

**The National Council of Social Security Management Associations, Inc.**  
**GREYSTONE GROUP WASHINGTON REPORT**  
**Legislative Report 16-2012**  
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**Overview**

On Friday, September 14, 2012, the U.S. House Committee on Ways and Means Subcommittee on Social Security, held the fifth hearing in a series titled, "Securing the Future of the Disability Insurance (DI) Program." The hearing focused on the key challenges facing the Disability Insurance (DI) program and options to address those challenges.

Six witnesses were asked to testify on a single panel. The written testimony of each witness may be viewed by clicking on the respective links below:

**Hearing Panel**

Richard Burkhauser, Ph.D., Professor, Cornell University, Ithaca, New York, and Adjunct Scholar, American Enterprise Institute

[Testimony](#)

[\(Truth in Testimony\)](#)

David C. Stapleton, Ph.D., Director, Center for Studying Disability Policy, Mathematica Policy Research

[Testimony](#)

[\(Truth in Testimony\)](#)

Marty Ford, Director of Public Policy, The Arc of the United States, on behalf of the Consortium for Citizens with Disabilities Social Security Task Force

[Testimony](#)

[\(Truth in Testimony\)](#)

Daniel Bertoni, Director, Education, Workforce, and Income Security, Government Accountability Office

[Testimony](#)

Jill Houghton, Executive Director, US Business Leadership Network

[Testimony](#)

[\(Truth in Testimony\)](#)

Nadine Vogel, Founder and President, Springboard Consulting, Mendham, New Jersey, on behalf of the Society for Human Resource Management

[Testimony](#)

[\(Truth in Testimony\)](#)

**The following Members of Congress attended the hearing:**

**Chairman Sam Johnson (R-3<sup>rd</sup>-TX)**

Representative Kevin Brady (R-8<sup>th</sup>-TX)

Representative Rick Berg (R-At Large-ND)

Representative Adrian Smith (R-3<sup>rd</sup>-NE)  
Representative Kenny Marchant (R-24<sup>th</sup>-TX)

**Ranking Member Xavier Becerra (D-31<sup>st</sup>-CA)**  
Representative Pete Stark (D-13<sup>th</sup>-CA)

### **Hearing Background Provided by the Subcommittee**

The Subcommittee's hearing series has explored the challenges facing the Social Security Disability Insurance (DI) program, including the findings of the 2012 Annual Report of the Board of Trustees that DI revenues will cover only 79 percent of benefits beginning in 2016 due to the aging of the baby boomer workforce into their most-disability prone-years, the increased number of women in the workforce now eligible for benefits should they become severely disabled, decisions made by Congress regarding the financing of the DI Trust Fund and the eligibility criteria for benefits, and the recent economic downturn. The Congressional Budget Office (CBO) projects that as a result of the recent recession and slow recovery, the number of disabled workers will continue to rise over the next few years.

The Subcommittee began its five-part series examining the DI program in 2011. The series' first hearing provided an overview of the program, its history, the importance of its benefits, the growth of the program and the drivers of that growth along with the program's current and future financing challenges. The second hearing focused on SSA's program integrity efforts to minimize improper payments and protect taxpayer dollars from waste, fraud, and abuse. The third hearing examined how disability eligibility decisions are made, including the definition of disability and the Federal-State relationship. The fourth hearing considered the Social Security appeals process including its history, legal requirements, and whether the current process provides fair, accurate, and consistent outcomes while balancing the needs of claimants and taxpayers.

In the hearing series, many questions have been raised about the current DI program. These include: is the concept of disability that prevailed at the start of the program in 1956 still appropriate today given advances in medicine, rehabilitation, and the workplace? Are there ways to better support individuals with disabilities to stay in the workplace? Can the decision-making process be strengthened so that, when appropriate, awards are made as early as possible and decisions on applications and appeals are made with greater accuracy and consistency?

Increasingly, experts are researching these questions and developing proposed solutions. Employers are also finding new ways to retain in the workforce those individuals with disabilities who want to work. The imminent fiscal challenge facing the DI program has made discussion of these issues both relevant and timely for the final hearing of this series.

