

**The National Council of Social Security Management Associations, Inc.**  
**GREYSTONE GROUP WASHINGTON REPORT**  
**Legislative Report 5-2015**  
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As Congress heads into the Memorial Day recess, we wanted to take this opportunity to provide summary information related to a number of bills that have been introduced during the 114<sup>th</sup> Congress that could impact the Social Security Administration (SSA) and the programs the agency administers. NCSSMA has also been working on legislative proposals and policy documents throughout this session of Congress, and we will keep members updated regarding efforts to gain Congressional support for our proposals. Currently, NCSSMA is working on four (4) proposals of significance. Of the 4, 3 are related to SSI and the other is related to Workers Compensation.

**H.R. 1419 - The Social Security Fraud and Error Prevention Act of 2015**

This is a re-introduction of legislation from the 113<sup>th</sup> Congress by Congressman Xavier Becerra (D-CA-34), Ranking Member of the House Ways and Means Subcommittee on Social Security. The bill seeks to provide SSA with cost-effective tools to combat fraud and errors while also guaranteeing funding for SSA's fraud investigation team.

Other original co-sponsors from the Ways and Means Committee include: Ranking Member Sander Levin (D-MI-9), Rep. Charles B. Rangel (D-NY-13), Rep. John Lewis (D-GA-5), Rep. Lloyd Doggett (D-TX-35), Rep. Mike Thompson (D-CA-5), Rep. John Larson (D-CT-1), Rep. Earl Blumenauer (D-OR-3), Rep. Joseph Crowley (D-NY-14), Rep. Danny K. Davis (D-IL-7), and Rep. Linda Sanchez (D-CA-38).

As of this report, the legislation currently has 16 co-sponsors, all Democrats. Re-introduced on March 18, 2015, the measure has been referred to the House Ways and Means Committee and the House Budget Committee. No companion legislation has been introduced in the Senate at this time.

The bill, as summarized by the Congressional Research Service (CRS):

**Social Security Fraud and Error Prevention Act of 2015**

Amends title II (Old Age, Survivors and Disability Insurance) of the Social Security Act (SS Act) to appropriate from the Social Security Trust Funds to the Social Security Administration for each fiscal year beginning FY2016 amounts for specified fraud and error prevention activities. Prescribes a formula for the calculation of such amounts, which include fines and civil monetary penalties recovered.

Directs the Commissioner of Social Security to: (1) report to Congress and the Office of Management and Budget (OMB) a plan for conducting fraud and error prevention

activities; (2) take any necessary actions to ensure that cooperative disability investigations (CDI) units have been established for each of the 50 states, the District of Columbia, and the territories; (3) conduct quality reviews in certain cases with respect to decisions in connection with the application for benefits under this title and SS Act title XVI (Supplemental Security Income) (SSI), in a sufficient number to ensure compliance with laws, regulations, and other guidance issued by the Commissioner; (4) report annually to Congress the total number of cases selected for such quality review, the number of such cases in which a decision is remanded, and the number of such cases in which a decision is modified or reversed; and (5) report annually to Congress on the number of work-related continuing disability reviews conducted.

Allows the Commissioner to submit a combined annual report to specified congressional committees of certain information relating to disability benefits.

Increases civil and criminal penalties for specified persons in positions of trust in certain cases of fraud, and requires inflation adjustments every four years for certain civil penalties.

Prohibits the Commissioner, in making any determination with respect to whether an individual is or continues to be under a disability, from considering (except for good cause) any evidence furnished by a physician or other health care provider who has been barred from practice, has been assessed a penalty for the submission of false evidence, or is excluded from participation in any federal health care program.

Amends the Balanced Budget and Emergency Deficit Control Act of 1985 (Gramm-Rudman-Hollings Act) to repeal program integrity adjustments after FY2014 to budget authority for continuing disability reviews and redeterminations.

### **H.R. 1795 – Promoting Opportunity Through Informed Choice Act**

Introduced on April 15, 2015, by Congressman Sam Johnson (R-TX-3), Chairman of the House Ways and Means Subcommittee on Social Security, this measure currently has 8 co-sponsors, all Republicans. The legislation has been referred to the House Ways and Means Committee. Companion legislation, S. 1197 – Promoting Opportunity through Informed Choice Act, has been introduced in the Senate by Senator Orrin Hatch (R-UT), Chairman of the Senate Finance Committee. Chairman Johnson introduced a similar provision in the 113<sup>th</sup> Congress as part of the Stop Disability Fraud Act. This previous legislation did not advance beyond introduction and referral to committee.

The bill, as summarized by the Congressional Research Service (CRS):

#### **Promoting Opportunity through Informed Choice Act**

Directs the Commissioner of Social Security to make on-line tools publicly available through the Social Security Administration website to allow all individuals eligible for disability and Supplemental Security Income benefits under titles II (Old Age, Survivors, and Disability Insurance) and XVI of the Social Security Act to assess the impact of earnings on their eligibility for, and amount of, benefits received through federal and state benefit programs.

### **H.R. 1800 - Guiding Responsible and Improved Disability Decisions Act of 2015 or the GRIDD Act of 2015**

Also introduced on April 15, 2015, by Congressman Sam Johnson (R-TX-3), Chairman of the House Ways and Means Subcommittee on Social Security, this measure currently has 7 co-sponsors, all Republicans. The legislation, also similar to provisions in the Stop Disability Fraud Act introduced in the 113<sup>th</sup> Session of Congress, has also been referred to the House Ways and Means Committee. Companion legislation, S. 1194, has been introduced in the Senate by Finance Committee Chairman Orrin Hatch (R-UT). The press release announcing introduction of the legislation referenced the SSA Office of Inspector General (OIG) report that highlighted one of the problems with outdated rules related to cases in Puerto Rico. The OIG found that these rules favor claimants who are unable to speak English, even though Spanish is one of the island's official languages.

