop best practice ideas drawn from experience with state workers' compensation, particularly with respect to efforts to connect individuals with disabilities to work that may be available in the labor market. UWC members will be participating in symposiums sponsored by the American Enterprise Institute, the Brookings Institution and the Secretary's Innovation Group on April 12th and April 19<sup>th</sup> (see agenda below)**

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## Disability—Inherent Problems, Practical Solutions and Action for Reform

**IMPORTANT NOTE:** CONFERENCE TAKES PLACE ON TWO SEPARATE DATES SEVEN DAYS APART (Topics A through C on April 12; Topics D through F on April 19).

**APRIL 12** | 8:30 AM– 12:15PM

Rayburn House Office Building B-318, Capitol Hill, Washington DC

**TOPIC A.** Hypothesis: *Disability approvals have expanded so as to enroll many individuals who are capable of working full or part time in the private economy.*

**Moderator:** Henry Olsen, Vice President and Director, National Research Initiative, American Enterprise Institute

**Opening in support of hypothesis:** Richard V. Burkhauser, Sarah Gibson Blanding Professor of Policy Analysis, Professor of Economics, Cornell University and Adjunct Scholar at the American Enterprise Institute

- Michael Donnelly, Director, Kansas Rehabilitation Service
- Bob Stegert, Principal, 3rd Chair LLC, Litigation and Risk Strategy, former Vice President Casualty Claims, Marriott International Inc.
- Bryon Macdonald, Program, Policy and Development Manager at World Institute on Disability

**TOPIC B.** Hypothesis: *Increasing work levels has a positive effect on the health and well-being of disability applicants and beneficiaries, and its obverse is also true - - the absence of work activity has an independent negative effect on individuals' health and well-being.*

**Moderator:** Ron Haskins, Senior Fellow Economic Studies and Co-Director Center on Children and Families, Budgeting for National Priorities, The Brookings Institution

**Opening in support of hypothesis:** Kim Burton, Co-Author Is Work Good for Your Health? Department of Work and Pensions, UK

- Jennifer Christian, MD – President and Chief Medical Officer Webility Incorporated
- Robert E. Drake Ph.D., Professor of Psychiatry and the Dartmouth Institute, Geisel School of Medicine at Dartmouth

**TOPIC C.** Hypothesis: *The current growth trajectory cannot be sustained and fundamental restructuring of the eligibility and disability service system itself is required to avoid fund exhaustion, increased tax burdens and unacceptable reductions in the active labor force.*

**Moderator:** Ron Haskins

**Opening in support of hypothesis:** Nicholas Eberstadt, Henry Wendt Chair in Political Economy, American Enterprise Institute

- David Autor, Professor and Associate Department Head of the Massachusetts Institute of Technology Department of Economics and Faculty Research Associate of the National Bureau of Economic Research
- Stephen Goss, Chief Actuary, Social Security Administration

**APRIL 19** | 8:30 AM– 12:15PM

The Gold Room, Rayburn House Office Building, Washington, DC

**TOPIC D** Hypothesis - - *The disability determination process does not function well for its intended purpose of selecting and supporting those who cannot work anywhere in the national economy.*

**Moderator:** Ron Haskins

**Opening in support of hypothesis:** Richard J. Pierce, Lyle T. Alverson Professor of Law, George Washington University School of Law and Adjunct Scholar, CATO Institute

- Harold Krent, Dean and Professor of Law, IIT Chicago-Kent College of Law and Consultant on Social Security Disability Adjudication for the Administrative Conference of the United States
- Jo Anne Barnhart, former Commissioner, Social Security Administration

**TOPIC E.** Hypothesis: *The business sector must become engaged in finding ways to support employment rather than transferring marginal employees onto public custody. Incentives must be aligned so as to engage business in behavior that is both socially constructive and profitable.*

**Moderator:** Ron Haskins

**Opening in support of hypothesis:** Philip De Jong, University of Amsterdam (invited)

- Kim Jinnett, PhD, Integrated Benefits Institute
- Allyn C. Tatum, Vice President, Tyson Foods and former Chairman, Arkansas Workers Compensation Commission

**TOPIC F.** Hypothesis: *Only fundamental reforms, pursued rapidly, can avoid a path in which an increasing proportion of people who could work are sidelined and the economy is burdened with a declining taxpaying workforce.*

Recommendations for change:

**Opening in support of hypothesis:** Henry Olsen

**Specific proposals:**

- Richard Burkhauser, Professor of Economics, Cornell University and Adjunct Scholar at the American Enterprise Institute
- David Stapleton, Director, Center for Studying Disability Policies, Mathematica
- Mark Duggan, Chair, Business Economics and Public Policy, Wharton
- Jack Smalligan, Branch Chief, Income Maintenance Branch, Office of Management and Budget
- Eloise Anderson, Chair, and Jason Turner, Secretary's Innovation Group