In announcing the hearing, Subcommittee Chairman Sam Johnson (R-3<sup>rd</sup>-TX) said, **"We must and we will secure the future of this essential program for the millions of Americans who count on benefits. As we look at options to keep that promise, we must balance the needs of those with disabilities with the needs of workers who support the program. Striking that important balance will result in a program that makes the right decision as soon as possible, supports work, prevents fraud, and treats all workers fairly."**

## **Opening Statements**

The opening statements of Chairman Johnson and Ranking Member Becerra may be accessed by clicking on the respective links below:

### **Subcommittee on Social Security Chairman Sam Johnson (R-3<sup>rd</sup>-TX)**

<http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=308446>

### **Subcommittee on Social Security Ranking Member Xavier Becerra (D-31<sup>st</sup>-CA)**

<http://democrats.waysandmeans.house.gov/press/PRArticle.aspx?NewsID=12246>

## **Panel Opening Statements**

Following opening statements from Chairman Johnson (R-3<sup>rd</sup>-TX) and Ranking Member Becerra (D-31<sup>st</sup>-CA), Dr. Richard Burkhauser, Professor, Cornell University, Ithaca, New York, and Adjunct Scholar, American Enterprise Institute presented his opening statement. Dr. Burkhauser began by mentioning that the DI program is growing at an unsustainable pace. Unless policy reforms are enacted, the Social Security Trustees predict that DI will be insolvent by 2016, noted Mr. Burkhauser. Based on the evidence, the dramatic growth of beneficiaries is not mainly because of factors outside the control of policymakers, noted Dr. Burkhauser. Rather, it is the consequence of changing eligibility standards and changes in interpretation of eligibility by the DI “gatekeepers,” which has turned it into a long-term unemployment program, noted Dr. Burkhauser. Between 1990 and 2009, Americans on the disability rolls more than doubled from 40 to 82 per 1,000 workers. What is less known, stated Dr. Burkhauser, over this same period, the Netherlands, once called the “sick country” of Europe, for its runaway disability system, initiated fundamental reforms that reduced their disability numbers from 110 to 80 per 1,000 workers. The Dutch reduced their rate by focusing on the inflow of beneficiaries, and making their employers directly shoulder program costs. All Dutch firms must now fund the first two years of their workers’ disability benefits, and pay a disability tax based on the number of workers that move onto the long-term program. These reforms most importantly led to a market for private long-term disability insurance and more effective case management by private sector case managers, noted Dr. Burkhauser. It is this private sector case management, which lowered the rate of individuals going on the rolls. Ultimately the result was that many workers continued to work versus being moved onto disability, noted Dr. Burkhauser.

Currently about one-third of U.S. workers are covered by private long-term disability insurance. Therefore, the real question is how we get the private sector more involved in case management, stated Dr. Burkhauser. How do we mandate that all firms must provide such coverage, or is there a better way to align all private and public sector disability costs? The U.S. should stop funding the DI system with a uniform payroll tax and replace it with a tax based on a firm’s experience rating, stated Dr. Burkhauser. Doing so would increase the tax for firms whose employees are entering the system at above average rates, and lower it for firms with below average rates. Additionally, current DI policy built on the assumption that both disability and employment are mutually exclusive is both outdated and fiscally unsustainable, noted Dr. Burkhauser. In closing, he noted that fundamental reform is needed to support DI solvency, and continued employment and greater self-sufficiency among workers with disabilities.

Dr. David C. Stapleton, Director, Center for Studying Disability Policy, Mathematica Policy Research, was the next to present his oral remarks. Dr. Stapleton noted that, like many others, he feels the overall system is failing, and there is no easy fix. However, there are prospects for systemic reform that would provide better opportunities for people with disabilities to live fulfilling lives and at the same time reduce state and federal expenditures for their support, noted Dr. Stapleton. Congressional action is required to jump-start a process that could over time lead to successful restructuring. Dr. Stapleton categorized the program(s) as failing because overall family income of those with disabilities is declining, but at the same time federal and state expenditures on individuals with disabilities is increasing. In short, taxpayers are being asked to pay more-and-more for a system that is less-and-less adequate, noted Dr. Stapleton. He offered two reasons why there is currently systemic failure. First, is the use of "long-term inability to work" as eligibility criteria for SSDI. These criteria might have made sense in the past, but many now could sustain themselves by working. The second fundamental flaw is program segmentation, which produces pervasive inefficiencies, noted Dr. Stapleton. In closing, Dr. Stapleton urged the Subcommittee to start down the path of fundamental SSDI program changes.