As part of that press release, Chairman Johnson made the following statement:

*"Hardworking American taxpayers expect Social Security to fairly, consistently and accurately decide who should receive disability benefits. That's why it makes no sense that Social Security uses rules from 1979 to decide if someone should receive benefits today! I've been calling on Social Security to update its rules, and the recent Inspector General report just further makes that case. This legislation sends a clear message to Social Security: It's time to update your rules—and now. This is what Americans want, need, and deserve."*

The bill, as summarized by the Congressional Research Service (CRS):

#### **Guiding Responsible and Improved Disability Decisions Act of 2015 or the GRIDD Act of 2015**

The Commissioner of Social Security shall prescribe rules and regulations that update medical-vocational guidelines used in disability determinations.

### **H.R. 2359 – the Disability Fraud Reduction and Unethical Deception (FRAUD) Prevention Act of 2015**

This legislation was introduced on May 15, 2015, by Congressman Sam Johnson (R-TX-3), Chairman of the House Ways and Means Subcommittee on Social Security and Congressman Charles Boustany (R-LA-3), Chairman of the House Ways and Means Subcommittee on Human

Resources. The bill currently has 3 additional co-sponsors, all Republicans. The measure has been referred to the House Ways and Means Committee. The press release announcing the bill referenced the Senate Homeland Security and Governmental Affairs Committee bipartisan investigation that concluded in October 2013. That investigation was related to the Kentucky law firm led by disability attorney Eric Conn, a Social Security administrative law judge, several doctors, and benefits improperly awarded to hundreds of applicants.

The following statements were included as part of that press release:

Social Security Subcommittee Chairman Sam Johnson:

*“Hardworking American taxpayers expect a disability system that isn’t riddled with fraud and abuse, and Americans with disabilities deserve a program that has the strong support and confidence of the American people. That’s why it’s so important to prevent fraud before it happens, and to strongly punish those who cheat the program. That’s what Americans want, need, and deserve.”*

Human Resources Subcommittee Chairman Charles Boustany:

*“This bill takes a number of simple, commonsense steps to better protect the integrity of our disability programs, including the Supplemental Security Income program, which in recent years has been at great risk for abuse. That’s good for these programs themselves, the taxpayers who support them, and most of all for the individuals who count on them.”*

The summary provided by the legislation’s co-sponsors indicates the bill updates and expands SSA’s tools to deter and punish fraudsters who cheat the system. This legislation imposes appropriate civil monetary penalties and felony charges on those defrauding either the retirement program (OASI), the Disability Insurance program (DI) or the Supplemental Security Income program (SSI). The recent disability scandals in West Virginia, New York and Puerto Rico highlight the need to strengthen and expand Social Security’s penalties.

No CRS summary of the legislation is available at this time.

In the Senate, Senator Orrin Hatch (R-UT), Chairman of the Senate Finance Committee has introduced a trio of bills intended to improve the integrity of the Social Security Disability (SSDI) Program. Announced on May 6, 2015, these bills seek to, “modernize outdated ‘grid rules’ used to determine disability, make it easier for beneficiaries to navigate return-to-work supports and incentives, and align standards for medical evaluations with those of the Medicare program.”

Chairman Hatch stated, “For far too long, the SSDI program has failed to keep up with the rapid changes in medicine, technology and education. These bills are the first step in modernizing the SSDI program to make it more effective and efficient for both beneficiaries and taxpayers. With the trust fund expected to be exhausted in 2016, Congress should continue to

examine how to address the financial challenges facing SSDI while also looking for ways to improve the program for beneficiaries.”

According to materials prepared by the Senate Finance Committee Majority Staff:

The **Guiding Responsible and Improved Disability Decisions (GRIDD) Act, S. 1194**, requires the Social Security Administration (SSA) to update its medical and vocational “grids” used by disability decision makers. The “grid rules” use age, education, past work experience and capacity for work to create guidelines that assist in determining whether an individual is or is not disabled. SSA published the grid rules in 1979, but the rules have not been updated to stay current with the modern workplace or developments in medicine and technology. This update would also include rules related to applicants’ inability to communicate in English, based on a recent instance in Puerto Rico where it was reported the “grid rules” in place would prevent Spanish-speaking claimants from finding work.

The **Promoting Opportunity through Informed Choice Act, S. 1197**, provides support for disability beneficiaries who want to return to work by requiring SSA to develop public online tools to assist beneficiaries in determining the impact of earnings on their eligibility for benefits they receive.

The **Disability Evidence Integrity Act, S. 1198**, deters SSA from making determinations on disabled individuals to receive DI benefits based on evidence provided by individuals who have been convicted of a felony or are expelled from participating in any Federal health care program. These individuals are sometimes referred to as “dirty docs.”

All three of Sen. Hatch’s bills have been referred to the Senate Finance Committee. S. 1194 and S. 1197 currently have no co-sponsors, while S. 1198 has gained one co-sponsor, Sen. James Lankford (R-OK). No CRS summaries of the Senate measures are available at this time.

We will continue to monitor the legislation outlined above, in addition to other measures of interest as they are introduced. If you are interested in updated information related to current legislation, we are happy to provide additional details and/or information. You may also find the following site useful for current information:

<https://www.congress.gov/>

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