Next, Marty Ford, Director of Public Policy, The Arc of the United States, on behalf of the Consortium for Citizens with Disabilities Social Security Task Force, presented her oral remarks. Ms. Ford began by noting that SSDI is vital to those with disabilities, and their families. Benefits for those with the most severe disabilities are modest, averaging about \$1,060 a month, noted Ms. Ford. For most individuals on SSDI, it makes up about 75 percent of their total income. Many beneficiaries have made repeated attempts to work, often exacerbating their condition before finally turning to the Social Security system. Many beneficiaries are terminally ill, about one in five men, and one in seven women die within the first five years of receiving benefits, noted Ms. Ford. For disabled individuals who have lost their income, Social Security is a vital solution, not the problem. That is why any SSDI solutions must be developed, tested, and evaluated, to examine the effects on future beneficiaries. The CCD Social Security Task Force has developed principles to help guide any reforms to the Social Security system, including SSDI, which are outlined in her written testimony, noted Ms. Ford.

Ms. Ford next provided ten recommendations for moving forward. First, develop a better wage reporting and recording system and promptly adjust payments to reduce overpayments; second, increase the substantial gainful activity level to those who are blind; third, establish an earnings offset in the SSDI program; fourth, provide a continued attachment to SSDI and Medicare, so long as the person remains disabled; fifth, improve the rules for impairment related work expenses; sixth, support and strengthen programs designed to provide flexibility for those individuals that want to return to work; seventh, improve opportunities for those who receive disabled adult child benefits; eighth, extend SSA's Title II demonstration authority; nine, extend the WIPA and the PABSS programs; and lastly, provide SSA with adequate resources to carry out all necessary program functions.

In closing, Ms. Ford noted that we must stabilize the DI program financially. To meet the DI Trust Fund shortfall in 2016, she urged Congress to act expeditiously to reallocate payroll taxes between the DI and OASI programs.

Next to present an opening statement was Daniel Bertoni, Director, Education, Workforce, and Income Security, Government Accountability Office (GAO). He began by noting that Social Security Disability programs paid nearly \$180 billion to over 14 million individuals and their families last year. In 2003,

GAO designated SSA's programs as high risk, in part because the programs did not represent modern concepts of disability. Bertoni indicated his remarks would be based on GAO's June 2012 report, and steps that SSA is taking to modernize its disability determination criteria. In summary, SSA has begun to take concrete steps to incorporate modern concepts into its disability criteria. For example, the agency is now giving greater consideration to a claimant's functional capacity, despite their medical condition. In closing, amongst other things, GAO recommends that SSA consider studies for implementing more assisted devices and accommodations into their disability determinations, stated Mr. Bertoni.

Jill Houghton, Executive Director, US Business Leadership Network, was the next to present remarks. She began by noting that the US Business Leadership Network promotes inclusion of individuals with disabilities into the workplace, the marketplace, and into the supply chain. The businesses that her organization represents, are deeply committed to hiring individuals with disabilities, stated Ms. Houghton. Their members believe that this country needs to move from focusing on disability from a medical perspective, to focusing on it from a social perspective, noted Ms. Houghton. Employers hire individuals with disabilities because they have the prerequisite experience and accommodations in place, stated Ms. Houghton. In closing, Ms. Houghton noted one major issue for many individuals with disabilities is navigating through the many different government programs for individuals with disabilities.

The last to present an opening statement was Nadine Vogel, Founder and President, Springboard Consulting, Mendham, New Jersey, on behalf of the Society for Human Resource Management. She began by explaining that her company, Springboard Consulting, specializes in finding opportunities for individuals with disabilities. Every day, disability management strategies are helping individuals remain employed, and stay off our disability rolls, noted Ms. Vogel. One of the major hurdles for employers is to recruit and retain disabled workers, while navigating federal law and programs. For example, the Social Security Disability Insurance program has its merits, but it was not originally created to handle all of the age-related disabilities that come as a result of individuals living longer and being in the workplace longer. Additionally, the eligibility definition for disability for SSDI is outdated, noted Ms. Vogel. It reflects the medical model rather than a functional model. As opposed to the Social Security Disability definition, her organization relies on the Americans with Disabilities Act (ADA) model, which focuses on what they can do within a job description versus what they cannot do. In closing, noted Ms. Vogel, while some suggestions for disability accommodations may work for certain employers, we have to keep in mind that they may not work for all employers.

### **Panel Question and Answer**

Following the opening statements, Chairman Johnson (R-3<sup>rd</sup>-TX) began the question and answer portion of the hearing by asking Dr. Stapleton to explain why he believes the Social Security programs are failing not only those with disabilities, but the taxpayers as well. Dr. Stapleton responded that when the SSDI program was initially established, it was set up as a medical retirement program for individuals over the age of 50. At that time, noted Dr. Stapleton, it was a little easier to define an individual with a disability, but with all the advances since the 1950s, SSA's job of determining this has become very difficult. Additionally, not only did it become more difficult to define a disability, but the Disability Insurance program was also being expanded, noted Dr. Stapleton. This combination has resulted in a poverty trap, one that funnels disabled individuals into a program that fails to look at the

capacities that they actually have, noted Dr. Stapleton. The root of the problem is really following along with what has been established since 1956, and have not made significant changes to. In short, according to Dr. Burkhauser, we are getting less for our money, and not really helping individuals with disabilities. Dr. Burkhauser also noted that the DI program should be a last resort for individuals, and that if the private sector had “skin in the game,” as it relates to individuals going onto the disability rolls, they would make a greater effort to take care of individuals, and find ways to allow them to continue to work.

Ranking Member Becerra (D-31<sup>st</sup>-CA) then asked Mr. Bertoni about the use training and accommodations, as well as partnering with the private sector to get individuals back to work. Mr. Bertoni stated that partnerships really are the key, and this cannot rest solely on the shoulders of SSA, as there are state and private entities that also need to play a part in getting individuals back to work.

Representative Rick Berg (R-ND-At Large) next asked Dr. Burkhauser about getting the private sector more involved in keeping individuals in the workforce. Representative Berg referenced Dr. Burkhauser’s statement of “through either tax or penalty,” without deterring employers from hiring individuals with disabilities to start with, because of the possibility of such financial liability. Dr. Burkhauser stated that Representative Berg was exactly right, employers who view individuals with a disability or a potential disability may be less likely to hire that specific person if there might be financial consequences related to keeping them on the job. One way to avoid this dilemma is to give employers a tax credit for hiring such workers, but yes, this is something to worry about, noted Dr. Burkhauser. Burkhauser also reiterated there are studies, which have shown that demographics only account for about 25 percent of the rise in DI, where DI rules and their interpretation account for 75 percent.

Representative Berg next asked Ms. Houghton what needs to be done to get employers more involved in hiring disabled individuals. Ms. Houghton stated that one of the major hurdles for employers is being able to cut through all the red tape to access government programs and incentives.

Representative Kevin Brady (R-8<sup>th</sup>-TX) spoke next and noted that over a twenty year period the percentage of those with a disability that are in the workforce has decreased by more than half. He also noted there are an increasing number of disability claims coming from younger workers with either mental or muscular disorders. Representative Brady then asked Ms. Houghton what she meant by medical model versus the social model as it relates to disability. Ms. Houghton stated the medical model looks at what an individual cannot do, whereas the social model focuses on the talent of an individual. The social model states that when the individual is provided accommodations they can be viewed for what they can do. Ms. Houghton also noted the disability system today does not at all reflect or encompass the social model. Representative Brady next asked the panel, what is the most significant change we can make to bring the social model more into the disability system? Ms. Vogel answered there are actually three things that could be done. First, she noted, there needs to be a harmonization of the various definitions of disability; second, look at the interplay of ADA, FLMA, Workers Compensation, and to allow ADA to really “trump,” because it looks at what individuals can do; and third, find a way to have much more aggressive collaboration between the employers and vocational rehabilitation.

Next to ask a question was Representative Adrian Smith (R-3<sup>rd</sup>-NE). Representative Smith asked Mr. Bertoni about SSA's "track record" in conducting demonstration projects, and whether this is a route to pursue to help gather data on what possible changes would benefit the DI program. Mr. Bertoni answered that yes, these demonstration projects can be important in gathering and looking at data, but SSA really does not have a great track record when it comes to previous demonstration projects.

If you are interested in watching the video of the hearing, you can access the archived webcast by clicking on the link below:

[http://waysandmeans.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=395](http://waysandmeans.granicus.com/MediaPlayer.php?view_id=2&clip_id=395)

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